

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

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# HOUSE BILL

## No. 210

Session of  
2011

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INTRODUCED BY BAKER, GINGRICH, MICOZZIE, CAUSER, CALTAGIRONE,  
CARROLL, CLYMER, CONKLIN, D. COSTA, J. EVANS, FRANKEL, GEIST,  
GEORGE, GOODMAN, GROVE, HARKINS, HARRIS, HENNESSEY, HORNAMAN,  
HUTCHINSON, JOSEPHS, KAUFFMAN, M.K. KELLER, KORTZ, LONGIETTI,  
MAJOR, MILLER, MUNDY, D. O'BRIEN, O'NEILL, PICKETT, RAPP,  
READSHAW, REICHLEY, SCAVELLO, K. SMITH, VULAKOVICH, WATSON,  
HESS, MURT, GILLEN AND GIBBONS, JANUARY 25, 2011

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AS REPORTED FROM COMMITTEE ON AGING AND OLDER ADULT SERVICES,  
HOUSE OF REPRESENTATIVES, AS AMENDED, FEBRUARY 9, 2011

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## AN ACT

1 Amending the act of December 19, 1990 (P.L.1234, No.204),  
2 entitled "An act establishing a program to assist persons who  
3 bear primary responsibility for the at-home care of  
4 functionally dependent older adults and victims of chronic  
5 dementia," further providing for ~~reimbursements~~ INTENT, FOR ←  
6 DEFINITIONS, FOR CAREGIVER SUPPORT PROGRAM, FOR  
7 REIMBURSEMENTS AND FOR ENTITLEMENT NOT CREATED.

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

10 ~~Section 1. Section 5 of the act of December 19, 1990~~ ←  
11 ~~(P.L.1234, No.204), known as the Family Caregiver Support Act,~~  
12 ~~is amended to read:~~

13 ~~Section 5. Reimbursements.~~

14 ~~(a) General rule. The department through contracts with~~  
15 ~~area agencies on aging shall provide the services described in~~  
16 ~~section 4(c)(1) and shall reimburse qualified primary caregivers~~  
17 ~~for purchase of approved services described in section 4(c)(2)~~

1 ~~and (3).~~

2 ~~(b) Maximum amounts.~~

3 ~~(1) The maximum amount available to a qualified~~  
4 ~~caregiver whose household income is under 200% of poverty~~  
5 ~~level shall be established by regulation, but shall not~~  
6 ~~exceed [\$200] \$600 per month, for out of pocket expenses~~  
7 ~~incurred for services described in section 4(c)(2).~~

8 ~~(2) The maximum amount available to a qualified~~  
9 ~~caregiver whose household income is under 200% of poverty~~  
10 ~~level shall be established by regulation, but shall not~~  
11 ~~exceed [\$2,000] \$6,000 for the entire duration of the case,~~  
12 ~~for expenses incurred for home modifications or assistive~~  
13 ~~devices as described in section 4(c)(3).~~

14 ~~(c) Scale of benefits. A sliding benefits scale shall be~~  
15 ~~established by the department by regulation to ensure that~~  
16 ~~caregivers who qualify under this act and whose household income~~  
17 ~~exceeds 200% of poverty level shall pay some portion of the out~~  
18 ~~of pocket expenses for services described in section 4(c). In no~~  
19 ~~event will caregivers whose household income exceeds 380% of the~~  
20 ~~poverty level be considered eligible for benefits under this~~  
21 ~~act.~~

22 SECTION 1. SECTIONS 1, 2, 3, 4, 5 AND 6 OF THE ACT OF  
23 DECEMBER 19, 1990 (P.L.1234, NO.204), KNOWN AS THE FAMILY  
24 CAREGIVER SUPPORT ACT, ARE AMENDED TO READ:

25 SECTION 1. SHORT TITLE.

26 THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE [FAMILY]  
27 PENNSYLVANIA CAREGIVER SUPPORT ACT.

28 SECTION 2. INTENT.

29 IT IS THE INTENT OF THIS ACT TO EASE THE STRAIN OF CAREGIVING  
30 AND TO ASSIST [RELATIVES] ADULT FAMILY MEMBERS AND OTHER



