

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 844 Session of  
2023

INTRODUCED BY NEILSON, MADDEN, ROZZI, SANCHEZ, GALLAGHER, PARKER  
AND KHAN, APRIL 10, 2023

REFERRED TO COMMITTEE ON HUMAN SERVICES, APRIL 10, 2023

AN ACT

1 Providing for long-term services and supports; establishing the  
2 Long-Term Services and Supports Commission, the Long-Term  
3 Services and Supports Council and the Long-Term Services and  
4 Supports Trust Fund; imposing duties on the Department of  
5 Human Services and the Department of Revenue; and imposing a  
6 payroll premium.

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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 Long-Term  
9 Care Trust Act.

10 Section 2. Definitions.

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

14 "Approved service." Long-term services and supports,  
15 including, but not limited to:

- 16 (1) Adult day services.
- 17 (2) Care transition coordination.
- 18 (3) Memory care.
- 19 (4) Adaptive equipment and technology.
- 20 (5) Environmental modification.
- 21 (6) Personal emergency response system.
- 22 (7) Home safety evaluation.
- 23 (8) Respite for family caregivers.
- 24 (9) Home delivered meals.
- 25 (10) Transportation.
- 26 (11) Dementia supports.
- 27 (12) Education and consultation.
- 28 (13) Eligible relative care.
- 29 (14) Professional services.
- 30 (15) Assisted living services.

1           (16) Adult family home services.

2           (17) Nursing home services.

3       "Benefit unit." Up to \$100 paid by the department to a long-  
4 term services and supports provider as reimbursement for  
5 approved services provided to an eligible beneficiary on a  
6 specific date.

7       "Commission." The Long-Term Services and Supports Trust  
8 Commission established under section 4.

9       "Council." The Long-Term Services and Supports Trust Council  
10 established under section 5.

11       "Department." The Department of Human Services of the  
12 Commonwealth.

13       "Eligible beneficiary." A qualified individual who is 18  
14 years of age or older, resides in this Commonwealth, was not  
15 disabled before 18 years of age, has been determined to meet the  
16 minimum level of assistance with activities of daily living  
17 necessary to receive benefits through the program and who has  
18 not exhausted the lifetime limit of benefit units.

19       "Fund." The Long-Term Services and Supports Trust Fund  
20 established under section 11.

21       "Long-term services and supports provider." A person that  
22 meets the qualifications applicable under law to the approved  
23 service that the person provides, including a qualified or  
24 certified home care aide, licensed assisted living facility,  
25 licensed adult family home, licensed nursing home, licensed in-  
26 home services agency, adult day services program, vendor,  
27 instructor, qualified family member or other entities as  
28 registered by the department.

29       "Premium." The payments required under section 9 and paid to  
30 the Department of Revenue for deposit into the fund.

1 "Program." The Long-Term Services and Supports Trust Program  
2 established under section 3.

3 "Qualified family member." A relative of an eligible  
4 beneficiary qualified to meet the requirements established under  
5 law for the approved service the relative provides that would be  
6 required of any other long-term services and supports provider  
7 to receive payments from the Commonwealth.

8 "Qualified individual." An individual who meets the duration  
9 of payment requirements established under this act.

10 Section 3. Long-Term Services and Supports Trust Program.

11 (a) Establishment.--The Long-Term Services and Supports  
12 Trust Program is established within the department.

13 (b) Administration.--The department, an actuary contracted  
14 by the department and the Department of Revenue shall have the  
15 responsibilities of implementing and administering the program  
16 as provided under this section.

17 (c) Department of Human Services.--The department shall:

18 (1) Make determinations regarding an individual's status  
19 as an eligible beneficiary under section 7.

20 (2) Approve long-term services and supports eligible for  
21 payment as approved services under the program, as informed  
22 by the commission.

23 (3) Register long-term services and supports providers  
24 that meet minimum qualifications.

25 (4) Discontinue the registration of long-term services  
26 and supports providers that:

27 (i) fail to meet the minimum qualifications  
28 applicable in law to the approved service that the long-  
29 term services and supports providers provide; or

30 (ii) violate the operational standards of the

1 program.

