

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 459

Session of
1985

INTRODUCED BY KUKOVICH, LASHINGER, SCHULER, IRVIS, O'DONNELL,
BOYES, D. R. WRIGHT, MARKOSEK, HALUSKA, LINTON, HERMAN,
KOSINSKI, AFFLERBACH, E. Z. TAYLOR, DALEY, OLIVER, VAN HORNE,
FATTAH, DEAL, PRATT, ARTY, RUDY, BELFANTI, BELARDI, SEVENTY,
KASUNIC, NAHILL, FOX, JOSEPHS, ACOSTA, LIVENGOOD, ITKIN,
MAYERNIK, MICHLOVIC, BLAUM, SHOWERS, COLAFELLA, COHEN,
DAWIDA, PRESTON, PISTELLA, RYBAK, SAURMAN, STABACK, HOWLETT,
MAIALE, FISCHER, DOMBROWSKI, STEIGHNER, WOGAN, MANDERINO,
STUBAN, TIGUE, BARBER AND CAWLEY, FEBRUARY 26, 1985

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF
REPRESENTATIVES, AS AMENDED, JUNE 23, 1986

AN ACT

1 ~~Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An~~ <—
2 ~~act to consolidate, editorially revise, and codify the public~~
3 ~~welfare laws of the Commonwealth," providing for attendant~~
4 ~~care services for certain persons; and making an~~
5 ~~appropriation.~~
6 TO REQUIRE THE DEPARTMENT OF PUBLIC WELFARE TO PROVIDE HOME- <—
7 BASED CARE AS AN ALTERNATIVE TO NURSING HOME OR OTHER
8 INSTITUTIONAL CARE; AND MAKING AN APPROPRIATION.

9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 ~~Section 1. The act of June 13, 1967 (P.L.31, No.21), known~~ <—
12 ~~as the Public Welfare Code, is amended by adding a section to~~
13 ~~read:~~

14 ~~Section 443.7. Attendant Care Services; Definitions. (a)~~
15 ~~As used in this section:~~

16 ~~"Adjusted gross income" means gross income less the cost of~~
17 ~~medical expenses, health and hospital insurance, therapeutic~~

~~expenses, transportation cost associated with the disability,
State and local income tax, and a one thousand dollar (\$1,000)
deduction per dependent spouse or dependent child.~~

~~"Attendant care services" means those services which enable a
recipient to live in his or her own home and community rather
than in an institution.~~

~~"Disabled" means any person between the ages of eighteen and
sixty who:~~

~~(1) meets the disability criteria for supplemental security
income and anyone who is employed with comparable severity who
would otherwise meet the disability criteria for supplemental
security income; and~~

~~(2) requires attendant care services to carry out functions
of daily living, self care and mobility including, but not
limited to, the following:~~

~~(i) Routine bodily functions.~~

~~(ii) Dressing and consumption of food.~~

~~(iii) Routine bath.~~

~~(iv) Ambulation and any other functions of daily living.~~

~~"Personal care attendant" means an individual other than a
family member who provides attendant care services to the
disabled.~~

~~(b) A person shall be considered eligible under this section
for up to forty hours a week of attendant care services,
regardless of his excess income and resources. However, the
cost, if any, to be borne by the client shall be determined
under the income provisions of the Medicaid spend down formula.
Nevertheless, anyone whose adjusted gross income is in excess of
Medicaid eligibility but less than twenty five thousand dollars
(\$25,000) per year shall have the option for any payment period~~

~~to be reimbursed for attendant care costs on a sliding scale according to income up to a maximum reimbursement of eight thousand dollars (\$8,000) per year. Reimbursement on the sliding scale shall be one hundred percent of attendant care costs for adjusted gross incomes up to sixteen thousand dollars (\$16,000) per year and shall decline by one percent for each one hundred dollars (\$100) increase in adjusted gross income thereafter.~~

~~(c) The department shall develop a plan that provides for attendant care services to include training and supervision of services to be delivered by agencies or individuals or direct payments to recipients who are capable of handling their own financial and legal affairs for the purchase of services.~~

~~(d) The determination of disability and the need for attendant care services shall be supported by medical reports.~~

~~(e) The department shall develop a waiting list for those disabled that cannot be served immediately.~~

~~(f) Funding for attendant care services under this section shall qualify, where possible, for the maximum Federal reimbursement. In the event that such services are determined to be ineligible for Federal financial participation, or to the extent that Federal funds prove inadequate, the State shall provide funding for services under this section.~~

~~(g) Attendant care services shall be available only to the extent that they are funded through annual appropriation and program income.~~

~~Section 2. The sum of \$20,000,000, or as much thereof as may be necessary, is hereby appropriated to the Department of Public Welfare for the fiscal year July 1, 1985, to June 30, 1986, to carry out attendant care services.~~

~~Section 3. This act shall take effect in 60 days.~~

1 SECTION 1. SHORT TITLE.

2 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE ATTENDANT
3 CARE SERVICES ACT.

