



August 8, 2017

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## MADIGAN JOINS COALITION OF STATES URGING FEDERAL GOVERNMENT TO PROTECT NURSING HOME AND LONG-TERM CARE RESIDENTS

**Chicago** — Attorney General Lisa Madigan today joined a coalition of state attorneys general and state consumer protection advocates to submit comments to the Centers for Medicare and Medicaid Services (CMS) urging it maintain its rule prohibiting pre-dispute arbitration clauses in nursing home and other long-term care contracts.

In 2015, Illinois and 15 other states submitted comments to CMS in support of a proposed regulation to bar such pre-dispute arbitration clauses in long-term care contracts. The comments noted that, "Pre-dispute binding arbitration agreements in general can be procedurally unfair to consumers, and can jeopardize one of the fundamental rights of Americans; the right to be heard and seek judicial redress for our claims. This is especially true when consumers are making the difficult decisions regarding the long-term care of loved ones."

In October 2016, CMS issued its final rule, prohibiting the use of pre-dispute arbitration clauses in such agreements, citing the comments of the attorneys general in support. On October 17, 2016, the American Health Care Association and a group of affiliated nursing homes filed a lawsuit against the regulation in the U.S. District Court for the Northern District of Mississippi, which issued a preliminary injunction against enforcement of the prohibition on pre-dispute arbitration clauses. On June 8, 2017, CMS proposed reversing the rule and removing the prohibition on pre-dispute arbitration clauses in long-term care contracts.

The comments filed today urge CMS to maintain the prohibition for the reasons set forth when it issued the regulation.

*"We believe that the prohibition on pre-dispute arbitration clauses provides an important protection for the consumers of our States at a time when consumers are undertaking a difficult and emotional decision,"* the comments state.

Joining Madigan in submitting the comments were attorneys general of: California, Connecticut, Delaware, the District of Columbia, Hawaii, Iowa, Maine, Maryland, Massachusetts, Minnesota, New York, North Carolina, Oregon, Pennsylvania, Vermont, and Washington, as well as the Hawaii Office of Consumer Protection.

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