

105TH CONGRESS
2D SESSION

H. R. 4046

To amend title XIX of the Social Security Act to prohibit transfers or discharges of residents of nursing facilities as a result of a voluntary withdrawal from participation in the medicaid program.

IN THE HOUSE OF REPRESENTATIVES

JUNE 11, 1998

Mr. DAVIS of Florida (for himself, Mr. BILIRAKIS, Mr. DINGELL, Mr. SHAW, Mr. BROWN of Ohio, Mr. CANADY of Florida, Mr. WAXMAN, Mr. YOUNG of Florida, Mr. DEUTSCH, Mr. FOLEY, Mr. WEXLER, Mrs. FOWLER, Mr. MARKEY, Mr. DIAZ-BALART, Mr. HASTINGS of Florida, Ms. ROSLEHTINEN, Ms. BROWN of Florida, Mr. BOUCHER, Mrs. THURMAN, Mrs. MEEK of Florida, Mr. BOYD, Mr. MANTON, Mr. TOWNS, Mr. PALLONE, Ms. FURSE, Mr. RUSH, Ms. ESHOO, Mr. STUPAK, Mr. GREEN, Mr. KENNEDY of Massachusetts, and Mr. BISHOP) introduced the following bill; which was referred to the Committee on Commerce

A BILL

To amend title XIX of the Social Security Act to prohibit transfers or discharges of residents of nursing facilities as a result of a voluntary withdrawal from participation in the medicaid program.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. RESTRICTIONS ON TRANSFERS OR DIS-**
2 **CHARGES OF NURSING FACILITY RESIDENTS**
3 **IN THE CASE OF VOLUNTARY WITHDRAWAL**
4 **FROM PARTICIPATION UNDER THE MEDICAID**
5 **PROGRAM.**

6 (a) IN GENERAL.—Section 1919(c)(2) of the Social
7 Security Act (42 U.S.C. 1396r(c)(2)) is amended by add-
8 ing at the end the following new subparagraph:

9 “(F) CONTINUING RIGHTS IN CASE OF
10 VOLUNTARY WITHDRAWAL FROM PARTICIPA-
11 TION.—

12 “(i) IN GENERAL.—In the case of a
13 nursing facility that voluntarily withdraws
14 from participation in a State plan under
15 this title but continues to provide services
16 of the type provided by nursing facilities—

17 “(I) the facility’s voluntary with-
18 drawal from participation is not an
19 acceptable basis for the transfer or
20 discharge of residents of the facility
21 who were residing in the facility on
22 the day before the effective date of the
23 withdrawal;

24 “(II) the provisions of this sec-
25 tion continue to apply to such resi-

1 dents until the date of their discharge
2 from the facility; and

3 “(III) in the case of each individ-
4 ual who begins residence in the facil-
5 ity after the effective date of such
6 withdrawal, the facility shall provide
7 notice orally and in a prominent man-
8 ner in writing on a separate page at
9 the time the individual begins resi-
10 dence of the information described in
11 clause (ii) and shall obtain from each
12 such individual at such time an ac-
13 knowledgment of receipt of such infor-
14 mation that is in writing, signed by
15 the individual, and separate from
16 other documents signed by such indi-
17 vidual.

18 Nothing in this subparagraph shall be con-
19 strued as affecting any requirement of a
20 participation agreement that a nursing fa-
21 cility provide advance notice to the State
22 or the Secretary, or both, of its intention
23 to terminate the agreement.

1 “(ii) INFORMATION FOR NEW RESI-
2 DENTS.—The information described in this
3 clause for a resident is the following:

4 “(I) The facility is not participat-
5 ing in the program under this title
6 with respect to that resident.

7 “(II) The facility may transfer or
8 discharge the resident from the facil-
9 ity at such time as the resident is un-
10 able to pay the charges of the facility,
11 even though the resident may have be-
12 come eligible for medical assistance
13 for nursing facility services under this
14 title.

15 “(iii) CONTINUATION OF PAYMENTS
16 AND OVERSIGHT AUTHORITY.—Notwith-
17 standing any other provision of this title,
18 with respect to the residents described in
19 clause (i)(I), a participation agreement of
20 a facility described in clause (i) is deemed
21 to continue in effect under such plan after
22 the effective date of the facility’s voluntary
23 withdrawal from participation under the
24 State plan for purposes of—

1 “(I) receiving payments under
2 the State plan for nursing facility
3 services provided to such residents;

4 “(II) maintaining compliance
5 with all applicable requirements of
6 this title; and

7 “(III) continuing to apply the
8 survey, certification, and enforcement
9 authority provided under subsections
10 (g) and (h) (including involuntary ter-
11 mination of a participation agreement
12 deemed continued under this clause).

13 “(iv) APPLICATION TO SIGNIFICANT
14 REDUCTIONS OF EXTENT OF PARTICIPA-
15 TION.—The provisions of this subpara-
16 graph shall apply to a significant voluntary
17 reduction in the extent of participation
18 under a State plan in the case of a resi-
19 dent who, on (or within 90 days after) the
20 effective date of the reduction, is entitled
21 to medical assistance under this title with
22 respect to nursing facility services in a
23 manner similar to the manner in which
24 this subparagraph applies to a voluntary
25 withdrawal of participation.

1 “(v) NO APPLICATION TO NEW RESI-
2 DENTS.—This paragraph (other than sub-
3 clause (III) of clause (i) and so much of
4 clause (iv) as the Secretary determines re-
5 lates to such subclause) shall not apply to
6 an individual who begins residence in a fa-
7 cility on or after the effective date of the
8 withdrawal from participation under this
9 subparagraph.”.

10 (b) EFFECTIVE DATE.—The amendment made by
11 subsection (a) shall apply to voluntary withdrawals from
12 participation (and significant reductions of extent of par-
13 ticipation) occurring on or after the date of the enactment
14 of this Act.

15 (c) REPORT ON IMPLEMENTATION.—Not later than
16 5 years after the date of the enactment of this Act, the
17 Secretary of Health and Human Services shall submit to
18 Congress a report on the impact of the implementation
19 of the amendment made by subsection (a) on nursing fa-
20 cilities, their residents, and medicaid beneficiaries. The re-
21 port shall include—

22 (1) an analysis of the impact of changes in
23 medicaid reimbursement rates for nursing facility
24 services on the extent to which nursing facilities vol-
25 untarily withdraw from (or significantly reduce the

1 extent of participation in) the medicaid program and
2 on access to and quality of such services; and
3 (2) recommendations for such legislative
4 changes as the Secretary deems appropriate.

○