**LeadingAge Wisconsin**

**For Your Information**

**Floating RCACs & Serving IL Residents in an RCAC Setting**

*Summary\* of a discussion between Division of Quality Assurance (DQA), Bureau of Assisted Living (BAL) Director Alfred C. Johnson (ACJ) and LeadingAge Wisconsin members at a March 20, 2019 Senior Housing Networking Meeting in De Forest, Wisconsin on floating RCACs and independent residents living in an RCAC setting. This summary does* ***not*** *represent official DQA position on these subjects and it may change as DQA issues future memos, publications, or other guidance.*

1. ACJ reviewed the definition of a tenant in 89.02(32). “Tenant” means “*an individual who resides in and has a service agreement with a residential care apartment complex*.”
2. ACJ reviewed definitions of RCAC services:
   1. “Nursing services” - 89.02(24) - *means nursing procedures, excluding personal services, which, according to the provisions of ch. 441, Stats., the nurse practice act, must be performed by a registered nurse or as a delegated act under the supervision of a registered nurse.*
   2. “Personal services” - 89.02(25) - *means direct assistance with activities of daily living, including dressing, eating, bathing, grooming, toileting, transferring and ambulation or mobility.*
   3. “Supportive services” - 89.02(31) - *means assistance with tasks which the tenant cannot perform for himself or herself as a result of functional limitations, or one−on−one supervision of the tenant. Supportive services include meals, housekeeping, laundry, arranging for transportation and arranging for access to medical services* (underline added).
3. Regarding the underlined wording in the supportive services definition – ACJ said an owner of IL senior housing could offer housekeeping, meals, laundry, arranging for transportation, or arranging access to medical services, so long as the resident is able to perform those tasks for him or herself.  The same holds true for independent residents (persons not identified as “tenants”) living in a RCAC.
4. Floating RCAC is at least five certified or registered apartments (meeting the requirements of DHS 89.22) within a senior housing (independent living) building.  Not all the floating RCAC units need to be occupied by “tenants” receiving RCAC services (see #1 and #2 above).  For example, a 100-unit IL building with 25 certified/registered RCAC living units might only have 15 “tenants” living in those units.  By their very nature, “floating” RCAC apartments means the units might jump around the IL building depending on the needs of residents.  The designation of “tenant” may also change – meaning a resident who needs RCAC services at a particular point in time may, at a later date, no longer need those services and revert to a non-tenant status.
5. “Independent” persons/residents (people not designated as “tenants” receiving RCAC services) can live in a building that is entirely registered or certified.  These residents would not need a service plan and the provider would not be required to meet the other elements of 89 (initial and annual assessment, risk agreement, etc.).
6. In a building entirely certified/registered as an RCAC or an independent living setting (IL) with floating RCAC apartments:
   1. Staff members need to be clear about who is a “tenant” (and therefore receiving RCAC services) and who is not.
   2. Providers need to meet the requirements of DHS 89 for persons identified as “tenants.”
   3. Providers need to be able to give a BAL surveyor a roster of “tenants” upon request.
   4. The provider needs to be sure non-tenant residents are not receiving RCAC services (nursing, personal, and/or supportive) without having a service agreement in place.
7. Discussion about independent residents in a building that is entirely certified/registered as an RCAC.
   1. Some meeting attendees have a lease agreement that is separate from the service agreement (see DHS 89.27).  IL residents sign the service agreement at a point in time when they need RCAC services.
   2. Others have one document that includes the elements of the service agreement.  In these cases, IL residents opt out of the RCAC services.  A subset of these providers choose to complete an initial and annual assessment on those residents to keep tabs on their health status.
   3. Discussion about “care creep” – situations where an independent resident asks staff to help with certain tasks on an infrequent basis but then, over time, requests more assistance more often.
8. BAL has received complaints from residents living in IL settings about the “services” of an IL provider.  When BAL follows up on these complaints, they are looking to see if an owner is providing any of the RCAC services defined in #2 above (noting the underlined section of supportive services).
9. One of the meeting attendees is thinking about establishing a licensed home health agency ([www.dhs.wisconsin.gov/regulations/hha/introduction.htm](http://www.dhs.wisconsin.gov/regulations/hha/introduction.htm)) or an unlicensed personal care service agency ([www.dhs.wisconsin.gov/regulations/pca/introduction.htm](http://www.dhs.wisconsin.gov/regulations/pca/introduction.htm)).  Can they provide these services to residents in their IL setting?  ACJ said DQA would expect the resident to have the freedom/right to choose any provider of these services.  In the event DQA visited this type of setting, the operator would be required to demonstrate the resident had the freedom to choose any agency and that the resident or responsible party (not the IL operator) managed the relationship with the agency.

\*Summary prepared by Jim Williams, Director of Member Enrichment, LeadingAge Wisconsin