PRINTER'S NO. 657

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 639 Session of 2011

INTRODUCED BY WARD, WASHINGTON, BAKER, VANCE, EARLL, BROWNE, MENSCH, SOLOBAY, FONTANA, RAFFERTY, YUDICHAK, BREWSTER, ALLOWAY, GREENLEAF, WAUGH, EICHELBERGER, COSTA AND FARNESE, FEBRUARY 25, 2011

REFERRED TO AGING AND YOUTH, FEBRUARY 25, 2011

AN ACT

Amending the act of December 19, 1990 (P.L.1234, No.204), entitled "An act establishing a program to assist persons who bear primary responsibility for the at-home care of functionally dependent older adults and victims of chronic dementia," further providing for intent, for definitions, for caregiver support program, for reimbursements and for entitlement not created.

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

Section 1. Sections 1, 2, 3, 4, 5 and 6 of the act of December 19, 1990 (P.L.1234, No.204), known as the Family Caregiver Support Act, are amended to read:

Section 1. Short title.

This act shall be known and may be cited as the [Family] <u>Pennsylvania</u> Caregiver Support Act.

Section 2. Intent.

It is the intent of this act to ease the strain of caregiving and to assist [relatives] <u>adult family members and other individuals</u> who bear primary responsibility for the at-home care

of functionally dependent older adults and other adults who are victims of chronic dementia by providing resources for services such as the following:

(1) Assistance to the primary caregiver to assure that supports to the [functionally dependent older adult or adult suffering from a chronic dementia] care receiver are adequate and appropriate to maintain these individuals in the home.

(2) Intermittent, planned or emergency relief to the primary caregiver.

(3) Restoration or maintenance of the primary caregiver's well-being.

(4) Preservation of the primary caregiver's informal supports such as family and friends.

(5) Supportive social services to the primary caregiver.

(6) Affordable services through a cost-sharing mechanism developed by the department for those families whose household incomes do not exceed 380% of the [poverty level] Federal poverty guidelines.

Section 3. Definitions.

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

["Adult." A person 18 years of age or older residing within this Commonwealth who is suffering from a chronic dementia such as Alzheimer's disease.]

"Adult with chronic dementia." A person 18 years of age or older residing within this Commonwealth who has an irreversible global loss of cognitive function causing evident intellectual impairment which always includes memory loss, without alteration of state of consciousness as diagnosed by a physician and is

severe enough to interfere with work or social activities, or both, and to require continuous care or supervision.

"Area agency on aging." The single local agency designated by the department within each planning and service area to administer the delivery of a comprehensive and coordinated plan of social and other services and activities in the planning and service area.

"Care receiver." A functionally dependent older adult or other adult with chronic dementia who is being cared for by a primary caregiver.

["Chronic dementia." An irreversible global loss of cognitive function causing evident intellectual impairment which always includes memory loss, without alteration of state of consciousness as diagnosed by a physician and is severe enough to interfere with work or social activities, or both and to require continuous care or supervision.]

"Department." The Department of Aging of the Commonwealth.

"Federal poverty guidelines." The poverty guidelines updated periodically in the Federal Register by the Department of Health and Human Services under the authority of section 673(2) of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35, 42 U.S.C. § 9902(2)).

"Functionally dependent older adult." A person 60 years of age or older residing within this Commonwealth who, because of his or her inability to perform tasks required for daily living as defined through regulation and as assessed by the area agency on aging, needs continuous care or supervision.

"Home modification." Reasonable modifications to the structure of a home for the purpose of reducing the caregiving burden of the primary caregiver, as approved by the department.

Modifications do not include repairs, and payment for such repairs is prohibited.

"Household income." The income of all members of the household with the exception of a minor or dependent student.

"Income." All income, from whatever source derived, including, but not limited to, wages, salaries, Social Security or railroad retirement income, public assistance income, realized capital gains and workmen's compensation. The department shall determine income amounts and inclusions for purposes of this act through regulation.

"Primary caregiver." The one identified [relative] adult family member or other individual who has assumed the primary responsibility for the provision of care needed to maintain the physical or mental health of a [functionally dependent older adult or other adult suffering from chronic dementia, who lives in the same residence with such individual on a continuous basis and] care receiver and who does not receive financial compensation for the care provided. A substantiated case of abuse, neglect, exploitation, abandonment as defined in the act of November 6, 1987 (P.L.381, No.79), known as the Older Adults Protective Services Act, or pursuant to any other civil or criminal statute regarding an older adult, shall prohibit a primary caregiver from receiving benefits under this act unless authorized by the department to prevent further abuse.

["Relative." A spouse or parent, child, stepparent, stepchild, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, great aunt, uncle, great uncle, niece, nephew, by blood, marriage or adoption.]

"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).

(2) 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 [$2,000] $6,000 for the entire duration of the case, for expenses incurred for home modifications or assistive devices as described [in] under section 4(c)(3).

(c) Scale of benefits.--A sliding benefits scale shall be established by the department by regulation to ensure that primary caregivers [who] whose care receivers qualify under this act and whose household [income exceeds 200% of poverty level] incomes exceed 200% of the Federal poverty guidelines shall pay some portion of the out-of-pocket expenses for services described [in] under section 4(c). In no event will primary caregivers whose care receivers' household [incomes exceeds 380% of the poverty level] incomes exceed 380% of the Federal poverty guidelines be considered eligible for benefits under this act.

Section 6. Entitlement not created.

Nothing in this act creates or provides any individual with an entitlement to services or benefits. [It is the intent of the General Assembly that services] Services under this act shall be made available only to the extent of the availability and level of appropriations made by the General Assembly.

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