

# 26:2H-12.16

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2001            **CHAPTER:** 234  
**NJSA:** 26:2H-12.16    (Assisted living facilities - Medicaid eligibility requirement)  
**BILL NO:** S464            (Substituted for A1761)

**SPONSOR(S):** Singer and Robertson

**DATE INTRODUCED:** Pre-filed

**COMMITTEE:**            **ASSEMBLY:** ----

**SENATE:** Senior Citizens

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**            **ASSEMBLY:** June 14, 2001

**SENATE:** May 3, 2001

**DATE OF APPROVAL:** August 31, 2001

### FOLLOWING ARE ATTACHED IF AVAILABLE:

**FINAL TEXT OF BILL** (Senate Committee Substitute enacted)

#### S464

**SPONSORS STATEMENT:** (Begins on page 2 of original bill)            Yes

**COMMITTEE STATEMENT:**                            **ASSEMBLY:** No

**SENATE:** Yes

**FLOOR AMENDMENT STATEMENTS:**            No

**LEGISLATIVE FISCAL ESTIMATE:**            No

#### A1761

**SPONSORS STATEMENT:** (Begins on page 2 of original bill)            Yes

Bill and Sponsors Statement identical to S464

<b>COMMITTEE STATEMENT:</b>	<b>ASSEMBLY:</b>	Yes
	<b>SENATE:</b>	No
<b>FLOOR AMENDMENT STATEMENTS:</b>		No
<b>LEGISLATIVE FISCAL ESTIMATE:</b>		No
<b>VETO MESSAGE:</b>		No
<b>GOVERNOR'S PRESS RELEASE ON SIGNING:</b>		No

**FOLLOWING WERE PRINTED:**

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<b>REPORTS:</b>	No
<b>HEARINGS:</b>	No
<b>NEWSPAPER ARTICLES:</b>	No

**SENATE, No. 464**

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**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

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PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

**Sponsored by:**

**Senator ROBERT W. SINGER**

**District 30 (Burlington, Monmouth and Ocean)**

**Senator NORMAN M. ROBERTSON**

**District 34 (Essex and Passaic)**

**SYNOPSIS**

Requires at least 10% of residents in new assisted living facilities be Medicaid-eligible.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning the use of assisted living facilities by Medicaid  
2 recipients and supplementing Title 26 of the Revised Statutes.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. An applicant for licensure to operate an assisted living facility  
8 established on or after the effective date of this act or to add additional  
9 assisted living units to an existing assisted living facility, shall comply  
10 with the following utilization requirement: within one year from  
11 license issuance, a minimum of 10% of the total assisted living bed  
12 complement shall be occupied by direct admission of Medicaid-eligible  
13 persons. The assisted living facility shall continue to maintain at least  
14 10% Medicaid-eligible direct admissions in its facility annually  
15 thereafter.

16 For the purposes of this act, "Medicaid" means the program  
17 established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), and  
18 "Medicaid-eligible" means a person who has received a determination  
19 of medical and financial eligibility for Medicaid coverage or a person  
20 who qualifies medically and financially for Medicaid but who does not  
21 apply for Medicaid coverage.

22  
23 2. The Commissioner of Health and Senior Services may waive the  
24 10% requirement or reduce the required percentage by regulation for  
25 specific regions of the State or Statewide if he determines that  
26 sufficient numbers of assisted living beds are available in the State to  
27 meet the needs of Medicaid-eligible persons within the limits of the  
28 federal waiver to provide assisted living services through the Medicaid  
29 program.

30  
31 3. The Commissioner of Health and Senior Services shall adopt  
32 regulations pursuant to the "Administrative Procedure Act," P.L.1968,  
33 c.410 (C.52:14B-1 et seq.) necessary to carry out the purposes of this  
34 act.

35  
36 4. This act shall take effect immediately.

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38

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STATEMENT

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41 This bill requires, as a condition of licensure for any new assisted  
42 living facility licensed on or after the effective date of the bill or any  
43 existing facility that seeks to add additional assisted living beds, that  
44 the facility agree that within one year from license issuance, a  
45 minimum of 10% of the total assisted living bed complement shall be  
46 occupied by direct admission of Medicaid-eligible persons. The

1 assisted living facility shall continue to maintain at least 10%  
2 Medicaid-eligible direct admissions annually thereafter.

3 The bill provides, however, that the Commissioner of Health and  
4 Senior Services may waive the 10% requirement or reduce the  
5 required percentage, by regulation, for specific regions of the State or  
6 Statewide if he determines that sufficient numbers of assisted living  
7 beds are available in the State to meet the needs of Medicaid-eligible  
8 persons within the limits of the State's federal waiver to provide  
9 assisted living services through the Medicaid program.