4 SECTION 2. DECLARATION OF POLICY.

5 THE GENERAL ASSEMBLY DECLARES IT IS THE POLICY OF THIS
6 COMMONWEALTH THAT:

7 (1) THE INCREASED AVAILABILITY OF ATTENDANT CARE
8 SERVICES FOR ADULTS WILL ENABLE THEM TO LIVE IN THEIR OWN
9 HOMES AND COMMUNITIES.

10 (2) PRIORITY RECIPIENTS OF ATTENDANT CARE SERVICES UNDER
11 THIS ACT SHALL BE THOSE MENTALLY ALERT BUT SEVERELY
12 PHYSICALLY DISABLED WHO ARE IN THE GREATEST RISK OF BEING IN
13 AN INSTITUTIONAL SETTING.

14 (3) RECIPIENTS OF ATTENDANT CARE HAVE THE RIGHT TO MAKE
15 DECISIONS ABOUT, DIRECT THE PROVISION OF AND CONTROL THEIR
16 ATTENDANT CARE SERVICES. THIS INCLUDES, BUT IS NOT LIMITED
17 TO, HIRING, TRAINING, MANAGING, PAYING AND FIRING OF AN
18 ATTENDANT.

19 (4) A VARIETY OF AGENCIES OR INDIVIDUAL PRACTITIONERS
20 SHOULD BE ENCOURAGED TO PROVIDE ATTENDANT CARE SERVICES.

21 SECTION 3. DEFINITIONS.

22 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ACT SHALL
23 HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
24 CONTEXT CLEARLY INDICATES OTHERWISE:

25 "ATTENDANT CARE SERVICES."

26 (1) THOSE BASIC AND ANCILLARY SERVICES WHICH ENABLE AN
27 ELIGIBLE INDIVIDUAL TO LIVE IN HIS HOME AND COMMUNITY RATHER
28 THAN IN AN INSTITUTION AND TO CARRY OUT FUNCTIONS OF DAILY
29 LIVING, SELF-CARE AND MOBILITY.

30 (2) BASIC SERVICES SHALL INCLUDE, BUT NOT BE LIMITED TO:

(I) GETTING IN AND OUT OF A BED, WHEELCHAIR AND/OR
MOTOR VEHICLE.

(II) ASSISTANCE WITH ROUTINE BODILY FUNCTIONS,
INCLUDING, BUT NOT LIMITED TO:

(A) HEALTH MAINTENANCE ACTIVITIES.

(B) BATHING AND PERSONAL HYGIENE.

(C) DRESSING AND GROOMING.

(D) FEEDING, INCLUDING PREPARATION AND CLEANUP.

(3) IF A PERSON IS ASSESSED AS NEEDING ONE OR MORE OF
THE BASIC SERVICES, THE FOLLOWING SERVICES MAY BE PROVIDED IF
THEY ARE ANCILLARY TO THE BASIC SERVICES:

(I) HOMEMAKER-TYPE SERVICES, INCLUDING, BUT NOT
LIMITED TO, SHOPPING, LAUNDRY, CLEANING AND SEASONAL
CHORES.

(II) COMPANION-TYPE SERVICES, INCLUDING, BUT NOT
LIMITED TO, TRANSPORTATION, LETTER WRITING, READING MAIL
AND ESCORT.

(III) ASSISTANCE WITH COGNITIVE TASKS, INCLUDING,
BUT NOT LIMITED TO, MANAGING FINANCES, PLANNING
ACTIVITIES AND MAKING DECISIONS.

"DEPARTMENT." THE DEPARTMENT OF PUBLIC WELFARE OF THE
COMMONWEALTH.

"ELIGIBLE INDIVIDUAL." ANY PHYSICALLY DISABLED/MENTALLY
ALERT PERSON 18 THROUGH 59 YEARS OF AGE WHO MEETS ALL OF THE
FOLLOWING REQUIREMENTS:

(1) EXPERIENCES ANY MEDICALLY DETERMINABLE PHYSICAL
IMPAIRMENT WHICH CAN BE EXPECTED TO LAST FOR A CONTINUOUS
PERIOD OF NOT LESS THAN 12 MONTHS.

(2) IS CAPABLE OF SELECTING, SUPERVISING AND, IF NEEDED,
FIRING AN ATTENDANT.

1 (3) IS CAPABLE OF MANAGING HIS OWN FINANCIAL AND LEGAL
2 AFFAIRS.

