

PUBLIC WELFARE CODE - OMNIBUS AMENDMENTS

Act of Jun. 30, 1995, P.L. 129, No. 20

Cl. 67

Session of 1995

No. 1995-20

HB 2

AN ACT

Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An act to consolidate, editorially revise, and codify the public welfare laws of the Commonwealth," providing for a job training program and for Federal funds for legal services; further providing for administration of assistance, for the workfare program, for a program for identification of assistance recipients and for eligibility for assistance; prohibiting duplicate payments and providing for expedited authorization; further providing for medical need determinations and for relatives' responsibility for medical assistance; providing for penalties for failure to appear at criminal proceedings; and further providing for employment incentive payments and for repayment from probate estates.

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

Section 1. The act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, is amended by adding sections to read:

**Section 201.1. Federal Funds for Legal Services.--**In addition to the areas of expenditures for legal services authorized by section 220 of the act of June 30, 1995 (P.L.749, No.5A), known as the General Appropriation Act of 1995, Federal funds appropriated for fiscal year July 1, 1995, through June 30, 1996, may only be used for the following: termination of employment and unemployment compensation; insurance; health care; discrimination due to age, race, sex or handicap; wage and pension claims; taxation; wills and estates; Social Security; disability; and debtor-creditor issues.

**Section 214. Job Training.--**(a) The department shall establish, implement and administer a pilot job training program with the ultimate goal of securing economic self-sufficiency for welfare recipients. The program shall utilize Federal and State funds available to the department for job training programs.

(b) The pilot program shall consist of three projects located in three separate counties in different geographical regions representing rural, suburban and urban populations of this Commonwealth. In selecting sites for projects, preference shall be given to areas of persistent unemployment and widespread failure or closure of existing dominant industries.

(c) The goal of the pilot program shall be to match trainees with existing job vacancies which pay wages and benefits based on a forty-hour work week and which are sufficient to ensure the financial security of the trainee and any dependents to enable that trainee and dependents to remain free of any State assistance for at least one year.

(d) The pilot program shall include provisions to:

(1) Ensure that contracts with training, placement and other service providers are performance based, with payments derived

from successful placements of welfare recipients into adequate employment.

(2) Reward client initiative by directing child-care, training and other program resources to welfare recipients who are actively working toward self-sufficiency.

(3) Make receipt of benefits and/or incentives contingent on recipients meeting of individualized obligations such as attendance at training sessions and pursuit of job opportunities.

(e) The department may contract with an employer, a nonprofit association, corporation or government agency or any combination thereof.

(f) Payments by the department to a project operator shall be scheduled so that twenty-five percent of the contract price is paid during training, twenty-five percent is paid upon completion of training, twenty-five percent after the trainee is employed continuously for a period of at least six months and twenty-five percent after the trainee is employed continuously for a period of at least one year.

(g) The department shall be required to analyze the pilot program, measuring its results against the goals under this section as well as comparing it to other Federal and State job training programs. A report on the evaluation shall be submitted to the Governor and the General Assembly detailing the findings and recommendations of the evaluation no later than two years following implementation of the pilot program. The report shall include, but not be limited to:

(1) Cost-effectiveness in the use of job training resources.

(2) Rate of job placements.

(3) Reduction of welfare enrollment.

(4) Rate of in-migration and out-migration in the program area.

(h) An employer may not contract a program participant to another employer unless the program participant is the sole recipient of any additional wages, benefits or compensation that may result from the contract.

(i) The department shall promulgate regulations to implement the provisions of this section.

Section 2. Section 403 of the act is amended by adding a subsection to read:

Section 403. Uniformity in Administration of Assistance; Regulations as to Assistance.--\* \* \*

(g) Regulations which authorize payment for purchase of an automobile, for parts for an automobile or for repair of an automobile for a recipient of public assistance shall provide that the payment shall be made jointly to the seller of the automobile or parts or the garage or mechanic which made the repairs and the recipient.

