

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 941 Session of
2003

INTRODUCED BY PISTELLA, BEBKO-JONES, BROWNE, CAPPELLI, CAWLEY,
CORRIGAN, COSTA, CRUZ, CURRY, DeLUCA, DeWEESE, FABRIZIO,
FREEMAN, GEORGE, GRUCELA, HARHAI, HORSEY, JAMES, KELLER,
KIRKLAND, KOTIK, LAUGHLIN, LEACH, LEDERER, McGEEHAN, MELIO,
MYERS, PALLONE, PRESTON, READSHAW, ROONEY, SHANER, SOLOBAY,
SURRA, THOMAS, WALKO, WANSACZ, WASHINGTON, J. WILLIAMS,
WOJNAROSKI, YOUNGBLOOD AND YUDICHAK, MARCH 20, 2003

REFERRED TO COMMITTEE ON AGING AND OLDER ADULT SERVICES,
MARCH 20, 2003

AN ACT

1 Establishing the Enhanced Senior Services Demonstration Program;
2 and conferring powers and imposing duties on the Department
3 of Aging, the Department of Public Welfare and the
4 Pennsylvania Housing Finance Agency.

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

7 Section 1. Short title.

8 This act shall be known and may be cited as the Enhanced
9 Senior Services Demonstration Program Act.

10 Section 2. Declaration of policy.

11 The General Assembly finds and declares that:

12 (1) Pennsylvania has one of the highest proportions of
13 elderly individuals in the nation. Persons 85 years of age
14 and older are the fastest growing segment of this
15 Commonwealth's population.

16 (2) A significant number of elderly residents of this

1 Commonwealth have difficulty carrying out basic life
2 activities, and many are at high risk for
3 institutionalization due to chronic illness and disability.

4 (3) There is a growing consumer preference for more
5 housing and care alternatives designed specifically for
6 persons who need assistance with basic life activities but do
7 not need the level of skilled nursing care and therapy that
8 nursing homes provide.

9 (4) There exists a lack of private sector initiatives to
10 create long-term care options that are affordable to low-
11 income and moderate-income frail elderly individuals.

12 (5) It is imperative for State government and long-term
13 health providers to develop cost-effective means of caring
14 for at-risk elderly individuals and in particular those low-
15 income and moderate-income frail elderly individuals whose
16 needs are appropriate for supportive housing placement but
17 who cannot afford the costs of market rate, private pay
18 assisted living and personal care home facilities.

19 (6) An alternative form of housing and care must be
20 developed in this Commonwealth for low-income and moderate-
21 income frail elderly individuals to enable them to live in a
22 residential setting as independently as possible while
23 achieving cost savings to the State Medicaid program.

24 (7) An Enhanced Senior Services Demonstration Program,
25 sponsored by the Pennsylvania Housing Finance Agency and in
26 collaboration with the Department of Aging and the Department
27 of Public Welfare, will allow this Commonwealth to provide
28 appropriate housing and care needed by frail elderly
29 individuals in this Commonwealth and to evaluate the cost
30 savings and other benefits of enhanced senior services.

(8) The purpose of this act is to provide long-term care alternatives to low-income and moderate-income chronically impaired or disabled elderly individuals who are eligible for or at risk of placement in nursing facility care.

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:

"Certified facility." A facility that is designated by the Pennsylvania Housing Finance Agency under section 5.

"Demonstration program." The Enhanced Senior Services Demonstration Program under this act.

"Enhanced senior services unit." An apartment unit in a certified facility.

"Government funds." Funds provided under the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

"Long-term care assessment." A program, approved by the Department of Aging, in collaboration and cooperation with the Department of Public Welfare and the Pennsylvania Housing Finance Agency, that provides a uniform health, social and functional assessment of persons in need of long-term care services due to chronic impairment or disability.

"Supportive services." Personal care and services, homemaker, chore, attendant care and companion services, medication oversight, to the extent permitted under law, and therapeutic social and recreational programming, provided in a home-like environment in a certified facility.

Section 4. Enhanced Senior Services Demonstration Program.

(a) Approval.--The Secretary of Public Welfare and the Secretary of Aging, in consultation with the Executive Director

1 of the Pennsylvania Housing Finance Agency, shall cooperate and
2 collaborate in obtaining approval from the Centers for Medicare
3 and Medicaid Services for a home-based and community-based
4 services waiver designed to fund an Enhanced Senior Services
5 Demonstration Program for up to 1,800 persons residing in
6 certified facilities.

7 (b) Allocation.--The waiver shall be project based and shall
8 be allocated to certified facilities for the term of the
9 demonstration program, subject to compliance review.

10 (c) Application.--The Secretary of Public Welfare and the
11 Secretary of Aging shall formulate the waiver application and
12 submit the waiver request no later than July 30, 2003.

13 (d) Periodic review.--The waiver shall be reviewed and
14 expanded periodically in consultation with the Executive
15 Director of the Pennsylvania Housing Finance Agency as funding
16 is made available.

17 Section 5. Certified facilities.

18 The Pennsylvania Housing Finance Agency may certify a
19 facility for participation in the demonstration program if the
20 facility:

21 (1) Provides lodging, meals and supportive services to
22 two or more adults.