3 (4) BECAUSE OF PHYSICAL IMPAIRMENT, REQUIRES ASSISTANCE
4 TO COMPLETE FUNCTIONS OF DAILY LIVING, SELF-CARE AND
5 MOBILITY, INCLUDING, BUT NOT LIMITED TO, THOSE FUNCTIONS
6 INCLUDED IN THE DEFINITION OF ATTENDANT CARE SERVICES.

7 "PERSONAL CARE ATTENDANT." AN INDIVIDUAL OTHER THAN A FAMILY
8 MEMBER WHO PROVIDES ATTENDANT CARE SERVICES TO ELIGIBLE
9 INDIVIDUALS.

10 "SECRETARY." THE SECRETARY OF PUBLIC WELFARE OF THE
11 COMMONWEALTH.

12 SECTION 4. PROGRAM.

13 (A) ESTABLISHMENT.--THE DEPARTMENT SHALL ESTABLISH AND
14 DEVELOP UNDER THIS ACT PROGRAMS OF ATTENDANT CARE SERVICES FOR
15 ELIGIBLE INDIVIDUALS.

16 (B) SOLICITATION OF PROPOSALS.--THE DEPARTMENT SHALL SOLICIT
17 PROPOSALS FROM PROVIDERS WHO DESIRE TO PROVIDE ATTENDANT CARE
18 SERVICES UNDER THIS ACT. PROVIDERS SHALL SUBMIT PROPOSALS IN THE
19 FORM AND MANNER REQUIRED BY THE DEPARTMENT.

20 (C) PROPOSAL SELECTION CRITERIA.--PROPOSALS SHALL BE
21 SELECTED BASED ON SERVICE PRIORITIES DEVELOPED BY THE
22 DEPARTMENT; HOWEVER, PRIORITY SHALL BE GIVEN TO PROPOSALS THAT
23 WILL SERVE THE SEVERELY DISABLED AND THOSE AT GREATEST RISK OF
24 BEING INSTITUTIONALIZED AS DEFINED BY THE DEPARTMENT.

25 (D) AGREEMENTS WITH PROVIDERS.--IN ORDER TO PROVIDE
26 ATTENDANT CARE SERVICES, THE DEPARTMENT MAY ENTER INTO
27 AGREEMENTS WITH PROVIDERS. EACH AGREEMENT SHALL INCLUDE, AT
28 MINIMUM, THE NUMBER OF CLIENTS TO BE SERVED, THE TYPES OF
29 ATTENDANT CARE SERVICES TO BE PROVIDED, THE COST OF SERVICES,
30 THE METHOD OF PAYMENT AND THE CRITERIA TO BE USED FOR EVALUATING

1 THE PROVISION OF SERVICES.

2 (E) PARTICIPATION OF ELIGIBLE CLIENTS.--PROVIDERS, WHERE
3 APPROPRIATE, SHALL INCLUDE ELIGIBLE CLIENTS IN THE PLANNING,
4 STARTUP, DELIVERY AND ADMINISTRATION OF ATTENDANT CARE SERVICES
5 AND TRAINING OF PERSONAL CARE ATTENDANTS.

6 (F) MEDICAL REPORTS.--DETERMINATION OF ELIGIBILITY AND THE
7 NEED FOR ATTENDANT CARE SERVICES SHALL BE SUPPORTED BY MEDICAL
8 REPORTS AS REQUIRED BY THE DEPARTMENT.

9 (G) WEEKLY MAXIMUM HOURS OF SERVICE.--EACH ATTENDANT CARE
10 PROVIDER AGENCY'S AVERAGE HOURS OF SERVICE PER CONSUMER MUST NOT
11 EXCEED 40 HOURS PER SEVEN-DAY WEEK.

12 (H) WAITING LIST.--THE DEPARTMENT AND PROVIDERS SHALL
13 DEVELOP A WAITING LIST BY SERVICE PRIORITY FOR THOSE ELIGIBLE
14 CLIENTS WHO CANNOT BE SERVED IMMEDIATELY.

15 (I) EMPLOYMENT PRIORITY.--PROVIDERS, WHERE APPROPRIATE, SHALL
16 HIRE AND TRAIN PUBLIC ASSISTANCE CLIENTS TO PROVIDE ATTENDANT
17 SERVICES.

18 SECTION 5. FUNDING.

19 (A) USE OF FUNDS.--FUNDS MADE AVAILABLE UNDER THIS ACT SHALL
20 BE USED ONLY FOR THE PLANNING, DESIGNING, DELIVERING,
21 ADMINISTERING ATTENDANT CARE SERVICES AND TRAINING OF PERSONAL
22 CARE ATTENDANTS.