Section 3. Section 405.2 heading and (a), (b), (c) and (d) of the act, amended or added April 8, 1982 (P.L.231, No.75) and June 16, 1994 (P.L.319, No.49), are amended to read:

Section 405.2. [Community Work] **Workfare** Program.--(a) The department shall [coordinate the establishment of community work projects by] **enter into cooperative agreements to establish workfare projects with** departments, agencies or institutions of the Commonwealth or any political subdivision located within the Commonwealth or any agency of the Federal Government or department-approved nonprofit organizations [that receive State or county funds and] **or established for-profit temporary help organizations for temporary placement with private, nonprofit or for-profit employers.** Participating for-profit temporary help organizations shall recover their costs and profit from

**fees charged to employers.** The department shall assign to these work projects cash assistance recipients [for whom the Office of Employment Security has] **who are able to work but have** been unable to secure employment. In instances when [community work] **workfare** projects are not available for all [able-bodied cash assistance] recipients, priority shall be given to general assistance recipients for referral to available projects.

(b) Every individual who has not received a bona fide offer of training or employment under section 405.1 shall, as a condition of continuing eligibility for cash assistance, report to and work in [a community work] **an available workfare** project established under this section unless such individual is exempt from the registration requirements of section 405.1. Such individual shall be required to work that number of hours which when multiplied by the applicable minimum wage equals the amount of cash assistance such person receives: Provided, however, That:

(1) **such work shall not exceed forty hours per week; and**

(2) the parent or other caretaker of a child between the ages of six and fourteen who is personally providing care for the child with only very brief and infrequent absences from the child shall not be required to participate in [community work] **workfare** projects except on days and at times when the child is in school or when there are adequate day-care arrangements available for the child at no cost to the recipient.

(c) [Community work] **Workfare** projects established under this section must be approved by the department. To qualify for approval, a work site must conform to appropriate health and safety standards. Cash assistance recipients shall not be assigned to work opportunities available due to a labor dispute, strike, or lockout and shall not be assigned to perform work so as to cause the layoff, downgrading or prevention of return to work of an available competent employee. Cash assistance recipients shall be assigned to [community work] **workfare** projects within twenty-five miles of their place of residence **unless the department determines that a greater distance is not a hardship.**

(d) A person who without good cause fails or refuses to accept assignment to and participate in a [community work] **workfare** project shall be [disqualified from receiving cash assistance for sixty days for the first violation and thereafter until such time he or she is willing to comply. For the second violation and subsequent violations the disqualification period shall be one hundred twenty days. The disqualification period shall commence on the date the department's order imposing disqualification is final.] **terminated from assistance pursuant to section 432.3.**

\* \* \*

Section 4. Section 414 of the act, added June 16, 1994 (P.L.319, No.49), is amended to read:

Section 414. Assistance Recipient Identification Program.--(a) [Subject to Federal approval, only where necessary, there is hereby created a pilot program within the] **The department is authorized to create, in geographic areas where the department determines it to be cost effective, a program** to be known as the Assistance Recipient Identification Program.

(b) The purpose of the program is to eliminate duplication of assistance to recipients, **to deter fraud and to assist law enforcement officials in their duties.**

[(c) The department shall select three geographic areas in this Commonwealth representing rural, suburban and urban areas to participate in this program.]

(d) A person currently receiving or applying for assistance shall participate in the program. The person shall be identified using available technological means that may include, but are not limited to, two-digit fingerimaging.

(e) The department, wherever feasible, shall work with neighboring states to execute agreements between each of those states and the Commonwealth to implement compatible computer cross-matching identification systems.

(f) It is a violation for a person in the program to acquire or attempt to acquire duplication of assistance.

(g) Absent a court order, only the department, **the Pennsylvania State Police and the Pennsylvania Board of Probation and Parole, the chief of a local municipal police department or his designee within the department, including the sheriff's office in counties of the second class,** and the designated officials of neighboring states with whom the department executes agreements under subsection (e) shall have access to records under this program.

(h) The department shall make a report to the General Assembly [one year after the effective date of this act. The] **no later than March 1, 1996, and every two years thereafter.** Each report shall include:

(1) Caseload data before implementation of this section as well as after one year for comparison purposes to judge the program's effectiveness at fraud deterrence.

