

SENATE BILL 1871

By Overbey

AN ACT to amend Tennessee Code Annotated, Title 71,
Chapter 5, Part 14, relative to appeals.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 71, Chapter 5, Part 14, is amended by adding the following as new sections:

71-5-1423.(a) If a resident appeals the facility's notice to involuntary discharge of that resident and a hearing is requested pursuant to 42 C.F.R. § 431.220(a)(3) before the bureau of TennCare:

(1) The resident and the facility shall be entitled to a hearing which shall be scheduled within fifteen (15) days from the date of the resident's appeal of the facility's involuntary discharge notice;

(2) The hearing shall be conducted and a written decision rendered within sixty (60) days from the date of the resident's appeal of the facility's involuntary discharge notice;

(3) The timeframes specified in subdivisions (1) and (2) may be extended or continued with the consent of both the facility and the resident;

(4) The timeframes specified in subdivisions (1) and (2) may be extended by the presiding administrative law judge without the consent of the facility, but only after a showing by the resident, or the resident's representative, that the resident faces a substantial threat of irreparable damage or injury if a continuance is not granted; and

(5) Any hearing on the appeal of the involuntary discharge notice and the issuance of a written decision must be completed no more than one hundred and twenty (120) days from the date of the resident's appeal of the facility's involuntary discharge notice under all circumstances.

7 1-5-1424.(a) If an individual appeals TennCare's determination that they are not either financially or medically eligible for TennCare nursing facility services:

(1) The hearing on the appeal shall be conducted and a written decision rendered within sixty (60) days from the date of the individual's appeal;

(2) The facility shall be entitled to participate in any proceeding and hearing through the filing of a motion to intervene in that proceeding;

(3) The secretary of state's office shall assign the same administrative law judge to both the resident's appeal of TennCare's denial of eligibility and any appeal by the individual of the a nursing facility's notice of involuntary discharge pertaining to the resident; and

(4) If a resident's appeal is successful and establishes that the individual should have been determined to be eligible for TennCare nursing facility services, the resident shall be determined to be eligible from the date of submission of the resident's TennCare financial application or pre-admission evaluation, and payment for TennCare services shall be made back to the initial date of such submission.

SECTION 2. This act shall take effect upon becoming a law, the public welfare requiring it, and shall apply to any appeals of discharges filed on or after such date.