23 (B) FEDERAL AND PRIVATE FUNDS.--FUNDING FOR ATTENDANT CARE
24 SERVICES, UNDER THIS ACT, SHALL QUALIFY, WHERE POSSIBLE, FOR
25 FEDERAL REIMBURSEMENT. THE DEPARTMENT SHALL APPLY FOR AND USE,
26 SUBJECT TO SPECIFIC APPROPRIATION BY THE GENERAL ASSEMBLY, ALL
27 FEDERAL FUNDS WHICH BECOME AVAILABLE TO CARRY OUT A PROGRAM OF
28 ATTENDANT CARE SERVICES UNDER THIS ACT. THE DEPARTMENT SHALL USE
29 ANY PRIVATE FUNDS WHICH BECOME AVAILABLE TO CARRY OUT A PROGRAM
30 OF ATTENDANT CARE SERVICES UNDER THIS ACT.

1 (C) PROGRAM FEE SCHEDULE.--THE DEPARTMENT SHALL DEVELOP,
2 WHEREVER PRACTICAL, A SLIDING FEE SCHEDULE FOR ATTENDANT CARE
3 SERVICES FOR ELIGIBLE CLIENTS.

4 (D) DISBURSEMENT OF FUNDS.--THE DEPARTMENT SHALL DISBURSE
5 FUNDS IN A MANNER THAT ENSURES EQUITABLE DISTRIBUTION OF SERVICE
6 AMONG ELIGIBLE CLIENTS WITH ATTENDANT CARE NEEDS AND AMONG
7 VARIOUS REGIONS OF THIS COMMONWEALTH.

8 (E) AVAILABILITY OF SERVICES.--ATTENDANT CARE SERVICES SHALL
9 BE AVAILABLE ONLY TO THE EXTENT THAT THEY ARE FUNDED THROUGH
10 ANNUAL APPROPRIATION AND PROGRAM FEES.

11 SECTION 6. DEMONSTRATION PROJECTS.

12 THE DEPARTMENT MAY INITIATE DEMONSTRATION PROJECTS TO TEST
13 NEW WAYS OF PROVIDING ATTENDANT CARE SERVICES, AS WELL AS
14 CONDUCT SPECIFIC RESEARCH INTO WAYS TO BEST PROVIDE ATTENDANT
15 CARE SERVICES IN BOTH URBAN AND RURAL ENVIRONMENTS.

16 SECTION 7. RULES OR REGULATIONS.

17 THE DEPARTMENT SHALL PROMULGATE SUCH RULES OR REGULATIONS,
18 INCLUDING THOSE WHICH SPECIFY THE CRITERIA TO BE USED IN RANKING
19 PROPOSALS, AS MAY BE NECESSARY FOR THE EFFECTIVE ADMINISTRATION
20 OF ANY PROGRAMS OF ATTENDANT CARE SERVICES UNDER THIS ACT.

21 SECTION 8. REPORT.

22 PRIOR TO JUNE 30, 1987, THE SECRETARY SHALL SUBMIT A REPORT
23 TO THE LEGISLATIVE COMMITTEES HAVING JURISDICTION OVER
24 APPROPRIATIONS AND THE LEGISLATIVE COMMITTEES HAVING
25 JURISDICTION OVER HEALTH AND WELFARE SERVICE. THIS REPORT SHALL
26 INCLUDE AT LEAST THE FOLLOWING INFORMATION REGARDING ATTENDANT
27 CARE SERVICES:

- 28 (1) A SUMMARY OF THE ATTENDANT CARE SERVICES PROVIDED
29 UNDER THIS ACT, INCLUDING, BUT NOT LIMITED TO, A DESCRIPTION
30 OF SERVICE MODELS UTILIZED, COSTS BY SERVICE MODEL, UNIT OF

SERVICE AND PER CLIENT, AND CLIENT DEMOGRAPHICS.

(2) RECOMMENDATIONS REGARDING THE DIRECTION OF AND
FUNDING PRIORITIES FOR ATTENDANT CARE SERVICES FOR FISCAL
YEARS 1987-1988 AND 1988-1989.

SECTION 9. APPROPRIATION.

THE SUM OF \$4,000,000, OR AS MUCH THEREOF AS MAY BE
NECESSARY, IS HEREBY APPROPRIATED TO THE DEPARTMENT OF PUBLIC
WELFARE FOR THE FISCAL YEAR JULY 1, 1986, TO JUNE 30, 1987, TO
CARRY OUT THE PURPOSES OF THIS ACT. THESE FUNDS SHALL BE IN
ADDITION TO THOSE FUNDS APPROPRIATED FOR ATTENDANT CARE SERVICES
UNDER THE ACT OF 1986 (P.L. , NO.), KNOWN AS THE
GENERAL APPROPRIATION ACT OF 1986.

SECTION 10. EFFECTIVE DATE.

THIS ACT SHALL TAKE EFFECT JULY 1, 1986.