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P.L. 1999, CHAPTER 426, *approved January 18, 2000*
Assembly, No. 1951 (*Third Reprint*)

1 AN ACT concerning ¹free-standing¹ special care nursing facilities and
2 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. A Medicaid recipient ²**[may continue]** who has been
8 determined² to be eligible to reside in a ¹free-standing¹ special care
9 nursing facility ³specializing in the treatment of neurological
10 impairment³ ²**[without a limitation on length of stay if the recipient**
11 **continues to reside]** , and who, pursuant to that determination, has
12 been admitted to residency² in a ¹free-standing¹ special care nursing
13 facility ³**[of 40 beds or less and develops skills leading toward a more**
14 **independent life and continues to benefit from active participation in**
15 **²[the following:]**² community involvement, continuing education,
16 employment in the community, sheltered workshop, extended
17 rehabilitation, complex care and vocational training ² , shall be eligible
18 to continue to reside in the facility without limitation on the duration
19 of stay, subject only to a review of such residency and a determination
20 by the Commissioner of Health and Senior Services, on the basis of
21 that review, of whether the recipient continues to be eligible for such
22 residency by virtue of continuing to benefit from such active
23 participation] specializing in the treatment of neurological impairment,
24 shall be eligible to continue to reside in the facility without limitation
25 on the duration of stay, until achievement of the maximum benefit
26 from the specialized programming and maximum level of functioning.
27 A review to determine achievement of maximum benefit and maximum
28 level of functioning shall include whether the resident develops skills
29 leading to a more independent life and continues to benefit from active
30 participation in community involvement, continuing education,
31 employment in the community, sheltered workshop, extended
32 rehabilitation, complex care and vocational training and whether the
33 level of functioning would deteriorate if moved. Length of stay shall
34 be determined by the Commissioner of Health and Senior Services on
35 the basis of that review³ .

EXPLANATION - Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly AHL committee amendments adopted March 4, 1999.

² Assembly AAP committee amendments adopted December 2, 1999.

³ Assembly amendments adopted in accordance with Governor's recommendations January 10, 2000.

1 The review shall be performed by an independent contractor who
 2 shall not, during a period of six months after completion of the review,
 3 engage in the performance of any compensated work for the State
 4 other than a review pursuant to this act.

5 The first review under this subsection of any Medicaid recipient's
 6 continuing eligibility for residency at a ³free-standing³ special care
 7 nursing facility ³specializing in the treatment of neurological
 8 impairment³ shall occur not earlier than ³[two years] one year³
 9 following the recipient's initial admission to the facility or the effective
 10 date of P.L. _____, c. _____ (C. _____) (pending before the Legislature as
 11 this bill), whichever is later. After that first review, any subsequent
 12 such review of the recipient's residency at the ³free-standing³ special
 13 care nursing facility ³specializing in the treatment of neurological
 14 impairment³ shall be performed not more frequently than once every
 15 ³[two years] year³. If a Medicaid recipient is determined, pursuant to
 16 a review under this subsection, to be no longer eligible for continued
 17 residency at a ³free-standing³ special care nursing facility³ specializing
 18 in the treatment of neurological impairment³, the recipient shall be
 19 permitted to remain at the facility for 90 days following transmittal to
 20 the recipient of written notice of that determination. ²

21 b. As used in this act ¹[,]:

22 ³["free-standing" means a facility that: is independently
 23 incorporated as a for-profit or nonprofit entity; is not affiliated with
 24 or owned by any governmental entity, including a federal, State,
 25 county or municipal entity, or any religious entity which limits services
 26 to members only; and is not directly owned and operated by a hospital
 27 unless the facility is located at least 20 miles outside the boundaries of
 28 the municipality in which the hospital is located, in which case the
 29 facility may be owned and operated by that hospital; and¹

30 "special care nursing facility" means a nursing facility or separate
 31 and distinct special care nursing facility] "Free-standing special care
 32 nursing facility" means a nursing facility that is not a unit attached to
 33 or on the same campus as a rehabilitation or acute hospital and is not
 34 a distinct³ unit within a Medicaid-certified conventional nursing facility
 35 ³and³ which has been approved by the ¹[Division of Medical
 36 Assistance and Health Services in the]¹ Department of ¹[Human]
 37 Health and Senior¹ Services to provide care to New Jersey Medicaid
 38 recipients who require specialized nursing facility services beyond the
 39 scope of a conventional nursing facility.