(2) Attempts at and instances of multiple enrollment by persons.

(3) Analysis of the cost-effectiveness of the project.

(4) Recommendations regarding whether the program should be discontinued, expanded or otherwise modified.

(i) [This section shall expire two years after the effective date of this act unless extended by the General Assembly.

(j)] As used in this section, the term "program" means the Assistance Recipient Identification Program.

Section 5. Section 432(3) of the act, amended June 16, 1994 (P.L.319, No.49), is amended and the section is amended by adding clauses to read:

Section 432. Eligibility.--Except as hereinafter otherwise provided, and subject to the rules, regulations, and standards established by the department, both as to eligibility for assistance and as to its nature and extent, needy persons of the classes defined in clauses (1), (2), and (3) shall be eligible for assistance:

\* \* \*

(3) Other persons who are citizens of the United States, or lawfully admitted aliens [and] who are [chronically needy or transitionally needy persons] **eligible for general assistance benefits.**

(i) [Chronically needy persons are those persons chronically in need] **Persons** who may be eligible for **general assistance for** an indeterminate period as a result of medical, social or related circumstances [and] shall be limited to:

(A) A child who is under age eighteen or who is eighteen through twenty years of age and attending a secondary or equivalent vocational or technical school full-time and may reasonably be expected to complete the program before reaching twenty-one years of age.

(B) Persons who are parents residing in two-parent households with their child who is under eighteen years of age.

Every possible effort shall be made by the department to place these persons in the AFDC program.

(C) A person who has a serious physical or mental handicap which prevents him or her from working in any substantial gainful activity as determined in accordance with standards established by the department. The department may require that documentation of disability be submitted from a physician or psychologist. The department may also require further medical documentation of disability and may also order at the department's expense a person to submit to an independent examination as a condition of receiving assistance under this clause.

(D) A person who is a nonparental caretaker of a child under eighteen years of age or a caretaker of another person because of illness or disability. Such child or other person must be a member of the household and the caretaker must be a person whose presence is required in the home to care for another person as determined in accordance with department regulations.

(E) A person who is currently undergoing active treatment for substance abuse in a drug and alcohol program licensed or approved by the Department of Health or administered by an agency of the Federal Government. No individual shall qualify [as chronically needy] **for general assistance** under this clause for more than nine months in a lifetime.

(F) A pregnant woman whose pregnancy has been medically verified.

(G) A person who is a victim of domestic violence and who is receiving protective services as defined by the department. No individual shall qualify [as chronically needy] **for general assistance** under this provision for more than nine months in his lifetime.

(ii) [Assistance for chronically needy persons] **General assistance** shall continue as long as the person remains eligible. Redeterminations shall be conducted on at least an annual basis and persons capable of work, even though otherwise eligible for **general** assistance [to the chronically needy], would be required to register for employment and accept employment if offered as a condition of eligibility except as otherwise exempt under section 405.1.

(iii) Transitionally needy persons are those persons who are otherwise eligible for general assistance but do not qualify as chronically needy. Assistance for transitionally needy persons shall be authorized for not more than sixty days in any twenty-four month period. Any transitionally needy benefits received in the twelve-month period prior to the effective date of this subclause shall be applied toward the total period of benefits an individual is eligible for, beginning with the receipt of the first cash assistance check in the previous twelve-month period. **This subclause shall expire September 1, 1995.**

(iv) **No transitionally needy benefits shall be initially authorized after June 30, 1995. Any person receiving transitionally needy general assistance as of the effective date of this subclause may continue to receive that assistance until sixty days of benefits are exhausted in accordance with subclause (iii). Transitionally needy benefits received after June 30, 1993, shall be applied to the total period of benefits. Transitionally needy general assistance benefits shall cease on the earlier of:**

