

HOUSE BILL No. 5388

January 16, 1990, Introduced by Reps. Power, Hollister, Fitzgerald, Spaniola, Johnson, Hickner, Bartnik, Law, Maynard and Pridnia and referred to the Committee on Public Health.

A bill to require preadmission screening of nursing home applicants; to establish nursing home preadmission screening teams and to prescribe their duties; to prescribe certain powers and duties of certain state departments and agencies; and to provide for penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "nursing home preadmission screening act".

3 Sec. 3. As used in this act:

4 (a) "Applicant" means an individual applying for admission
5 as a resident of a nursing home.

6 (b) "Department" means the department of social services.

7 (c) "Director" means the director of social services.

8 (d) "Home or community-based services" means services
9 provided by a person or facility, other than a nursing home, in

1 an applicant's home, in the community where the applicant
2 resides, or in a community where the applicant would customarily
3 seek those services.

4 (e) "Local area agency on aging" means the agency designated
5 under section 4(1)(i) of the older Michiganians act, Act No. 180
6 of the Public Acts of 1981, being section 400.584 of the Michigan
7 Compiled Laws, that serves the county where the applicant
8 resides.

9 (f) "Long-term care" means the wide range of home,
10 community-based, or institutional services provided over a sus-
11 tained period of time to individuals of all ages who need assist-
12 ance with normal activities of daily living.

13 (g) "Medicaid" means the federal medical assistance program
14 created under title XIX of the social security act, 42
15 U.S.C. 1396 to 1396d, 1396f to 1396g, and 1396i to 1396s, and
16 administered by the department under the social welfare act, Act
17 No. 280 of the Public Acts of 1939, being sections 400.1 to
18 400.121 of the Michigan Compiled Laws.

19 (h) "Nursing home" means that term as defined in section
20 20109 of the public health code, Act No. 368 of the Public Acts
21 of 1978, being section 333.20109 of the Michigan Compiled Laws.

22 (i) "Resident" means an individual who receives care or
23 services at a nursing home.

24 (j) "Person" means an individual, partnership, cooperative,
25 association, private corporation, governmental entity, or any
26 other legal entity.

1 (k) "Screening team" means the nursing home preadmission
2 screening team described in section 11.

3 Sec. 5. Except as otherwise provided in this act, a nursing
4 home shall not admit an individual as a resident unless the nurs-
5 ing home receives written notice from a screening team under
6 either section 7(3) or section 15.

7 Sec. 7. (1) An applicant shall undergo preadmission screen-
8 ing under this act unless the applicant provides evidence satis-
9 factory to the screening team that the applicant is not likely to
10 become eligible for medicaid at any time within 180 days after
11 being admitted as a resident of the nursing home.

12 (2) If an applicant undergoes preadmission screening under
13 this act, the screening team shall promptly notify the nursing
14 home that screening has been completed and that the applicant may
15 be admitted as a resident of the nursing home.

16 (3) If the screening team determines under subsection (1)
17 that an applicant is not likely to become eligible for medicaid
18 at any time within 180 days after being admitted as a resident of
19 a nursing home, the screening team shall promptly notify the
20 nursing home that the applicant is not required to undergo pread-
21 mission screening and may be admitted as a resident of the nurs-
22 ing home.

23 (4) An applicant may undergo preadmission screening under
24 this act without regard to the likelihood of the applicant becom-
25 ing eligible for medicaid.

1 Sec. 9. (1) A nursing home shall, on a form provided by the
2 department, notify an applicant of all of the following
3 information:

4 (a) That the applicant is required to either undergo a pre-
5 admission screening for nursing home applicants or to provide
6 evidence satisfactory to a screening team that the applicant is
7 not likely to become eligible for medicaid at any time within 180
8 days after being admitted as a resident of the nursing home.

9 (b) That the nursing home preadmission screening program
10 involves an assessment of an applicant's need for care in a nurs-
11 ing home that is made by a team of individuals who are familiar
12 with the needs of individuals seeking admission to nursing homes
13 and that the team will determine the necessary level of care and
14 recommend the appropriate care setting for the applicant.

15 (c) That the applicant may receive preadmission screening
16 without regard to the likelihood of the applicant becoming eligi-
17 ble for medicaid.

18 (d) The address and telephone number of the screening team
19 that serves the county where the applicant resides.

20 (2) The department shall develop a notice form containing
21 the information required under subsection (1) and shall distrib-
22 ute copies of the form to each nursing home in this state.

23 (3) A nursing home shall provide a copy of the form speci-
24 fied in subsection (2) to an applicant and a relative or other
25 person designated by the applicant.

26 Sec. 11. A nursing home preadmission screening team shall
27 consist of at least 2 individuals who have the ability to assess

1 the long-term care needs and likelihood of medicaid eligibility
2 of individuals seeking admission as residents of a nursing home.
3 The director shall contract with the local area agency on aging
4 to provide the screening team. If the director determines that
5 the local area agency on aging screening team performance is
6 unsatisfactory, the director shall contract with a different
7 person.