40
 41 2. In accordance with the "Administrative Procedure Act,"
 42 P.L.1968, c.410 (C.52:14B-1 et seq.), the ¹[Director of the Division
 43 of Medical Assistance and Health Services in the Department of
 44 Human] Commissioner of Health and Senior¹ Services shall

1 promulgate rules and regulations necessary to effectuate the purposes
2 of this act.

3

4 3. This act shall take effect immediately.

5

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9 Provides for unlimited length of stay in free-standing special care
10 nursing facilities for certain Medicaid recipients.

ASSEMBLY, No. 1951

STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED APRIL 20, 1998

Sponsored by:

Assemblywoman CAROL J. MURPHY

District 26 (Essex, Morris and Passaic)

Assemblyman ALEX DECROCE

District 26 (Essex, Morris and Passaic)

Co-Sponsored by:

Assemblymen Merkt and Felice

SYNOPSIS

Provides for unlimited length of stay in special care nursing facilities for certain Medicaid recipients.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/13/1999)

1 AN ACT concerning special care nursing facilities and supplementing
2 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. A Medicaid recipient may continue to be eligible to reside
8 in a special care nursing facility without a limitation on length of stay
9 if the recipient continues to reside in a special care nursing facility of
10 40 beds or less and develops skills leading toward a more independent
11 life and continues to benefit from active participation in the following:
12 community involvement, continuing education, employment in the
13 community, sheltered workshop, extended rehabilitation, complex care
14 and vocational training.

15 b. As used in this act, "special care nursing facility" means a
16 nursing facility or separate and distinct special care nursing facility unit
17 within a Medicaid-certified conventional nursing facility which has
18 been approved by the Division of Medical Assistance and Health
19 Services in the Department of Human Services to provide care to New
20 Jersey Medicaid recipients who require specialized nursing facility
21 services beyond the scope of a conventional nursing facility.

22
23 2. In accordance with the "Administrative Procedure Act,"
24 P.L.1968, c.410 (C.52:14B-1 et seq.), the Director of the Division of
25 Medical Assistance and Health Services in the Department of Human
26 Services shall promulgate rules and regulations necessary to effectuate
27 the purposes of this act.

28
29 3. This act shall take effect immediately.

30
31

32 STATEMENT

33

34 This bill permits a Medicaid recipient to continue to be eligible for
35 a special care nursing facility without a limitation on length of stay if
36 the recipient continues to reside in a special care nursing facility of 40
37 beds or less and develops skills leading toward a more independent life
38 and continues to benefit from active participation in the following:
39 community involvement, continuing education, employment in the
40 community, sheltered workshop, extended rehabilitation, complex care
41 and vocational training.

42 Under the provisions of the bill, "special care nursing facility"
43 means a nursing facility or separate and distinct special care nursing
44 facility unit within a Medicaid-certified conventional nursing facility
45 which has been approved by the Division of Medical Assistance and

A1951 MURPHY, DECROCE

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- 1 Health Services in the Department of Human Services to provide care
- 2 to New Jersey Medicaid recipients who require specialized nursing
- 3 facility services beyond the scope of a conventional nursing facility.

ASSEMBLY HEALTH COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1951

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 4, 1999

The Assembly Health Committee reports favorably and with committee amendments Assembly Bill No. 1951.

As amended by the committee, this bill permits a Medicaid recipient to continue to be eligible for a free-standing special care nursing facility without a limitation on length of stay if the recipient continues to reside in a free-standing special care nursing facility of 40 beds or less and develops skills leading toward a more independent life and continues to benefit from active participation in the following: community involvement, continuing education, employment in the community, sheltered workshop, extended rehabilitation, complex care and vocational training.

Under the provisions of the bill:

-- "free-standing" means a facility that: is independently incorporated as a for-profit or nonprofit entity; is not affiliated with or owned by any governmental entity, including a federal, State, county or municipal entity, or any religious entity which limits services to members only; and is not directly owned and operated by a hospital unless the facility is located at least 20 miles outside the boundaries of the municipality in which the hospital is located, in which case the facility may be owned and operated by that hospital; and

-- "special care nursing facility" means a nursing facility or separate and distinct special care nursing facility unit within a Medicaid-certified conventional nursing facility which has been approved by the Department of Health and Senior Services to provide care to New Jersey Medicaid recipients who require specialized nursing facility services beyond the scope of a conventional nursing facility.

