

They offer to help nursing home residents get Medicaid. Too often, say legislators, they cheat them.

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Nissim Aryeh was a familiar presence in many New Jersey nursing homes.

Known to most as “Sam,” he would set up a table in the lobby and offer light refreshments along with free seminars to families facing the crippling cost of long-term care, to talk about the often-daunting task of gathering years of financial records required to document their eligibility for Medicaid assistance.

He promised he could help. And many would pay fees of between \$3,000 and \$9,000 to his company, Advanta Medicaid Specialists, to guide them through the Medicaid process.

For some, however, he was of no help at all. [Prosecutors later charged](#) that thousands of dollars paid by those families went instead toward meals at high-end restaurants, car payments, furniture, bike rentals, payments to local private schools and synagogues or was spent at casinos in Atlantic City.

In the past decade, a growing number of Medicaid specialists such as Advanta have moved into the nursing home industry, persuading families — many suddenly facing the reality of expensive, long-term care that quickly can exhaust a lifetime of savings — they can help them qualify for Medicaid.

But in the wake of the Advanta collapse, along with complaints over the years by consumers, a bill introduced this past week in the Legislature would put significant restrictions on those who hold themselves up as Medicaid advisors.

The measure, [S-3606](#) — proposed by state Sen. Joseph Vitale, D-Middlesex and co-sponsored by Sen. Robert Singer, R-Ocean — would prohibit Medicaid application assistants who are not attorneys from charging for providing Medicaid application assistance to nursing home residents or their families. A companion bill, [A-5194](#), was introduced in the lower house by Assemblyman Herb Conaway, D-Burlington. The bill, which also called for other safeguards involving the control of [the financial affairs of nursing home residents](#), would require anyone providing Medicaid application assistance to prospective residents of a long-term care facility “disclose any financial relationship” they might have with the nursing home or any related companies.

In addition, nursing homes would mandate clear and written notice to prospective residents and their families that they have the option to hire an attorney to assist with the application of applying for Medicaid assistance.

“We want to have people who are doing this type of work acting on behalf of nursing home residents and not solely on behalf of nursing facilities,” said Vitale. “The rules will insure they are representing the interests of residents.”

Nursing home industry officials sharply criticized the proposals.

“For decades New Jersey nursing homes have guided residents and families as they navigate the complicated process of applying for Medicaid. The current system has been a lifeline to tens of thousands of needy New Jerseyans, at no cost to them,” said Andrew Aronson, CEO of the [Health Care Association of New Jersey](#), which represents the state’s long-term care industry. He said the proposed legislation would penalize those with the least resources by pushing them to hire lawyers for this process.

“This wrong-headed bill would primarily benefit attorneys, at the expense of this most vulnerable population. The legislature’s efforts should be spent easing access to care, rather than on making that access more expensive,” Aronson said.

Consumer advocates, though, note that anyone can get Medicaid paperwork assistance for free through [county welfare agencies, Boards of Social Services, Medical Assistance Customer Centers, Area Agencies on Aging](#) and [NJ Family Care](#).

Unlicensed and unregulated

To be sure, there are advisers who do deliver on their word, helping people through the challenging task of putting together the paperwork required for every Medicaid application. Some nursing home operators say they consider them invaluable.

Medicaid advisors argue that lawyers who specialize in estate planning are far more expensive and are simply unnecessary for most people. And with some counties in New Jersey taking many months to approve Medicaid claims, they say there is a need to shepherd families already coping with an ill or dying family member through the process.

An examination by NJ Advance Media, however, found a lucrative yet largely unregulated and unlicensed industry, dogged in some cases by allegations of deception, consumer fraud, and what state officials called “significant financial loss” to nursing home residents.

Court documents and state complaints, as well as interviews with family members, recounted stories of those who said they were encouraged to spend down savings that legally could have been protected under Medicaid rules.

“A lot of times these people are giving bad advice that an attorney would never give,” said Donald Browne of [DeNittis Osefchen Prince in Marlton](#), who often represents seniors and their families in financial disputes with nursing homes and other senior care facilities. “People are getting hurt. Financially.”

A bigger issue, he said, is there is the potential for “massive conflict of interest,” when Medicaid advisors are recommended by nursing homes, and are looking out not for the interests of residents, but of long-term care facilities that want to get paid.