2 (5) Disburse payments of benefits to registered long-  
3 term services and supports providers, utilizing and  
4 leveraging existing payment systems for the provision of  
5 approved services to eligible beneficiaries under section 8.

6 (6) Prepare and distribute written or electronic  
7 materials to qualified individuals, eligible beneficiaries  
8 and the public as deemed necessary by the commission to  
9 inform the public of program design and updates.

10 (7) Provide customer service and address questions and  
11 complaints, including referring individuals to other  
12 appropriate agencies.

13 (8) Provide administrative and operational support to  
14 the commission.

15 (9) Track data useful in monitoring and informing the  
16 program, as identified by the commission.

17 (10) Track the use of lifetime benefit units to verify  
18 the individual's status as an eligible beneficiary.

19 (11) Ensure approved services are provided through  
20 audits or service verification processes within the service  
21 provider payment system for registered long-term services and  
22 supports providers and recoup any inappropriate payments.

23 (12) Establish criteria for the payment of benefits to  
24 registered long-term services and supports providers under  
25 section 8.

26 (13) Establish rules and procedures for benefit  
27 coordination when the eligible beneficiary is also funded for  
28 Medicaid and other long-term services and supports, including  
29 Medicare, coverage through the Department of Labor and  
30 Industry and private long-term care coverage.

1           (14) Promulgate rules and regulations necessary to  
2       implement and administer the activities specified under this  
3       section related to the program.

4       (d) Department of Revenue.--The Department of Revenue shall:

5           (1) Collect and assess employee premiums as provided in  
6       section 9.

7           (2) Assist the commission, council and State actuary in  
8       monitoring the solvency and financial status of the program.

9           (3) Make determinations regarding an individual's status  
10      as a qualified individual under section 6.

11          (4) Promulgate rules and regulations necessary to  
12      implement and administer the activities specified under this  
13      section.

14      (e) Actuary.--The department shall contract with an actuary  
15      and the contract shall include that the actuary do the  
16      following:

17           (1) Beginning January 1, 2026, and biennially  
18      thereafter, perform an actuarial audit and valuation of the  
19      fund. Additional or more frequent actuarial audits and  
20      valuations may be performed at the request of the council.

21           (2) Make recommendations to the council and the General  
22      Assembly on actions necessary to maintain fund solvency. The  
23      recommendations shall include options to redesign or reduce  
24      benefit units, approved services, or both, to prevent or  
25      eliminate any unfunded actuarially accrued liability in the  
26      trust or to maintain solvency.

27           (3) Select and contract for actuarial, research,  
28      technical and other consultants as the actuary deems  
29      necessary to perform the actuary's duties under this act.

30      Section 4. Long-Term Services and Supports Trust Commission.

1 (a) Establishment.--The Long-Term Services and Supports  
2 Trust Commission is established. The commission's  
3 recommendations and decisions shall be guided by the joint goals  
4 of maintaining benefit adequacy and maintaining fund solvency  
5 and sustainability.

6 (b) Membership.--The commission shall include:

7 (1) The Secretary of Human Services or a designee.

8 (2) The Secretary of Revenue or a designee.

9 (3) Two members of the Senate, appointed by the  
10 President pro tempore of the Senate.

11 (4) Two members of the House of Representatives,  
12 appointed by the Speaker of the House of Representatives.

13 (5) One representative of an organization representing  
14 the area agencies on aging.

15 (6) One representative of a home care association that  
16 represents caregivers who provide services to private pay and  
17 Medicaid clients.

18 (7) One representative of a union representing long-term  
19 care workers.

20 (8) One representative of an organization representing  
21 retired individuals.

22 (9) One representative of an association representing  
23 skilled nursing facilities and assisted living providers.

24 (10) One representative of an association representing  
25 adult family home providers.

26 (11) Two individuals receiving long-term services and  
27 supports, or their designees, or representatives of consumers  
28 receiving long-term services and supports under the program.

29 (12) One member who is a worker who is, or will likely  
30 be, paying the premium established under section 9 and who is

1 not employed by a long-term services and supports provider.

2 (13) One representative of an organization of employers  
3 whose members collect, or will likely be collecting, the  
4 premium established under section 9.

