

## LEGISLATIVE HISTORY CHECKLIST

**NJSA:** 30:4D-3, 30:4D-7 (Government operated nursing homes--establish)

**LAWS OF:** 1985

**CHAPTER** 474

**BILL NO:** A3811

**Sponsor(s):** Otlowski

**Date Introduced:** June 17, 1985

**Committee: Assembly:** Corrections, Health and Human Services

**Senate:** -----

**Amended during passage:** Yes

Substituted for S3145 (not attached since identical to A3811). Amendments during passage denoted by asterisks.

**Date of Passage:**

**Assembly:**

December 9, 1985

**Senate:**

December 12, 1985

**Date of Approval:**

January 16, 1986

**Following statements are attached if available:**

**Sponsor statement:**

Yes

Attached: Senate amendments, adopted 12-9-85 (with statement)

**Committee statement:**

**Assembly**

Yes

**Senate**

No

**Fiscal Note:**

No

**Veto Message:**

No

**Message on Signing:**

No

**Following were printed:**

**Reports:**

No

**Hearings:**

Yes

See newspaper clippings--attached:

"More nursing home aid approved for state and county run facilities," 1-17-86 Star Ledger.

(OVER)

"Objections endanger plan to help counties reduce nursing home cost," 7-31-85 Star Ledger.

"Hearing to examine \$20 million booster shot for county nursing homes," 6-23-85 Star Ledger.

974.90 New Jersey. Legislature. Assembly. Corrections. Health and Human Services  
H434 Committee.  
1985d Public hearing, held 6-25-85, Menlo Park, N.J.,  
1985.

474 85  
1-16-86  
[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 3811

STATE OF NEW JERSEY

INTRODUCED JUNE 17, 1985

By Assemblymen OTLOWSKI and FELICE

AN ACT concerning government-operated nursing homes and amending P. L. 1968, c. 413.

1 BE IT ENACTED *by the Senate and General Assembly of the State*  
2 *of New Jersey:*

1 1. Section 3 of P. L. 1968, c. 413 (C. 30:4D-3) is amended to  
2 read as follows:

3 3. Definitions. As used in this act, and unless the context other-  
4 wise requires:

5 a. "Applicant" means any person who has made application for  
6 purposes of becoming a "qualified applicant."

7 b. "Commissioner" means the Commissioner of the Department  
8 of Human Services.

9 c. "Department" means the Department of Human Services,  
10 which is herein designated as the single State agency to administer  
11 the provisions of this act.

12 d. "Director" means the Director of the Division of Medical  
13 Assistance and Health Services.

14 e. "Division" means the Division of Medical Assistance and  
15 Health Services.

16 f. "Medicaid" means the New Jersey Medical Assistance and  
17 Health Services Program.

18 g. "Medical assistance" means payments on behalf of recipients  
19 to providers for medical care and services authorized under this  
20 act.

21 h. "Provider" means any person, public or private institution,  
22 agency or business concern approved by the division lawfully pro-

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

**Matter printed in italics *thus* is new matter.**

**Matter enclosed in asterisks or stars has been adopted as follows:**

**\*—Assembly committee amendments adopted September 9, 1985.**

**\*\*Senate amendments adopted December 9, 1985.**

23 viding medical care, services, goods and supplies authorized under  
 24 this act, holding, where applicable, a current valid license to  
 25 provide such services or to dispense such goods or supplies.

26 i. "Qualified applicant" means a person who is a resident of  
 27 this State and is determined to need medical care and services as  
 28 provided under this act, and who:

29 (1) Is a recipient of **\*\*[aid to families with dependent children;**  
 30 **or]\*\*** *\*\*Aid to Families with Dependent Children;\*\**

31 (2) Is a recipient of **\*\*[supplemental security income for the**  
 31A **aged, blind and disabled]\*\*** *\*\*Supplemental Security Income for*  
 31B *the Aged, Blind and Disabled\*\** under Title XVI of the Social  
 31C Security Act; **\*\*[or]\*\***

