

1 A bill to be entitled
 2 An act relating to Medicaid eligibility; amending s.
 3 409.902, F.S.; providing asset transfer limitations
 4 for the determination of eligibility for certain
 5 nursing facility services under the Medicaid program
 6 after a specified date; requiring the Department of
 7 Children and Families to determine the institutional
 8 spouse ineligible for Medicaid under certain
 9 circumstances; authorizing the Agency for Health Care
 10 Administration to recover certain Medicaid expenses;
 11 authorizing the department to adopt rules; providing
 12 an effective date.

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 14 Be It Enacted by the Legislature of the State of Florida:

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 16 Section 1. Subsection (9) is added to section 409.902,
 17 Florida Statutes, to read:

18 409.902 Designated single state agency; payment
 19 requirements; program title; release of medical records;
 20 eligibility requirements.—

21 (9) In determining eligibility for nursing facility
 22 services, including institutional hospice services and home and
 23 community-based waiver programs under the Medicaid program, the
 24 Department of Children and Families shall apply the asset
 25 transfer limitations specified in paragraph (a) for transfers
 26 made after July 1, 2013.

27 (a) An individual who enters into a personal services
 28 contract with a relative is considered to have transferred

29 assets without fair compensation to qualify for Medicaid unless:

30 1. The contracted services do not duplicate services
 31 available through other sources or providers, such as Medicaid,
 32 Medicare, private insurance, or another legally obligated third
 33 party;

34 2. The contracted services directly benefit the individual
 35 and are not services normally provided out of consideration for
 36 the individual;

37 3. The actual cost to deliver services is computed in a
 38 manner that clearly reflects the actual number of hours to be
 39 expended and the contract clearly identifies each specific
 40 service and the average number of hours required to deliver each
 41 service each month;

42 4. The hourly rate for each contracted service is no more
 43 than the amount normally charged by a professional who
 44 traditionally provides the same or similar services;

45 5. The cost of contracted services is provided on a
 46 prospective basis only and does not apply to services provided
 47 before July 1, 2013; and

48 6. The contract for services provides fair compensation to
 49 the individual during his or her lifetime as set forth in the
 50 life expectancy tables published by the Office of the Chief
 51 Actuary of the United States Social Security Administration.

52 (b) When determining eligibility for nursing facility
 53 services, including institutional hospice services and home and
 54 community based waiver programs under the Medicaid program, the
 55 Department of Children and Families shall determine the
 56 institutional spouse to be ineligible for Medicaid if he or she,

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57 or the person acting on his or her behalf, refuses to provide
58 information about the community spouse or cooperate in the
59 pursuit of court-ordered medical support or the recovery of
60 Medicaid expenses paid by the state on his or her behalf.

61 (c) The Agency for Health Care Administration shall seek
62 recovery of all Medicaid-covered expenses and pursue court-
63 ordered medical support from the community spouse when he or she
64 refuses to make his or her assets available to the institutional
65 spouse.

66 (d) The Department of Children and Families may adopt
67 rules to implement this subsection.

68 Section 2. This act shall take effect upon becoming a law.