

AMENDMENTS TO SENATE BILL NO. 912

Sponsor: SENATOR BROOKS

Printer's No. 1234

1 Amend Bill, page 1, lines 4 and 5, by striking out all of
2 said lines and inserting
3 providing for medical assistance deemed eligibility program for
4 home care, home health and older adult daily living center
5 services.

6 Amend Bill, page 1, lines 11 through 19; pages 2 through 4,
7 lines 1 through 30; page 5, lines 1 through 22; by striking out
8 all of said lines on said pages and inserting

9 Section 443.13. Medical Assistance Deemed Eligibility
10 Program for Home Care, Home Health and Older Adult Daily Living
11 Center Services.--(a) The department shall establish a deemed
12 eligibility program for home care services, home health services
13 and older adult daily living center services to prevent the
14 unnecessary and costly institutionalization of individuals who
15 are eligible for medical assistance nursing facility services
16 and want to receive home care and assistance with daily living
17 in a less restrictive setting.

18 (b) The program shall:

19 (1) be designed to provide home care services, home health
20 services and older adult daily living center services only for
21 individuals who are sixty-five years of age or older and nursing
22 facility clinically eligible;

23 (2) permit a qualified entity to submit an application for
24 medical assistance on behalf of individuals to the department;

25 (3) permit an individual who is applying for medical
26 assistance to declare income and assets on an application form
27 and attest to the accuracy of the income and assets provided on
28 the application form; and

29 (4) permit a qualified entity to determine the deemed
30 eligibility of individuals to receive medical assistance.

31 (c) The following apply:

32 (1) If a qualified entity determines that an individual is
33 deemed eligible to receive medical assistance under subsection
34 (b)(4), the individual may begin receiving home care services,
35 home health services and older adult daily living center

1 services from a medical assistance provider as soon as a
2 preliminary service plan is developed. As authorized under
3 Federal law, the department shall apply a final determination of
4 medical assistance eligibility beginning on the date that a
5 qualified entity determines that an individual is deemed
6 eligible for medical assistance under subsection (b)(4).

7 (2) If a qualified entity determines that an individual is
8 deemed eligible under subsection (b)(4), and the individual is
9 subsequently determined to be ineligible for home care services,
10 home health services and older adult daily living center
11 services by the department, the medical assistance provider
12 which provided home care services, home health services and
13 older adult daily living center services under clause (1) shall
14 not be reimbursed by the Commonwealth for the cost of the home
15 care services, home health services and older adult daily living
16 center services provided during the period of deemed
17 eligibility. If the individual provided fraudulent information
18 under this section, the medical assistance provider may seek
19 reimbursement from the individual for the cost of home care
20 services, home health services and older adult daily living
21 center services provided during the period of deemed
22 eligibility.

23 (3) Once the department makes a final determination of
24 eligibility, the department shall authorize medical assistance
25 payments for the first sixty days of home care services, home
26 health services and older adult daily living center services
27 provided during the period of deemed eligibility following the
28 date that the qualified entity established the preliminary
29 service plan.

30 (4) The department shall verify the information on the
31 application and make a final determination of medical assistance
32 eligibility. The department may request additional information
33 from an applicant for the purpose of completing the verification
34 process under this clause.

35 (d) Upon request, the department shall provide information
36 to a qualified entity about Commonwealth policies and procedures
37 on how to determine whether an individual may be deemed eligible
38 for medical assistance under subsection (b)(4).

39 (e) The department shall issue a medical assistance bulletin
40 which contains the Commonwealth policies and procedures
41 necessary to implement this section. The publication of the
42 medical assistance bulletin under this subsection shall not
43 delay the implementation of this section.

44 (f) Within seventy-five days of the effective date of this
45 subsection, the department shall apply for any necessary Federal
46 waiver or State plan amendment. Fifteen days prior to applying
47 for any necessary Federal waiver or State plan amendment, the
48 department shall submit the proposed application to the Health
49 and Human Services Committee of the Senate, the Health Committee
50 of the House of Representatives and the Human Services Committee
51 of the House of Representatives. The department shall maximize

1 the use of Federal money for the program.