32 (3) Is an "ineligible spouse" of a recipient of supplemental  
 33 security income for the aged, blind and disabled under Title XVI  
 34 of the Social Security Act, as defined by the federal Social Security  
 35 Administration; **\*\*[or]\*\***

36 (4) Would be eligible to receive public assistance under a cate-  
 37 gorical assistance program except for failure to meet an eligibility  
 38 condition or requirement imposed under such State program which  
 39 is prohibited under Title XIX of the federal Social Security Act  
 40 such as a durational **\*\*[residence]\*\*** *\*\*residency\*\** requirement,  
 41 relative responsibility, consent to imposition of a lien; **\*\*[or]\*\***

42 (5) Is a child between 18 and 21 years of age who would be  
 43 eligible for **\*\*[aid to families with dependent children]\*\*** *\*\*Aid*  
 44 *to Families with Dependent Children,\*\** living in the family group  
 45 except for lack of school attendance or pursuit of formalized voca-  
 45A tional or technical training; **\*\*[or]\*\***

46 (6) Is an individual under 21 years of age who qualifies for  
 47 categorical assistance on the basis of financial eligibility, but does  
 48 not qualify as a dependent child under the State's program of  
 49 **\*\*[aid to families with dependent children]\*\*** *\*\*Aid to Families*  
 50 *with Dependent Children\*\** (AFDC), or groups of such individuals,  
 51 including but not limited to, children in foster placement under  
 52 supervision of the Division of Youth and Family Services whose  
 53 maintenance is being paid in whole or in part from public funds,  
 54 children placed in a foster home or institution by a private adop-  
 55 tion agency in New Jersey or children in intermediate care facili-  
 56 ties, including institutions for the mentally retarded, or in psy-  
 56A chiatric hospitals; **\*\*[or]\*\***

57 (7) Meets the standard of need applicable to his circumstances  
 58 under a categorical assistance program or **\*\*[supplemental secu-**  
 59 **urity income]\*\*** *\*\*Supplemental Security Income\*\** program, but  
 60 is not receiving such assistance and applies for medical assistance  
 60A only.

61 A person shall not be considered a qualified applicant if, within  
 62 \***[one year]**\* \*24 months\* of becoming or making application to  
 63 become a qualified applicant, he has made a voluntary assignment  
 64 or transfer of real or personal property, or any interest or estate  
 65 in property, for less than adequate consideration. Such voluntary  
 66 assignment or transfer of property shall be deemed to have been  
 67 made for the purpose of becoming a qualified applicant in the  
 68 absence of evidence to the contrary supplied by the applicant. This  
 69 requirement shall not be applicable to Supplemental Security In-  
 70 come applicants or aged, blind or disabled applicants for Medicaid  
 71 only unless authorized by federal law. *Implementation of this*  
 71A *requirement shall conform with the provisions of section 132 of*  
 71B *Pub.L. 97-248* **[,]** (42 U. S. C. **\*\*[139]\*\*** **\*\*§ 1396\*\*** p. (c)).\*

72 **\*\***(8) Is determined to be medically needy and meets all the  
 73 eligibility requirements described below:

74 (a) The following individuals are eligible for services, if  
 75 they are determined to be medically needy:

- 76 (i) Pregnant women;
- 77 (ii) Dependent children under the age of 21;
- 78 (iii) Individuals who are 65 years of age and older; and
- 79 (iv) Individuals who are blind or disabled pursuant to  
 80 either 42 C. F. R. 435.530 et seq. or 42 C. F. R. 435.540 et seq.,  
 81 respectively.

82 (b) The following income standard shall be used to deter-  
 83 mine medically needy eligibility:

- 34 (i) For one person and two person households, the income  
 85 standard shall be the maximum allowable under federal law,  
 86 but shall not exceed 133 1/3% of the State's payment level  
 87 to two person households eligible to receive assistance pur-  
 88 suant to P. L. 1959, c. 86 (C. 44:10-1 et seq.); and

- 89 (ii) For households of three or more persons, the income  
 90 standard shall be set at 133 1/3% of the State's payment  
 91 level to similar size households eligible to receive assistance  
 92 pursuant to P. L. 1959, c. 86 (C. 44:10-1 et seq.).