The committee amended the bill to include the term "free-standing" with reference to special care nursing facilities and to provide a definition of that term.

The committee also amended the bill to reflect the change in regulatory responsibility for special care nursing facilities from the Department of Human Services to the Department of Health and Senior Services.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 1951

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 2, 1999

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1951 (1R).

Assembly Bill No. 1951 (1R), as amended, provides length-of-stay protection for eligible Medicaid recipients residing in "free-standing special care nursing facilities."

Current administrative regulations (N.J.A.C.10:63-2.21(c), paragraphs 1 and 2) impose limits on the length of a Medicaid recipient's stay in a special care nursing facility. The regulations permit six-month extensions of such stays beyond the prescribed limits, but the Department of Health and Senior Services (DHSS) has discretion over the allowance of such extensions.

Under this bill as amended, a Medicaid recipient could continue to reside in an "special care nursing facility" of 40 beds or fewer if:

(1) the facility is "free-standing", defined as a facility that: (a) is independently incorporated as a for-profit or nonprofit entity; (b) is not affiliated with or owned by any governmental entity, or any religious entity that limits services to members only; and (c) is not directly owned and operated by a hospital unless the facility is located at least 20 miles outside the boundaries of the municipality in which the hospital is located; and

(2) the Medicaid recipient remains eligible by developing skills leading toward a more independent life and continuing to benefit from active participation in community involvement, continuing education, employment in the community, sheltered workshop, extended rehabilitation, complex care and vocational training.

The individual's continuing eligibility is subject to review by an independent contractor, who shall not, during a period of six months after completion of the review, engage in the performance of any compensated work for the State other than a review pursuant to this bill. The review shall not occur more frequently than every two years.

The bill defines a "special care nursing facility" as a nursing facility or separate and distinct special care nursing facility unit within a Medicaid-certified conventional nursing facility that has been approved

by the DHSS to provide care to New Jersey Medicaid recipients who require specialized nursing facility services beyond the scope of a conventional nursing facility.

FISCAL IMPACT:

The Office of Legislative Services is not able to determine with certainty the legislation's fiscal impact, as the number of Medicaid recipients who would be eligible to remain in a free-standing special care nursing facility without limitation as to the length of stay is not known.

The Department of Human Services, however, has indicated that in 1998, the average per capita daily charge at a special care nursing facility was \$271, while the corresponding per diem cost at a regular nursing facility was roughly \$116. Thus, for each patient who, under the bill, continues to reside in an special care nursing facility instead of being discharged to a regular nursing facility, the annual cost would equal the differential per diem cost of care (\$271 - \$116, or \$155) x the number of days per year (365), or roughly \$56,600.

There are currently 17 special care nursing facilities with 40 or fewer beds in the State. These facilities have a total of about 380 licensed beds.

COMMITTEE AMENDMENTS:

The amendments provide for the review by an independent contractor of the eligibility of the Medicaid recipient to continue to reside in a special care nursing facility.

SENATE, No. 1012

STATE OF NEW JERSEY
208th LEGISLATURE

INTRODUCED MAY 14, 1998

Sponsored by:

Senator ROBERT J. MARTIN

District 26 (Essex, Morris and Passaic)

Senator ANTHONY R. BUCCO

District 25 (Morris)

SYNOPSIS

Provides for unlimited length of stay in special care nursing facilities for certain Medicaid recipients.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning special care nursing facilities and supplementing
2 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. A Medicaid recipient may continue to be eligible to reside in
8 a special care nursing facility without a limitation on length of stay if
9 the recipient continues to reside in a special care nursing facility of 40
10 beds or less and develops skills leading toward a more independent life
11 and continues to benefit from active participation in the following:
12 community involvement, continuing education, employment in the
13 community, sheltered workshop, extended rehabilitation, complex care
14 and vocational training.

15 b. As used in this act, "special care nursing facility" means a
16 nursing facility or separate and distinct special care nursing facility unit
17 within a Medicaid-certified conventional nursing facility which has
18 been approved by the Division of Medical Assistance and Health
19 Services in the Department of Human Services to provide care to New
20 Jersey Medicaid recipients who require specialized nursing facility
21 services beyond the scope of a conventional nursing facility.

22
23 2. In accordance with the "Administrative Procedure Act,"
24 P.L.1968, c.410 (C.52:14B-1 et seq.), the Director of the Division of
25 Medical Assistance and Health Services in the Department of Human
26 Services shall promulgate rules and regulations necessary to effectuate
27 the purposes of this act.

