

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 85th General Assembly
3 Regular Session, 2005

A Bill

HOUSE BILL 2532

4
5 By: Representative Medley
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For An Act To Be Entitled

8
9 AN ACT TO PROTECT RESIDENTS OF LONG-TERM CARE
10 FACILITIES; TO ENSURE THAT LONG-TERM CARE
11 FACILITIES RECEIVE PAYMENTS INTENDED TO BE PAID
12 TO THE FACILITIES; AND FOR OTHER PURPOSES.
13

Subtitle

14
15 AN ACT TO ENSURE THAT RESIDENTS OF LONG-
16 TERM CARE FACILITIES ARE PROTECTED AND
17 THE FACILITIES PAID.
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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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22 SECTION 1. Arkansas Code Title 20, Chapter 10, Subchapter 1 is amended
23 to additional sections to read as follows:

24 20-10-109. Findings -- Intent.

25 (a) The General Assembly finds that:

26 (1) Residents in Arkansas's long-term care facilities are
27 particularly vulnerable to the theft or illegal diversion of personal funds
28 designated as residents' share of cost under the state Medicaid program;

29 (2) The theft or illegal diversion of residents' share of
30 cost under the state Medicaid program has an adverse impact on the resources
31 available to ensure high-quality care for all facility residents; and

32 (3) Sections 20-10-109 and 20-10-110 are necessary to:

33 (A) Protect long-term care residents' rights;

34 (B) Provide appropriate resources for residents'
35 care; and

36 (C) Ensure that residents' funds designated to pay



1 for long-term care are used for that purpose.

2 (b) The General Assembly intends that §§ 20-10-109 and 20-10-110
3 affect individuals who intentionally steal or divert residents' share of cost
4 and not change the obligations or responsibilities of residents of long-term
5 care facilities or deter legitimate disputes over the amount of a resident's
6 share of cost.

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8 20-10-110. Protection of residents' personal funds.

9 (a) For the purposes of this section:

10 (1) "Agent" means a person who manages, uses, or controls
11 those funds or assets that legally may be used to pay a resident's share of
12 cost and other charges not paid for by the state Medicaid program;

13 (2) "Long-term care facility" means a nursing home,
14 residential care facility, post-acute head injury retraining, and residential
15 care facility, or any other facility that provides long-term medical or
16 personal care;

17 (3) "Medicaid recipient" means any individual in whose behalf
18 any person claimed or received any payment or payments from the state
19 Medicaid program;

20 (4) "Resident" means a person:

21 (A) Who resides on a permanent and full-time basis in
22 a long-term care facility;

23 (B) Who is a Medicaid recipient; and

24 (C) Whose facility care is paid in whole or in part
25 by the state Medicaid program; and

26 (5)(A) "Responsible party" means a person other than the
27 resident or potential resident who by virtue of signing or cosigning an
28 admissions agreement with a long-term facility, either together with or on
29 behalf of a resident, becomes personally responsible or liable for payment of
30 any portion of the charges incurred by the resident while in the facility.

31 (B) "Responsible party" shall not mean:

32 (i) A person who signs or cosigns a long-term
33 care facility's admissions agreement by virtue of being an agent under a
34 power of attorney for health care;

35 (ii) An attorney-in-fact under a durable power
36 of attorney executed by the potential resident;

1 (iii) A conservator of the person or estate of
2 a resident; or

3 (iv) A representative payee.

4 (b)(1) No long-term care facility may require or solicit as a
5 condition of admission into the facility that a Medicaid recipient or a
6 responsible party sign or cosign the admissions agreement.

7 (2) No long-term care facility may accept or receive as a
8 condition of admission into the facility the signature or cosignature of a
9 responsible party for a Medicaid recipient.

10 (c)(1)(A) If a potential resident has an agent, a facility may
11 require as a condition of admission that the potential resident's agent:

12 (i) Sign or cosign the admissions agreement;
13 and

14 (ii) Agree to distribute to the facility
15 promptly when due the share of cost and any other charges not paid for by the
16 state Medicaid program that the potential resident or his or her agent has
17 agreed to pay.

18 (B) The financial obligation of the agent shall be
19 limited to the amount of the potential resident's funds received but not
20 distributed to the long-term care facility.

21 (C) A new agent who did not sign or cosign the
22 admissions agreement shall be held responsible to distribute funds in
23 accordance with this section.

24 (2) Except to the extent that the person is an agent, a
25 person does not assume personal responsibility or liability for payment of
26 any charges incurred by a resident merely because the person is:

27 (A) A person who signs or cosigns a long-term care
28 facility's admissions agreement by virtue of being an agent under a power of
29 attorney for health care;

30 (B) An attorney-in-fact under a durable power of
31 attorney executed by the potential resident;

32 (C) A conservator of the person or estate of a
33 resident; or

34 (D) A representative payee.

35 (d) If a resident who has not been a Medicaid recipient becomes a
36 Medicaid recipient, the long-term care facility shall make a reasonable

1 attempt to contact the state Medicaid program to determine the resident's
2 share of cost.

3 (e) Unless otherwise exempted by law, a resident and his or her agent
4 shall pay to the long-term care facility the share of cost for which he or
5 she is responsible under the state Medicaid program.

6 (f) If a resident or his or her agent disputes the amount of share of
7 cost owed to a long-term care facility, the resident or agent may apply for a
8 hearing under the rules of the Department of Human Services for a
9 determination of the amount of share of cost owed to the long-term care
10 facility.

11 (g) Any agent who knowingly violates the requirements of this
12 section is guilty of a misdemeanor and shall be punished by a fine not to
13 exceed two thousand five hundred dollars (\$2,500) or by imprisonment not to
14 exceed one hundred eighty (180) days, or both.

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