93 (c) The following resource standard shall be used to deter-  
 94 mine medically needy eligibility:

- 95 (i) For one person households, the resource standard  
 96 200% of the resource standard for recipients of Supplemen-  
 97 tal Security Income pursuant to 42 U. S. C. § 1382 (1) (B);

- 98 (ii) For two person households, the resource standard  
 99 shall be 200% of the resource standard for recipients of Sup-  
 100 plemental Security Income pursuant to 42 U. S. C. § 1382  
 101 (2) (B); and

102 (iii) For households of three or more persons, the resource  
103 standard in subparagraph (c) (ii) above shall be increased  
104 by \$100.00 for each additional person.

105 (iv) The resource standard established in (i), (ii), and  
106 (iii) are subject to federal approval and the resource stan-  
107 dard may be lower if required by the federal Department of  
108 Health and Human Services.

109 (d) Individuals whose income exceeds those established in  
110 subparagraph (b) of paragraph (8) of this subsection may be-  
111 come medically needy by incurring medical expenses as defined  
112 in 42 C. F. R. 435.831 (c) which will reduce their income to the  
113 applicable medically needy income established in subparagraph  
114 (b) of paragraph (8) of this subsection.

115 (e) A six month period shall be used to determine whether  
116 an individual is medically needy.

117 (f) Eligibility determinations for the medically needy pro-  
118 gram shall be administered as follows:

119 (i) County welfare agencies are responsible for determin-  
120 ing and certifying the eligibility of pregnant women and  
121 dependent children. The division shall reimburse county  
122 welfare agencies for 100% of the reasonable costs of ad-  
123 ministration which are not reimbursed by the federal gov-  
124 ernment for the first 12 months of this program's operation.  
125 Thereafter, 75% of the administrative costs incurred by  
126 county welfare agencies which are not reimbursed by the  
127 federal government shall be reimbursed by the division;

128 (ii) The division is responsible for certifying the eligi-  
129 bility of individuals who are 65 years of age and older and  
130 individuals who are blind or disabled. The division may  
131 enter into contracts with county welfare agencies to deter-  
132 mine certain aspects of eligibility. In such instances the  
133 division shall provide county welfare agencies with all in-  
134 formation the division may have available on the individual.

135 The division shall notify all eligible recipients of the Phar-  
136 maceutical Assistance to the Aged and Disabled program,  
137 P. L. 1975, c. 194 (C. 30:4D-20 et seq.) on an annual basis  
138 of the medically needy program and the program's general  
139 requirements. The division shall take all reasonable adminis-  
140 trative actions to ensure that Pharmaceutical Assistance to  
141 the Aged and Disabled recipients, who notify the division  
142 that they may be eligible for the program, have their ap-  
143 plications processed expeditiously, at times and locations  
144 convenient to the recipients and

145 (iii) The division is responsible for certifying incurred  
 146 medical expenses for all eligible persons who attempt to  
 147 qualify for the program pursuant to subparagraph (d) of  
 148 paragraph (8) of this subsection.\*\*

149 j. "Recipient" means any qualified applicant receiving benefits  
 150 under this act.

151 k. "Resident" means a person who is living in the State  
 152 voluntarily with the intention of making his home there and not  
 153 for a temporary purpose. Temporary absences from the State,  
 154 with subsequent returns to the State or intent to return when the  
 155 purposes of the absences have been accomplished, do not interrupt  
 156 continuity of residence.

157 l. "State Medicaid Commission" means the Governor, the Com-  
 158 missioner of Human Services, the President of the Senate and the  
 159 Speaker of the General Assembly, hereby constituted a commission  
 160 to approve and direct the means and method for the payment of  
 161 claims pursuant to this act.

162 m. "Third party" means any person, institution, corporation,  
 163 insurance company, public, private or governmental entity who  
 164 is or may be liable in contract, tort, or otherwise by law or equity  
 165 to pay all or part of the medical cost of injury, disease or disability  
 166 of an applicant for or recipient of medical assistance payable under  
 167 this act.

