

## CHAPTER 234

AN ACT concerning the use of certain residential facilities by Medicaid recipients and supplementing Title 30 of the Revised Statutes.

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

C.26:2H-12.16 Definitions relative to residential facilities for Medicaid recipients; 10 percent utilization requirement.

1. a. For the purposes of this act, "Medicaid" means the program established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) and "Medicaid-eligible" means that a person is determined to meet the financial eligibility standards for medical assistance under the State Medicaid program and is approved by the Department of Health and Senior Services for participation in a federally approved 1915(c) waiver program that provides assisted living services.

b. A new facility that is licensed to operate an assisted living residence or comprehensive personal care home after the effective date of this act shall reserve 10% of its total bed compliment for use by Medicaid-eligible persons. The 10% utilization by Medicaid-eligible persons shall be met through Medicaid conversion of persons who enter the assisted living residence or comprehensive personal care home as private paying persons and subsequently become eligible for Medicaid, or through direct admission of Medicaid-eligible persons. An assisted living residence or comprehensive personal care home shall achieve this 10% utilization within three years of licensure to operate and shall maintain this level of utilization thereafter.

c. Existing assisted living residences and comprehensive personal care homes that add additional assisted living beds shall be required, as a condition of licensure approval, to maintain 10% of the additional beds for Medicaid-eligible persons through Medicaid conversion of persons who enter the assisted living residence or comprehensive personal care home as private paying persons and subsequently become eligible for Medicaid, or through direct admission of Medicaid-eligible persons. If the total number of additional beds is less than 10, at least one of the additional beds shall be reserved for a Medicaid-eligible person.

C.26:2H-12.17 Waiver of utilization requirement.

2. The Commissioner of Health and Senior Services may waive the 10% utilization requirement or reduce the required percentage by regulation for specific regions of the State or Statewide if he determines that sufficient numbers of assisted living beds are available in the State to meet the needs of Medicaid-eligible persons within the limits of the federal waiver to provide assisted living services through the Medicaid program.

C.26:2H-12.18 Reserve requirement as fulfillment of utilization requirements.

3. The 10% reserve requirement of this act shall be recognized to fulfill all or a portion, as applicable, of low and moderate income or Medicaid utilization requirements contained in municipal ordinances and shall satisfy all or a portion, as applicable, of low income housing requirements for assisted living residences or comprehensive personal care homes that are financed by bonds mandating low income housing as a condition of financing.

C.26:2H-12.19 Construction of act.

4. Nothing in this act shall be construed to: prohibit an existing assisted living residence, comprehensive personal care home or assisted living program, which is not affected by this act, from participating in the Medicaid program; or create an entitlement to financing under the Medicaid program for services provided at assisted living residences or comprehensive personal care homes.

C.26:2H-12.20 Applicability of act.

5. This act shall not apply to an assisted living residence or comprehensive personal care home operated by a continuing care retirement community operating under a certificate of authority issued by the Department of Community Affairs pursuant to P.L.1986, c.103 (C.52:27D-330 et seq.).

C.26:2H-12.21 Regulations.

6. The Commissioner of Health and Senior Services shall adopt regulations pursuant to the

"Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) necessary to carry out the purposes of this act.

7. This act shall take effect immediately.

Approved August 31, 2001.