(A) **the date of the final issuance of benefits; or**

(B) **August 29, 1995.**

\* \* \*

(9) Assistance may not be granted to any person who has been sentenced for a felony or misdemeanor offense and who has not otherwise satisfied the penalty imposed on that person by law. The department and the Pennsylvania State Police shall enter into a cooperative agreement. Notwithstanding any provisions in 18 Pa.C.S. Ch. 91 (relating to criminal history record information), this agreement shall provide the department with access to the central repository within the Pennsylvania State Police in order to carry out the objectives of this section. The Pennsylvania State Police and the Pennsylvania Board of Probation and Parole shall have access to the records of the Assistance Recipient Identification Program under section 414 within the department in order to carry out the objectives of section 414. For general assistance applicants and recipients, the department shall enter into cooperative agreements with the Pennsylvania State Police and the Pennsylvania Board of Probation and Parole to ensure that no general assistance is granted to a person who has been sentenced for a felony or misdemeanor offense. For this purpose, the department may access and provide information available pursuant to section 414. As used in this clause, "satisfied the penalty" means completed the period of incarceration or extension thereof and paid all fines, costs and restitution. Nothing in this clause shall be deemed to exclude from assistance any person who has been paroled from a term of imprisonment, or any person who is in compliance with all terms of probation, and who has made full payment of all fines, costs and restitution.

(10) Assistance shall not be granted to any applicant who is under eighteen years of age and who has never been married and is pregnant and/or caring for a dependent child unless the applicant is residing with a parent, guardian or other adult. In the event that the applicant is residing with a parent, guardian or other adult, assistance shall be paid to the parent, guardian or other adult with which the applicant is residing. Exemptions to this subsection will be granted by the department if the department determines that an exemption would be in the best interests of the applicant and the child/children or if the applicant can present evidence that the parent, guardian or other adult:

(i) refuses or is unable to allow the applicant to live in his or her home;

(ii) poses an emotional or physical threat to the applicant;

(iii) has physically or sexually abused the applicant or the applicant's child/children or poses a risk of doing so;

(iv) has exhibited neglect of the applicant or the applicant's child/children; or

(v) has spent the applicant's assistance benefits in an improper manner.

If an exemption is granted, the county assistance office shall determine the most appropriate living arrangement for the applicant and the applicant's child/children that would be in the best interest of the applicant and the applicant's child/children.

Section 6. The act is amended by adding a section to read:

Section 434.2. Prohibition against Duplicate Payments and Expedited Authorization.--In no case shall duplicate payments be made on behalf of an aid to families with dependent children or general assistance child. Notwithstanding any provision of this act, a child, formerly in the custody of a parent or other caregiver who is no longer exercising care and control of the child, shall be eligible for expedited authorization of cash assistance benefits.

Section 7. Section 442.1 of the act, amended June 16, 1994 (P.L.319, No.49), is amended to read:

Section 442.1. The Medically Needy; Determination of Eligibility.--(a) A person shall be considered medically needy if he:

(1) Resides in Pennsylvania, regardless of the duration of his residence or his absence therefrom;

(2) Meets the standards of financial eligibility established by the department with the approval of the Governor. In establishing these standards the department shall take into account (i) the funds certified by the Budget Secretary as available for medical assistance for the medically needy; (ii) pertinent Federal legislation and regulations; and (iii) the cost of living; and

(3) Is twenty-one years of age or older and receives or is eligible to receive general assistance benefits.

(b) [Transitionally needy persons] **Persons** who are not eligible for cash assistance by reason of section [432(3)(iii)] **432(3)(i)** shall be considered medically needy.

Section 8. Section 447 of the act, amended July 31, 1968 (P.L.904, No.273), is amended to read:

Section 447. Relatives' Responsibility; Repayment.--(a) Notwithstanding any other provision of law, no repayment shall be required of any medical assistance paid in behalf of any person for which he was eligible; and, with respect to the determination of eligibility for such assistance, no relative, other than spouses for each other and parents for unemancipated minor children, shall be required to contribute to the cost of the care for which such assistance is provided.