28
29 3. This act shall take effect immediately.

30
31

32 STATEMENT

33

34 This bill permits a Medicaid recipient to continue to be eligible for
35 a special care nursing facility without a limitation on length of stay if
36 the recipient continues to reside in a special care nursing facility of 40
37 beds or less and develops skills leading toward a more independent life
38 and continues to benefit from active participation in the following:
39 community involvement, continuing education, employment in the
40 community, sheltered workshop, extended rehabilitation, complex care
41 and vocational training.

42 Under the provisions of the bill, "special care nursing facility"
43 means a nursing facility or separate and distinct special care nursing
44 facility unit within a Medicaid-certified conventional nursing facility
45 which has been approved by the Division of Medical Assistance and
46 Health Services in the Department of Human Services to provide care

S1012 MARTIN, BUCCO

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- 1 to New Jersey Medicaid recipients who require specialized nursing
- 2 facility services beyond the scope of a conventional nursing facility.

SENATE SENIOR CITIZENS, VETERANS' AFFAIRS
AND HUMAN SERVICES COMMITTEE

STATEMENT TO

SENATE, No. 1012

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 21, 1999

The Senate Senior Citizens, Veterans' Affairs and Human Services Committee reports favorably and with committee amendments Senate Bill No. 1012.

As amended by the committee, this bill permits a Medicaid recipient to continue to be eligible for a special care nursing facility without a limitation on length of stay if the recipient continues to reside in a special care nursing facility of 40 beds or less and develops skills leading toward a more independent life and continues to benefit from active participation in the following: community involvement, continuing education, employment in the community, sheltered workshop, extended rehabilitation, complex care and vocational training.

Under the provisions of the bill, "special care nursing facility" means a nursing facility or separate and distinct special care nursing facility unit within a Medicaid-certified conventional nursing facility which has been approved by the Department of Health and Senior Services to provide care to New Jersey Medicaid recipients who require specialized nursing facility services beyond the scope of a conventional nursing facility.

The committee adopted an amendment to reflect the change in responsibility for special care nursing facilities from the Department of Human Services to the Department of Health and Senior Services.

The Senate Senior Citizens, Veterans' Affairs & Human Services Committee reports favorably and with committee amendments Senate Bill No. 1012.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1012

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 17, 1999

The Senate Budget and Appropriations Committee reports favorably and with committee amendments Senate Bill No. 1012 (1R).

This bill provides length-of-stay protection for certain Medicaid recipients' residing in certain special care nursing facilities.

Current administrative regulations (N.J.A.C.10:63-2.21(c), paragraphs 1 and 2) impose limits on the length of a Medicaid recipient's stay in a special care nursing facility (SCNF). The regulations permit six-month extensions of such stays beyond the prescribed limits, but the Department of Health and Senior Services (DHSS) enjoys discretion over the allowance of such extensions.

Under this bill as amended, a Medicaid recipient could continue to reside in an SCNF if:

(1) the facility is "free-standing", i.e., is (a) independently incorporated as a for-profit or nonprofit entity, (b) not affiliated with or owned by any governmental entity, or any religious entity that limits services to members only, and (c) not directly owned and operated by a hospital unless the facility is located at least 20 miles outside the boundaries of the municipality in which the hospital is located; and

(2) the Medicaid recipient develops skills leading toward a more independent life and continues to benefit from active participation in community involvement, continuing education, employment in the community, sheltered workshop, extended rehabilitation, complex care and vocational training.

The individual's continuing qualification under the second requirement would be subject to review by an independent contractor, but not more frequently than every two years.

The bill defines a "special care nursing facility" as a nursing facility or separate and distinct special care nursing facility unit within a Medicaid-certified conventional nursing facility that has been approved by the DHSS to provide care to New Jersey Medicaid recipients who require specialized nursing facility services beyond the scope of a conventional nursing facility.

COMMITTEE AMENDMENTS

Committee amendments to this bill (1) provide that the continuing eligibility of the Medicaid recipients for residency at SCNFs under the bill shall be subject to review and redetermination by an independent contractor who is not otherwise affiliated with the State, but that such review shall not occur more frequently than every two years, (2) incorporate the provision limiting the type of special care nursing facility in which Medicaid recipients' length of stay would be unrestricted to free-standing facilities and supply a definition of the term "free-standing", and (3) delete a provision restricting the facilities whose residents would be eligible for protection under the bill to SCNFs with no more than 40 beds.

