

Government Should Not Deprive Seniors in Nursing Homes of Their Day in Court

For Immediate Release: August 7, 2017 || **Contacts:** Lauren Saunders, lsaunders@nclc.org; Jan Kruse, jkruse@nclc.org, (617) 542-8010

Center for Medicare & Medicaid Services proposal would repeal rule prohibiting use of forced arbitration “ripoff clauses” in nursing home admission agreements

WASHINGTON - Vulnerable older Americans entering nursing homes should not be stripped of their legal rights in the fine print of admission agreements, National Consumer Law Center and other advocates urged in comments submitted today to the Center for Medicare & Medicaid Services (CMS).

“Everyone should be outraged that the Administration is proposing to strip legal rights from fragile seniors and their families during the incredibly stressful time when a loved one is entering a nursing home,” said Lauren Saunders, associate director of the National Consumer Law Center.

CMS has proposed to repeal a regulation that CMS finalized just last year that prohibits the use of forced arbitration clauses in nursing home and long-term care (LTC) contracts. Forced arbitration clauses strip residents and their families of their day in court to address negligence or wrongdoing. Instead, disputes are forced into a secretive system before a private arbitrator, often chosen by the nursing home, with no appeal if the arbitrator ignores the facts or gets the law wrong.

CMS adopted the rule last year after examining years of data showing abuse and neglect in nursing homes and LTC facilities. CMS also concluded that forced arbitration clauses contribute to a lack of accountability and shield wrongdoing from the public spotlight. CMS conducted a literature review and also reviewed court opinions involving arbitration in LTC facilities. Many of the articles reviewed “provided evidence that pre-dispute arbitration agreements were detrimental to the health and safety of LTC facility residents.”

“Nursing home residents and their families deserve the right to hold nursing homes accountable for abuse, neglect, and failing to safeguard our loved ones,” said National Consumer Law Center attorney Odette Williamson who specializes in older consumers’ rights.

###

Since 1969, the nonprofit National Consumer Law Center® (NCLC®) has used its expertise in consumer law and energy policy to work for consumer justice and economic security for low-income and other disadvantaged people, including older adults, in the United States. NCLC’s expertise includes policy analysis and advocacy; consumer law and energy publications; litigation; expert witness services, and training and advice for advocates. NCLC works with nonprofit and legal services organizations, private attorneys, policymakers, and federal and state government and courts across the nation to stop exploitative practices, help financially stressed families build and retain wealth, and advance economic fairness.