5 (c) Terms.--Except for the members under subsection (b) (1),  
6 (2), (3) and (4), members of the commission shall be appointed  
7 by the Governor for terms of two years, except that the Governor  
8 shall appoint the initial members to staggered terms not to  
9 exceed four years.

10 (d) Chair.--The Secretary of Human Services, or the  
11 secretary's designee, shall serve as chair of the commission.

12 (e) Meetings and quorum.--Meetings of the commission shall  
13 be at the call of the chair. A majority of the voting members of  
14 the commission shall constitute a quorum for any votes of the  
15 commission. Approval of 60% of those voting members of the  
16 commission who are in attendance is required for the passage of  
17 any vote.

18 (f) Recommendations.--Beginning January 1, 2024, the  
19 commission shall propose recommendations to the department  
20 regarding:

21 (1) The establishment of criteria for determining that  
22 an individual has met the requirements to be a qualified  
23 individual as established under section 6 or an eligible  
24 beneficiary as established under section 7.

25 (2) The establishment of criteria for minimum  
26 qualifications for the registration of long-term services and  
27 supports providers who provide approved services to eligible  
28 beneficiaries.

29 (3) The establishment of payment maximums for approved  
30 services consistent with actuarial soundness which may not be



1 lower than Medicaid payments for comparable services. A  
2 service or supply may be limited by dollar amount, duration  
3 or number of visits. The commission shall engage affected  
4 stakeholders to develop this recommendation.

5 (4) Changes to rules or policies to improve the  
6 operation of the program.

7 (5) Providing a recommendation to the council for the  
8 annual adjustment of the benefit unit as provided under this  
9 act.

10 (6) Assisting the actuary contracted by the department  
11 with the preparation of regular actuarial reports on the  
12 solvency and financial status of the program and advising the  
13 General Assembly on actions necessary to maintain trust  
14 solvency. The commission shall provide the actuary with all  
15 actuarial reports for review. The actuary shall provide any  
16 recommendations to the commission and the General Assembly on  
17 actions necessary to maintain trust solvency.

18 (7) Whether and how to extend coverage to individuals  
19 who became disabled before 18 years of age, including the  
20 impact on the financial status and solvency of the trust. The  
21 commission shall engage affected stakeholders to develop this  
22 recommendation.

23 (8) Consultation with the actuary contracted by the  
24 department on the development of an actuarial report of the  
25 projected solvency and financial status of the program. The  
26 actuary shall provide any recommendations to the commission  
27 and the General Assembly on actions necessary to achieve  
28 trust solvency.

29 (g) Expenses.--The commission shall monitor department  
30 administrative expenses over time. Beginning November 15, 2024,

1 the commission shall annually report to the Governor, the  
2 chairperson and minority chairperson of the Finance Committee of  
3 the Senate and the chairperson and minority chairperson of the  
4 Finance Committee of the House of Representatives on department  
5 spending for administrative expenses and anticipated  
6 administrative expenses as the program shifts into different  
7 phases of implementation and operation. The November 15, 2027,  
8 report shall include recommendations for a method of calculating  
9 future department administrative expenses to limit  
10 administrative expenses while providing sufficient money to  
11 adequately operate the program. The members under subsection (b)  
12 (1), (2), (3) and (4) may advise the commission on the reports  
13 prepared under this subsection but must recuse themselves from  
14 the commission's process for review, approval and submission to  
15 the General Assembly.

16 (h) Investment strategy subcommittee.--The commission shall  
17 establish an investment strategy subcommittee consisting of the  
18 members under subsection (b)(1), (2), (3) and (4) as voting  
19 members of the subcommittee. In addition, four members appointed  
20 by the Governor who are considered experienced and qualified in  
21 the field of investment shall serve as nonvoting members. The  
22 subcommittee shall provide guidance and advice to the State  
23 Treasury on investment strategies for the fund, including  
24 seeking counsel and advice on the types of investments that are  
25 constitutionally permitted.

26 Section 5. Long-Term Services and Supports Trust Council.

27 (a) Establishment.--The Long-Term Services and Supports  
28 Trust Council is established.

29 (b) Membership.--The council shall include:

30 (1) The Secretary of Human Services or a designee.

