

AN ACT concerning regulation.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Nursing Home Care Act is amended by changing Section 3-401.1 as follows:

(210 ILCS 45/3-401.1) (from Ch. 111 1/2, par. 4153-401.1)

Sec. 3-401.1. (a) A facility participating in the Medical Assistance Program is prohibited from failing or refusing to retain as a resident any person because he or she is a recipient of or an applicant for the Medical Assistance Program.

(a-5) ~~A~~ ~~After the effective date of this amendatory Act of 1997,~~ a facility of which only a distinct part is certified to participate in the Medical Assistance Program may refuse to retain as a resident any person who resides in a part of the facility that does not participate in the Medical Assistance Program and who is unable to pay for his or her care in the facility without Medical Assistance only if:

(1) the facility, no later than at the time of admission and at the time of the resident's contract renewal, explains to the resident (unless he or she is incompetent), and to the resident's representative, and to the person making payment on behalf of the resident for

the resident's stay, in writing, that the facility may discharge the resident if the resident is no longer able to pay for his or her care in the facility without Medical Assistance;

(2) the resident (unless he or she is incompetent), the resident's representative, and the person making payment on behalf of the resident for the resident's stay, acknowledge in writing that they have received the written explanation;

(3) in circumstances where the Medicare coverage is ending prior to the full 100-day benefit period, the facility provides notice to the resident and to the resident's representative that the resident's Medicare coverage will likely end in 5 days. This notification shall specify that the resident shall not be required to move under this Section until these 5 days are up. In cases where the facility is notified in a shorter time frame than 5 days by a managed care organization or the time frame is shorter than 5 days due to inaccurate reporting by an outside entity, the facility must provide a minimum of 2 days' notification.

(a-10) For the purposes of this Section, a recipient or applicant shall be considered a resident in the facility during any hospital stay totaling 10 days or less following a hospital admission. The Department of Healthcare and Family Services shall recoup funds from a facility when, as a result

of the facility's refusal to readmit a recipient after hospitalization for 10 days or less, the recipient incurs hospital bills in an amount greater than the amount that would have been paid by that Department (formerly the Illinois Department of Public Aid) for care of the recipient in the facility. The amount of the recoupment shall be the difference between the Department of Healthcare and Family Services' (formerly the Illinois Department of Public Aid's) payment for hospital care and the amount that Department would have paid for care in the facility.

(b) A facility which violates this Section shall be guilty of a business offense and fined not less than \$500 nor more than \$1,000 for the first offense and not less than \$1,000 nor more than \$5,000 for each subsequent offense.

(Source: P.A. 95-331, eff. 8-21-07.)