The conflict issue was underscored by Jerold Rothkoff of the [Rothkoff Law Group](#) in Cherry Hill, an elder law attorney and an outspoken critic of Medicaid advisory firms. Many of those firms he said have relationships with the owners or operators of the nursing homes because they also do billing and collection work for them.

“It’s a self-referral,” he argued. “They’re not acting in the residents’ best interests. They’re acting in the best interests of the nursing home because that’s their food source. That’s where the money is coming from.”

He also raised the issue that many who engage Medicaid assisters are not eligible for the government benefits because of their savings and other assets.

“They pay several thousand dollars to the application company for nothing because there is nothing they legally can do,” Rothkoff said.

Some firms, like Advanta, have in fact been accused of doing absolutely nothing at all for the money they were paid.

In its advertising materials, Advanta Medicaid Specialists guaranteed results. “If we do not get you approved for Medicaid coverage, you won’t pay a penny,” it promised.

Leslie Walsh, who said her family was victimized by Advanta, found that not to be the case. She said her family had paid \$6,000 to Advanta to help with the Medicaid application for her father-in-law, Joseph Walsh, a retired New Brunswick firefighter, who died before the application was submitted.

At the same time, she noted that the nursing home that was caring for her father-in-law had recommended Aryeh.

“Nursing homes should not be advising anyone,” she said.

Leslie Walsh and her late husband Joe paid \$6,000 to Advanta Medicaid Specialists in 2017 to help with an application for Joe’s father, who needed nursing home care. The couple is pictured in 2018 looking at their contract and company brochures.

Others complained of high-pressure sales tactics by Advanta and other companies that played on fears their loved ones might be kicked out of a nursing home if they did not sign up. In one New Jersey home, representatives of a Medicaid advisory firm became so aggressive that the owner said he kicked them out because they were hounding the residents.

One Cumberland woman in a 2017 lawsuit filed in New Jersey Superior Court accused a Medicaid advisory firm of lying about how much money she and her late husband would have had to spend before he would be eligible for Medicaid. But the lawsuit claimed the firm also pressured them to pay \$6,600 for services it knew he would probably not live long enough to ever qualify.

The lawsuit alleged that the firm “exploited” the couple’s vulnerable emotional state and collected its nonrefundable fee. The case was settled, its terms are unknown.

Sticker shock

By any measure, nursing home care is wildly expensive.

The average cost of a semi-private room in New Jersey is more than \$11,250 per month. The sticker shock leaves many families wondering how they can possibly pay for it.

Medicaid, a joint federal and state program, serves as a safety net to help with medical costs, including nursing home care, for people with limited income and resources. But the program was never meant to help everyone — only those with almost nothing left to their names. And the eligibility rules regarding income limits are complicated.

Although the application is only about five pages, applying for assistance through the program can be befuddling, experts say. The review process includes a five-year look-back of income and assets to see if money was given away, or gifted, in an effort to protect it ahead of applying for Medicaid assistance. It requires gathering years of bank records, brokerage statements and other paperwork.

That's where Medicaid advisory firms have carved out a lucrative niche in the past decade or so. They promise to do all the work for families already coping with an ill or dying family member. For those struggling to care for elderly or frail parents while facing issues like incontinence, dementia, and confusion, having someone else handle the paperwork and red tape is one less worry.

The proposed bill introduced last week would require nursing homes to specifically tell residents and their families that “relying on a non-attorney service might expose you and your family to unnecessary financial risk.” It continued, “There are non-attorney agencies and companies which may offer to prepare and submit a Medicaid application. These entities are not permitted to give legal advice or to implement legal strategies that may best protect your interests, and they are not obligated to advise you of your rights.”

Walsh who said she received restitution, said the proposed New Jersey legislation was sorely needed.

“You’re in a situation where your nerves are stretched,” she said referring to the fraught times when a family member needs nursing home care. “I don’t know why the (Medicaid) applications are so complicated. It’s ludicrous.”

But she applauded any legislation that makes the public more aware of their options and consequences of the decisions they make over nursing care. She said any move forward to inform people and hold nursing homes more accountable “was a good thing.”

Four years after Advanta was abruptly shut down, Aryeh settled criminal charges with the state this past October. He agreed in a plea deal to pay \$38,000 in restitution and perform community service, before walking out of the courthouse.

He will spend no time in prison.

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