
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 912 Session of 2017

INTRODUCED BY BROOKS, STREET, WHITE, BREWSTER, GREENLEAF,
MENSCH, COSTA, HAYWOOD, BROWNE, VULAKOVICH, SCHWANK, MARTIN,
BAKER, HUGHES, LEACH AND VOGEL, OCTOBER 5, 2017

REFERRED TO HEALTH AND HUMAN SERVICES, OCTOBER 5, 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 a 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 wish to receive care in a less restrictive setting.

18 (b) The program shall:

19 (1) Be designed to provide home care services and home

1 health services only for individuals who are sixty years of age
2 or older and are nursing facility clinically eligible. An
3 individual is considered nursing facility clinically eligible if
4 all of the following criteria are met:

5 (i) The individual has an illness, injury, disability or
6 medical condition diagnosed by a physician.

7 (ii) As a result of that diagnosed illness, injury,
8 disability or medical condition the individual requires care and
9 services above the level of room and board.

10 (iii) A physician certifies that the individual is nursing
11 facility clinically eligible.

12 (iv) The care and services are either skilled nursing or
13 rehabilitation services as specified by the Medicare program
14 under 42 CFR §§ 409.31(a) and (b)(1) and (3) (relating to level
15 or care requirement), 409.32 (relating to criteria for skilled
16 services and the need for skilled services), 409.33 (relating to
17 examples of skilled nursing and rehabilitation services), 409.34
18 (relating to criteria for "daily basis") and 409.35 (relating to
19 criteria for "practical matter"), or health-related care and
20 services that may not be as inherently complex as skilled
21 nursing or rehabilitation services but which are needed and
22 provided on a regular basis in the context of a planned program
23 of health care and management and were previously available only
24 through institutional facilities.

25 (2) Permit a qualified entity to submit an application for
26 medical assistance on behalf of individuals.

27 (3) Permit an individual who is applying for medical
28 assistance to declare income and assets on an application form
29 and attest to the accuracy of the income and assets provided on
30 the application form.

1 (4) Permit a qualified entity to determine the presumptive
2 eligibility of an individual to receive medical assistance and
3 submit an application to receive medical assistance on behalf of
4 the individual to the department.

5 (c) The following shall apply:

6 (1) If a qualified entity determines that an individual is
7 presumptively eligible to receive medical assistance under
8 subsection (b)(4), the individual may begin receiving home care
9 services and home health services from a medical assistance
10 provider immediately. As authorized under Federal law, the
11 department shall apply a final determination of medical
12 assistance eligibility for an individual presumed eligible as of
13 the date that presumptive eligibility is established by the
14 qualified entity.

15 (2) If an individual determined to be presumptively eligible
16 under subsection (b)(4) is subsequently determined to be
17 ineligible for home care services or home health services by the
18 department, the qualified entity which made the determination
19 under subsection (b)(4) shall not be reimbursed by the
20 Commonwealth for the cost of home care services or home health
21 services provided during the period of presumed eligibility. If
22 the individual provided fraudulent information under this
23 section, the qualified entity may seek reimbursement from the
24 individual for the cost of home care services and home health
25 services provided during the period of presumed eligibility.

26 (3) Once the department makes a final determination of
27 eligibility, it shall authorize medical assistance payment for
28 home care services and home health services provided during the
29 period of presumed eligibility as of the date that the qualified
30 entity established presumed eligibility under subsection (b)(4).

1 (4) Within sixty days of the submission of an application
2 under this section, the department shall verify the information
3 on the application and make a final determination of medical
4 assistance eligibility. The department may request additional
5 information from an applicant for the purpose of completing the
6 verification process under this clause.

7 (d) The department shall provide to an organization upon
8 request relevant State policies, procedures and information on
9 how to fulfill responsibilities in determining an individual
10 presumptively eligible for home care services or home health
11 services.

12 (e) The department shall issue a medical assistance bulletin
13 with State policies and procedures to implement this section,
14 the publication of which shall not delay the implementation of
15 this section.

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

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

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

25 (1) The number of individuals who participated in the
26 program.

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

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

29 (4) The administrative costs of the program.

30 (5) The estimated savings achieved through the program.

1 (i) As used in this section, the following words and phrases
2 shall have the meanings given to them in this subsection:

3 "Home care services" means the term as defined under 28 Pa.
4 Code § 611.5 (relating to definitions).

5 "Home health services" means part-time, intermittent skilled
6 nursing and therapy services provided in an individual's place
7 of residence by a home health care agency as defined under 28
8 Pa. Code § 601.6 (relating to definitions).

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

16 "Program" means the presumptive eligibility program for home
17 care services and home health services established under
18 subsection (a).

19 "Qualified entity" means a home care agency as defined under
20 28 Pa. Code § 611.5 or a home health care agency as defined
21 under 28 Pa. Code § 601.6.

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