168 n. "*Governmental peer grouping system*" means a separate class  
 169 of *\*[nursing homes consisting of government-operated facilities*  
 170 *only]\* \*skilled nursing and intermediate care facilities adminis-*  
 171 *tered by the State or county governments\*, established for the*  
 172 *purpose of screening their \*reported\* costs and setting reimburse-*  
 173 *ment rates \*[by the State]\* under the Medicaid program \*that are*  
 174 *reasonable and adequate to meet the costs that must be incurred*  
 175 *by efficiently and economically operated State or county skilled*  
 176 *nursing and intermediate care facilities\*.*

1 2. Section 7 of P. L. 1968, c. 413 (C. 30:4D-7) is amended to  
 2 read as follows:

1 7. Duties of commissioner. The commissioner is authorized and  
 2 empowered to issue, or to cause to be issued through the Division  
 3 of Medical Assistance and Health Services\*\*, \*\* all necessary rules  
 4 and regulations and administrative orders, and to do or cause to be  
 5 done all other acts and things necessary to secure for the State of  
 6 New Jersey the maximum federal participation that is available  
 7 with respect to a program of medical assistance, consistent with  
 8 fiscal responsibility and within the limits of funds available for  
 9 any fiscal year, and to the extent authorized by the medical assis-

10 tance program plan; to adopt fee schedules with regard to medical  
 11 assistance benefits and otherwise to accomplish the purposes of this  
 12 act, including specifically the following:

13 a. Subject to the limits imposed by this act, to submit a plan for  
 14 medical assistance, as required by Title XIX of the federal Social  
 15 Security Act, to the federal Department of Health\***[**, Education  
 16 and Welfare**]**\* *and Human Services*\* for approval pursuant to the  
 17 provisions of such **\*\*[laws]\*\*** *law*\*\* ; to act for the State in  
 18 making negotiations relative to the submission and approval of  
 19 such plan, to make such arrangements, not inconsistent with the  
 20 law, as may be required by or pursuant to federal law to obtain  
 21 and retain such approval and to secure for the State the benefits  
 21A of the provisions of such law;

22 b. Subject to the limits imposed by this act, to determine the  
 23 amount and scope of services to be covered, that the amounts to be  
 24 paid are reasonable, and the duration of medical assistance to be  
 25 furnished; provided, however, that the department shall provide  
 26 medical assistance on behalf of all recipients of categorical assis-  
 27 tance and such other related groups as are mandatory under federal  
 28 laws and rules and regulations, as they now are or as they may  
 29 be hereafter amended, in order to obtain federal matching funds  
 30 for such purposes and, in addition, provide medical assistance for  
 31 the foster children specified in section 3. i. (7) of this act. The  
 32 medical assistance provided for these groups shall not be less in  
 33 scope, duration, or amount than is currently furnished such groups,  
 34 and in addition, shall include at least the minimum services re-  
 35 quired under federal laws and rules and regulations to obtain  
 36 federal matching funds for such purposes.

37 The commissioner is authorized and empowered, at such times  
 38 as he may determine feasible, within the limits of appropriated  
 39 funds for any fiscal year, to extend the scope, duration, and amount  
 40 of medical assistance on behalf of these groups of categorical  
 41 assistance recipients, related groups as are mandatory, and foster  
 42 children authorized pursuant to section 3. i. (7) of this act, so  
 43 as to include, in whole or in part, the optional medical services  
 44 authorized under federal laws and rules and regulations, and the  
 45 commissioner shall have the authority to establish and maintain the  
 46 priorities given such optional medical services; provided, however,  
 47 that medical assistance shall be provided to at least such groups  
 48 and in such scope, duration, and amount as are required to obtain  
 49 federal matching funds**\*\*[;]\*\*** *law*\*\* .\*\*

50 The commissioner is further authorized and empowered, at such  
 51 times as he may determine feasible, within the limits of appropri-