- 1           (2) The Secretary of Revenue or a designee.
- 2           (3) Two members of the Senate appointed by the President
- 3           pro tempore of the Senate.
- 4           (4) Two members of the House of Representatives
- 5           appointed by the Speaker of the House of Representatives.
- 6           (5) The Deputy Secretary for the Office of the Budget's
- 7           Office of Comptroller Operations.

8           (c) Adjustments to benefit unit.--On an annual basis, the

9           council shall determine adjustments to the benefit unit to

10          ensure benefit adequacy and solvency of the fund. The benefit

11          unit shall be adjusted at a rate no greater than the Consumer

12          Price Index, as determined by the council. In determining

13          adjustments to the benefit unit, the council shall review the

14          actuary's actuarial audit and valuation of the fund, any

15          recommendations by the actuary and commission, data on relevant

16          economic indicators and program costs and sustainability.

17          (d) Chair.--The Secretary of Human Services, or the

18          secretary's designee, shall serve as chair of the council.

19          (e) Meetings and quorum.--The council shall meet at least

20          once annually to determine adjustments to the benefit unit under

21          subsection (c). Additional meetings of the council shall be at

22          the call of the chair. A majority of the voting members of the

23          council shall constitute a quorum for any votes of the council.

24          Approval of 60% of the members of the council who are in

25          attendance is required for the passage of any vote. The council

26          may adopt rules for the conduct of meetings, including

27          provisions for meetings and voting to be conducted by

28          telephonic, video or other conferencing process.

29          Section 6. Qualifying beneficiaries.

30          (a) Determination.--The Department of Revenue shall deem an

1 individual to be a qualified individual as provided under this  
2 act if the individual has paid the long-term services and  
3 supports premiums required under section 9 for the equivalent of  
4 either:

5 (1) a total of 10 years without interruption of five or  
6 more consecutive years; or

7 (2) three years within the last six years.

8 (b) Requirements.--When deeming an individual to be a  
9 qualified individual, the Department of Revenue shall require  
10 that the individual have worked at least 500 hours during each  
11 of the 10 years in subsection (a)(1) and each of the three years  
12 in subsection (a)(2).

13 Section 7. Disbursement of benefits.

14 (a) General rule.--Beginning January 1, 2027, approved  
15 services shall be available and benefits payable to a registered  
16 long-term services and supports provider on behalf of an  
17 eligible beneficiary under this section.

18 (b) Eligible beneficiary.--A qualified individual may become  
19 an eligible beneficiary by filing an application with the  
20 department and undergoing an eligibility determination which  
21 includes an evaluation that the qualified individual requires  
22 assistance with at least three activities of daily living. The  
23 department shall engage a qualified assessor so that the  
24 determination may be made within 45 days from receipt of the  
25 application by the qualified individual to use a benefit.

26 (c) Receipt of services and benefits.--An eligible  
27 beneficiary:

28 (1) May receive approved services and benefits through  
29 the program in the form of a benefit unit payable to a  
30 registered long-term services and supports provider.

(2) May not receive more than the dollar equivalent of 365 benefit units over the course of the eligible beneficiary's lifetime.

(d) Reimbursements.--If the department reimburses a long-term services and supports provider for approved services provided to an eligible beneficiary and the payment is less than the benefit unit, only the portion of the benefit unit that is used shall be taken into consideration when calculating the individual's remaining lifetime limit on receipt of benefits.

(e) Combination of benefit units.--Eligible beneficiaries may combine benefit units to receive more approved services per day as long as the total number of lifetime benefit units has not been exceeded.

#### Section 8. Benefits.

(a) Payment.--Benefits provided under this act shall be paid periodically and promptly to registered long-term services and supports providers.

(b) Qualified family members.--Qualified family members may be paid for approved personal care services in the same way as individual providers, through a licensed home care agency or through a third option if recommended by the commission and adopted by the department.

