

TESTIMONY

Engrossed Senate Bill No. 2070
House Human Services Committee
Representative M. Ruby, Chairman

March 11, 2025

Chairman Ruby and members of the House Human Services Committee: My name is Julie Leer. I am a resident of District 7 in Bismarck. I appear in support of Engrossed Senate Bill No. 2070, particularly the proposed new language being added as subsection 5 under section 2 of the bill. I am also proposing an amendment to that language to ensure situations like my Mother's are addressed.

Here is my Mom's experience. On December 18, 2023, my then 93-year old Mom was residing in an assisted living facility (Facility) in Minot (District 5) when she sustained severe injuries resulting from a fall; specifically 7 broken ribs and a compression fracture of the thoracic spine. She was taken to the ER in Minot and returned to her apartment at the Facility after several hours.

On December 20, 2023, she was transported back to the ER and admitted to the hospital amid concerns that the injuries she suffered two days earlier were limiting her ability to move and to breathe deeply enough to keep her from developing pneumonia. In January, 2024, after 2 weeks in the hospital, Mom was discharged and transported to a facility in Bismarck for rehabilitation. During this time, we asked the Facility where she lived about payment for the personal care services Mom wasn't receiving as it was our understanding that while Mom would continue to pay rent for her apartment at the Facility, she would be refunded payments made for personal cares she didn't receive due to being hospitalized and being in Bismarck. Staff at the Facility said the payments for personal care services would be refunded.

Thankfully, Mom was able to return to her apartment at the Facility on March 23, 2024, fully three months after she was admitted to the hospital. In that time, the entire payments for rent and services at the Facility continued to be automatically withdrawn

from her bank account, but we did not see any credits applied to subsequent bills nor did Mom receive any refund of the payments as we were told to expect. Now, over a year has passed and still she has seen no refunds. This sequence of events is not in question; the Facility has never said Mom is not entitled to receive a refund for personal care services she didn't receive in December, 2023 and January into March of 2024.

In May of 2024, my Mother moved to a different facility in Minot. The Facility where she had previously lived withdrew a payment from her account in June of 2024, **more than 2 weeks after my Mom had moved out of that Facility to the new facility**. This created a second overpayment. This is also not in question; the Facility has never said Mom is not entitled to receive a refund for their mistake in drawing money from her account to pay for rent in the month **after** she moved out.

My sister (who submitted online testimony in support of this bill) followed up with the Facility several times during 2024. In addition, I went to the Facility the day after Thanksgiving, November 29, 2024. When I spoke to the Business Director for the Facility on that day, he showed me a sticky note with a handwritten amount of more than \$5500 that is owed to Mom. He indicated that amount did not include the amount to be refunded for personal cares from the day after she moved out in May through the end of May. He was going to talk to the Director and provide me a status of the refund. I have yet to receive a response, even after following up with two emails to the Business Director, copied to their Executive Director, requesting a status of the refunds.

On November 29th, I also asked the Business Director about payment of interest on the amount owed to Mom which I believe is close to \$6000 when the refund for personal cares from May is factored in. He said normally refunds are issued within 30 days so rarely would interest be due. As stated above, we have been seeking these refunds for substantially longer than 30 days. For 8-14 months, my Mom has been deprived of money which could have been used for her ongoing care. My sister and I have both inquired with the Facility about getting this resolved and we have both been told changes in the administration in the Facility's parent office are the reason for the delay. We understand administrative changes can impact the way refunds are handled, but that really isn't an acceptable reason to fail to refund payments made by a 94-year

old former resident (now almost 95 years old) for services she didn't receive. Nothing about these refunds being due and owing for this long is acceptable.

My sister also contacted the Office of the Ombudsman. She has worked with two different ombudsmen and both were very helpful in following up with the Facility. Their efforts didn't yield a refund from the Facility, either.

The amendment I am requesting, that is attached to my testimony, is to add language that will ensure situations such as my Mom's would also be subject to refund within 30 days as follows:

5. If a trust is established by the facility to hold the resident's funds, the facility shall provide to the resident, resident representative, or an agent under a power of attorney for financial decisions a written quarterly accounting of any transactions made on behalf of the resident which includes an explanation of the transactions by the facility. The facility shall pay out in full, within thirty days, the resident's personal funds deposited with the facility or refunds due to the resident upon discharge or eviction, and provide a final accounting of those funds to the resident, or in the case of death, in accordance with state law. Other refunds due to the resident upon discharge, eviction, or death, and refunds due as a result of an overpayment to the facility, must be paid out in full within thirty days from the resident's date of discharge from the facility, except that a refund due as a result of an overpayment to the facility must be paid in full within thirty days from the date the overpayment is discovered. If the facility fails to issue a refund within 30 days, the facility shall include a reasonable rate of interest on the amount of the refund when the payment is made.

Thank you for your consideration of my testimony and proposed amendment. We appreciate your attention to the needs of this vulnerable population.

I will try to answer any questions you have.