23 (2) Receives capital and/or operating assistance, or
24 both, including a low-income housing tax credit or volume cap
25 allocation through the Pennsylvania Housing Finance Agency
26 and funding through:

27 (i) the Federal public housing program, including
28 private developments receiving public housing capital
29 funds or Annual Contributions Contract (ACC) funds;

30 (ii) section 202 of the National Housing Act (48

Stat. 1246, 12 U.S.C. § 1701 et seq.); or

(iii) the section 8 project-based rental assistance program.

(3) Contains full, independent housing units that meet the requirements of the respective Pennsylvania Housing Finance Agency, Department of Housing and Urban Development funding programs and section 42 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 42).

(4) Does not contain congregate and single room occupancy housing.

(5) Contains the common spaces necessary in order to provide supportive services. Required common spaces include:

(i) A common dining room.

(ii) A commercial kitchen or kitchen area for catered food delivery.

(iii) Activity space.

(iv) A private room for clinic exams.

(v) Office space for demonstration program personnel.

Section 6. Supportive services.

(a) Funding.--Supportive services paid for with government funds in a certified facility shall be provided to those individuals who are eligible or at risk for placement in a nursing facility and whose long-term care assessment indicates the individual can receive appropriate care in the certified facility.

(b) Supplemental services.--Other persons or agencies may also furnish services either directly or under arrangement with the certified facility, but the care provided by these persons or agencies shall only supplement the supportive services

1 provided by the certified facility.

2 (c) Transportation services.--Supportive services may
3 include transportation services specified in the plan of care.

4 (d) Nursing and skilled therapy services.--Nursing and
5 skilled therapy services except periodic nursing evaluations
6 specified within this act are not integral to the provision of
7 supportive services.

8 (e) Certain skilled care or supervision.--Payment shall not
9 be made for supportive services that include 24-hour skilled
10 care or supervision.

11 (f) Long-term care assessment.--A long-term care assessment
12 for purposes of this act shall be completed by staff of the area
13 agency on aging office in the locality of the certified
14 facility.

15 (g) Enhanced senior services unit.--If an individual
16 determined to be eligible to receive supportive services desires
17 to reside in an enhanced senior services unit and an appropriate
18 certified facility is available, the area agency on aging shall
19 authorize placement.

20 (h) Reassessment.--Continued provision of supportive
21 services paid for with government funds in a certified facility
22 shall be based on a reassessment of the recipient's care needs
23 to be performed at least once every 180 days.

24 Section 7. Duties of secretary and department.

25 (a) Use of medical assistance funds.--Notwithstanding any
26 inconsistent provision of law but subject to the expenditure
27 limitations of this act, the Secretary of Public Welfare,
28 subject to the approval of the Secretary of the Budget, shall
29 authorize the utilization of medical assistance funds to pay for
30 supportive services provided by certified facilities. The

1 medical assistance funds shall be utilized to pay for supportive
2 services, in addition to those services included in the medical
3 assistance program under the act of June 13, 1967 (P.L.31,
4 No.21), known as the Public Welfare Code, so long as Federal
5 financial participation is available for those services.
6 Expenditures made under this section shall be deemed payments
7 for medical assistance for needy persons.

8 (b) Payments under Social Security Act.--The Department of
9 Public Welfare shall not make payments pursuant to Title XIX of
10 the Social Security Act (49 Stat. 620, 42 U.S.C. § 1396 et
11 seq.), for benefits available under Title XVIII of the Social
12 Security Act (49 Stat. 620, 42 U.S.C. § 1395 et seq.), without
13 documentation that Title XVIII claims have been filed and
14 denied.

15 (c) Payments under other waiver program.--The Department of
16 Public Welfare shall not make payments for a person receiving
17 supportive services while payments are being made for that
18 person under another Medicaid waiver program or for inpatient
19 care in a skilled nursing and intermediate care facility or
20 hospital. However, this shall not affect monthly payments made
21 under prospective reimbursement contracts.

22 (d) Reimbursement rate.--Reimbursement to certified
23 facilities for supportive services shall be \$40.87 per day per
24 eligible service recipient. This rate shall be adjusted annually
25 by the Department of Public Welfare based upon the Consumer
26 Price Index.

27 Section 8. Selection of certified facility sites.

28 Certified facilities shall be selected through a competitive
29 process designed and administered by the Pennsylvania Housing
30 Finance Agency in consultation with the Department of Public

1 Welfare and the Department of Aging. Priority in the award of
2 demonstration program resources shall be given to existing or
3 proposed facilities which are, or are projected to be, newly
4 constructed or substantially rehabilitated, in which a minimum
5 of 70% of the units are restricted to low-income elderly
6 households, and which otherwise meet the requirements of this
7 act.

8 Section 9. Evaluation of demonstration program.

9 Upon implementation of the demonstration program and
10 occupancy of certified facilities by low-income and moderate-
11 income persons, the Pennsylvania Housing Finance Agency in
12 collaboration and cooperation with the Department of Aging and
13 the Department of Public Welfare shall evaluate the qualitative
14 benefits and cost effectiveness of the program.

15 Section 10. Effective date.

16 This act shall take effect immediately.