#### Section 9. Payroll premium.

(a) General rule.--Beginning January 1, 2024, the Department of Revenue shall assess for each individual in employment with an employer a premium based on the amount of the individual's wages. The initial premium rate shall be 0.58% of the individual's wages. Beginning January 1, 2026, and biennially thereafter, the premium rate shall be set by the Independent Fiscal Office at a rate no greater than 0.58%. In addition, the

1 Independent Fiscal Office shall set the premium rate at the  
2 lowest amount necessary to maintain the actuarial solvency of  
3 the fund in accordance with recognized insurance principles and  
4 designed to attempt to limit fluctuations in the premium rate.  
5 To facilitate the premium rate setting the actuary contracted by  
6 the department shall perform a biennial actuarial audit and  
7 valuation of the fund and make recommendations to the  
8 Independent Fiscal Office.

9 (b) Duties of employers.--An employer shall:

10 (1) Collect from employees the premiums provided under  
11 subsection (a) through payroll deductions and remit the  
12 amounts collected to the Department of Revenue.

13 (2) In collecting employee premiums through payroll  
14 deductions, act as the agent of the employees and shall remit  
15 the amounts to the Department of Revenue as required by this  
16 act.

17 (c) Collective bargaining agreements.--Nothing in this act  
18 shall require a party to a collective bargaining agreement  
19 taking effect within 24 months or less of the effective date of  
20 this section to reopen negotiations of the agreement or to apply  
21 any of the responsibilities under this act unless and until the  
22 existing agreement is reopened or renegotiated by the parties or  
23 expires.

24 (d) Collection.--Premiums shall be collected in the manner  
25 and at such intervals as provided by the Department of Revenue.

26 (e) Deposit of premiums.--The Department of Revenue shall  
27 deposit all premiums collected under this section into the fund.

28 (f) Increase of premiums.--If the premiums under this  
29 section are increased, the Department of Revenue shall notify  
30 each qualified individual by mail that the individual's premiums

1 have been increased, describe the reason for increasing the  
2 premiums and describe the plan for restoring the money so that  
3 premiums are returned to 0.58% of the individual's wages.

4 (g) Exemption.--An employee who demonstrates that the  
5 employee has long-term care insurance is exempt from the premium  
6 assessment under this section.

7 Section 10. Self-employed individuals.

8 (a) Electing coverage.--Beginning January 1, 2024, a self-  
9 employed individual, including a sole proprietor, independent  
10 contractor, partner or joint venturer may elect coverage under  
11 this act. An individual electing coverage under this subsection  
12 is responsible for payment of all premiums assessed to an  
13 employee under section 9. The individual shall file a notice of  
14 election in writing with the Department of Revenue, in a manner  
15 prescribed by the Department of Revenue. The individual shall be  
16 eligible for benefits after paying the long-term services and  
17 supports premium for the time required under section 6.

18 (b) Withdraw from coverage.--A self-employed individual who  
19 has elected coverage may withdraw from coverage at times  
20 prescribed by the Department of Revenue by filing a notice of  
21 withdrawal in writing with the Department of Revenue, with the  
22 withdrawal to take effect no sooner than 30 days after filing  
23 the notice with the Department of Revenue.

24 (c) Cancellation.--The Department of Revenue may cancel  
25 elective coverage if the self-employed individual fails to make  
26 required payments or file reports. The Department of Revenue may  
27 collect due and unpaid premiums and may levy an additional  
28 premium for the remainder of the period of coverage. The  
29 cancellation shall be effective no later than 30 days from the  
30 date of the notice in writing advising the self-employed

1 individual of the cancellation.

2 (d) Rules and regulations.--The Department of Revenue shall  
3 promulgate rules and regulations for determining the hours  
4 worked and the wages of individuals who elect coverage under  
5 this section and for the enforcement of this section.

6 Section 11. Long-Term Services and Supports Trust Fund.

7 (a) Establishment.--The Long-Term Services and Supports  
8 Trust Fund is established as a fund in the State Treasury. Money  
9 in the fund shall be appropriated on a continuing basis to the  
10 department for the purposes of this act.

11 (b) Administration of fund.--

12 (1) All receipts from employers under section 9 shall be  
13 deposited into the fund.

14 (2) Expenditures from the fund may be used for the  
15 administrative activities of the department and the  
16 Department of Revenue.

17 (3) Benefits associated with the program shall be  
18 disbursed from the fund by the department. Only the Secretary  
19 of Human Services or the secretary's designee may authorize  
20 disbursements from the fund.

