

Union Calendar No. 27

106TH CONGRESS
1ST SESSION

H. R. 540

[Report No. 106-44]

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

FEBRUARY 3, 1999

Mr. DAVIS of Florida (for himself, Mr. BILIRAKIS, Mr. DINGELL, Mr. BROWN of Ohio, Mr. SHAW, Mr. WAXMAN, Mr. FOLEY, Mr. MARKEY, Mr. CANDY of Florida, Mr. DEUTSCH, Mrs. FOWLER, Mr. STUPAK, Mr. MCCOLLUM, Mr. BOUCHER, Mr. LAFALCE, Mr. PALLONE, Mr. LOBIONDO, Mr. LEWIS of Georgia, Mr. GOSS, Mrs. THURMAN, Mr. WEXLER, Mr. RUSH, Mr. SPRATT, Mr. STRICKLAND, Mr. GREEN of Texas, Mrs. MEEK of Florida, Mr. HASTINGS of Florida, Ms. STABENOW, Mr. MORAN of Virginia, Mr. BISHOP, Mr. BENTSEN, Mr. BOYD, Mr. LANTOS, and Ms. BROWN of Florida) introduced the following bill; which was referred to the Committee on Commerce

MARCH 8, 1999

Additional sponsors: Mr. YOUNG of Florida, Ms. ROS-LEHTINEN, Mr. UPTON, Mr. LATOURETTE, Ms. DEGETTE, Mr. SANDERS, Mr. MCHUGH, Mr. PICKERING, Mr. BARRETT of Wisconsin, Mr. WYNN, Ms. ESHOO, Mr. TOWNS, Mr. MICA, Mrs. CAPPS, Ms. KILPATRICK, Ms. SLAUGHTER, Mr. PASCRELL, Mr. SMITH of New Jersey, Mrs. MYRICK, Mr. HALL of Texas, Mr. LAZIO, Mr. PHELPS, Mr. SAWYER, Mr. SHOWS, Mr. BLAGOJEVICH, Mr. FARR of California, and Ms. CARSON

MARCH 8, 1999

Committed to the Committee of the Whole House on the State of the Union
and ordered to be printed

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,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Nursing Home Resi-
 5 dent Protection Amendments of 1999”.

6 **SEC. 2. RESTRICTIONS ON TRANSFERS OR DISCHARGES OF**
 7 **NURSING FACILITY RESIDENTS IN THE CASE**
 8 **OF VOLUNTARY WITHDRAWAL FROM PAR-**
 9 **TICIPATION UNDER THE MEDICAID PRO-**
 10 **GRAM.**

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

14 “(F) CONTINUING RIGHTS IN CASE OF
 15 VOLUNTARY WITHDRAWAL FROM PARTICIPA-
 16 TION.—

17 “(i) IN GENERAL.—In the case of a
 18 nursing facility that voluntarily withdraws
 19 from participation in a State plan under
 20 this title but continues to provide services
 21 of the type provided by nursing facilities—

1 “(I) the facility’s voluntary with-
2 drawal from participation is not an
3 acceptable basis for the transfer or
4 discharge of residents of the facility
5 who were residing in the facility on
6 the day before the effective date of the
7 withdrawal (including those residents
8 who were not entitled to medical as-
9 sistance as of such day);

10 “(II) the provisions of this sec-
11 tion continue to apply to such resi-
12 dents until the date of their discharge
13 from the facility; and

14 “(III) in the case of each individ-
15 ual who begins residence in the facil-
16 ity after the effective date of such
17 withdrawal, the facility shall provide
18 notice orally and in a prominent man-
19 ner in writing on a separate page at
20 the time the individual begins resi-
21 dence of the information described in
22 clause (ii) and shall obtain from each
23 such individual at such time an ac-
24 knowledgment of receipt of such infor-
25 mation that is in writing, signed by

1 the individual, and separate from
2 other documents signed by such indi-
3 vidual.

4 Nothing in this subparagraph shall be con-
5 strued as affecting any requirement of a
6 participation agreement that a nursing fa-
7 cility provide advance notice to the State
8 or the Secretary, or both, of its intention
9 to terminate the agreement.

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

13 “(I) The facility is not participat-
14 ing in the program under this title
15 with respect to that resident.

16 “(II) The facility may transfer or
17 discharge the resident from the facil-
18 ity at such time as the resident is un-
19 able to pay the charges of the facility,
20 even though the resident may have be-
21 come eligible for medical assistance
22 for nursing facility services under this
23 title.

24 “(iii) CONTINUATION OF PAYMENTS
25 AND OVERSIGHT AUTHORITY.—Notwith-

1 standing any other provision of this title,
2 with respect to the residents described in
3 clause (i)(I), a participation agreement of
4 a facility described in clause (i) is deemed
5 to continue in effect under such plan after
6 the effective date of the facility's voluntary
7 withdrawal from participation under the
8 State plan for purposes of—

9 “(I) receiving payments under
10 the State plan for nursing facility
11 services provided to such residents;

12 “(II) maintaining compliance
13 with all applicable requirements of
14 this title; and

15 “(III) continuing to apply the
16 survey, certification, and enforcement
17 authority provided under subsections
18 (g) and (h) (including involuntary ter-
19 mination of a participation agreement
20 deemed continued under this clause).

21 “(iv) NO APPLICATION TO NEW RESI-
22 DENTS.—This paragraph (other than sub-
23 clause (III) of clause (i)) shall not apply to
24 an individual who begins residence in a fa-
25 cility on or after the effective date of the

1 withdrawal from participation under this
2 subparagraph.”.

3 (b) **EFFECTIVE DATE.**—The amendment made by
4 subsection (a) applies to voluntary withdrawals from par-
5 ticipation occurring on or after the date of the enactment
6 of this Act.

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