



COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF THE AUDITOR GENERAL  
HARRISBURG, PA 17120-0018

THE AUDITOR GENERAL

May 20, 1997

The Honorable Italo S. Cappabianca  
Pennsylvania House of Representatives  
Room 30, East Wing  
Harrisburg, PA 17120

Dear Representative Cappabianca:

In January 1997, I received your letter requesting an independent audit of Beverly Enterprises to determine whether inappropriate expenses were being reimbursed by the Commonwealth. Your request was forwarded to Feather O. Houstoun, Secretary of Public Welfare, and a copy of your letter was provided to department auditors beginning a performance audit of the Long Term Care Medical Assistance Program.

In conjunction with the review of the aforementioned program, we have selected a sample of nursing homes for visitation and observation to determine the quality of care provided to residents of nursing facilities. Three of the twenty-five facilities selected for the sample are owned or operated by Beverly Enterprises and are listed below:

1. Phoenixville Convalescent Manor  
South Main Street, Phoenixville, PA
2. Blue Ridge Haven West  
Poplar Church Road, Camp Hill, PA
3. Kinzua Valley Health Care  
Water Street, Warren, PA

Please feel free to contact me with any other concerns you may have.

Sincerely,

A handwritten signature in black ink that reads "Robert P. Casey, Jr.".

Robert P. Casey, Jr.  
Auditor General



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF PUBLIC WELFARE  
P.O. BOX 2675  
HARRISBURG, PENNSYLVANIA 17105-2675

FEATHER O. HOUSTOUN  
SECRETARY

717-787-2600/3600

APR 11 1997

The Honorable Italo S. Cappabianca  
House of Representatives  
Harrisburg, Pennsylvania 17120

Dear Representative Cappabianca:

Thank you for your January 21, 1997 letter to the Honorable Robert P. Casey, Jr., Department of the Auditor General, urging this Department to conduct an independent audit of Beverly Enterprises to ascertain whether inappropriate expenses are being reimbursed by the Commonwealth of Pennsylvania. While the Auditor General has responded to your letter on March 13, 1997, he has also notified the Department of Public Welfare of your concerns.

The Commonwealth of Pennsylvania recognizes the need for an aggressive auditing and monitoring process related to the provision of the long term care services. This involves constant review of both the quality of services being delivered to recipients and the validity of the payments being made. The Departments of Public Welfare, Health, and Aging, under the Governor's jurisdiction, and the Office of the Auditor General are active partners in this oversight effort.

The Department of Public Welfare's auditing process is sufficiently thorough and responsive in preventing facilities from receiving improper reimbursements for resident related costs of care. The Department of Public Welfare's Bureau of Long Term Care Programs administers a constant auditing process for all nursing homes receiving reimbursement under the Pennsylvania Medical Assistance Program. In the case of Beverly Enterprises, all 42 facilities have been audited through the end of the calendar year 1995. The 1996 cost reports have been submitted to the Department and will be reviewed for acceptance. This means that the auditing process for the Beverly facilities is current.

Any non-allowable costs are routinely removed by our auditors during the cost report audit process. However, this does not prohibit Beverly from expending their own dollars for such expenses. In addition, with net operating costs capped by ceilings and administrative costs limited to 12 percent of total costs, the ability of facilities to claim inappropriate reimbursement in those cost categories is severely limited. For example, audits of Beverly homes found that the national office does allocate costs to the Pennsylvania-based Beverly homes. Such costs may specifically qualify as an allowable expense. However, in 1995, two of the facilities were limited by the state's 12 percent limitation on administration and general expenses; 37 were capped by the state's Skilled Nursing ceiling; 17 were capped under Intermediate Care limitations, and five by the Private Pay limitation. In addition, any specific concerns identified with staffing or quality of care provided in any facility should be communicated to the Department of Health's Division of Long Term Care at (717) 787-1816.

Thank you again for your correspondence and concerns for Pennsylvania's citizens.

Sincerely,

A handwritten signature in cursive script that reads "Feather O. Houston".