21 (4) The fund shall provide reimbursement of any amounts  
22 from other sources that may have been used for the initial  
23 establishment of the program.

24 (c) Utilization of revenue.--The revenue generated under  
25 this act shall be utilized to expand long-term care in this  
26 Commonwealth. The money may not be used either in whole or in  
27 part to supplant existing State or county money for programs  
28 that meet the definition of approved services.

29 (d) Money expended for other purposes.--Money deposited into  
30 the fund shall remain in the fund until expended in accordance



1 with the requirements of this act. If money is expended for any  
2 purpose other than supporting the long-term services and  
3 supports program, the Department of Revenue shall notify each  
4 qualified individual by mail that the individual's premiums have  
5 been expended for an alternate use, describe the alternate use  
6 and state the Department of Revenue's plan for restoring the  
7 money so that premiums are not increased and benefits are not  
8 reduced.

9 Section 12. Management of fund.

10 (a) Investment of money in fund.--The department shall have  
11 the State Treasury invest the money in the fund. The State  
12 Treasury shall have full power to invest, reinvest, manage,  
13 contract, sell or exchange investment money in the fund.

14 (b) Investment policy.--All investments made by the State  
15 Treasury shall be made with the degree of judgment and care  
16 required and the investment policy established by the State  
17 Treasury.

18 (c) Investment with other funds.--As deemed appropriate by  
19 the State Treasury, money in the fund may be commingled for  
20 investment with other funds subject to investment by the State  
21 Treasury.

22 (d) Policies.--The department shall establish all policies  
23 relating to the fund, other than the investment policies as  
24 provided under this section.

25 (e) Disbursement.--With the exception of expenses of the  
26 State Treasury under this section, disbursements from the fund  
27 shall be made only on the authorization of the Secretary of  
28 Human Services or the secretary's designee and money in the fund  
29 may be spent only for the purposes specified under this act.

30 (f) Consultation.--The State Treasury shall routinely

consult and communicate with the department on the investment policy, earnings of the fund and related needs of the program.

### Section 13. Appeals.

Determinations made by the department under this act, including determinations regarding functional eligibility or related to registration of long-term services and support providers, are subject to appeal in accordance with 2 Pa.C.S. § 702 (relating to appeals). In addition, the standards and procedures adopted for appeals under this section shall address the following:

(1) Time lines.

(2) Eligibility and benefit determination.

(3) Judicial review.

(4) Fees.

### Section 14. Information sharing.

The department shall:

(1) Seek access to Medicare data from the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services to analyze the potential savings in Medicare expenditures due to the operation of the program.

(2) Apply for a demonstration waiver from the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services to allow for the Commonwealth to share in the savings generated in the Federal match for Medicaid long-term services and supports and Medicare due to the operation of the program.

(3) Submit a report on the status of the waiver to the following by December 1, 2024:

(i) The chairperson and minority chairperson of the

1 Aging and Youth Committee of the Senate.

2 (ii) The chairperson and minority chairperson of the  
3 Aging and Older Adult Services Committee of the House of  
4 Representatives.

5 (iii) The chairperson and minority chairperson of  
6 the Finance Committee of the Senate.

7 (iv) The chairperson and minority chairperson of the  
8 Finance Committee of the House of Representatives.

9 Section 15. Report.

10 Beginning December 1, 2028, and annually thereafter, the  
11 commission shall report to the General Assembly on the program,  
12 including:

13 (1) Projected and actual program participation.

14 (2) Adequacy of premium rates.

15 (3) Fund balances.

16 (4) Benefits paid.

17 (5) Demographic information on program participants,  
18 including age, gender, race, ethnicity, geographic  
19 distribution by county, legislative district and employment  
20 sector.

21 (6) The extent to which the operation of the program has  
22 resulted in savings to the Medicaid program by avoiding costs  
23 that would have otherwise been the responsibility of the  
24 Commonwealth.

25 Section 16. Exclusions.

26 Any benefits used by an individual under this act are not  
27 income or resources for any determinations of eligibility for  
28 any other State program or benefit, Medicaid, a State-Federal  
29 program or for any other means-tested program.

30 Section 17. Effective date.

1        This act shall take effect in 60 days.