

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

1 State of Arkansas
2 86th General Assembly
3 Regular Session, 2007

A Bill

HOUSE BILL 1132

4
5 By: Representatives S. Prater, Bond, Key, L. Evans, Flowers, Stewart, J. Roebuck

For An Act To Be Entitled

9 AN ACT TO CREATE THE ARKANSAS OPTIONS COUNSELING
10 FOR LONG-TERM CARE PROGRAM; AND FOR OTHER
11 PURPOSES.

Subtitle

14 AN ACT TO CREATE THE ARKANSAS OPTIONS
15 COUNSELING FOR LONG-TERM CARE PROGRAM.

18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

20 SECTION 1. Arkansas Code Title 20, Chapter 10 is amended to add an
21 additional subchapter to read as follows:

22 Subchapter 21. Arkansas Options Counseling for Long-Term Care Program.
23 20-10-2107. Definitions.

24 As used in this subchapter:

25 (1) "Medicaid" means the medical assistance program established
26 under § 20-77-101 et seq.;

27 (2) "Nursing facility" has the same meaning as in § 20-10-1401;

28 (3) "Options counseling for long term care" means the process of
29 providing service under the Arkansas Options Counseling for Long-Term Care
30 Program established under this subchapter; and

31 (4) "Representative" means a family member, attorney, hospital
32 social worker, or any other person chosen by an individual to act on behalf
33 of the individual in:

34 (A) Seeking a long-term care consultation;

35 (B) Applying for admission to a nursing facility; or

36 (C) Continuing residence in a nursing facility.



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20-77-2102. Limitation on nursing facility admissions and retention - Penalties.

(a) Unless a nursing facility has received evidence that a long-term care consultation has been completed for an individual or the criteria set forth in § 20-77-2106(5) or (6) are applicable to the individual, no nursing facility for which the operator has a Medicaid provider agreement may admit or retain an individual as a resident.

(b) The Director of the Division Aging and Adult Services of the Department of Health and Human Services may fine a nursing facility an amount determined by rules the director shall adopt if the nursing facility admits or retains an individual without evidence that a long-term care consultation has been provided as required under this subchapter.

20-10-2103. Arkansas Options Counseling for Long-Term Care Program - Creation - Administration.

(a) The Arkansas Options Counseling for Long-Term Care Program is created within the Department of Health and Human Services.

(b) The program shall provide individuals or their representatives with long-term care consultations that shall include information about, at a minimum:

(A) Long-term care options and costs;

(B) The assessment of an individual's functional capabilities; and

(C) The conduct of all or part of a professional review, assessment, and determination of appropriate long-term care options.

(c) The program shall be administered by the department.

20-10-2104. Eligibility.

(a) Each individual in the following categories shall be provided with a long-term care consultation:

(1) An individual who applies or indicates an intention to apply for admission to a nursing facility, regardless of the source of payment to be used for the individual's care in a nursing facility;

(2) Nursing facility residents who apply or indicate an intention to apply for Medicaid;

1 (3) A nursing facility resident who is likely to spend down the
2 individual's resources within six (6) months after admission to a nursing
3 facility to a level at which the individual is financially eligible for
4 Medicaid; and

5 (4) An individual who requests a long-term care consultation.

6 (b)(1) In addition to the individuals included in the categories
7 specified in subdivision (a) of this section, long-term care consultations
8 may be provided to nursing facility residents who have not applied and have
9 not indicated an intention to apply for Medicaid.

10 (2) Consultations provided under subdivision (b)(1) of this
11 section are intended to:

12 (A) Determine continued need for nursing facility
13 services;

14 (B) Provide information on alternative services; and

15 (C) Make referrals to alternative services.

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17 20-10-2105. Consultations – Timing – Content – Reporting.

18 (a) The long-term care consultations required under the subchapter may
19 be provided at any time, including either before or after the individual who
20 is the subject of a long-term care consultation has been admitted to a
21 nursing facility.

22 (b) The information provided through a long-term care consultation
23 shall be appropriate to the individual's needs and situation and shall
24 address all of the following:

25 (1) The availability of long-term care options that are open to
26 the individual;

27 (2) Sources and methods of both public and private payment for
28 long-term care services;

29 (3) Factors to consider when choosing among the available
30 programs, services, and benefits; and

31 (4) Opportunities and methods for maximizing the independence
32 and self-reliance of the individual, including support services provided by
33 the individual's family, friends, and community.

34 (c) An individual's long-term care consultation may include an
35 assessment of the individual's functional capabilities and may be provided
36 concurrently with any assessment required by the Department of Health and

1 Human Services.

2 (d)(1) At the conclusion of an individual's long-term care
3 consultation, the department shall provide the individual or the individual's
4 representative with a written summary of options and resources available to
5 meet the individual's needs.

6 (2) Even though the summary may specify that a source of long-
7 term care other than care in a nursing facility is appropriate and available,
8 the individual is not required to seek an alternative source of long-term
9 care and may be admitted to or continue to reside in a nursing facility.

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11 20-77-2106. Rules.

12 The Director of the Department of Health and Human Services shall adopt
13 rules necessary to implement and administer this subchapter, including
14 without limitation:

15 (1) Procedures for providing long-term care consultations under
16 this subchapter;

17 (2) Information to be provided through long-term care
18 consultations regarding long-term care services that are available;

19 (3) Circumstances under which it may be appropriate to provide
20 an individual's long-term care consultation after the individual's admission
21 to a nursing facility rather than before admission;

22 (4) Criteria for identifying nursing facility residents who
23 would benefit from the provision of a long-term care consultation;

24 (5) Criteria under which an individual or the individual's
25 representatives may choose to forego participation in a long-term care
26 consultation; and

27 (6) Criteria for exempting individuals from the long-term care
28 consultation requirement.

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