

HUMAN SERVICES CODE - OMNIBUS AMENDMENTS

Act of Oct. 24, 2018, P.L. 777, No. 125

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Session of 2018

No. 2018-125

SB 6

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," in public assistance, further providing for definitions, for resources and for verification system, prohibiting eligibility for individuals convicted of drug distribution, prohibiting eligibility for violators of sexual offender registration, further providing for false statements, investigations and penalty and for prohibited use of public assistance funds, providing for lost access devices and further providing for violation and penalty.

This act shall be referred to as the Public Assistance Integrity Act.

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

Section 1. Section 402 of the act of June 13, 1967 (P.L.31, No.21), known as the Human Services Code, is amended by adding a definition to read:

Section 402. Definitions.--As used in this article, unless the content clearly indicates otherwise:

"Access device." An electronic benefit transfer card that is issued by the department to convey public assistance benefits to a recipient.

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Section 2. Section 432.5(c) of the act is amended and the section is amended by adding a subsection to read:

Section 432.5. Resources.--* * *

(c) Other property in excess of two hundred fifty dollars (\$250) for a single person applying for or receiving assistance and other property in excess of one thousand dollars (\$1,000) for assistance groups with more than one person shall be considered an available resource. The following items shall not be considered an available resource, unless such consideration is required under Federal law or regulations:

(1) Wedding and engagement rings, family heirlooms, clothing and children's toys.

(2) Household furnishings, personal effects and other items used to provide, equip, and maintain a household for the applicant and recipient.

(3) Equipment and material which are necessary to implement employment, rehabilitation, or self care plan for the applicant or recipient.

(4) One motor vehicle per assistance group[.] as follows:

(i) When the difference between the fair market value, according to a standard guide resource available to the automobile industry and consumers that determines the value of new and used automobiles, and the amount owed on the purchase price of the vehicle is less than forty thousand dollars (\$40,000).

(ii) Subparagraph (i) shall apply to the extent permitted by Federal law.

(5) Retroactive assistance payments received as a result of a prehearing conference or a fair hearing decision.

* * *

(g) For the purpose of determining a recipient's eligibility for assistance, individual lottery winnings of six hundred dollars (\$600) or more shall be considered an available resource. Lottery winnings shall be calculated on a prorated basis over a twelve-month period following receipt of such winnings.

Section 3. Section 432.23(a) of the act is amended by adding a paragraph to read:

Section 432.23. Verification System.--(a) The department shall establish a computerized income eligibility verification system to verify eligibility, eliminate duplication of assistance and deter fraud: Provided, however, that the department, in good faith, attempts to obtain the cooperation by Federal authorities or other states, or both; and further provided, that the data be accessible by the department. Subject to section 432.19, prior to authorizing assistance under section 432.2(b) or continuing assistance under section 432.2(c), the department shall match the social security number of each applicant and recipient with the following:

* * *

(20) Lottery winners database maintained by the Pennsylvania State Lottery.

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Section 4. The act is amended by adding sections to read:

Section 432.25. Eligibility for Individuals Convicted of Drug Distribution.--(a) (1) Notwithstanding sections 405.1 and 432.24, to the extent permitted by Federal law, no individual who, after the effective date of this section, has been convicted under section 13(a)(14), (30) or (37) of the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act," when the amount of controlled substances involved is equivalent to or greater than the amount of controlled substances set forth in 18 Pa.C.S. § 7508(a)(1)(iii), (2)(iii), (3)(iii), (4)(iii), (7)(iii) or (8)(iii) (relating to drug trafficking sentencing and penalties) while receiving public assistance shall be eligible for public assistance unless:

(i) the individual is complying with or has already complied with the obligations imposed by the criminal court; and

(ii) the individual is actively engaged in or has completed a court-ordered substance abuse treatment program, as applicable, and participates in periodic drug tests for ten years after the drug-related conviction or for the duration of probation, whichever is of longer duration.

(2) Upon a second or subsequent conviction under section 13(a)(14), (30) or (37) of "The Controlled Substance, Drug, Device and Cosmetic Act" when the amount of controlled substances involved is equivalent to or greater than the amount of controlled substances set forth in 18 Pa.C.S. § 7508(a)(1)(iii), (2)(iii), (3)(iii), (4)(iii), (7)(iii) or (8)(iii), the individual shall be suspended from receiving public assistance for a period of ten years to the extent permitted by Federal law. After the ten-year suspension, the individual may apply for public assistance.

(b) An individual who takes a drug test pursuant to subsection (a)(1)(ii) and fails the test shall be subject to the following sanctions to the extent permitted by Federal law:

(1) For failing a drug test the first time, an individual shall be provided an assessment for addiction and provided

treatment for addiction as indicated by treatment criteria developed by the Single State Authority on Drugs and Alcohol. Assessments shall be conducted by the Single County Authority (SCA) on Drugs and Alcohol or a designee. Treatment recommended shall be provided by facilities licensed by the Division of Drug and Alcohol Program Licensure in the Department of Drug and Alcohol Programs or by a licensed physician. Medicaid eligibility and determinations shall be expedited to ensure access to assessment and addiction treatment through Medicaid. If the individual cooperates with the assessment and treatment, no penalty shall be imposed. If the individual refuses to cooperate with the assessment and treatment, the public assistance shall be suspended for six months. The department must notify the individual of the failed drug test no later than seven days after receipt of the drug test results, and the suspension in public assistance will begin on the next scheduled distribution of public assistance and for every other distribution of public assistance until the suspension period lapses. After suspension, an individual may apply for public assistance but shall submit to a retest.