52 ated funds for any fiscal year, to issue, or cause to be issued through  
 53 the Division of Medical Assistance and Health Services all neces-  
 54 sary rules, regulations and administrative orders, and to do or  
 55 cause to be done all other acts and things necessary to implement  
 56 and administer demonstration projects pursuant to Title XI,  
 57 **[(Section)]** *section* 1115 of the federal Social Security Act,  
 58 including, but not limited to waiving compliance with specific pro-  
 59 visions of this act, to the extent and for the period of time the  
 60 commissioner deems necessary, as well as contracting with any legal  
 61 entity, including but not limited to corporations organized pur-  
 62 suant to Title 14A, New Jersey Statutes (N. J. S. 14A:1-1 et seq.)  
 63 **[and]**, Title 15, Revised Statutes (R. S. 15:1-1 et seq.) *and Title*  
 64 *15A, New Jersey Statutes (N. J. S. 15:1-1 et seq.)* as well as  
 65 boards, grounds, agencies, persons and other public or private  
 65A entities **[(.)]** *;*

66 c. To administer the provisions of this act;

67 d. To make reports to the federal Department of Health **[,** Edu-  
 68 cation and Welfare **]** *and Human Services* as from time to time  
 69 may be required by such federal department and to the New Jersey  
 70 Legislature as hereinafter provided;

71 e. To assure that any applicant, qualified applicant or recipient  
 72 shall be afforded the opportunity for a hearing should his claim for  
 73 medical assistance be denied, reduced, terminated or not acted upon  
 74 within a reasonable time;

75 f. To assure that providers shall be afforded the opportunity for  
 76 an administrative hearing within a reasonable time on any valid  
 77 complaint arising out of the **[(claims)]** *claim* payment  
 77A process;

78 g. To provide safeguards to restrict the use or disclosure of  
 79 information concerning applicants and recipients to purposes  
 80 directly connected with administration of this act;

81 h. To take all necessary action to recover any and all payments  
 82 incorrectly made to or illegally received by a provider from such  
 83 provider or his estate or from any other person, firm, corporation,  
 84 partnership or entity responsible for or receiving the benefit or  
 85 possession of the incorrect or illegal payments or their estates,  
 86 successors or assigns, and to assess and collect such penalties as  
 87 are provided for herein;

88 i. To take all necessary action to recover the cost of benefits  
 89 incorrectly provided to or illegally obtained by a recipient, includ-  
 90 ing those made after a voluntary divestiture of real or personal  
 91 property or any interest or estate in property for less than adequate  
 92 consideration made for the purpose of qualifying for assistance\*.

93 *The division shall take action to recover the cost of benefits*\* from  
94 \***[such]**\* *a*\* recipient, legally responsible relative, representative  
95 payee, or any other party or parties whose action or inaction  
96 resulted in the incorrect or illegal payments *or who received the*  
97 *benefit of the divestiture*\*, or from their respective estates, as the  
98 case may be and to assess and collect \***[such]**\* *the*\* penalties as  
99 are provided for herein, except that no lien \***[may]**\* *shall*\* be  
100 imposed against property of the recipient prior to his death except  
101 in accordance with section 17 of P. L. 1968, c. 413 (C. 30:4D-17)\***[**;  
102 provided, however, that no**]**\* *No*\* recovery action shall be  
103 initiated *more than*\* five years after an incorrect payment has  
103A been made to a recipient when \***[such]**\* *the*\* incorrect payment  
103B was due solely to an error on the part of the State or any agency,  
103C agent or subdivision thereof;

104 j. To take all necessary action to recover the cost of benefits  
105 correctly provided to a recipient from the estate of said recipient in  
106 accordance with sections 6 through 12 of this amendatory and  
107 supplementary act;

108 k. To take all reasonable measures to ascertain the legal or  
109 equitable liability of third parties to pay for care and services  
110 (available under the plan) arising out of injury, disease, or dis-  
111 ability; where it is known that a third party has a liability, to treat  
112 such liability as a resource of the individual on whose behalf the  
113 care and services are made available for purposes of determining  
114 eligibility; and in any case where such a liability is found to exist  
115 after medical assistance has been made available on behalf of the  
116 individual, to seek reimbursement for such assistance to the extent  
117 of such liability;

