

SSB 6807 - H AMD 1412

By Representative Morrell

ADOPTED 3/05/2008

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** A new section is added to chapter
4 18.20 RCW to read as follows:

5 (1) If a boarding home voluntarily withdraws from participation
6 in a state medicaid program for residential care and services under
7 Chapter 74.39A, but continues to provide services of the type
8 provided by boarding homes the facility's voluntary withdrawal from
9 participation is not an acceptable basis for the transfer or
10 discharge of residents of the facility (a) who were receiving
11 medicaid on the day before the effective date of the withdrawal;
12 or (b) who have been paying the facility privately for at least two
13 years and who become eligible for medicaid within one hundred
14 eighty days of the date of withdrawal.

15 (2) A boarding home that has withdrawn from the state medicaid
16 program for residential care and services under Chapter 74.39A,
17 must provide the following oral and written notices to prospective
18 residents. The written notice must be prominent and must be
19 written on a page that is separate from the other admission
20 documents. The notice shall provide that:

21 (a) The facility will not participate in the medicaid program
22 with respect to that resident; and

23 (b) The facility may transfer or discharge the resident from
24 the facility for nonpayment, even if the resident becomes eligible
25 for medicaid.

26 (3) Notwithstanding any other provision of this section, the
27 medicaid contract under Chapter 74.39A RCW that exists on the day
28 the facility withdraws from Medicaid participation is deemed to
29 continue in effect as to the persons described in subsection (1)
30 for the purposes of :

1 (a) Department payments for the residential care and services
2 provided to such persons;

3 (b) Maintaining compliance with all requirements of the
4 medicaid contract between the department and the facility; and

5 (c) Ongoing inspection, contracting, and enforcement authority
6 under the medicaid contract, regulations, and law.

7 (4) Except as provided in subsections (1) of this section, this
8 section shall not apply to a person who begins residence in a
9 facility on or after the effective date of the facility's
10 withdrawal from participation in the medicaid program for
11 residential care and services.

12 (5) A boarding home that is providing residential care and
13 services under Chapter 74.39A shall give the department and its
14 residents sixty days advance notice of the facility's intent to
15 withdraw from participation in the medicaid program.

16 (6) (a) Prior to admission to the facility, a boarding home
17 participating in the state medicaid program for residential care
18 and services under Chapter 74.39A must provide the following oral
19 and written notices to prospective residents. The written notice
20 must be prominent and must be written on a page that is separate
21 from the other admission documents, and must provide that:

22 (i) In the future, the facility may choose to withdraw from
23 participating in the medicaid program;

24 (ii) If the facility withdraws from the medicaid program, it
25 will continue to provide services to residents (A) who were
26 receiving medicaid on the day before the effective date of the
27 withdrawal; or (B) who have been paying the facility privately for
28 at least two years and who will become eligible for medicaid
29 within one hundred eighty days of the date of withdrawal;

30 (iii) After a facility withdraws from the medicaid program,
31 it may transfer or discharge residents who do not meet the
32 criteria described in this subsection (a) for nonpayment, even if
33 the resident becomes eligible for medicaid.

34 **Sec. 2.** RCW 70.129.110 and 1997 c 392 s 205 are each amended
35 to read as follows:

36 (1) The facility must permit each resident to remain in the
37 facility, and not transfer or discharge the resident from the
38 facility unless:

1 (a) The transfer or discharge is necessary for the resident's
2 welfare and the resident's needs cannot be met in the facility;

3 (b) The safety of individuals in the facility is endangered;

4 (c) The health of individuals in the facility would otherwise
5 be endangered;

6 (d) The resident has failed to make the required payment for
7 his or her stay; or

8 (e) The facility ceases to operate.

9 (2) All long-term care facilities shall fully disclose to
10 potential residents or their legal representative the service
11 capabilities of the facility prior to admission to the facility.
12 If the care needs of the applicant who is medicaid eligible are in
13 excess of the facility's service capabilities, the department shall
14 identify other care settings or residential care options consistent
15 with federal law.

16 (3) All long-term care facilities shall fully disclose in
17 writing to residents and potential residents or their legal
18 representative the facility policy on accepting medicaid as a
19 payment source. The policy shall clearly and plainly state the
20 circumstances under which the facility will care for persons who
21 are eligible for medicaid upon admission or who may later become
22 eligible for medicaid. Disclosure must be provided prior to
23 admission, and the facility must retain a copy of the disclosure
24 signed by the resident or their legal representative. The facility
25 policy on medicaid as a payment source as of the date of the
26 resident's admission to the facility shall be considered a legally
27 binding contract between the resident and the facility.

28 ~~((3))~~(4) Before a long-term care facility transfers or
29 discharges a resident, the facility must:

30 (a) First attempt through reasonable accommodations to avoid
31 the transfer or discharge, unless agreed to by the resident;

32 (b) Notify the resident and representative and make a
33 reasonable effort to notify, if known, an interested family member
34 of the transfer or discharge and the reasons for the move in
35 writing and in a language and manner they understand;

36 (c) Record the reasons in the resident's record; and

37 (d) Include in the notice the items described in subsection
38 ~~((5))~~(6) of this section.

1 (~~(4)~~)(5)(a) Except when specified in this subsection, the
2 notice of transfer or discharge required under subsection
3 (~~(3)~~)(4) of this section must be made by the facility at least
4 thirty days before the resident is transferred or discharged.

5 (b) Notice may be made as soon as practicable before transfer
6 or discharge when:

7 (i) The safety of individuals in the facility would be
8 endangered;

9 (ii) The health of individuals in the facility would be
10 endangered;

11 (iii) An immediate transfer or discharge is required by the
12 resident's urgent medical needs; or

13 (iv) A resident has not resided in the facility for thirty
14 days.

15 (~~(5)~~)(6) The written notice specified in subsection
16 (~~(3)~~)(4) of this section must include the following:

17 (a) The reason for transfer or discharge;

18 (b) The effective date of transfer or discharge;

19 (c) The location to which the resident is transferred or
20 discharged;

21 (d) The name, address, and telephone number of the state long-
22 term care ombudsman;

23 (e) For residents with developmental disabilities, the mailing
24 address and telephone number of the agency responsible for the
25 protection and advocacy of developmentally disabled individuals
26 established under part C of the developmental disabilities
27 assistance and bill of rights act; and

28 (f) For residents who are mentally ill, the mailing address and
29 telephone number of the agency responsible for the protection and
30 advocacy of mentally ill individuals established under the
31 protection and advocacy for mentally ill individuals act.

32 (~~(6)~~)(7) A facility must provide sufficient preparation and
33 orientation to residents to ensure safe and orderly transfer or
34 discharge from the facility.

35 (~~(7)~~)(8) A resident discharged in violation of this section
36 has the right to be readmitted immediately upon the first
37 availability of a gender-appropriate bed in the facility.

1 NEW SECTION. **Sec. 3.** This act is necessary for the immediate
2 preservation of the public peace, health, or safety, or support of
3 the state government and its existing public institutions, and
4 takes effect immediately, except for section 2 which applies
5 retroactively to September 1, 2007."

EFFECT: Medicaid protection against discharge when a boarding home withdraws from Medicaid is extended to residents who have been paying privately for two years and become Medicaid eligible with six months of the boarding home's withdrawal from Medicaid. A boarding home that withdraws from Medicaid must provide DSHS and the residents sixty days advance notice of its intent to withdraw. Boarding homes participating in the Medicaid program must provide notice that the facility can withdraw from Medicaid at any time. All long-term care facilities will fully disclose in writing to residents and potential residents or their legal representative the facility policy on accepting medicaid as a payment source.