



**House
Legislative
Analysis
Section**

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NURSING HOME PREADMISSION CONTRACTS

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House Bill 4440
Sponsor: Rep. Perry Bullard
Committee: Public Health

Complete to 4-18-89

A SUMMARY OF HOUSE BILL 4440 AS INTRODUCED 3-14-89

House Bill 4440 would prohibit certain nursing home preadmission practices that discriminate against people who are, or who will be, eligible for Medicaid reimbursement.

The bill would amend the Public Health Code to prohibit nursing homes that participate in the federal Medicaid program from requiring as a condition of admission or of continued stay in the nursing home that an applicant or patient (or his or her representative) agree either (a) to remain a private pay patient (or to pay the private pay rate) for a specified period of time before applying for Medicaid or (b) to make a gift or donation. Existing contracts with such requirements would become unenforceable upon the effective date of the bill, and within 30 days of the effective date of the bill nursing homes would have to notify each private pay patient with whom the nursing home had such a contract that the contract no longer was a bar to the patient applying for Medicaid. Anyone violating this prohibition against private pay requirements would be liable to a civil lawsuit for three times the amount of actual damages (or \$1,000, whichever was greater) plus costs and attorney fees.

The bill also would prohibit nursing homes from requiring applicants or patients to have appointed legal guardians or conservators or to have executed a durable power of attorney as a condition of the applicant's admission or the patient's continued stay. However, the bill would allow nursing home administrators to request the appointment of a guardian or conservator for an applicant or a patient if they reasonably believed that the applicant or patient met the legal requirements for the appointment of a guardian or conservator.

Finally, the bill would require that if a patient who had made payments to a Medicaid-participating nursing home became a newly enrolled Medicaid recipient, the nursing home would be required to accept any retroactive payment from the Department of Social Services and to refund to the patient the retroactive difference between the private and Medicaid payments, minus the amounts required as copayments and for services not covered by Medicaid. For 90 days after such refunds, the refund could not be considered part of a patient's income or assets used to determine a patient's Medicaid eligibility.

MCL 333.21702 et al.

House Bill 4440 (4-18-89)