
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1808 Session of
1997

INTRODUCED BY BARD, E. Z. TAYLOR, FARGO, THOMAS, GEORGE,
LAUGHLIN, MELIO, BELARDI, ROONEY, HENNESSEY, TIGUE,
McNAUGHTON, ROBINSON, SHANER, YOUNGBLOOD, TRELLO, HORSEY,
TRAVAGLIO, JAMES, STABACK, PISTELLA, DeLUCA, C. WILLIAMS,
BOSCOLA, BARRAR, MILLER, PLATTS, JOSEPHS, SEYFERT,
A. H. WILLIAMS, BENNINGHOFF, STEELMAN AND PETRONE,
SEPTEMBER 29, 1997

REFERRED TO COMMITTEE ON AGING AND YOUTH, SEPTEMBER 29, 1997

AN ACT

1 Requiring certain elder care facilities to provide refunds and
2 payments in certain circumstances.

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

5 Section 1. Short title.

6 This act shall be known and may be cited as the Elder Care
7 Payment Restitution Act.

8 Section 2. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 "Elder care." Services or treatment provided to meet a
13 person's need for personal care or health care, including, but
14 not limited to, homemaker services, assistance with activities
15 of daily living, physical therapy, occupational therapy, speech

1 therapy, medical social services, home care aide services,
2 companion care services, private duty nursing services,
3 respiratory therapy, intravenous therapy, in-home dialysis and
4 durable medical equipment services, which are routinely provided
5 unsupervised and which require interaction with the person. The
6 term does not include durable medical equipment delivery.

7 "Facility." Any of the following:

8 (1) A domiciliary care home as defined in section 2202-A
9 of the act of April 9, 1929 (P.L.177, No.175), known as The
10 Administrative Code of 1929.

11 (2) A home health care agency.

12 (3) A personal care home as defined in section 1001 of
13 the act of June 13, 1967 (P.L.31, No.21), known as the Public
14 Welfare Code.

15 (4) A long-term care nursing facility as defined in
16 section 802.1 of the act of July 19, 1979 (P.L.130, No.48),
17 known as the Health Care Facilities Act.

18 (5) An older adult daily living center ad defined in
19 section 2 of the act of July 11, 1990 (P.L.499, No.118),
20 known as the Older Adult Daily Living Centers Licensing Act.

21 "Home health care agency." Any of the following:

22 (1) A home health care organization or agency licensed
23 by the Department of Health.

24 (2) A public or private agency or organization, or part
25 of an agency or organization, which provides elder care to a
26 person in the person's place of residence.

27 "Payment." A transfer of a sum of money, including any
28 application fee, or other property made or promised to be made
29 as full or partial consideration for elder care of a specified
30 person by a facility.

1 "Recipient." A person who receives elder care in or from a
2 facility.

3 Section 3. Payment refunds.

4 Any facility that collects payment from a recipient shall
5 within 30 days of the death of that recipient pay the personal
6 representative or guardian of the deceased the amount of the
7 difference between any payment made, including any unpaid
8 interest thereon, and the cost of elder care actually provided
9 to that recipient. If the facility fails to pay the personal
10 representative or guardian as required by this section, the
11 facility shall be liable to the personal representative or
12 guardian for twice that portion of the payment, including any
13 unpaid interest thereon, that exceeds the cost of the elder care
14 actually provided, as determined by a court having jurisdiction
15 in civil actions at law.

16 Section 4. Payment of interest on escrow.

17 Any facility that collects payments and deposits on behalf of
18 a recipient in an interest-bearing account or escrow shall pay
19 to the recipient, not later than one year following the initial
20 payment or deposit into the account or escrow and annually
21 thereafter, the total amount of interest accumulated in the
22 account or escrow.

23 Section 5. Penalty for noncompliance.

24 The owner of a facility that intentionally or willfully fails
25 to comply with this act commits a misdemeanor of the third
26 degree and shall, upon conviction, be sentenced to pay a fine of
27 \$2,500 or imprisonment for not more than one year, or both.

28 Section 6. Effective date.

29 This act shall take effect in 60 days.