

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 245 Session of 2009

INTRODUCED BY MUNDY, WATSON, BELFANTI, BRENNAN, BRIGGS, CARROLL, COHEN, DeLUCA, DONATUCCI, EACHUS, FABRIZIO, FRANKEL, GEORGE, GIBBONS, GINGRICH, GOODMAN, GROVE, HALUSKA, W. KELLER, KORTZ, KULA, LONGIETTI, MANDERINO, MANN, McGEEHAN, McILVAINE SMITH, MELIO, MILLARD, M. O'BRIEN, PALLONE, READSHAW, REICHLEY, ROSS, SEIP, SIPTROTH, K. SMITH, SOLOBAY, STABACK, VULAKOVICH, WALKO, WANSACZ, WHITE AND THOMAS, FEBRUARY 4, 2009

REFERRED TO COMMITTEE ON AGING AND OLDER ADULT SERVICES, FEBRUARY 4, 2009

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 intent, for definitions, for
 6 caregiver support program, for reimbursements and for
 7 entitlement.

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

10 Section 1. Sections 2, 3, 4, 5 and 6 of the act of December
 11 19, 1990 (P.L.1234, No.204), known as the Family Caregiver
 12 Support Act, are amended to read:

13 Section 2. Intent.

14 It is the intent of this act to ease the strain of caregiving
 15 and to assist [relatives] those who bear primary responsibility
 16 for the at-home care of functionally dependent older adults and
 17 other adults who are victims of chronic dementia by providing

1 resources for services such as the following:

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

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

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

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

12 (5) Supportive social services to the primary caregiver.

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

17 Section 3. Definitions.

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

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

24 "Adult with chronic dementia." A person 18 years of age or
25 older residing within this Commonwealth who has an irreversible
26 global loss of cognitive function causing evident intellectual
27 impairment which always includes memory loss, without alteration
28 of state of consciousness as diagnosed by a physician and is
29 severe enough to interfere with work or social activities, or
30 both, and to require continuous care or supervision.

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

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

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

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

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

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

26 "Home modification." Reasonable modifications to the
27 structure of a home for the purpose of reducing the caregiving
28 burden of the primary caregiver, as approved by the department.
29 Modifications do not include repairs, and payment for such
30 repairs is prohibited.

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

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

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

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

27 "Respite care service." A regular, intermittent or emergency
28 service which provides the primary caregiver of a [functionally
29 dependent older adult or other adult suffering from a chronic
30 dementia] care receiver with relief from normal caregiving

1 duties and responsibilities.

2 Section 4. [Caregiver] Primary caregiver support program.

3 (a) Description.--The persons to be served under this act
4 are unpaid, primary[, unpaid] caregivers who [live with and]
5 provide continuous care to a [functionally dependent older adult
6 or other adult suffering from a chronic dementia such as
7 Alzheimer's disease] care receiver.

8 (b) Authority.--

9 (1) The department shall develop operating procedures
10 and guidelines and shall contract with area agencies on aging
11 to provide the benefits set forth in this act.

12 (2) The department shall have the authority to develop
13 criteria through regulation relating to eligibility for
14 primary caregivers to receive assistance pursuant to this
15 act.

16 (3) After all eligibility criteria have been met, the
17 department shall give priority in awarding assistance paid
18 for by the State Lottery Fund to primary caregivers who
19 provide care for a functionally dependent older adult and an
20 adult 60 years of age or older with chronic dementia, such as
21 Alzheimer's disease.

22 (c) Supportive services.--The department shall identify by
23 regulation supportive services which are directly related to the
24 provision of care to the [functionally dependent older adult or
25 other adult suffering from chronic dementia] care receiver.

26 Supportive services include, but are not limited to:

27 (1) Benefits counseling and primary caregiver
28 counseling, education and training.

29 (2) Reimbursement to primary caregivers whose care
30 receivers' households financially qualify for assistance

1 [pursuant to] under section 5 and as set forth through
2 regulation for expenses incurred in obtaining day or night
3 respite care services, transportation to respite care service
4 locations or other supportive services defined by regulation,
5 and consumable supplies such as incontinence pads.

6 (3) Reimbursement to primary caregivers whose care
7 receivers' households financially qualify for assistance
8 [pursuant to] under section 5 and as developed through
9 regulation for expenses incurred in obtaining home
10 modifications or assistive devices as approved by the
11 department which help the [functionally dependent older adult
12 or adult suffering from chronic dementia] care receiver to
13 carry out tasks required for daily living such as grab bars,
14 safety devices and wheelchair ramps.

15 Section 5. Reimbursements.

16 (a) General rule.--The department through contracts with
17 area agencies on aging shall provide the services described [in]
18 under section 4(c)(1) and shall reimburse qualified primary
19 caregivers for purchase of approved services described [in]
20 under section 4(c)(2) and (3).

21 (b) Maximum amounts.--

22 (1) The maximum amount available to a qualified primary
23 caregiver whose care receivers' household income is under
24 200% of [poverty level] the Federal poverty guidelines shall
25 be established by regulation, but shall not exceed [\$200]
26 \$500 per month, for out-of-pocket expenses incurred for
27 services described [in] under section 4(c)(2).

28 (2) The maximum amount available to a qualified primary
29 caregiver whose care receivers' household income is under
30 200% of [poverty level] the Federal poverty guidelines shall

1 be established by regulation, but shall not exceed [\$2,000]
2 \$6,000 for the entire duration of the case, for expenses
3 incurred for home modifications or assistive devices as
4 described [in] under section 4(c)(3).

5 (c) Scale of benefits.--A sliding benefits scale shall be
6 established by the department by regulation to ensure that
7 primary caregivers [who] whose care receivers qualify under this
8 act and whose household [income exceeds 200% of poverty level]
9 incomes exceed 200% of the Federal poverty guidelines shall pay
10 some portion of the out-of-pocket expenses for services
11 described [in] under section 4(c). In no event will primary
12 caregivers whose care receivers' household [incomes exceeds 380%
13 of the poverty level] incomes exceed 380% of the Federal poverty
14 guidelines be considered eligible for benefits under this act.
15 Section 6. Entitlement not created.

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

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