FISCAL IMPACT

The Office of Legislative Services is not able to determine with certainty the legislation's fiscal impact, as the number of Medicaid recipients who would be eligible to remain in a free-standing SNCF without limitation as to the length of stay is not known. The Department of Human Services, however, has indicated that in 1998, the average per capita daily charge at a special care nursing facility was \$271, while the corresponding per diem cost at a regular nursing facility was roughly \$116. Thus, for each patient who, under the bill, continues to reside in an SCNF instead of being discharged to a regular nursing facility, the annual cost would equal the differential per diem cost of care (\$271 - \$116, or \$155) x the number of days per year (365), or roughly \$56,600.

STATEMENT TO
[Second Reprint]
SENATE, No. 1012

with Senate Floor Amendments
(Proposed By Senator MARTIN)

ADOPTED: DECEMBER 6, 1999

This floor amendment restores the limitation of this bill to free-standing special care nursing facilities of 40 beds or less. In addition, the amendment clarifies that:

- the review shall be performed by an independent contractor who shall not, during the six-month period following the review, engage in the performance of any compensated work for the State other than a review pursuant to this bill; and

- after an independent contractor conducts a review, the determination about eligibility to continue to reside in the special care nursing facility shall be made by the Commissioner of Health and Senior Services.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 1012

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: APRIL 23, 1999

BILL SUMMARY

Senate Bill No. 1012 (1R) of 1998 permits a Medicaid recipient to remain eligible for a "special care nursing facility" without limitation as to the length of stay if the recipient resides in a special care nursing facility of 40 beds or less, develops skills leading toward a more independent life and continues to benefit from active participation in the following: community involvement, continuing education, employment in the community, sheltered workshop, extended rehabilitation, complex care and vocational training.

AGENCY COMMENTS

The Department of Health and Senior Services (DHSS) and the Office of Management and Budget have not provided any fiscal information on the legislation.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services is not able to determine the legislation's fiscal impact as the number of Medicaid recipients who would be eligible to remain in a special care nursing facility without limitation as to the length of stay in certain situations is not known.

There are 17 special care nursing facilities with 40 beds or less in the State. These facilities have a total of about 380 licensed beds. The FY1999 Medicaid rates range between \$244 and \$490 per day (gross) before patient income offsets are applied.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

FISCAL NOTE

[First Reprint]

SENATE, No. 1012

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: JULY 6, 1999

BILL SUMMARY

Senate Bill No. 1012 (1R) of 1998 permits a Medicaid recipient to remain eligible for a "special care nursing facility" without limitation as to the length of stay if the recipient resides in a special care nursing facility of 40 beds or less, develops skills leading toward a more independent life and continues to benefit from active participation in the following: community involvement, continuing education, employment in the community, sheltered workshop, extended rehabilitation, complex care and vocational training.

AGENCY COMMENTS

The Department of Health and Senior Services (DHSS) and the Office of Management and Budget (OMB) estimate the cost of the legislation at approximately \$1.7 million annually based on the assumption that 22 patients will require care in a "special care nursing facility".

OFFICE OF LEGISLATIVE SERVICES COMMENTS

Without reviewing patient records of "special care nursing facilities" to determine the number of patients who will require continued care in a "special care nursing facility," OLS is not able to verify the \$1.7 million estimate provided by DHSS and OMB. Furthermore, the number of patients who will require continued care in a "special care nursing facility" will vary from year to year.

Though OLS is not able to determine the legislation's fiscal impact as the number of Medicaid recipients who would be eligible to remain in a special care nursing facility without limitation as to the length of stay in certain situations is not known, the following information is known:

- There are 17 special care nursing facilities with 40 beds or less in the State.
- These facilities have a total of about 380 licensed beds.
- The FY1999 Medicaid rates range between \$244 and \$490 per day (gross) before patient income offsets are applied.
- For every patient that remains eligible for a "special care nursing facility," the approximate annual gross cost would be between \$89,100 and \$178,900 before income offsets are applied.

This fiscal note has been prepared pursuant to P.L.1980, c.67.

**ASSEMBLY BILL NO. 1951
(Second Reprint)**

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Bill No. 1951 (Second Reprint) with my recommendations for reconsideration.