118 l. To compromise, waive or settle and execute a release of any  
119 claim arising under this act including interest or other penalties,  
120 or designate another to compromise, waive or settle and execute  
121 a release of any claim arising under this act. The commissioner or  
122 his designee whose title shall be specified by regulation may com-  
123 promise, settle or waive any such claim in whole or in part, either  
124 in the interest of the Medicaid program or for any other reason  
125 which the commissioner by regulation shall establish;

126 m. To pay or credit to a provider any net amount found by  
127 final audit as defined by regulation to be owing to the provider.  
128 Such payment, if it is not made within 45 days of the final audit,  
129 shall include interest on the amount due at the maximum legal rate  
130 in effect on the date the payment became due, except that such  
131 interest shall not be paid on any obligation for the period preceding  
132 September 15, 1976. This subsection shall not apply until federal  
133 financial participation is available for such interest payments;

134 n. To issue, or designate another to issue, subpoenas to compel  
 135 the attendance of witnesses and the production of books, records,  
 136 accounts, papers and documents of any party, whether or not that  
 137 party is a provider, which directly or indirectly relate to goods or  
 138 services provided under this act, for the purpose of assisting in  
 139 any investigation, examination, or inspection, or in any suspension,  
 140 debarment, disqualification, recovery, or other proceeding arising  
 141 under this act;

142 o. To solicit, receive and review bids pursuant to the provisions  
 143 of P. L. 1954, c. 48 (C. 52:34-6 et seq.) and all amendments and  
 144 supplements thereto, by authorized insurance companies and non-  
 145 profit hospital service corporations or medical service corpora-  
 146 tions, incorporated in New Jersey, and authorized to do business  
 147 pursuant to P. L. 1938, c. 366 (C. 17:48-1 et seq.) or P. L. 1940,  
 148 c. 74 (C. 17:48A-1 et seq.), and to make recommendations in con-  
 149 nection therewith to the State Medicaid Commission;

150 p. To contract, or otherwise provide as in this act provided, for  
 151 the payment of claims in the manner approved by the State Medic-  
 152 aid Commission;

153 q. Where necessary, to advance funds to the underwriter or fiscal  
 154 agent to enable such underwriter or fiscal agent, in accordance with  
 155 terms of its contract, to make payments to providers;

156 r. To enter into contracts with federal, State, or local govern-  
 157 mental agencies, or other appropriate parties, when necessary to  
 158 carry out the provisions of this act;

159 s. To assure that the nature and quality of the medical assistance  
 160 provided for under this act shall be uniform and equitable to all  
 161 recipients;

162 *t. To provide for the reimbursement of State and \***[county-oper-***  
 163 *ated]\* \*county-administered\* skilled nursing \***[facilities]\* and***  
 164 *intermediate care facilities through the use of a governmental peer*  
 165 *grouping system\*, subject to federal approval and the availability*  
 166 *of federal reimbursement\*. \***[State financial participation in this***  
 167 *reimbursement system is limited to an amount equal to the non-*  
 168 *federal share of the reimbursement which would be due each facility*  
 169 *if the governmental peer grouping system was not established, and*  
 170 *each county's financial participation in this reimbursement system*  
 171 *is equal to the nonfederal share of the increase in reimbursement*  
 172 *for its facility or facilities which results from the establishment of*  
 173 *the governmental peer grouping system, except that each county*  
 174 *shall submit a plan to be approved by the commissioner for utilizing*  
 175 *a reasonable portion of the net county savings under this system for*  
 176 *the creation of new, or the expansion of existing, services or*  
 177 *programs.]\*\**

177A       \*(1) In establishing a governmental peer grouping system,  
 177B       the State's financial participation is limited to an amount equal  
 178       to the nonfederal share of the reimbursement which would be  
 179       due each facility if the governmental peer grouping system was  
 180       not established, and each county's financial participation in this  
 181       reimbursement system is equal to the nonfederal share of the  
 182       increase in reimbursement for its facility or facilities which  
 183       result from the establishment of the governmental peer group-  
 184       ing system.