2 (g) Within seventy-five days of the effective date of this
3 subsection, the department shall issue any revisions to the
4 State medical assistance plan as required under Title XIX of the
5 Social Security Act (49 Stat. 620, 42 U.S.C. § 1396 et seq.).
6 Fifteen days prior to issuing any revisions, the department
7 shall submit the proposed revisions to the Health and Human
8 Services Committee of the Senate, the Health Committee of the
9 House of Representatives and the Human Services Committee of the
10 House of Representatives.

11 (h) On or before January 1 of each year, the department
12 shall issue a report to the General Assembly with the following
13 information about the program:

14 (1) The number of individuals who participated in the
15 program.

16 (2) The average cost for each individual in the program.

17 (3) The number of qualified entities in the program.

18 (4) The administration costs.

19 (5) The estimated savings.

20 (i) The Legislative Budget and Finance Committee shall
21 conduct a study of the fiscal impact and effectiveness of the
22 deemed eligibility program. The committee shall submit a final
23 report with its findings and recommendations to the Secretary of
24 the Senate and the Chief Clerk of the House of Representatives
25 by October 31, 2023.

26 (j) This section shall expire October 31, 2024.

27 (k) As used in this section, the following words and phrases
28 shall have the following meanings:

29 "Home care services." As defined in 28 Pa. Code § 611.5
30 (relating to definitions).

31 "Home health services." Part-time, intermittent skilled
32 nursing services and therapy services provided under 28 Pa. Code
33 Ch. 601 (relating to home health care agencies) at an
34 individual's place of residence.

35 "Nursing facility clinically eligible." An individual who:

36 (1) is certified by a physician to be nursing facility
37 clinically eligible;

38 (2) has been diagnosed with an illness, injury, disability
39 or medical condition by a physician which requires the
40 individual to receive health services in accordance with the
41 following:

42 (i) Skilled nursing and skilled rehabilitation services as
43 defined in 42 CFR 409.31 (relating to level of care
44 requirement).

45 (ii) 42 CFR 409.32 (relating to criteria for skilled
46 services and the need for skilled services).

47 (iii) 42 CFR 409.33 (relating to examples of skilled nursing
48 and rehabilitation services).

49 (iv) 42 CFR 409.34 (relating to criteria for "daily basis").

50 (v) 42 CFR 409.35 (relating to criteria for "practical
51 matter").

1 (3) needs health services on a regular basis in the context
2 of a planned program of health care and management which was
3 only previously available through an institutional facility.

4 "Nursing facility services." As defined in 42 CFR 440.40
5 (relating to nursing facility services for individuals age 21 or
6 older (other than services in an institution for mental
7 disease), EPSDT, and family planning services and supplies) or
8 42 CFR 440.155 (relating to nursing facility services, other
9 than in institutions for mental diseases).

10 "Older adult daily living center services." Services
11 provided to assist an individual with activities of daily living
12 and essential activities of daily living at an older adult daily
13 living center as defined under 6 Pa. Code § 11.3 (relating to
14 definitions).

15 "Program." The deemed eligibility program established by the
16 department under subsection (a).

17 "Qualified entity." A home care agency, home health agency,
18 older adult daily living center or an organization authorized by
19 the department which elects to determine the deemed eligibility
20 of individuals to receive medical assistance under subsection
21 (b) (4).

22 Section 2. The Secretary of Human Services shall transmit to
23 the Legislative Reference Bureau, for publication in the
24 Pennsylvania Bulletin, notice of approval of any necessary
25 Federal waiver or State plan amendment under section 443.13 of
26 the act.

27 Section 3. This act shall take effect as follows:

28 (1) Except as set forth in paragraph (2), the addition
29 of section 443.13 of the act shall take effect 30 days
30 following publication of the notice under section 2.

31 (2) The addition of section 443.13(f) of the act shall
32 take effect immediately.

33 (3) The remainder of this act shall take effect
34 immediately.