

January 19, 2016

Senator Heath Mello
District #5
Room 1004, Capitol
PO Box 94604
Lincoln, NE 68509-4604

RE: LB 698

Dear Senator Mello and the members of the Health and Human Services Committee:

LB 698 establishes a consumer bill of rights program for consumers of public and private in-home services. This bill outlines a grievance procedure for home care services, including which agencies can receive complaints. The Department of Health and Human Services has several technical concerns with the bill as written that are addressed below.

First, Section 5 (2) of this bill lists four possible entities of contact if an individual's home care consumer's rights are violated: the Consumer Protection Division of the office of the Attorney General, the State Unit on Aging of the Division of Medicaid and Long-Term Care (MLTC), the state long-term care ombudsman, and the protection and advocacy system in Nebraska as designated by 42 USC 15041 to 15045.

DHHS wants to make you aware that the federal funding appropriated for state long-term care ombudsman prohibits the use of these funds for home and community-based ombudsman services, including receiving and addressing grievances. These services are outside of the state long-term care ombudsman's scope. Adding these additional responsibilities would require state general funds to cover increased staffing. In Section 5 (2), DHHS recommends clarifying the role of the state long-term care ombudsman in the Home Care Consumer Bill of Rights Act to refer grievances received to an appropriate entity that addresses home and community-based complaints. DHHS also recommends removing the State Unit on Aging from the entities listed. In addition, DHHS recommends adding an additional line stating "If the consumer files a complaint with an entity unable to address the concerns, that entity shall refer the complaint to the appropriate entity, notifying the consumer that the complaint was transferred and the entity that will be addressing the complaint" in Section 8 (2).

Second, DHHS is concerned with the provisions of Section 7 that give a home care consumer the right to thirty days' advanced notice of any change to costs or services. Currently DHHS allows for ten days' notice as allowed under federal law. DHHS is concerned with potential impact of this provision on provider recruitment. DHHS recommends changing the thirty days' advanced notice to ten days.

Third, DHHS recommends that the terms "home care consumer" and "home care services" as used in the bill be clarified. The definition of "home care consumer" does not encompass all recipients of in-home care services. DHHS recommends expanding the definition in Section 2 (1) to include recipients who receive home care services from DHHS. The term "home care services" includes community-based services in Section 2 (2). This appears confusing as community-based services are provided outside of the home. DHHS recommends changing this term to also include community-based services.

Thank you for your consideration of these concerns.

Sincerely,



Calder Lynch, Director
Division of Medicaid and Long-Term Care
Department of Health and Human Services