

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

AS REPORTED FROM COMMITTEE ON HEALTH, HOUSE OF REPRESENTATIVES, AS AMENDED, NOVEMBER 20, 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 DEEMED <--
5 eligibility program for home care and, home health services-- <--
6 AND OLDER ADULT DAILY LIVING CENTER SERVICES. <--

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

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

12 Section 443.12. Medical Assistance Presumptive DEEMED <--
13 Eligibility Program for Home Care and, Home Health Services AND <--
14 OLDER ADULT DAILY LIVING CENTER SERVICES.--(a) The department
15 shall establish a presumptive DEEMED eligibility program for <--
16 home care services and, home health services AND OLDER ADULT <--
17 DAILY LIVING CENTER SERVICES to prevent the unnecessary and
18 costly institutionalization of individuals who are eligible for

1 medical assistance nursing facility services and want to receive  
2 home care and assistance with daily living in a less restrictive  
3 setting.

4 (b) The program shall:

5 (1) be designed to provide home care services and, home <--  
6 health services AND OLDER ADULT DAILY LIVING CENTER SERVICES <--  
7 only for individuals who are sixty years of age or older and  
8 nursing facility clinically eligible;

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

11 (3) permit an individual who is applying for medical  
12 assistance to declare income and assets on an application form  
13 and attest to the accuracy of the income and assets provided on  
14 the application form; and

15 (4) permit a qualified entity to determine the ~~presumptive~~ <--  
16 DEEMED eligibility of individuals to receive medical assistance. <--

17 (c) The following apply:

18 (1) If a qualified entity determines that an individual is  
19 ~~presumptively~~ DEEMED eligible to receive medical assistance <--  
20 under subsection (b) (4), the individual may begin receiving home  
21 care services and, home health services AND OLDER ADULT DAILY <--  
22 LIVING CENTER SERVICES from a medical assistance provider  
23 immediately. As authorized under Federal law, the department  
24 shall apply a final determination of medical assistance  
25 eligibility beginning on the date that a qualified entity  
26 determines that an individual is ~~presumptively~~ DEEMED eligible <--  
27 for medical assistance under subsection (b) (4).

28 (2) If a qualified entity determines that an individual is  
29 ~~presumptively~~ DEEMED eligible under subsection (b) (4), and the <--  
30 individual is subsequently determined to be ineligible for home

1 care services and, home health services AND OLDER ADULT DAILY <--  
2 LIVING CENTER SERVICES by the department, the ~~qualified entity~~ <--  
3 ~~which made the determination under subsection (b) (4) MEDICAL~~ <--  
4 ASSISTANCE PROVIDER WHICH PROVIDED HOME CARE SERVICES, HOME <--  
5 HEALTH SERVICES AND OLDER ADULT DAILY LIVING CENTER SERVICES  
6 UNDER PARAGRAPH (1) shall not be reimbursed by the Commonwealth  
7 for the cost of THE home care services ~~or~~, home health services <--  
8 AND OLDER ADULT DAILY LIVING CENTER SERVICES provided during the <--  
9 period of ~~presumed~~ DEEMED eligibility. If the individual <--  
10 provided fraudulent information under this section, the  
11 ~~qualified entity~~ MEDICAL ASSISTANCE PROVIDER may seek <--  
12 reimbursement from the individual for the cost of home care  
13 services and, home health services AND OLDER ADULT DAILY LIVING <--  
14 CENTER SERVICES provided during the period of ~~presumed~~ DEEMED <--  
15 eligibility.

16 (3) Once the department makes a final determination of  
17 eligibility, the department shall authorize medical assistance  
18 payments for home care services and, home health services AND <--  
19 OLDER ADULT DAILY LIVING CENTER SERVICES provided during the  
20 period of presumed eligibility and as of the date that the  
21 qualified entity established ~~presumptive~~ DEEMED eligibility <--  
22 under subsection (b) (4).

23 (4) Within sixty days of the submission of an application  
24 under this section, the department shall verify the information  
25 on the application and make a final determination of medical  
26 assistance eligibility. The department may request additional  
27 information from an applicant for the purpose of completing the  
28 verification process under this paragraph.

29 (d) Upon request, the department shall provide information  
30 to a qualified entity about Commonwealth policies and procedures

1 on how to determine whether an individual ~~is presumptively~~ MAY <--  
2 BE DEEMED eligible for medical assistance under subsection (b)  
3 (4).

4 (e) The department shall issue a medical assistance bulletin  
5 which contains the Commonwealth policies and procedures  
6 necessary to implement this section. THE PUBLICATION OF THE <--  
7 MEDICAL ASSISTANCE BULLETIN UNDER THIS SUBSECTION SHALL NOT  
8 DELAY THE IMPLEMENTATION OF THIS SECTION.

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

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

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

18 (1) The number of individuals who participated in the  
19 program.

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

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

22 (4) The administration costs.

23 (5) The estimated savings.

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

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

28 "Home health services." Part-time, intermittent skilled  
29 nursing services and therapy services provided under 28 Pa. Code  
30 Ch. 601 (relating to home health care agencies) at an

1 individual's place of residence.

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

3 (1) is certified by a physician to be nursing facility  
4 clinically eligible;

5 (2) has been diagnosed with an illness, injury, disability  
6 or medical condition by a physician which requires the  
7 individual to receive health services in accordance with the  
8 following:

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

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

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

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

17 (v) 42 CFR 409.35 (relating to criteria for "practical  
18 matter").

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

22 "Nursing facility services." As defined in 42 CFR 440.40  
23 (relating to nursing facility services for individuals age 21 or  
24 older (other than services in an institution for mental  
25 disease), EPSDT, and family planning services and supplies) or  
26 42 CFR 440.155 (relating to nursing facility services, other  
27 than in institutions for mental diseases).

28 "OLDER ADULT DAILY LIVING CENTER SERVICES." SERVICES  
29 PROVIDED TO ASSIST AN INDIVIDUAL WITH ACTIVITIES OF DAILY LIVING  
30 AND ESSENTIAL ACTIVITIES OF DAILY LIVING AT AN OLDER ADULT DAILY

<--

1 LIVING CENTER AS DEFINED UNDER 6 PA. CODE § 11.3 (RELATING TO  
2 DEFINITIONS).

3 "Program." The ~~presumptive~~ DEEMED eligibility program <--  
4 established by the department under subsection (a).

5 "Qualified entity." A home care agency ~~or~~, home health <--  
6 agency, OLDER ADULT DAILY LIVING CENTER OR AN ORGANIZATION <--  
7 AUTHORIZED BY THE DEPARTMENT which elects to determine the  
8 ~~presumptive~~ DEEMED eligibility of individuals to receive medical <--  
9 assistance under subsection (b) (4).

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