

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 210 Session of 2011

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

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

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

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

5 SECTION 4. [CAREGIVER] PRIMARY CAREGIVER SUPPORT PROGRAM.

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

11 (B) AUTHORITY.--

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

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

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

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

29 SUPPORTIVE SERVICES INCLUDE, BUT ARE NOT LIMITED TO:

30 (1) BENEFITS COUNSELING AND PRIMARY CAREGIVER

1 COUNSELING, EDUCATION AND TRAINING.

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

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

18 SECTION 5. REIMBURSEMENTS.

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

24 (B) MAXIMUM AMOUNTS.--

25 (1) THE MAXIMUM AMOUNT AVAILABLE TO A QUALIFIED PRIMARY
26 CAREGIVER WHOSE CARE RECEIVERS' HOUSEHOLD INCOME IS UNDER
27 200% OF [POVERTY LEVEL] THE FEDERAL POVERTY GUIDELINES SHALL
28 BE ESTABLISHED BY REGULATION, BUT SHALL NOT EXCEED [\$200]
29 \$600 PER MONTH, FOR OUT-OF-POCKET EXPENSES INCURRED FOR
30 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.