Feather O. Houston

# Beverly Health and Rehabilitation Services, Inc.

THE NATION'S LEADER IN QUALITY HEALTH CARE



April 1, 1997

The Honorable Italo S. Cappabianca  
Pennsylvania House of Representatives  
30 East Wing  
Harrisburg, PA 17120

Dear Representative Cappabianca:

We are writing to update you on the status of our continuing efforts to successfully conclude contract negotiations between subsidiaries of Beverly Health and Rehabilitation Services, Inc. ("Beverly") and the Service Employees International Union ("SEIU").

The negotiators for each Beverly facility recently made wage increase offers to the SEIU locals that we hope will be attractive enough to resolve this long-standing dispute.

The amount of wage increase offered varies by facility, job classification and length of contract term. As an overall average, however, wages would increase by 3.25% per year under a four-year contract, 3.1% per year for three-year contracts and 2.25% per year for two-year contracts. (The varying lengths of contracts and amounts of proposed wage increases reflect the financial performance of each facility.) Please keep in mind that current pay scales at our Pennsylvania facilities already meet or exceed wage rates for comparable jobs in their market.

You may recall the circumstances that led to the current situation. On April 1 a year ago, strikes began at 15 of 20 union-represented facilities owned and operated by Beverly subsidiaries. The SEIU locals struck after refusing, since November 1995, to negotiate new contracts with individual Beverly facilities as required by law and in clear violation of the federal statute requiring 10-day notice prior to striking.

As a result of Beverly's commitment to provide uninterrupted patient care, the facilities had no choice but to replace those workers who went on strike. The strikers who were replaced were placed on preferential lists for reemployment at their facility when positions become available, even though we have no legal obligation to do so. Since that time, Beverly has rehired all but 68 of those replaced individuals.

Over the past year, we have made innumerable attempts to engage in serious negotiations with the unions. There are two particular areas where the unions steadfastly refuse to negotiate. The unions refuse to end the corporate smear campaign against Beverly -- even after agreements are reached -- and they insist on simultaneous contract expiration dates for all 20 facilities.

A BEVERLY ENTERPRISES SUBSIDIARY  
300 Penn Center Boulevard, Suite 816  
Pittsburgh, PA 15235 • (412) 824-3397 • FAX (412) 824-4918

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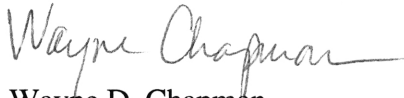
The Honorable Italo S. Cappabianca  
April 1, 1997  
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Continuing efforts by the union to hamper our operations and damage our reputation are totally inconsistent with the spirit that is supposed to prevail once contract agreements are reached. As for a common expiration date, that would simply encourage renewal of the current conflict every three years and diminish our ability to provide continuous care for our residents.

Although our attempts to negotiate with SEIU locals have proven fruitless to-date, Beverly remains committed to bargaining in good faith until reasonable agreements can be reached.

If you have any questions, please do not hesitate to call us.

Sincerely,



Wayne D. Chapman  
Group Vice President of Operations  
Eastern Pennsylvania



William J. Meenan  
Group Vice President of Operations  
Western Pennsylvania



COMMONWEALTH OF PENNSYLVANIA  
OFFICE OF THE AUDITOR GENERAL  
HARRISBURG, PA 17120-0018

THE AUDITOR GENERAL

March 13, 1997

The Honorable Italo S. Cappabianca  
Pennsylvania House of Representatives  
Room 30, East Wing  
Harrisburg, PA 17120

Dear Representative Cappabianca:

I am writing in reply to your January 21, 1997, letter and your phone conversation with Mr. Robert Gallagher of my staff on February 26, 1997.

You have requested the Department of the Auditor General to perform an independent audit on nursing facilities operated within the state by Beverly Enterprises. Our department is mandated by Section 443.1 of the Pennsylvania Welfare Code to conduct audits on county nursing facilities in order to certify Medical Assistance reimbursable costs for a given time period. It is my understanding the nursing homes operated by Beverly Enterprises in Pennsylvania are classified as private facilities. These private nursing homes are subject to audit by the Pennsylvania Department of Public Welfare (DPW), Bureau of Long Term Care Programs.

Since financial audits of the facilities operated by Beverly Enterprises in Pennsylvania are already performed by DPW, additional financial auditing activities initiated by our department would be both costly and duplicative in nature. Therefore, I have referred your letter to Feather O. Houstoun, Secretary of Public Welfare, for her review and disposition as she deems necessary. In addition, I have requested to be kept informed about any actions taken by DPW on this issue.

