

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1829 Session of  
2017

INTRODUCED BY BERNSTINE, KAUFER, BAKER, DRISCOLL, LONGIETTI,  
WARD, DAVIS, CHARLTON, ROTHMAN, MILLARD, SCHWEYER, COX,  
WHEELAND, ZIMMERMAN, PHILLIPS-HILL, CORBIN, SCHLOSSBERG,  
DeLUCA, HENNESSEY, COOK, KEEFER, RADER, CONKLIN AND DEAN,  
SEPTEMBER 27, 2017

REFERRED TO COMMITTEE ON HEALTH, SEPTEMBER 27, 2017

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An  
2 act to consolidate, editorially revise, and codify the public  
3 welfare laws of the Commonwealth," in public assistance,  
4 providing for medical assistance presumptive eligibility  
5 program for home care and home health services.

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

8 Section 1. The act of June 13, 1967 (P.L.31, No.21), known  
9 as the Human Services Code, is amended by adding a section to  
10 read:

11 Section 443.12. Medical Assistance Presumptive Eligibility  
12 Program for Home Care and Home Health Services.--(a) The  
13 department shall establish a presumptive eligibility program for  
14 home care services and home health services to prevent the  
15 unnecessary and costly institutionalization of individuals who  
16 are eligible for medical assistance nursing facility services  
17 and want to receive home care and assistance with daily living  
18 in a less restrictive setting.

1     (b) The program shall:

2     (1) be designed to provide home care services and home  
3 health services only for individuals who are sixty years of age  
4 or older and nursing facility clinically eligible;

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

7     (3) permit an individual who is applying for medical  
8 assistance to declare income and assets on an application form  
9 and attest to the accuracy of the income and assets provided on  
10 the application form; and

11     (4) permit a qualified entity to determine the presumptive  
12 eligibility of individuals to receive medical assistance.

13     (c) The following apply:

14     (1) If a qualified entity determines that an individual is  
15 presumptively eligible to receive medical assistance under  
16 subsection (b) (4), the individual may begin receiving home care  
17 services and home health services from a medical assistance  
18 provider immediately. As authorized under Federal law, the  
19 department shall apply a final determination of medical  
20 assistance eligibility beginning on the date that a qualified  
21 entity determines that an individual is presumptively eligible  
22 for medical assistance under subsection (b) (4).

23     (2) If a qualified entity determines that an individual is  
24 presumptively eligible under subsection (b) (4), and the  
25 individual is subsequently determined to be ineligible for home  
26 care services and home health services by the department, the  
27 qualified entity which made the determination under subsection  
28 (b) (4) shall not be reimbursed by the Commonwealth for the cost  
29 of home care services or home health services provided during  
30 the period of presumed eligibility. If the individual provided

1 fraudulent information under this section, the qualified entity  
2 may seek reimbursement from the individual for the cost of home  
3 care services and home health services provided during the  
4 period of presumed eligibility.

5 (3) Once the department makes a final determination of  
6 eligibility, the department shall authorize medical assistance  
7 payments for home care services and home health services  
8 provided during the period of presumed eligibility and as of the  
9 date that the qualified entity established presumptive  
10 eligibility under subsection (b) (4).

11 (4) Within sixty days of the submission of an application  
12 under this section, the department shall verify the information  
13 on the application and make a final determination of medical  
14 assistance eligibility. The department may request additional  
15 information from an applicant for the purpose of completing the  
16 verification process under this paragraph.

17 (d) Upon request, the department shall provide information  
18 to a qualified entity about Commonwealth policies and procedures  
19 on how to determine whether an individual is presumptively  
20 eligible for medical assistance under subsection (b) (4).

21 (e) The department shall issue a medical assistance bulletin  
22 which contains the Commonwealth policies and procedures  
23 necessary to implement this section.

24 (f) The department shall apply for any necessary Federal  
25 waivers and maximize the use of Federal money for the program.

26 (g) The department shall issue any revisions to the State  
27 medical assistance plan as required under Title XIX of the  
28 Social Security Act (49 Stat. 620, 42 U.S.C. § 1396 et seq.)  
29 before implementing the program.

30 (h) On or before January 1 of each year, the department

1 shall issue a report to the General Assembly with the following  
2 information about the program:

3 (1) The number of individuals who participated in the  
4 program.

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

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

7 (4) The administration costs.

8 (5) The estimated savings.

9 (i) As used in this section, the following words and phrases  
10 shall have the following meanings:

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

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

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

18 (1) is certified by a physician to be nursing facility  
19 clinically eligible;

20 (2) has been diagnosed with an illness, injury, disability  
21 or medical condition by a physician which requires the  
22 individual to receive health services in accordance with the  
23 following:

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

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

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

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

2 (v) 42 CFR 409.35 (relating to criteria for "practical  
3 matter").

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

7 "Nursing facility services." As defined in 42 CFR 440.40  
8 (relating to nursing facility services for individuals age 21 or  
9 older (other than services in an institution for mental  
10 disease), EPSDT, and family planning services and supplies) or  
11 42 CFR 440.155 (relating to nursing facility services, other  
12 than in institutions for mental diseases).

13 "Program." The presumptive eligibility program established  
14 by the department under subsection (a).

15 "Qualified entity." A home care agency or home health agency  
16 which elects to determine the presumptive eligibility of  
17 individuals to receive medical assistance under subsection (b)  
18 (4).

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