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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO HUMAN SERVICES -- MEDICAL ASSISTANCE

Introduced By: Representative Patricia A. Serpa

Date Introduced: March 01, 2017

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. ~~Provider care during pendency of application~~ LTC Provider care during**  
4 **pendency of application.**

5           (a) Definitions. The following terms shall 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),  
12 including attachments and supplemental information as necessary, which provides sufficient  
13 information for the secretary ~~or designee~~ to determine the applicant's eligibility for coverage. An  
14 application shall not be disqualified from status as a complete application hereunder except for  
15 failure on the part of the Medicaid applicant, or his or her authorized representative, to provide  
16 necessary information or documentation, or to take any other action necessary to make the  
17 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 from an LTC provider during  
7 the pendency of an application for Medicaid benefits.

8 "Release" means a written document which:

- 9 (1) Indicates consent to the disclosure to an LTC provider by the secretary ~~or designee~~;
- 10 (2) Of information concerning an application for Medicaid benefits filed on behalf of a  
11 resident or patient of that LTC provider;
- 12 (3) For the purpose of assuring the ability to be paid for its services by that LTC provider;  
13 and
- 14 (4) Which includes the following elements:
- 15 (i) The name of the LTC provider;
- 16 (ii) A description of the information that may be disclosed under the release;
- 17 (iii) The name of the person or persons acting on behalf of the LTC provider to whom the  
18 information may be disclosed;
- 19 (iv) The period of time for which the release will be in effect, which may extend from the  
20 date of the application for benefits until the expiration of any appeal, or any appeal period,  
21 following the determination of that application; and
- 22 (v) The signature of the Medicaid applicant, or authorized representative, or other person  
23 legally authorized to sign on behalf of the Medicaid applicant, such as guardian or attorney-in-  
24 fact.

25 "Secretary" means the secretary of the Rhode Island executive office of health and human  
26 services.

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

32 (b) (1) Uncompensated care during pendency of an application for benefits. A nursing  
33 facility may not discharge a Medicaid applicant for non-payment of the facility's bill during the  
34 pendency of a complete application; nor may a nursing facility charge a Medicaid applicant for

1 care provided during the pendency of a complete application, except for an amount representing  
2 the estimated, applied income. A nursing facility may discharge a Medicaid applicant for non-  
3 payment of the facility's bill during the pendency of an application for Medicaid coverage that is  
4 not a complete application, but only if the nursing facility has provided the patient (and his or her  
5 authorized representative, if known) with thirty (30) days' written notice of its intention to do so,  
6 and the application remains incomplete during that thirty-day (30) period.

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

18 (c) Process for complete applications.

19 (1) Upon receipt of an application for medicaid coverage that is filed by or on behalf of a  
20 medicaid applicant as defined herein, the secretary shall, within sixty (60) days of its receipt,  
21 review the application and notify the applicant and/or authorized representative, in writing and  
22 with specificity, of any additional information or documentation that is required from the  
23 applicant in order to make the application a complete application. If the LTC provider furnishing  
24 care and services to the applicant has supplied the secretary with a release as defined herein  
25 within that sixty (60) day period, the secretary shall provide the same notification to the LTC  
26 provider. If the secretary fails to mail or otherwise transmit the notices required hereunder within  
27 sixty (60) days of receipt of such an application, the application will be considered a complete  
28 application for the purposes of this section.

29 (2) In the event a complete application has been pending for ninety (90) days or more, an  
30 LTC provider may submit a written request to the secretary for payment as described under  
31 subsection (b)(2) of this section. Within fourteen (14) days of the receipt of that request, the  
32 secretary shall begin payment to the provider for the care provided to the applicant in full as  
33 though the application were approved, for the period beginning on the eligibility date requested in  
34 the application in accordance with subsection (b)(2) of this section.

1           (3) In the event that the secretary sends notice to the applicant, authorized representative  
2 (if known) and/or the LTC provider as contemplated under section (c)(1) of this section, then  
3 those parties may submit the additional information or documentation identified in the  
4 notification. Once those additional items are submitted to the secretary, the application shall be  
5 deemed a complete application, unless information within the additional items gives rise to the  
6 need for further information; however, the original application cannot be reassessed for this  
7 purpose, if the additional items submitted are incomplete, or give rise to the need for  
8 supplemental information or documents, the secretary shall notify the applicant, authorized  
9 representative (if known) and the LTC provider within ten (10) days of receiving them. This  
10 process shall continue until the application is a complete application. To prevent unwarranted  
11 delay of payment to LTC providers furnishing uncompensated care, after the first submission of  
12 additional items is received the secretary may not at any time require additional information or  
13 documentation the need for which could have been determined from the original application.

14           (4) An application that becomes a complete application through the submission of  
15 additional information or documents (termed a "complete application upon supplementation")  
16 shall be subject to the same request and payment process described for a complete application  
17 under subsection (c)(2) of this section, except that the LTC provider may request, and the  
18 secretary shall begin, payment once such a complete application upon supplementation has been  
19 pending for thirty (30) days.

20           (5) To the extent that payments to LTC providers required under this section are not  
21 made in a timely manner in accordance with the deadlines herein, the payments will be subject to  
22 interest at the rate established annually by the U.S. Secretary of the Treasury for debts owed to  
23 the United States pursuant to 31 U.S.C. 3717 or successor Federal law.

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

31           (i) Without release -- If the LTC provider has not obtained a signed release, the secretary  
32 ~~or designee~~ must provide the following information, only, in writing: (a) Whether or not the  
33 application has been approved; (b) The identity of any authorized representative; and (c) If the  
34 application has not yet been decided, whether or not the application is a complete application.

1           (ii) With release -- If the LTC provider has obtained a signed release, the secretary ~~or~~  
2 ~~designee~~ must additionally provide any further information requested by the LTC provider, to the  
3 extent that the release permits its disclosure.

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
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1           This act would set forth the application process for Medicaid coverage and the review  
2 procedures to be utilized in reviewing such applications. This act would also establish a process  
3 for payment to long-term care providers furnishing care and services to person applying for  
4 Medicaid assistance pending review for an application.

5           This act would take effect upon passage.

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