

## A Long Term Care and Seniors Housing Law Update

03/13/08

### **Legislation Affecting Boarding Home Providers' Ability to Withdraw from Medicaid Program Passed by Legislature**

On Wednesday, March 12, 2008, Washington House Speaker Frank Chopp signed Substitute Senate Bill 6807 which affects boarding home providers' ability to withdraw from the Medicaid program. The legislation had been approved by both houses of the legislature earlier this week. The bill has now been sent to Gov. Christine Gregoire for signature. Read the bill at <http://apps.leg.wa.gov/documents/billdocs/2007-08/Pdf/Bills/Senate%20Passed%20Legislature/6807-S.PL.pdf>

Under the terms of the legislation, a facility's voluntary withdrawal from the Medicaid program cannot be used as a basis for the transfer or discharge of residents from the facility. A facility canceling its Medicaid contract will be required to retain any current residents (1) who were receiving Medicaid on the day before the effective date of the cancellation of the Medicaid contract; or (2) who have been paying the facility privately for at least two years and who become eligible for Medicaid within 180 days of the date of the cancellation. Notwithstanding withdrawal from the Medicaid program, the Medicaid contract will be deemed to continue in effect for the duration of these residents' tenancy.

In addition, the new legislation requires boarding homes to notify current and future residents of the facility's policy regarding acceptance of Medicaid as a source of payment. This disclosure must be provided prior to admission, and a signed copy of the disclosure must be retained by the facility. Under the terms of the legislation, the facility policy on Medicaid as a payment source on the date of the resident's admission is declared a "legally binding contract between the resident and the facility."

Finally, the legislation contains an "emergency clause." Under the terms of the "emergency clause," the provisions governing a facility's withdrawal from the Medicaid program will go into effect immediately upon being signed by the Governor. The "emergency clause" also provides that the treatment of a facility's Medicaid policy as a "binding contract" between residents and the facility is retroactively effective to September 2007.

Providers who have recently canceled Medicaid contracts or who are considering canceling their Medicaid contracts in the future should consult with their regulatory counsel about the effect of this legislation.

For more information or for a copy of the decision, please contact the Long Term Care and Seniors Housing Law Group at Lane Powell:

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