1 INDIVIDUALS WHO BEAR PRIMARY RESPONSIBILITY FOR THE AT-HOME CARE  
2 OF FUNCTIONALLY DEPENDENT OLDER ADULTS AND OTHER ADULTS WHO ARE  
3 VICTIMS OF CHRONIC DEMENTIA BY PROVIDING RESOURCES FOR SERVICES  
4 SUCH AS THE FOLLOWING:

5 (1) ASSISTANCE TO THE PRIMARY CAREGIVER TO ASSURE THAT  
6 SUPPORTS TO THE [FUNCTIONALLY DEPENDENT OLDER ADULT OR ADULT  
7 SUFFERING FROM A CHRONIC DEMENTIA] CARE RECEIVER ARE ADEQUATE  
8 AND APPROPRIATE TO MAINTAIN THESE INDIVIDUALS IN THE HOME.

9 (2) INTERMITTENT, PLANNED OR EMERGENCY RELIEF TO THE  
10 PRIMARY CAREGIVER.

11 (3) RESTORATION OR MAINTENANCE OF THE PRIMARY  
12 CAREGIVER'S WELL-BEING.

13 (4) PRESERVATION OF THE PRIMARY CAREGIVER'S INFORMAL  
14 SUPPORTS SUCH AS FAMILY AND FRIENDS.

15 (5) SUPPORTIVE SOCIAL SERVICES TO THE PRIMARY CAREGIVER.

16 (6) AFFORDABLE SERVICES THROUGH A COST-SHARING MECHANISM  
17 DEVELOPED BY THE DEPARTMENT FOR THOSE FAMILIES WHOSE  
18 HOUSEHOLD INCOMES DO NOT EXCEED 380% OF THE [POVERTY LEVEL]  
19 FEDERAL POVERTY GUIDELINES.

20 SECTION 3. DEFINITIONS.

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

24 ["ADULT." A PERSON 18 YEARS OF AGE OR OLDER RESIDING WITHIN  
25 THIS COMMONWEALTH WHO IS SUFFERING FROM A CHRONIC DEMENTIA SUCH  
26 AS ALZHEIMER'S DISEASE.]

27 "ADULT WITH CHRONIC DEMENTIA." A PERSON 18 YEARS OF AGE OR  
28 OLDER RESIDING WITHIN THIS COMMONWEALTH WHO HAS AN IRREVERSIBLE  
29 GLOBAL LOSS OF COGNITIVE FUNCTION CAUSING EVIDENT INTELLECTUAL  
30 IMPAIRMENT WHICH ALWAYS INCLUDES MEMORY LOSS, WITHOUT ALTERATION

1 OF STATE OF CONSCIOUSNESS AS DIAGNOSED BY A PHYSICIAN AND IS  
2 SEVERE ENOUGH TO INTERFERE WITH WORK OR SOCIAL ACTIVITIES, OR  
3 BOTH, AND TO REQUIRE CONTINUOUS CARE OR SUPERVISION.

4 "AREA AGENCY ON AGING." THE SINGLE LOCAL AGENCY DESIGNATED  
5 BY THE DEPARTMENT WITHIN EACH PLANNING AND SERVICE AREA TO  
6 ADMINISTER THE DELIVERY OF A COMPREHENSIVE AND COORDINATED PLAN  
7 OF SOCIAL AND OTHER SERVICES AND ACTIVITIES IN THE PLANNING AND  
8 SERVICE AREA.

9 "CARE RECEIVER." A FUNCTIONALLY DEPENDENT OLDER ADULT OR  
10 OTHER ADULT WITH CHRONIC DEMENTIA WHO IS BEING CARED FOR BY A  
11 PRIMARY CAREGIVER.

12 ["CHRONIC DEMENTIA." AN IRREVERSIBLE GLOBAL LOSS OF  
13 COGNITIVE FUNCTION CAUSING EVIDENT INTELLECTUAL IMPAIRMENT WHICH  
14 ALWAYS INCLUDES MEMORY LOSS, WITHOUT ALTERATION OF STATE OF  
15 CONSCIOUSNESS AS DIAGNOSED BY A PHYSICIAN AND IS SEVERE ENOUGH  
16 TO INTERFERE WITH WORK OR SOCIAL ACTIVITIES, OR BOTH AND TO  
17 REQUIRE CONTINUOUS CARE OR SUPERVISION.]

