

2016 -- H 7773 SUBSTITUTE A

LC005236/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

A N A C T

RELATING TO HUMAN SERVICES -- MEDICAL ASSISTANCE

Introduced By: Representatives Serpa, Ackerman, Fellela, Tobon, and Lima

Date Introduced: February 26, 2016

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 40-8-6.1 of the General Laws in Chapter 40-8 entitled "Medical
2 Assistance" is hereby amended to read as follows:

3 **40-8-6.1. ~~Nursing facility care during pendency of application~~ Provider care during**
4 **pendency of application.** -- (a) Definitions or purposes of this section, the following terms shall
5 have the meanings indicated:

6 "Applied Income" -- The amount of income a Medicaid beneficiary is required to
7 contribute to the cost of his or her care.

8 "Authorized Representative" -- An individual who signs an application for Medicaid
9 benefits on behalf of a Medicaid Applicant

10 "Complete Application" -- An application for Medicaid benefits filed by or on behalf of
11 an individual receiving care and services from a long-term care provider (LTC provider) ~~nursing~~
12 ~~facility~~, including attachments and supplemental information as necessary, which provides
13 sufficient information for the ~~director~~ secretary or designee to determine the applicant's eligibility
14 for coverage. An application shall not be disqualified from status as a complete application
15 hereunder except for failure on the part of the Medicaid applicant, or his or her authorized
16 representative, to provide necessary information or documentation, or to take any other action
17 necessary to make the application a complete application.

18 "Long-term care provider (LTC provider)" means any of the following: a home care
19 provider, home nursing care provider or nursing facility licensed pursuant to the provisions of

1 chapter 17 of title 23; an assisted living residence provider licensed pursuant to chapter 17.4 of
2 title 23; an adult day services provider licensed pursuant to §23-1-52; or a Program of All-
3 Inclusive Care for the Elderly (PACE) as certified by the Centers for Medicare and Medicaid
4 Services (CMS) and participating in the Rhode Island Medicaid program. As used in this chapter
5 the terms "long-term care provider" and "LTC provider" are interchangeable.

6 "Medicaid Applicant" -- An individual who is receiving care ~~in a nursing facility~~ from an
7 LTC provider during the pendency of an application for Medicaid benefits.

8 "Secretary" means the secretary of the Rhode Island executive office of health and human
9 services.

10 ~~"Nursing Facility" — A nursing facility licensed under Chapter 17 of Title 23, which is a~~
11 ~~participating provider in the Rhode Island Medicaid program.~~

12 "Release" means a written document which:

13 (1) Indicates consent to the disclosure to an LTC provider by the secretary or designee;

14 (2) Of information concerning an application for Medicaid benefits filed on behalf of a
15 resident or patient of that LTC provider;

16 (3) For the purpose of assuring the ability to be paid for its services by that LTC provider;
17 and

18 (4) Which includes the following elements:

19 (i) The name of the LTC provider;

20 (ii) A description of the information that may be disclosed under the release;

21 (iii) The name of the person or persons acting on behalf of the LTC provider to whom the
22 information may be disclosed;

23 (iv) The period of time for which the release will be in effect, which may extend from the
24 date of the application for benefits until the expiration of any appeal, or any appeal period,
25 following the determination of that application; and

26 (v) The signature of the Medicaid applicant, or authorized representative, or other person
27 legally authorized to sign on behalf of the Medicaid applicant, such as guardian or attorney-in-
28 fact.

29 "Uncompensated Care" -- Care and services provided by ~~a nursing facility~~ an LTC
30 provider to a Medicaid applicant without receiving compensation therefore from Medicaid,
31 Medicare, the Medicaid applicant, or other source. The acceptance of any payment representing
32 actual or estimated applied income shall not disqualify the care and services provided from
33 qualifying as uncompensated care.

34 (b)(1) Uncompensated Care During Pendency of an Application for Benefits. - A nursing

1 facility may not discharge a Medicaid applicant for non-payment of the facility's bill during the
2 pendency of a complete application; nor may a nursing facility charge a Medicaid applicant for
3 care provided during the pendency of a complete application, except for an amount representing
4 the estimated applied income. A nursing facility may discharge a Medicaid applicant for non-
5 payment of the facility's bill during the pendency of an application for Medicaid coverage that is
6 not a complete application, but only if the nursing facility has provided the patient (and his or her
7 authorized representative, if known) with thirty (30) days' written notice of its intention to do so,
8 and the application remains incomplete during that thirty (30) day period.

9 (2) Uncompensated care while determination is overdue. - When a complete application
10 has been pending for ninety (90) days or longer, then upon the request of an LTC provider
11 providing uncompensated care, the state shall make payment to the LTC provider for the care
12 provided to the applicant in full as though the application were approved, beginning on the date
13 of such request. Payment under this subsection shall not be made for the period prior to the LTC
14 provider's request, but shall continue thereafter until the application is decided. In the event the
15 application is denied, the state shall not have any right of recovery, offset, or recoupment with the
16 respect to payments made hereunder for the period of determination. In the event the application
17 is approved, the state may offset payments due for the period between the date of the application
18 and the determination by any amounts paid hereunder.

19 (c) Notice Of Application Status. - When ~~a nursing facility~~ an LTC provider is providing
20 uncompensated care to a Medicaid applicant, then the ~~nursing facility~~ LTC provider may inform
21 the ~~director~~ secretary or designee of its status, and the ~~director~~ secretary or designee shall
22 thereafter inform the nursing facility of any decision on the application at the time the decision is
23 rendered and, if coverage is approved, of the date that coverage will begin. In addition, ~~a nursing~~
24 ~~facility~~ an LTC provider providing uncompensated care to a Medicaid applicant may inquire of
25 the ~~director~~ secretary or designee as to the status of that individual's application, and the ~~director~~
26 secretary or designee shall respond within five business days as follows:

27 (i) Without Release -- If the ~~nursing facility~~ LTC provider has not obtained a signed
28 release ~~authorizing disclosure of information to the facility~~, the ~~director~~ secretary or designee
29 must provide the following information only, in writing: (a) whether or not the application has
30 been approved; (b) the identity of any authorized representative; and (c) if the application has not
31 yet been decided, whether or not the application is a complete application.

32 (ii) With Release -- If the ~~nursing facility~~ LTC provider has obtained a signed release,
33 the ~~director~~ secretary or designee must additionally provide any further information requested by
34 the ~~nursing facility~~ LTC provider, to the extent that the release permits its disclosure.

1 SECTION 2. This act shall take effect upon passage.

=====
LC005236/SUB A
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO HUMAN SERVICES -- MEDICAL ASSISTANCE

1 This act would define "long-term care provider (LTC provider)" relative to applications
2 for Medicare benefits. This act also would allow for the release of information from the secretary
3 of the RI executive office of health and human services to LTC providers and would provide that
4 after ninety (90) days of uncompensated care of an LTC patient, the LTC provider may apply to
5 the state for relief.

6 This act would take effect upon passage.

=====
LC005236/SUB A
=====