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 464**

**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

ADOPTED OCTOBER 19, 2000

**Sponsored by:**

**Senator ROBERT W. SINGER**

**District 30 (Burlington, Monmouth and Ocean)**

**Senator NORMAN M. ROBERTSON**

**District 34 (Essex and Passaic)**

**Co-Sponsored by:**

**Assemblymen Wolfe, Holzapfel, Moran, Cottrell, LeFevre, Malone,  
Gusciora and Zecker**

**SYNOPSIS**

Requires at least 10% of residents in new assisted living facilities be Medicaid-eligible.

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Senate Senior Citizens, Veterans' Affairs and Human Services Committee.



**(Sponsorship Updated As Of: 6/15/2001)**

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

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. a. For the purposes of this act, "Medicaid" means the program  
8 established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) and  
9 "Medicaid-eligible" means that a person is determined to meet the  
10 financial eligibility standards for medical assistance under the State  
11 Medicaid program and is approved by the Department of Health and  
12 Senior Services for participation in a federally approved 1915(c)  
13 waiver program that provides assisted living services.

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

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

35  
36 2. The Commissioner of Health and Senior Services may waive the  
37 10% utilization requirement or reduce the required percentage by  
38 regulation for specific regions of the State or Statewide if he  
39 determines that sufficient numbers of assisted living beds are available  
40 in the State to meet the needs of Medicaid-eligible persons within the  
41 limits of the federal waiver to provide assisted living services through  
42 the Medicaid program.

43  
44 3. The 10% reserve requirement of this act shall be recognized to  
45 fulfill all or a portion, as applicable, of low and moderate income or  
46 Medicaid utilization requirements contained in municipal ordinances

1 and shall satisfy all or a portion, as applicable, of low income housing  
2 requirements for assisted living residences or comprehensive personal  
3 care homes that are financed by bonds mandating low income housing  
4 as a condition of financing.

5  
6 4. Nothing in this act shall be construed to: prohibit an existing  
7 assisted living residence, comprehensive personal care home or  
8 assisted living program, which is not affected by this act, from  
9 participating in the Medicaid program; or create an entitlement to  
10 financing under the Medicaid program for services provided at assisted  
11 living residences or comprehensive personal care homes.

12  
13 5. This act shall not apply to an assisted living residence or  
14 comprehensive personal care home operated by a continuing care  
15 retirement community operating under a certificate of authority issued  
16 by the Department of Community Affairs pursuant to P.L.1986, c.103  
17 (C.52:27D-330 et seq.).

18  
19 6. The Commissioner of Health and Senior Services shall adopt  
20 regulations pursuant to the "Administrative Procedure Act," P.L.1968,  
21 c.410 (C.52:14B-1 et seq.) necessary to carry out the purposes of this  
22 act.

23  
24 7. This act shall take effect immediately.



SENATE SENIOR CITIZENS, VETERANS' AFFAIRS AND  
HUMAN SERVICES COMMITTEE

STATEMENT TO

SENATE COMMITTEE SUBSTITUTE FOR  
**SENATE, No. 464**

**STATE OF NEW JERSEY**

DATED: OCTOBER 19, 2000

The Senate Senior Citizens, Veterans' Affairs and Human Services Committee reports favorably a Senate Committee Substitute for Senate Bill No. 464.

This substitute requires that a new facility that is licensed to operate an assisted living residence or comprehensive personal care home after the effective date of this substitute shall reserve 10% of its total bed compliment for use by Medicaid-eligible persons. The 10% utilization 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. In addition, 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.

The substitute further provides that 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.

The Commissioner of Health and Senior Services, however, 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.

The 10% reserve requirement of this substitute 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.

The substitute stipulates that nothing in the substitute shall create an entitlement under the Medicaid program or prohibit an existing assisted living residence, comprehensive personal care home or assisted living program, which is not affected by the substitute, from participating in the Medicaid program. Lastly, the substitute provides that its provisions do not apply to an assisted living residence or comprehensive personal care home operated by a continuing care retirement community.

