

SENATE BILL REPORT

SSB 6807

As Amended by House, March 5, 2008

Title: An act relating to discharge of long-term care residents.

Brief Description: Restricting long-term care facilities.

Sponsors: Senate Committee on Health & Long-Term Care (originally sponsored by Senators Kastama, Keiser, Fairley and Kohl-Welles).

Brief History:

Committee Activity: Health & Long-Term Care: 2/04/08, 2/06/08 [DPS, DNP].
Passed Senate: 2/15/08, 48-1.

SENATE COMMITTEE ON HEALTH & LONG-TERM CARE

Majority Report: That Substitute Senate Bill No. 6807 be substituted therefor, and the substitute bill do pass.

Signed by Senators Keiser, Chair; Franklin, Vice Chair; Pflug, Ranking Minority Member; Carrell, Kastama and Kohl-Welles.

Minority Report: Do not pass.

Signed by Senator Marr.

Staff: Rhoda Donkin (786-7465)

Background: Under current law, long-term care facilities may not discharge or transfer residents unless one or more of the following conditions exist: the action is necessary for the resident's welfare; the facility cannot meet the resident's needs; the safety of the resident or other residents are endangered; the resident has failed to make the required payment; or the facility has ceased to operate. Before a discharge or transfer occurs, the facility is required to make a reasonable accommodation to avoid the discharge, and must also appropriately notify the affected individuals.

Under federal law, nursing homes that voluntarily withdraw from the Medicaid program, are prohibited from discharging residents who are residing in the facility of the day before the effective date of the withdrawal. The law applies to residents currently receiving Medicaid benefits, as well as those who are residents but not yet dependent on Medicaid.

Boarding homes with Medicaid assisted living contracts are also required to provide reasonable accommodation before discharging or transferring residents. However, there is

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concern that some boarding homes are voluntarily withdrawing from state's Medicaid program and in doing so, discharging Medicaid residents from their facilities.

Summary of Substitute Bill: A boarding home's voluntary withdrawal from the Medicaid program is not an acceptable basis for the transfer or discharge of persons who have been residing in the boarding home and who were Medicaid eligible on the day before the effective date of the withdrawal. Residents who enter the boarding home after the effective date of withdrawal from Medicaid must be notified that they may be transferred or discharged if they become eligible for Medicaid. Notification must be oral and in writing and acknowledgment of receipt of this notice is required.

Appropriation: None.

Fiscal Note: Requested on January 23, 2008.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill: PRO: This addresses a serious trend of boarding homes canceling their Medicaid contracts and evicting people. This causes transfer trauma. Elderly are often confused when this happens, and think it's their fault. These people are elderly and there are many examples of people not recovering from evictions, especially when they are forced to move miles away from family and friends. The difference between Medicaid rates and private pay rates is not enough to warrant this action. People who have privately spent thousands of dollars in a facility and eventually go on Medicaid should be protected from eviction because they are on Medicaid. Many of the assisted living facilities who are evicting people made promises they are not keeping. Residents of long-term care facilities who are discharged to hospitals because of an acute condition, should be able to return to their facility. They should not be forced to scramble for a new bed somewhere as they are recovering from a hospital stay.

CON: This is going to mean that assisted living facilities all over the state are going to stop having Medicaid contracts. This bill isn't necessary. The real problem is Medicaid rates. If the state paid better rates for long-term care residents in assisted living, our facilities wouldn't be going bankrupt trying to accommodate them. The disparity between the cost of care and state reimbursement is widening, making this problem worse. When residents are discharged to hospitals and their condition is too complex for a long-term care facility to handle, the facility should not be required to take them back.

Persons Testifying: PRO: Lertha Smith, Kay Harper, Denise Brown, Louise Ryan, Long-Term Care Ombudsman.

CON: Robin Dale, Washington Health Care Association; Laurie Wince, Senior Services of America; Brenda Chambers, Emeritus Assisted Living; Deb Murphy, Washington Association of Housing and Services for the Aging; Rob Menaul, Washington State Hospital Association.

House Amendment(s): 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 the Department of Social and Health Services

and the residents 60 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.