SUMMARY OF THE BILL

This bill provides for the review by an independent contractor of the eligibility for a Medicaid recipient to continue to reside in a special care nursing facility. Specifically, the bill provides unlimited length of stay based on whether the resident develops skills leading to a more independent life and continues to benefit from active participation in community involvement, continuing education, employment in the community, sheltered workshop, extended rehabilitation, complex care and vocational training. The bill provides for unlimited length of stay for special care nursing facilities that are free-standing, have 40 or fewer beds, and cannot be owned by a hospital unless the hospital is located at a distance of at least twenty miles.

RECOMMENDED ACTION

I fully support the concept that length of stay considerations take into account the resident's active participation in community involvement provided for neurologically impaired individuals in free-standing special care nursing facilities. However, I am concerned that the provisions of the bill defining an eligible special care nursing facility do not do so by identifying the type of special care nursing facility. Also, I am concerned that certain provisions of the bill could be detrimental to the Medicaid program administered by the Department of Health and Senior Services.

The Department of Health and Senior Services believes that the length of stay considerations provided for in the bill will be appropriate for free-standing special care nursing facilities specializing in the care of neurological impairment because the neurologically impaired resident's maximum benefit and functioning should include a more independent life, active participation in community involvement, continuing education, employment in the community, sheltered workshop, extended rehabilitation, complex care and vocational training. This is particularly appropriate in the case of a free-standing

facility where the resident cannot be transferred to another level of care without leaving the facility and disrupting the resident's participation in the community.

In addition, the bill establishes a standard for length of stay that does not take into account the federal mandate that the State's Medicaid program safeguard against unnecessary utilization of care and services funded by the federal-State program. The federal mandate requires medical necessity determinations in intervals that will prevent unnecessary utilization. In the situation of a resident of a special care nursing facility for neurological impairment, the federally approved determination is for discharge upon achievement of maximum benefit from the specialized programming and maximum level of functioning, and when the individual's condition can be appropriately managed in either the community or other forms of institutional care. Reviews are generally twice a year for extended length of stay. These reviews and determinations are required in order to obtain any level of federal funding for such residents. Accordingly, the provisions of the bill should supplement, rather than replace, medical necessity decisions and further, the time between reviews should not exceed 12 months in order to preserve the availability of federal funds for special care nursing facilities for the neurologically impaired.

Finally, I recommend that the bill's provisions define the term "free-standing special care nursing facility" because residents in a special care nursing facility unit specializing in the treatment of neurological impairment, that is a unit attached to or on the same campus as a conventional nursing facility or hospital, could be placed into another level of care without disrupting involvement with the local community.

Therefore, I herewith return Assembly Bill No. 1951 (Second Reprint) and recommend that it be amended as follows:

Page 2, Line 9:

After "nursing facility" insert "specializing in the treatment of neurological impairment"

Page 2, Lines 12-22:

After "facility" delete in their entirety and insert "specializing in the treatment of neurological impairment, shall be eligible to continue to reside in the facility without limitation on the duration of stay, until achievement of the maximum benefit from the specialized programming and maximum level of functioning. A review to determine achievement of maximum benefit and maximum level of functioning shall include whether the resident develops skills leading to a more independent life and continues

to benefit from active participation in community involvement, continuing education, employment in the community, sheltered workshop, extended rehabilitation, complex care and vocational training and whether the level of functioning would deteriorate if moved. Length of stay shall be determined by the Commissioner of Health and Senior Services on the basis of that review."

Page 2, Lines 28-29:

After "residency at a" insert "free-standing" after "special care nursing facility" insert "specializing in the treatment of neurological impairment"; Delete "two years" insert "one year"

Page 2, Line 33:

After "residency at the" insert "free-standing"; after "special care nursing facility" insert "specializing in the treatment of neurological impairment"

Page 2, Line 34:

After "once every" delete "two years" insert "year"

Page 2, Line 36:

After "continued residency at a" insert "free-standing"; after "special care nursing facility" insert "specializing in the treatment of neurological impairment"

Page 2, Line 41:

Delete "'free-standing' means a facility that: is independently incorporated"

Page 3, Lines 1-8:

Delete in their entirety

Page 3, Line 9:

Delete "and distinct special care nursing facility" Insert "'Free-standing special care nursing facility' means a nursing facility that is not a unit attached to or on the same campus as a rehabilitation or acute hospital and is not a distinct"

Page 3, Line 10:

After "facility" insert ", and"

Respectfully,

Christine Todd Whitman
Governor

Attest:

Richard S. Mroz
Chief Counsel to the Governor