# ASSEMBLY, No. 1761

## STATE OF NEW JERSEY 209th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2000 SESSION

**Sponsored by:**

**Assemblyman DAVID W. WOLFE**

**District 10 (Monmouth and Ocean)**

**Assemblyman JAMES W. HOLZAPFEL**

**District 10 (Monmouth and Ocean)**

**Co-Sponsored by:**

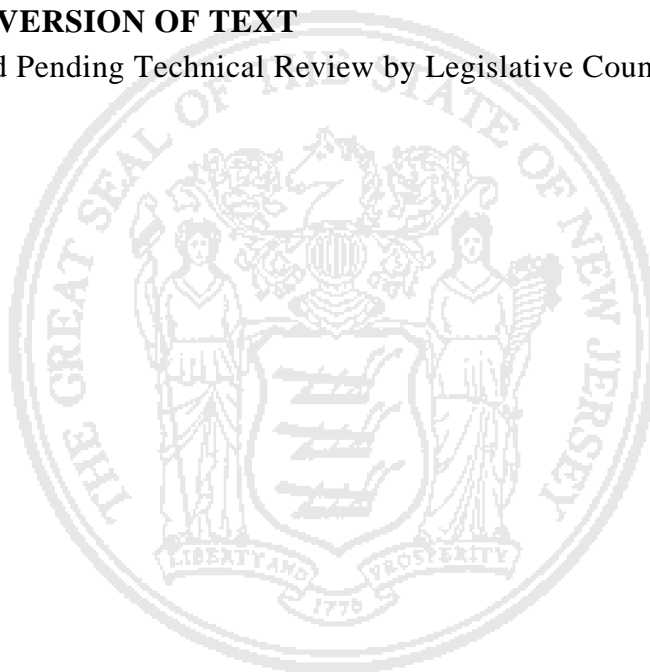
**Assemblymen Moran, Cottrell, LeFevre and Malone**

**SYNOPSIS**

Requires at least 10% of residents in new assisted living facilities be Medicaid-eligible.

**CURRENT VERSION OF TEXT**

Introduced Pending Technical Review by Legislative Counsel.



**(Sponsorship Updated As Of: 10/31/2000)**

1 AN ACT concerning the use of assisted living facilities by Medicaid  
2 recipients and supplementing Title 26 of the Revised Statutes.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. An applicant for licensure to operate an assisted living facility  
8 established on or after the effective date of this act or to add additional  
9 assisted living units to an existing assisted living facility, shall comply  
10 with the following utilization requirement: within one year from  
11 license issuance, a minimum of 10% of the total assisted living bed  
12 complement shall be occupied by direct admission of Medicaid-eligible  
13 persons. The assisted living facility shall continue to maintain at least  
14 10% Medicaid-eligible direct admissions in its facility annually  
15 thereafter.

16 For the purposes of this act, "Medicaid" means the program  
17 established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.), and  
18 "Medicaid-eligible" means a person who has received a determination  
19 of medical and financial eligibility for Medicaid coverage or a person  
20 who qualifies medically and financially for Medicaid but who does not  
21 apply for Medicaid coverage.

22  
23 2. The Commissioner of Health and Senior Services may waive the  
24 10% requirement or reduce the required percentage by regulation for  
25 specific regions of the State or Statewide if he determines that  
26 sufficient numbers of assisted living beds are available in the State to  
27 meet the needs of Medicaid-eligible persons within the limits of the  
28 federal waiver to provide assisted living services through the Medicaid  
29 program.

30  
31 3. The Commissioner of Health and Senior Services shall adopt  
32 regulations pursuant to the "Administrative Procedure Act," P.L.1968,  
33 c.410 (C.52:14B-1 et seq.) necessary to carry out the purposes of this  
34 act.

35  
36 4. This act shall take effect immediately.

37

38

39

STATEMENT

40

41 This bill requires, as a condition of licensure for any new assisted  
42 living facility licensed on or after the effective date of the bill or any  
43 existing facility that seeks to add additional assisted living beds, that  
44 the facility agree that within one year from license issuance, a  
45 minimum of 10% of the total assisted living bed complement shall be  
46 occupied by direct admission of Medicaid-eligible persons. The

1 assisted living facility shall continue to maintain at least 10%  
2 Medicaid-eligible direct admissions annually thereafter.

3 The bill provides, however, that the Commissioner of Health and  
4 Senior Services may waive the 10% requirement or reduce the  
5 required percentage, by regulation, for specific regions of the State or  
6 Statewide if he determines that sufficient numbers of assisted living  
7 beds are available in the State to meet the needs of Medicaid-eligible  
8 persons within the limits of the State's federal waiver to provide  
9 assisted living services through the Medicaid program.

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 1761**

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**STATE OF NEW JERSEY**  
**209th LEGISLATURE**

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ADOPTED FEBRUARY 5, 2001

**Sponsored by:**

**Assemblyman DAVID W. WOLFE**

**District 10 (Monmouth and Ocean)**

**Assemblyman JAMES W. HOLZAPFEL**

**District 10 (Monmouth and Ocean)**

**Co-Sponsored by:**

**Assemblymen Moran, Cottrell, LeFevre, Malone, Gusciora and Zecker**

**SYNOPSIS**

Requires at least 10% of residents in new assisted living facilities be Medicaid-eligible.