18 "DEPARTMENT." THE DEPARTMENT OF AGING OF THE COMMONWEALTH.

19 "FEDERAL POVERTY GUIDELINES." THE POVERTY GUIDELINES UPDATED  
20 PERIODICALLY IN THE FEDERAL REGISTER BY THE DEPARTMENT OF HEALTH  
21 AND HUMAN SERVICES UNDER THE AUTHORITY OF SECTION 673 OF THE  
22 OMNIBUS BUDGET RECONCILIATION ACT OF 1981 (PUBLIC LAW 97-35, 42  
23 U.S.C. § 9902(2)).

24 "FUNCTIONALLY DEPENDENT OLDER ADULT." A PERSON 60 YEARS OF  
25 AGE OR OLDER RESIDING WITHIN THIS COMMONWEALTH WHO, BECAUSE OF  
26 HIS OR HER INABILITY TO PERFORM TASKS REQUIRED FOR DAILY LIVING  
27 AS DEFINED THROUGH REGULATION AND AS ASSESSED BY THE AREA AGENCY  
28 ON AGING, NEEDS CONTINUOUS CARE OR SUPERVISION.

29 "HOME MODIFICATION." REASONABLE MODIFICATIONS TO THE  
30 STRUCTURE OF A HOME FOR THE PURPOSE OF REDUCING THE CAREGIVING

1 BURDEN OF THE PRIMARY CAREGIVER, AS APPROVED BY THE DEPARTMENT.  
2 MODIFICATIONS DO NOT INCLUDE REPAIRS, AND PAYMENT FOR SUCH  
3 REPAIRS IS PROHIBITED.

4 "HOUSEHOLD INCOME." THE INCOME OF ALL MEMBERS OF THE  
5 HOUSEHOLD WITH THE EXCEPTION OF A MINOR OR DEPENDENT STUDENT.

6 "INCOME." ALL INCOME, FROM WHATEVER SOURCE DERIVED,  
7 INCLUDING, BUT NOT LIMITED TO, WAGES, SALARIES, SOCIAL SECURITY  
8 OR RAILROAD RETIREMENT INCOME, PUBLIC ASSISTANCE INCOME,  
9 REALIZED CAPITAL GAINS AND WORKMEN'S COMPENSATION. THE  
10 DEPARTMENT SHALL DETERMINE INCOME AMOUNTS AND INCLUSIONS FOR  
11 PURPOSES OF THIS ACT THROUGH REGULATION.

12 "PRIMARY CAREGIVER." THE ONE IDENTIFIED [RELATIVE] ADULT  
13 FAMILY MEMBER OR OTHER INDIVIDUAL WHO HAS ASSUMED THE PRIMARY  
14 RESPONSIBILITY FOR THE PROVISION OF CARE NEEDED TO MAINTAIN THE  
15 PHYSICAL OR MENTAL HEALTH OF A [FUNCTIONALLY DEPENDENT OLDER  
16 ADULT OR OTHER ADULT SUFFERING FROM CHRONIC DEMENTIA, WHO LIVES  
17 IN THE SAME RESIDENCE WITH SUCH INDIVIDUAL ON A CONTINUOUS BASIS  
18 AND] CARE RECEIVER AND WHO DOES NOT RECEIVE FINANCIAL  
19 COMPENSATION FOR THE CARE PROVIDED. A SUBSTANTIATED CASE OF  
20 ABUSE, NEGLECT, EXPLOITATION, ABANDONMENT AS DEFINED IN THE ACT  
21 OF NOVEMBER 6, 1987 (P.L.381, NO.79), KNOWN AS THE OLDER ADULTS  
22 PROTECTIVE SERVICES ACT, OR PURSUANT TO ANY OTHER CIVIL OR  
23 CRIMINAL STATUTE REGARDING AN OLDER ADULT, SHALL PROHIBIT A  
24 PRIMARY CAREGIVER FROM RECEIVING BENEFITS UNDER THIS ACT UNLESS  
25 AUTHORIZED BY THE DEPARTMENT TO PREVENT FURTHER ABUSE.