185       (2) On or before December 1 of each year, the commissioner  
 186       shall estimate and certify to the Director of the Division of  
 187       Local Government Services in the Department of Community  
 188       Affairs the amount of increased federal reimbursement a  
 189       county may receive under the governmental peer grouping  
 190       system. On or before December 15 of each year, the Director  
 191       of the Division of Local Government Services shall certify the  
 192       increased federal reimbursement to the chief financial officer  
 193       of each county. If the amount of increased federal reimburse-  
 194       ment to a county exceeds or is less than the amount certified,  
 195       the certification for the next year shall account for the actual  
 196       amount of federal reimbursement that the county received  
 197       during the prior calendar year.

198       (3) The governing body of each county entitled to receive  
 199       increased federal reimbursement under the provisions of this  
 200       amendatory act shall, by March 31 of each year, submit a report  
 201       to the commissioner on the intended use of the savings in  
 202       county expenditures which result from the increased federal  
 203       reimbursement. The governing body of each county, with the  
 204       advice of agencies providing social and health related services,  
 205       shall use **\*\*[a reasonable portion]\*\*** **\*\*not less than 10% and**  
 206       **no more than 50%\*\*** of the savings in county expenditures  
 207       which result from the increased federal reimbursement for  
 208       community-based social and health related programs for elderly  
 209       and disabled persons who may otherwise require nursing home  
 210       care**\*\*[, which]\*\*** **\*\***. This**\*\*** percentage shall be negotiated  
 211       annually between the governing body and the commissioner  
 212       and shall take into account a county's social, demographic and  
 213       fiscal conditions, a county's social and health related expendi-  
 214       tures and needs, and estimates of federal revenues to support  
 215       county operations in the upcoming year, particularly in the  
 215A       areas of social and health related services.

216       (4) The commissioner, subject to approval by law, may  
 217       terminate the governmental peer grouping system if federal

218 *reimbursement is significantly reduced or if the Medicaid*  
219 *program is significantly altered or changed by the federal*  
220 *government subsequent to the enactment of this amendatory*  
221 *act. The commissioner, prior to terminating the governmental*  
222 *peer grouping system, shall submit to the Legislature and to*  
223 *the governing body of each county a report as to the reasons*  
224 *for terminating the governmental peer grouping system.\**

1 3. This act shall take effect \***[immediately]**\* *on January 1, 1986,*  
2 *however, the commissioner shall undertake all actions which are*  
3 *necessary and proper to implement the program prior to the*  
4 *effective date\*.*

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142 o. To solicit, receive and review bids pursuant to the provisions  
 143 of P. L. 1954, c. 48 (C. 52:34-6 et seq.) and all amendments and  
 144 supplements thereto, by authorized insurance companies and non-  
 145 profit hospital service corporations or medical service corpora-  
 146 tions, incorporated in New Jersey, and authorized to do business  
 147 pursuant to P. L. 1938, c. 366 (C. 17:48-1 et seq.) or P. L. 1940,  
 148 c. 74 (C. 17:48A-1 et seq.), and to make recommendations in con-  
 149 nection therewith to the State Medicaid Commission;

150 p. To contract, or otherwise provide as in this act provided, for  
 151 the payment of claims in the manner approved by the State Medic-  
 152 aid Commission;

153 q. Where necessary, to advance funds to the underwriter or fiscal  
 154 agent to enable such underwriter or fiscal agent, in accordance with  
 155 terms of its contract, to make payments to providers;

156 r. To enter into contracts with federal, State, or local govern-  
 157 mental agencies, or other appropriate parties, when necessary to  
 158 carry out the provisions of this act;

159 s. To assure that the nature and quality of the medical assistance  
 160 provided for under this act shall be uniform and equitable to all  
 161 recipients;

162 *t. To provide for the reimbursement of State and county-oper-*  
 163 *ated skilled nursing facilities and intermediate care facilities*  
 164 *through the use of a governmental peer grouping system. State*  
 165 *financial participation in this reimbursement system is limited to*  
 166 *an amount equal to the nonfederal share of the reimbursement*  
 167 *which would be due each facility if the governmental peer group-*  
 168 *ing system was not established, and each county's financial partici-*  
 169 *pation in this reimbursement system is equal to the nonfederal*  
 170 *share of the increase in reimbursement for its facility or facilities*  
 171 *which results from the establishment of the governmental peer*  
 172 *grouping system, except that each county shall submit a plan to be*  
 173 *approved by the commissioner for utilizing a reasonable portion*  
 174 *of the net county savings under this system for the creation of*  
 175 *new, or the expansion of existing, services or programs.*

1 3. This act shall take effect immediately.