I have also sent a copy of your letter to my auditors who are beginning a performance audit of the Long-Term Care Medical Assistance programs in skilled nursing facilities, nursing homes and continuing care facilities in retirement communities. If a Beverly Enterprises facility is selected for review and we have findings related to that review, I will advise accordingly.

Honorable Italo S. Cappabianca  
March 13, 1997  
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I appreciate your bringing this matter to my attention, and if you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink that reads "Bob Casey". The signature is written in a cursive, flowing style.

Robert P. Casey, Jr.  
Auditor General



PENNSYLVANIA STATE COUNCIL  
1037 Maclay Street • Harrisburg, PA 17103 • (717) 234-4113 • 1 (800) 932-0368



February 3, 1997

Dear Representative,

I am writing to provide you with additional information about the Service Employees International Union's ongoing labor dispute with Beverly Enterprises. Beverly is the largest for-profit nursing home chain in Pennsylvania and the nation. Enclosed is a listing of the 42 Beverly owned nursing homes in Pennsylvania.

SEIU Locals 585, 668 and District 1199P represent 8,000 nursing home workers in the state. Last year we began negotiations with nearly 30 employers for renewed collective bargaining agreements. An important part of our mission is to negotiate improvements in the quality of care with nursing home operators. We have long advocated and fought for improved staffing levels, improved training for employees, state of the art lifting and rehabilitative equipment and joint labor-management committees to deal with staffing, patient care and health and safety issues. We believe the employees, those who are the primary caregivers, should have a voice in how patient care is provided. Fortunately, nearly all the employers we deal with, including national for-profit chains, welcomed the opportunity to work with us to improve patient care. However, Beverly Enterprises has been resistant to these proposals.

Recently, a study was released about the quality of patient care Beverly provided in its home state of Arkansas. The report, "Bad Care in Beverly's Backyard" is based on the inspection reports of the Arkansas State Department of Human Services. According to this report, Beverly was cited over 750 times between 1993 and 1995 for violations of federal patient standards. The report is enclosed.

Beverly continues to escalate its attacks on their own employees, forcing us to file hundreds of unfair labor practice charges with the National Labor Relations Board. The NLRB has issued many complaints and recently won an injunction against Beverly. The Judge's order requires Beverly to immediately reinstate hundreds of health care professionals to the positions they held before they were replaced after going on strike last April. A copy of the order is included.

I hope that you have found this update and the related materials informative. If you have any questions or would like to discuss any of these issues further please contact me at 717/234-4113.

Sincerely,

J.J. Johnston Jr.  
Political Director

cc: David McCann

ITALO S. CAPPABIANCA, MEMBER

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COMMITTEES

INTERGOVERNMENTAL AFFAIRS, CHAIRMAN

House of Representatives  
COMMONWEALTH OF PENNSYLVANIA  
HARRISBURG

January 21, 1997

Honorable Robert Casey, Jr.  
Auditor General  
Commonwealth of Pennsylvania  
Harrisburg, PA 17120

Dear Auditor General Casey, *Bob.*

As authorized by the Pennsylvania General Assembly through statute, I request that your office independently perform and report an audit on state contracts for long term care with Beverly Enterprises.

Under Section 402 of the Fiscal Code, the Department of the Auditor General is empowered to "make audits, which may be necessary, in connection with the administration of the financial affairs of the government of this Commonwealth." Besides regular audits, "special audits" can be authorized of any state department whenever, "they may, in the judgment of the Auditor General, appear necessary." Finally, the Department of the Auditor General, under Section 403 of the Fiscal Code "shall have the power and its duty shall be, to audit accounts and records of every person, association, corporation and public agency, receiving an appropriation of money, payable out of any fund in the state treasury." When performing an audit under section 403, the Auditor General's goal is to ensure that "the money received was expended or is being expended for no purpose other than that for which it was paid."

An independent audit of Beverly Enterprises could ascertain whether inappropriate expenses are being reimbursed by the Commonwealth of Pennsylvania. This request is being directed to your department because the above law clearly authorizes and mandates your agency's participation in this matter.

Thank you for your attention and cooperation in this matter.

Sincerely,

A handwritten signature in cursive script, appearing to read 'Italo'.

Italo S. Cappabianca  
State Representative