26 ["RELATIVE." A SPOUSE OR PARENT, CHILD, STEPPARENT,  
27 STEPCHILD, GRANDPARENT, GRANDCHILD, BROTHER, SISTER, HALF-  
28 BROTHER, HALF-SISTER, AUNT, GREAT AUNT, UNCLE, GREAT UNCLE,  
29 NIECE, NEPHEW, BY BLOOD, MARRIAGE OR ADOPTION.]

30 "RESPITE CARE SERVICE." A REGULAR, INTERMITTENT OR EMERGENCY

SERVICE WHICH PROVIDES THE PRIMARY CAREGIVER OF A [FUNCTIONALLY  
DEPENDENT OLDER ADULT OR OTHER ADULT SUFFERING FROM A CHRONIC  
DEMENTIA] CARE RECEIVER WITH RELIEF FROM NORMAL CAREGIVING  
DUTIES AND RESPONSIBILITIES.

SECTION 4. [CAREGIVER] PRIMARY CAREGIVER SUPPORT PROGRAM.

(A) DESCRIPTION.--THE PERSONS TO BE SERVED UNDER THIS ACT  
ARE UNPAID, PRIMARY[, UNPAID] CAREGIVERS WHO [LIVE WITH AND]  
PROVIDE CONTINUOUS CARE TO A [FUNCTIONALLY DEPENDENT OLDER ADULT  
OR OTHER ADULT SUFFERING FROM A CHRONIC DEMENTIA SUCH AS  
ALZHEIMER'S DISEASE] CARE RECEIVER.

(B) AUTHORITY.--

(1) THE DEPARTMENT SHALL DEVELOP OPERATING PROCEDURES  
AND GUIDELINES AND SHALL CONTRACT WITH AREA AGENCIES ON AGING  
TO PROVIDE THE BENEFITS SET FORTH IN THIS ACT.

(2) THE DEPARTMENT SHALL HAVE THE AUTHORITY TO DEVELOP  
CRITERIA THROUGH REGULATION RELATING TO ELIGIBILITY FOR  
PRIMARY CAREGIVERS TO RECEIVE ASSISTANCE PURSUANT TO THIS  
ACT.

(3) AFTER ALL ELIGIBILITY CRITERIA HAVE BEEN MET, THE  
DEPARTMENT SHALL GIVE PRIORITY IN AWARDING ASSISTANCE PAID  
FOR BY THE STATE LOTTERY FUND TO PRIMARY CAREGIVERS WHO  
PROVIDE CARE FOR A FUNCTIONALLY DEPENDENT OLDER ADULT AND AN  
ADULT 60 YEARS OF AGE OR OLDER WITH CHRONIC DEMENTIA, SUCH AS  
ALZHEIMER'S DISEASE.

(C) SUPPORTIVE SERVICES.--THE DEPARTMENT SHALL IDENTIFY BY  
REGULATION SUPPORTIVE SERVICES WHICH ARE DIRECTLY RELATED TO THE  
PROVISION OF CARE TO THE [FUNCTIONALLY DEPENDENT OLDER ADULT OR  
OTHER ADULT SUFFERING FROM CHRONIC DEMENTIA] CARE RECEIVER.

SUPPORTIVE SERVICES INCLUDE, BUT ARE NOT LIMITED TO:

(1) BENEFITS COUNSELING AND PRIMARY CAREGIVER

COUNSELING, EDUCATION AND TRAINING.

(2) REIMBURSEMENT TO PRIMARY CAREGIVERS WHOSE CARE RECEIVERS' HOUSEHOLDS FINANCIALLY QUALIFY FOR ASSISTANCE [PURSUANT TO] UNDER SECTION 5 AND AS SET FORTH THROUGH REGULATION FOR EXPENSES INCURRED IN OBTAINING DAY OR NIGHT RESPITE CARE SERVICES, TRANSPORTATION TO RESPITE CARE SERVICE LOCATIONS OR OTHER SUPPORTIVE SERVICES DEFINED BY REGULATION, AND CONSUMABLE SUPPLIES SUCH AS INCONTINENCE PADS.