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#### STATEMENT

This bill authorizes the Commissioner of Human Services to establish a category of government-operated nursing homes, separate and distinct from proprietary and voluntary facilities, for the purpose of cost screening and Medicaid reimbursement rate-setting.

A3811 (1985)

Under the current system, Medicaid per diem reimbursement rates to all nursing homes—proprietary, voluntary, and governmental—are based on costs reported from proprietary and voluntary facilities only. Government facilities generally are not considered in the methodology used to establish per diem rates in order to avoid distorting Medicaid reimbursement to all facilities. Operating costs at government-operated nursing homes tend to be higher than either proprietary or voluntary facilities due to factors such as aging buildings, greater numbers of long-term employees, and higher percentages of heavy-care and Medicaid patients. Under the current rate-setting methodology, the higher costs experienced by government-operated homes are considered unreasonable and the same reimbursement ceilings are imposed on them as on proprietary and voluntary nursing homes. Consequently, counties are forced to use property taxes to finance approximately \$40 million worth of nursing home expenditures in order to meet the difference between the actual operating costs and the Medicaid reimbursement.

The new peer grouping system would enable the costs of government-operated nursing homes to be screened against each other rather than against those of private and voluntary nonprofit facilities. It would provide a level of reimbursement that more closely reflects the actual operating costs of government-operated nursing homes. County monies would be used to fund one-half of the difference between the current reimbursement rates and the new higher rates; this would secure additional federal financial participation without necessitating an increase in State expenditures. Even after providing the State's match for the additional reimbursement, every participating county would realize considerable savings by relieving county governments of having to subsidize the government-operated nursing homes.

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ASSEMBLY CORRECTIONS, HEALTH AND  
HUMAN SERVICES COMMITTEE  
STATEMENT TO  
**ASSEMBLY, No. 3811**  
with Assembly committee amendments

**STATE OF NEW JERSEY**

DATED: SEPTEMBER 9, 1985

As amended by committee, this bill authorizes the Commissioner of Human Services to establish a category of skilled nursing and intermediate care facilities administered by the State or county governments, separate and distinct from proprietary and voluntary nursing homes, for the purpose of cost screening and Medicaid reimbursement rate-setting.

The committee amendments specify the manner in which governmental peer grouping is to be implemented. Each county's governing body shall negotiate with the Commissioner of Human Services to determine a reasonable percentage of savings in county expenditures resulting from the increased federal Medicaid reimbursement that the county receives under peer grouping that will be allocated to community-based social and health-related programs for elderly and disabled persons. The determination of this percentage shall take into account various factors such as a county's social and health needs and expenditures, fiscal condition and demographic composition, and estimates of federal funds available for social and health-related services in the county.

The committee also adopted technical amendments to reflect changes in the Medicaid law (P. L. 1968, c. 413; C. 30:4D-1 et seq.) that were made by the recent enactment of the Assembly Committee Substitute for A-1829 (Otlowski), which is now P. L. 1985, c. 303 (C. 10:5-5 et al.).

The committee reported this bill favorably as amended.



**ADOPTED**  
DEC 9 1985

SENATE AMENDMENTS

V11

Proposed by Senator ~~DiFranco~~ *Weiss*

to

ASSEMBLY BILL No. 3811 *OCR*

Amend:

Sponsored by Assemblyman Otlowski

Page	Sec.	Line
8	3	205
8	3	209

*Note to printer:  
Insert material on pages 2 through 6*

omit, "a reasonable portion" add, "not less than 10 percent and no more than 50 percent".

omit ", which" add *"This"* ~~this~~

STATEMENT

This amendment would provide that the governing body of each county would use not less than 10 and no more than 50 percent of the increased reimbursement available as a result of "peer grouping" of county nursing homes for social and health related services.

**ADOPTED**  
205