

2019 -- S 0442

LC000811

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: Senator Erin Lynch Prata

Date Introduced: February 27, 2019

Referred To: Senate Health & Human Services

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~~ Long-term care - Provider**
4 **care during 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.~~ Notwithstanding any provision of this chapter to the contrary,
18 for purposes of this section, an application shall be deemed a complete application sixty (60) days
19 after the day it is filed, unless within that sixty (60) day period the secretary has requested

1 information from the LTC provider that is:

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

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

4 (3) The information has not been submitted by the LTC provider within that sixty (60)
5 day period, in which case the application shall be deemed a complete application on the date such
6 information is submitted by the LTC provider.

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

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

16 "Release" means a written document which:

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

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

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

21 and

22 (4) Which includes the following elements:

23 (i) The name of the LTC provider;

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

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

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

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

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

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

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

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

26 (c) Notice of application status. When an LTC provider is providing uncompensated care
27 to a Medicaid applicant, then the LTC provider may inform the secretary or designee of its status,
28 and the secretary or designee shall thereafter inform the nursing facility of any decision on the
29 application at the time the decision is rendered and, if coverage is approved, of the date that
30 coverage will begin. In addition, an LTC provider providing uncompensated care to a Medicaid
31 applicant may inquire of the secretary or designee as to the status of that individual's application,
32 and the secretary or designee shall respond within five (5) business days as follows:

33 (i) Without release -- If the LTC provider has not obtained a signed release, the secretary
34 or designee must provide the following information, only, in writing: (a) Whether or not the

1 application has been approved; (b) The identity of any authorized representative; and (c) If the
2 application has not yet been decided, whether or not the application is a complete application.

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

6 (d) The secretary shall make eligibility for Medicaid coverage effective no later than the
7 first day of the third month before the filing of the application if the applicant:

8 (1) Received uncompensated care from a LTC provider of a type that would otherwise be
9 covered by Medicaid during that period; and

10 (2) Would have been eligible for Medicaid coverage at the time they received the
11 uncompensated care, if they had applied for Medicaid coverage.

12 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 amend certain provisions relating to Medicaid benefits and the process
2 and timing requirements of filing a complete application and the coverage provided while the
3 application is pending.

4 This act would take effect upon passage.

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