(2) For failing a drug test or retest the second time, the individual shall be suspended from receiving public assistance for a period of ten years. After the ten-year suspension, an individual may apply for public assistance but shall submit to a retest.

(c) Nothing in this section shall be construed to render applicants or recipients who fail a drug test or drug retest ineligible for:

(1) a Commonwealth program that pays the costs for participating in a drug treatment program;

(2) a medical assistance program; or

(3) another benefit not included within the definition of public assistance as defined under subsection (f).

(d) Notwithstanding any other provision in this section, the department shall, in its sole discretion, determine when it is cost effective to implement the provisions of this section.

(e) This section shall not apply to benefits which are afforded to the minor children of those individuals who are denied eligibility to receive public assistance benefits under subsection (a).

(f) As used in this section, the term "public assistance" means Temporary Assistance to Needy Families (TANF), general assistance and State supplemental assistance.

Section 432.26. Eligibility for Violators of Sexual Offender Registration.--Subject to Federal approval, an individual required to register as a convicted sexual offender pursuant to 42 Pa.C.S. § 9799.13 (relating to applicability) who is not compliant with the registration requirements imposed upon the individual by 42 Pa.C.S. §§ 9799.15 (relating to period of registration), 9799.19 (relating to initial registration) and 9799.25 (relating to verification by sexual offenders and Pennsylvania State Police) shall not be eligible for assistance until the individual can prove compliance with the applicable registration requirements. The eligibility for assistance of minor children living in the household shall not be affected by an individual being deemed ineligible for assistance by this section. The department may promulgate regulations necessary to effectuate compliance with the registration requirements for individuals it considers transient or homeless to include any address or location where public assistance funds are to be sent on behalf of an eligible individual.

Section 5. Sections 481(b) and 484 of the act are amended to read:

Section 481. False Statements; Investigations; Penalty.--*
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(b) Any person violating subsection (a) commits the grade of crime determined from the following schedule:

Amount of Assistance or Food Stamps	Degree of Crime
[\$3,000 or more	Felony of the third degree
\$1,500 to \$2,999	Misdemeanor of the first degree
\$1,000 to \$1,499	Misdemeanor of the second degree
\$ 999 and under, or an attempt to commit any act prohibited in subsection (a)	Misdemeanor of the third degree

Pursuant to 42 Pa.C.S. § 1515(a)(7) (relating to jurisdiction and venue), jurisdiction over cases graded a misdemeanor of the third degree under this section shall be vested in district justices.]

\$1,000 or more	Felony of the third degree
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\$999 and under, or an
attempt to commit any
act prohibited in
subsection (a)

Misdemeanor of the first degree

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Section 484. Prohibited Use of Public Assistance Funds.--(a)
It shall be unlawful for any individual to [purchase]:

(1) **Purchase** liquor or alcohol with [a gift certificate or a gift card which is in the form of an electronic benefits card issued to convey public assistance benefits administered by the Department of Public Welfare or a debit card issued to convey support payment moneys] **an access device.**

(2) **Withdraw funds from an access device for any transaction in a licensed facility or any retail establishment that provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment.**

(b) It shall be unlawful for a licensed gaming entity to allow for the withdrawal of funds from an access device or, through a point-of-sale transaction, to allow the use of public assistance benefits administered by the department.

(c) The Pennsylvania Gaming Control Board , in consultation with the department, shall take appropriate measures to prevent the use of public assistance funds for the purposes proscribed in this section.

(d) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Licensed facility" means a "licensed facility" as defined in 4 Pa.C.S. § 1103 (relating to definitions).

"Licensed gaming entity" means a "licensed gaming entity" as defined in 4 Pa.C.S. § 1103.

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

Section 485. Lost Access Devices.--(a) A recipient who requests the replacement of an access device shall pay a replacement fee of five dollars (\$5) for the first replacement access device requested.

(b) A recipient who is sixty-four years of age or younger who requests the replacement of additional access devices shall pay a replacement fee of one hundred dollars (\$100) for the second and each subsequent replacement access device requested.

(b.1) A recipient who is sixty-five years of age or older who requests the replacement of additional access devices shall

pay a replacement fee of five dollars (\$5) for the second and each subsequent replacement access device requested.

(c) Payments made pursuant to subsections (a), (b) and (b.1) shall be made to the department prior to the issuance of any replacement access device.

(d) The department shall notify the Office of Inspector General of the name of any recipient who has requested replacement of two or more access devices in a calendar year.

(e) The department shall not assess a replacement fee in accordance with subsection (a), (b) or (b.1), and no notification shall be made in accordance with subsection (c) if:

(1) A recipient is able to prove that the access device assigned to the recipient has been lost in postage or has otherwise been lost by the department.

(2) The access device assigned to a recipient by the department is damaged or does not function.

(3) A recipient's original access device was lost or damaged in a fire, flood or other natural disaster.

(f) This section shall apply to the extent permitted by Federal law.

Section 7. Section 488 of the act is amended to read:

Section 488. Violation; Penalty.--(a) Any bank, industrial bank, credit union, trust company, bank and trust company, private banker, building and loan association, or other financial institution doing business in Pennsylvania, or employer who or which wilfully violates the provisions of section 487 of this act, or who or which wilfully makes any false or misleading statement in connection with any disclosure required by said section, shall be guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1000).

(b) (1) Any licensed gaming entity or retailer that wilfully violates the provisions of section 484 of this act commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine not exceeding one thousand dollars (\$1000).

(2) As used in this subsection, the term "licensed gaming entity" shall have the same meaning as provided in 4 Pa.C.S. § 1103 (relating to definitions).

Section 8. This act shall take effect in 60 days.

APPROVED--The 24th day of October, A.D. 2018.

TOM WOLF