(3) REIMBURSEMENT TO PRIMARY CAREGIVERS WHOSE CARE RECEIVERS' HOUSEHOLDS FINANCIALLY QUALIFY FOR ASSISTANCE [PURSUANT TO] UNDER SECTION 5 AND AS DEVELOPED THROUGH REGULATION FOR EXPENSES INCURRED IN OBTAINING HOME MODIFICATIONS OR ASSISTIVE DEVICES AS APPROVED BY THE DEPARTMENT WHICH HELP THE [FUNCTIONALLY DEPENDENT OLDER ADULT OR ADULT SUFFERING FROM CHRONIC DEMENTIA] CARE RECEIVER TO CARRY OUT TASKS REQUIRED FOR DAILY LIVING SUCH AS GRAB BARS, SAFETY DEVICES AND WHEELCHAIR RAMPS.

#### SECTION 5. REIMBURSEMENTS.

(A) GENERAL RULE.--THE DEPARTMENT THROUGH CONTRACTS WITH AREA AGENCIES ON AGING SHALL PROVIDE THE SERVICES DESCRIBED [IN] UNDER SECTION 4(C)(1) AND SHALL REIMBURSE QUALIFIED PRIMARY CAREGIVERS FOR PURCHASE OF APPROVED SERVICES DESCRIBED [IN] UNDER SECTION 4(C)(2) AND (3).

(B) MAXIMUM AMOUNTS.--

(1) THE MAXIMUM AMOUNT AVAILABLE TO A QUALIFIED PRIMARY CAREGIVER WHOSE CARE RECEIVERS' HOUSEHOLD INCOME IS UNDER 200% OF [POVERTY LEVEL] THE FEDERAL POVERTY GUIDELINES SHALL BE ESTABLISHED BY REGULATION, BUT SHALL NOT EXCEED [\$200] \$600 PER MONTH, FOR OUT-OF-POCKET EXPENSES INCURRED FOR SERVICES DESCRIBED [IN] UNDER SECTION 4(C)(2).

1           (2) THE MAXIMUM AMOUNT AVAILABLE TO A QUALIFIED PRIMARY  
2       CAREGIVER WHOSE CARE RECEIVERS' HOUSEHOLD INCOME IS UNDER  
3       200% OF [POVERTY LEVEL] THE FEDERAL POVERTY GUIDELINES SHALL  
4       BE ESTABLISHED BY REGULATION, BUT SHALL NOT EXCEED [\$2,000]  
5       \$6,000 FOR THE ENTIRE DURATION OF THE CASE, FOR EXPENSES  
6       INCURRED FOR HOME MODIFICATIONS OR ASSISTIVE DEVICES AS  
7       DESCRIBED [IN] UNDER SECTION 4(C)(3).

8       (C) SCALE OF BENEFITS.--A SLIDING BENEFITS SCALE SHALL BE  
9       ESTABLISHED BY THE DEPARTMENT BY REGULATION TO ENSURE THAT  
10      PRIMARY CAREGIVERS [WHO] WHOSE CARE RECEIVERS QUALIFY UNDER THIS  
11      ACT AND WHOSE HOUSEHOLD [INCOME EXCEEDS 200% OF POVERTY LEVEL]  
12      INCOMES EXCEED 200% OF THE FEDERAL POVERTY GUIDELINES SHALL PAY  
13      SOME PORTION OF THE OUT-OF-POCKET EXPENSES FOR SERVICES  
14      DESCRIBED [IN] UNDER SECTION 4(C). IN NO EVENT WILL PRIMARY  
15      CAREGIVERS WHOSE CARE RECEIVERS' HOUSEHOLD [INCOMES EXCEEDS 380%  
16      OF THE POVERTY LEVEL] INCOMES EXCEED 380% OF THE FEDERAL POVERTY  
17      GUIDELINES BE CONSIDERED ELIGIBLE FOR BENEFITS UNDER THIS ACT.  
18      SECTION 6. ENTITLEMENT NOT CREATED.

19      NOTHING IN THIS ACT CREATES OR PROVIDES ANY INDIVIDUAL WITH  
20      AN ENTITLEMENT TO SERVICES OR BENEFITS. [IT IS THE INTENT OF THE  
21      GENERAL ASSEMBLY THAT SERVICES] SERVICES UNDER THIS ACT SHALL BE  
22      MADE AVAILABLE ONLY TO THE EXTENT OF THE AVAILABILITY AND LEVEL  
23      OF APPROPRIATIONS MADE BY THE GENERAL ASSEMBLY.

24      Section 2. This act shall take effect in 60 days.