**CURRENT VERSION OF TEXT**

Substitute as adopted by the Assembly Senior Issues and Community Services Committee.



**(Sponsorship Updated As Of: 6/15/2001)**

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

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. a. For the purposes of this act, "Medicaid" means the program  
8 established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) and  
9 "Medicaid-eligible" means that a person is determined to meet the  
10 financial eligibility standards for medical assistance under the State  
11 Medicaid program and is approved by the Department of Health and  
12 Senior Services for participation in a federally approved 1915(c)  
13 waiver program that provides assisted living services.

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

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

35  
36 2. The Commissioner of Health and Senior Services may waive the  
37 10% utilization requirement or reduce the required percentage by  
38 regulation for specific regions of the State or Statewide if he  
39 determines that sufficient numbers of assisted living beds are available  
40 in the State to meet the needs of Medicaid-eligible persons within the  
41 limits of the federal waiver to provide assisted living services through  
42 the Medicaid program.

43  
44 3. The 10% reserve requirement of this act shall be recognized to  
45 fulfill all or a portion, as applicable, of low and moderate income or  
46 Medicaid utilization requirements contained in municipal ordinances

1 and shall satisfy all or a portion, as applicable, of low income housing  
2 requirements for assisted living residences or comprehensive personal  
3 care homes that are financed by bonds mandating low income housing  
4 as a condition of financing.

5  
6 4. Nothing in this act shall be construed to: prohibit an existing  
7 assisted living residence, comprehensive personal care home or  
8 assisted living program, which is not affected by this act, from  
9 participating in the Medicaid program; or create an entitlement to  
10 financing under the Medicaid program for services provided at assisted  
11 living residences or comprehensive personal care homes.

12  
13 5. This act shall not apply to an assisted living residence or  
14 comprehensive personal care home operated by a continuing care  
15 retirement community operating under a certificate of authority issued  
16 by the Department of Community Affairs pursuant to P.L.1986, c.103  
17 (C.52:27D-330 et seq.).

18  
19 6. The Commissioner of Health and Senior Services shall adopt  
20 regulations pursuant to the "Administrative Procedure Act," P.L.1968,  
21 c.410 (C.52:14B-1 et seq.) necessary to carry out the purposes of this  
22 act.

23  
24 7. This act shall take effect immediately.



ASSEMBLY SENIOR ISSUES AND COMMUNITY SERVICES  
COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
**ASSEMBLY, No. 1761**

**STATE OF NEW JERSEY**

DATED: FEBRUARY 5, 2001

The Assembly Senior Issues and Community Services Committee reports favorably Assembly Committee Substitute for Assembly Bill No. 1761.

This substitute would require a new facility that is licensed to operate an assisted living residence or comprehensive personal care home after the effective date of the substitute to reserve 10% of its total bed compliment for use by Medicaid-eligible persons. The 10% utilization would 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. The substitute would also require an assisted living residence or comprehensive personal care home to achieve this 10% utilization within three years of licensing and to maintain this level of utilization thereafter.

In addition, the substitute would require existing assisted living residences and comprehensive personal care homes which add additional assisted living beds to maintain 10% of the additional beds for Medicaid-eligible persons, as a condition of licensure approval. This requirement would be achieved 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 would be reserved for a Medicaid-eligible person.

The substitute provides that 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.

The substitute also provides that this 10% reserve requirement would be recognized as satisfying the low and moderate income or Medicaid utilization requirements contained in municipal ordinances and the 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.

The substitute provides that nothing in the act should be construed as creating an entitlement under the Medicaid program or 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.

The provisions of the substitute would not apply to an assisted living residence or comprehensive personal care home operated by a continuing care retirement community.

P.L. 2001, CHAPTER 234, *approved August 31, 2001*  
Senate Committee Substitute for  
Senate, No. 464

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

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. a. For the purposes of this act, "Medicaid" means the program  
8 established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) and  
9 "Medicaid-eligible" means that a person is determined to meet the  
10 financial eligibility standards for medical assistance under the State  
11 Medicaid program and is approved by the Department of Health and  
12 Senior Services for participation in a federally approved 1915(c)  
13 waiver program that provides assisted living services.

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

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

35  
36 2. The Commissioner of Health and Senior Services may waive the  
37 10% utilization requirement or reduce the required percentage by  
38 regulation for specific regions of the State or Statewide if he  
39 determines that sufficient numbers of assisted living beds are available  
40 in the State to meet the needs of Medicaid-eligible persons within the  
41 limits of the federal waiver to provide assisted living services through  
42 the Medicaid program.



## 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.