(b) **Persons who apply for medical assistance shall be required to cooperate with the department in establishing paternity and pursuing a medical support order.**

Section 9. The act is amended by adding a section to read:

**Section 481.1. Penalty for Failure to Appear at Criminal Court Proceeding.--Any person receiving any form of assistance under this article who fails as a defendant to appear at a criminal court proceeding when issued a summons shall be disqualified from receiving assistance until such time as that person complies with the summons. The court shall cooperate with the department in the implementation of this section.**

Section 10. Sections 491(b) and 1412 of the act, reenacted and amended or added June 16, 1994 (P.L.319, No.49), are amended to read:

Section 491. Employment Incentive Payments.--\* \* \*

(b) An employment incentive payment may be claimed by an employer who hires any person who is receiving aid to families with dependent children or who is [classified as chronically or transitionally needy] **receiving general assistance** at the time of employment except that payments shall not be provided for:

(1) The employment of any person who displaces any other individual from employment, except persons discharged for cause as certified by the Office of Employment Security.

(2) The employment of any person closely related, as defined by paragraphs (1) through (8) of section 152(a) of the Internal Revenue Code, to the taxpayer, or, if the taxpayer is a corporation, to an individual who owns, directly or indirectly more than fifty percent of the outstanding stock of the corporation, bank, savings institution, company, insurance company, or mutual thrift institution.

(3) The employment of an individual for whom the employer is simultaneously receiving Federally or State funded job training payments.

\* \* \*

Section 1412. Repayment from Probate Estates.--(a)

Notwithstanding any other provision of this act or any other law, the department shall establish and implement an estate recovery program to recover medical assistance paid with respect to individuals who were fifty-five years of age or older at the time that assistance was received. Under this program, the department shall recover from the probate estate of an individual the amount of medical assistance paid for all nursing facility services, home- and community-based services and related hospital and prescription drug services. With the approval of the Governor, the department may expand the estate recovery program by regulation to include medical assistance for services other than those listed in this section and to recover against other real and personal property in which an individual had any legal title or interest at the time of death. The department's claim shall have the priority of a debt due the Commonwealth. [If property subject to the department's claim is transferred without the department's claim being satisfied, then the executor or administrator transferring such property, if applicable, and the person receiving such property shall become liable to pay the department's claim.]

**(a.1) Liability for debt shall be as follows:**

**(1) If property subject to the department's claim is transferred without the department's claim being satisfied, then the executor or administrator transferring such property, if there is one, shall become liable to pay the department's claim.**

**(2) If property subject to the department's claim is transferred to the extent that the transfer is made without valuable and adequate consideration in money or something worth money at the time of the transfer and without the department's claim being satisfied, then the executor or administrator transferring such property, if there is one, and the person receiving such property shall become liable to pay the department's claim.**

(b) The executor or administrator of the estate of a decedent who attained fifty-five years of age shall ascertain whether the decedent received medical assistance during the five years preceding death and, if so, shall give notice to the department to secure from the department a statement of the department's claim for medical assistance consistent with 20 Pa.C.S. § 3392(3) and (6) (relating to classification and order of payment). The department must submit its claim to the executor or administrator within [thirty] **forty-five** days of receipt of notice or the claim shall be forfeited.

(c) This section shall apply notwithstanding the provisions of section 447.

Section 11. Within 90 days of the effective date of this section, the Department of Public Welfare shall submit to the appropriate Federal agency a request for any and all waivers of Federal law and regulations and for any other approvals by the Federal Government necessary for the implementation of the programs added by this act. It shall be the obligation of the Department of Public Welfare to enter into good faith negotiations with the appropriate Federal authorities and to make every effort to obtain the necessary Federal waivers and approvals.



Section 12. It is the intent of the General Assembly that the Department of Public Welfare promulgate final-form regulations which omit notice of proposed rulemaking for the purpose of revising regulations implementing sections 443.1, 443.3 and 443.4 of the act. These regulations shall be submitted before September 1, 1995. This section shall expire September 1, 1995.

Section 13. All references in the act to the Community Work Program shall be deemed to be references to the Workfare Program.

Section 14. This act shall take effect as follows:

(1) The addition of section 214 of the act shall take effect in 120 days.

(2) The addition of section 432(3)(iv) of the act shall take effect July 1, 1995, or immediately, whichever is later.

(3) The remainder of this act shall take effect immediately.

APPROVED--The 30th day of June, A. D. 1995.

THOMAS J. RIDGE