8 Sec. 13. (1) If an individual claims exemption from pread-
9 mission screening under section 7(1), the screening team shall
10 determine whether the individual is required to undergo preadmis-
11 sion screening. If the individual is not required to undergo
12 preadmission screening, the screening team shall notify the nurs-
13 ing home according to section 7(3). If the individual is
14 required to undergo preadmission screening, the screening team
15 shall proceed with the screening under subsection (2).

16 (2) A screening team shall do all of the following in con-
17 ducting a preadmission screening:

18 (a) Conduct a standardized assessment to determine if the
19 applicant has a need for the level of care that is given in a
20 nursing home.

21 (b) Determine the specific level of care needed by the
22 applicant and the specific services necessary to maintain that
23 level of care in a fiscally responsible manner.

24 (c) Determine whether the level of care and specific serv-
25 ices needed by the applicant, as determined under
26 subdivision (b), could be provided through home or
27 community-based services.

1 (d) If it is determined under subdivision (c) that the level
2 of care and specific services needed by the applicant can be pro-
3 vided through home or community-based services, determine the
4 comparative costs to the applicant and to the medicaid system of
5 providing that level of care and those services in a nursing home
6 and of providing that level of care and those services through
7 home or community-based services.

8 (e) Make a recommendation of the appropriate care setting
9 for the applicant consistent with the medicaid payment limita-
10 tions for home or community-based services under section 109c of
11 the social welfare act, Act No. 280 of the Public Acts of 1939,
12 being section 400.109c of the Michigan Compiled Laws.

13 Sec. 15. After completing preadmission screening, the
14 screening team shall provide written notice of the screening
15 team's determinations and a recommendation of the appropriate
16 care setting for the applicant to the nursing home, the appli-
17 cant, the applicant's personal physician, if any, a relative or
18 other person designated by the applicant, and the department.

19 Sec. 17. (1) A nursing home may temporarily admit an appli-
20 cant to the nursing home without receiving written notice under
21 either section 7(3) or section 15 if, at the time of application,
22 the applicant provides the nursing home with a written statement
23 signed by a licensed physician declaring that 1 or more of the
24 following circumstances exist:

25 (a) That it is probable that the applicant will be dis-
26 charged from the nursing home within 30 days after his or her
27 admission.

1 (b) That there will be serious harm to the applicant's
2 physical or mental health if the applicant is refused immediate
3 admission as a resident of the nursing home.

4 (2) If a nursing home admits an applicant pursuant to sub-
5 section (1), the nursing home shall provide written notice of the
6 admission and the reasons for the admission to the screening team
7 office in the county or area in which the applicant resides
8 within 3 days after the date of admission.

9 (3) Unless the screening team determines that the resident
10 is exempt from preadmission screening under section 7(1), a
11 screening team shall screen a resident admitted to a nursing home
12 pursuant to subsection (1) within 30 days after the date of
13 admission and shall provide the written notice required under
14 section 15 to the resident, the nursing home, the resident's per-
15 sonal physician, if any, and a relative or other person desig-
16 nated by the resident.

17 Sec. 19. A screening team shall act in accordance with
18 department policies, rules, and requirements and shall use forms
19 provided by the department.

20 Sec. 21. (1) The department, in consultation with the
21 office of services to the aging, shall promulgate rules pursuant
22 to the administrative procedures act of 1969, Act No. 306 of the
23 Public Acts of 1969, being sections 24.201 to 24.328 of the
24 Michigan Compiled Laws, to implement this act.

25 (2) The department shall annually provide a report on the
26 operations and effectiveness of the preadmission screening
27 program including, but not limited to, the cost of the program,

1 to the subcommittees of the senate and house of representatives
2 appropriations committees having jurisdiction over social serv-
3 ices and general government and to the standing committees of the
4 senate and house of representatives having jurisdiction over
5 social services and aging.

6 (3) The department may contract with the office of services
7 to the aging to administer the preadmission screening program and
8 to carry out 1 or more of the department's duties under this
9 act.

10 Sec. 23. If a nursing home that is required by this act to
11 provide a form described in section 9 to a person does not pro-
12 vide the form to the person, the nursing home administrator is
13 guilty of a misdemeanor punishable by imprisonment for not more
14 than 180 days or a fine of not more than \$10,000.00, or both.

15 Sec. 25. This act shall not take effect unless all of the
16 following bills of the 85th Legislature are enacted into law:

17 (a) Senate Bill No. _____ or House Bill No. 5389 (request
18 no. 00802'89 a***).

19 (b) Senate Bill No. _____ or House Bill No. 5390 (request
20 no. 00802'89 b***).

21 (c) Senate Bill No. _____ or House Bill No. 5391 (request
22 no. 00802'89 c**).