

2019 -- H 5623

LC001712

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

A N A C T

RELATING TO HUMAN SERVICES - MEDICAL ASSISTANCE

Introduced By: Representatives Serpa, and Ackerman

Date Introduced: February 27, 2019

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.**

4 (a) Definitions. The following terms shall have the meanings indicated:

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

7 "Authorized representative" -- An individual who signs an application for Medicaid
8 benefits on behalf of a Medicaid applicant.

9 "Complete application" -- An application for Medicaid benefits filed by, or on behalf of,
10 an individual receiving care and services from a long-term-care provider (LTC provider),
11 including attachments and supplemental information as necessary, which provides ~~sufficient~~
12 information for the secretary ~~or designee~~ to determine the applicant's eligibility for coverage.

13 Notwithstanding any provision to the contrary, for purposes of this chapter, an application shall
14 be deemed a "complete application" sixty (60) days after the day it is filed, unless within that
15 sixty (60) day period the secretary has requested information from the LTC provider that is:

16 (1) Within the custody of the LTC provider;

17 (2) Necessary for processing of the application; and

18 (3) The information has not been submitted by the LTC provider within that sixty (60)
19 day period, in which case the application shall be deemed a "complete application" on the date

1 such information is submitted by the LTC provider.

2 ~~An application shall not be disqualified from status as a complete application hereunder~~
3 ~~except for failure on the part of the Medicaid applicant, or his or her authorized representative, to~~
4 ~~provide necessary information or documentation, or to take any other action necessary to make~~
5 ~~the application a complete application.~~

6 "Determination period" means the period of time between when an application for LTC
7 coverage is filed, and the date that application is finally approved or denied.

8 "Long-term-care provider (LTC provider)" means any of the following: a home care
9 provider, home nursing-care provider or nursing facility licensed pursuant to the provisions of
10 chapter 17 of title 23; an assisted-living residence provider licensed pursuant to chapter 17.4 of
11 title 23; an adult day-services provider licensed pursuant to § 23-1-52; or a Program of All-
12 Inclusive Care for the Elderly (PACE) as certified by the Centers for Medicare and Medicaid
13 Services (CMS) and participating in the Rhode Island Medicaid program. As used in this chapter
14 the terms "long-term-care provider" and "LTC provider" are interchangeable.

15 "Medicaid applicant" -- An individual who is receiving care from an LTC provider during
16 the pendency of an application for Medicaid benefits.

17 "Release" means a written document which:

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

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

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

22 ~~and~~

23 (4) Which includes the following elements:

24 (i) The name of the LTC provider;

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

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

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

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

34 "Secretary" means the secretary of the Rhode Island executive office of health and human

1 services, or designee.

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

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

16 (2) Uncompensated care while determination is overdue. When a complete application
17 has been pending for ~~ninety (90)~~ thirty (30) days or longer, then upon the request of an LTC
18 provider providing uncompensated care, the state shall make payment to the LTC provider for the
19 care provided to the applicant in full as though the application were approved, for services
20 beginning on the ~~date of such request~~ eligibility date requested in the application. Payment under
21 this subsection shall not be made for the period prior to the ~~LTC provider's request~~ eligibility date
22 requested, but shall continue thereafter until the application is decided. In the event the
23 application is denied, the state shall not have any right of recovery, offset, or recoupment with
24 respect to payments made hereunder for the period of determination. In the event the application
25 is approved, the state may offset payments due for the period between the ~~date of the application~~
26 ~~and the determination~~ eligibility date and the approval by any amounts paid hereunder.

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

34 (i) Without release -- If the LTC provider has not obtained a signed release, the secretary

1 ~~or designee~~ must provide the following information, only, in writing: (a) Whether or not the
2 application has been approved; (b) The identity of any authorized representative; and (c) If the
3 application has not yet been decided, whether or not the application is a complete application.

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

7 (d) Recoupments. With respect to interim payments made to LTC providers on or after
8 September 1, 2016, LTC providers and the secretary shall work together cooperatively to ensure a
9 reasonable and efficient process for recouping those payments in order to permit the state to draw
10 federal matching Medicaid funds. The process shall generally involve paying the LTC provider
11 for approved applicants in the amount owed under the state Medicaid plan, and thereafter
12 recouping an amount representing the amounts paid as interim payments, all subject to the
13 following requirements:

14 (1) Approved applications. Upon approval of coverage for an applicant for whom the
15 secretary has been making interim payments hereunder, the secretary will make payment to the
16 LTC provider in the full amount owed pursuant to the state Medicaid plan methodology for that
17 applicant, except that such payment shall not be offset by applied income owed by the applicant
18 during the determination period except as follows:

19 (i) Applied income. The payment amount to the LTC provider under the state Medicaid
20 plan methodology described in subsection (d)(1) of this section shall not be offset by amounts
21 representing applied income that should have been paid by the Medicaid recipient while his or her
22 application was pending, unless:

23 (A) The Medicaid recipient has actually paid those amounts to the LTC provider; or

24 (B) The secretary notified the LTC provider of the estimated applied income amount
25 while the application was pending, in which case the state may offset applied income for periods
26 subsequent to that notice.

27 (2) Coverage denials. When an LTC provider has received interim payments for a
28 Medicaid applicant pursuant to section (b)(2) of this section, and coverage for the eligibility
29 period requested in the application is ultimately denied, either in full or in part, those interim
30 payments representing care and services furnished during the period(s) denied shall not be
31 recouped from the LTC provider. This prohibition on recoupment shall apply regardless of the
32 reason for the denial, including denials for lack of documentation or other information supporting
33 the application.

34 (3) No offset. Once the LTC provider has been paid in full for services to a Medicaid

1 recipient under the state Medicaid plan methodology as provided in subsection (d)(1) of this
2 section, the secretary may recoup the amount of interim payments made for that specific
3 Medicaid recipient for the LTC provider. Recoupments shall be collected via payments from the
4 LTC provider that are made outside the Medicaid claims processing process, and in no case shall
5 amounts to be recouped be deducted from monthly payments made to LTC providers in return for
6 care and services provided to Medicaid applicants or recipients, regardless of whether those
7 monthly payments are made pursuant to §§ 40-8-19 or 40-8-6.1, without the advance consent of
8 the LTC provider.

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

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

1 This act would expedite the Medicaid assistance application process and the recoupment
2 process including interim Medicaid assistance payments.

3 This act would take effect upon passage.

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