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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 1368 Session of  
2020

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INTRODUCED BY J. WARD, COLLETT, MENSCH, COSTA, MUTH, SCHWANK AND  
PITTMAN, OCTOBER 26, 2020

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REFERRED TO AGING AND YOUTH, OCTOBER 26, 2020

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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 title of act, for intent,  
6 for definitions, for primary caregiver support program, for  
7 reimbursements, for entitlement not created and for  
8 enforcement.

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

11 Section 1. The title of the act of December 19, 1990  
12 (P.L.1234, No.204), known as the Family Caregiver Support Act,  
13 is amended to read:

14 AN ACT

15 Establishing a program to assist persons who bear primary  
16 responsibility for the at-home care of functionally dependent  
17 older adults [and victims of chronic dementia.], individuals  
18 with Alzheimer's disease or a related disorder, children with  
19 parents who are unable to care for them and individuals with  
20 disabilities.

21 Section 2. Section 2 introductory paragraph of the act is

1 amended to read:

2 Section 2. Intent.

3 It is the intent of this act to ease the strain of caregiving  
4 and to assist adult family members and other individuals who  
5 bear primary responsibility for the at-home care of functionally  
6 dependent older adults and other adults who are [victims of  
7 chronic dementia] living with Alzheimer's disease or a related  
8 disorder by providing resources for services such as the  
9 following:

10 \* \* \*

11 Section 3. The definitions of "adult with chronic dementia,"  
12 "care receiver," "household income" and "primary caregiver" in  
13 section 3 of the act are amended and the section is amended by  
14 adding definitions to read:

15 Section 3. Definitions.

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

19 \* \* \*

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

27 "Alzheimer's disease or a related disorder." An irreversible  
28 and progressive neurological disorder diagnosed by a physician  
29 that:

30 (1) causes cognitive and memory impairment, behavioral

1 and psychiatric problems and the loss of the ability to care  
2 for oneself;

3 (2) is severe enough to interfere with work or social  
4 activities; and

5 (3) requires continuous care or supervision.

6 \* \* \*

7 "Care receiver." [A functionally dependent older adult or  
8 other adult with chronic dementia who is being cared for by a  
9 primary caregiver.] Any of the following:

10 (1) A functionally dependent older adult who is 60 years  
11 of age or older and cared for by a primary caregiver who is  
12 18 years of age or older.

13 (2) An individual with Alzheimer's disease or a related  
14 disorder who is cared for by a caregiver 18 years of age or  
15 older.

16 (3) A child who is younger than 18 years of age who is  
17 cared for and resides with an older relative caregiver for a  
18 child.

19 (4) An individual who is between 18 and 59 years of age,  
20 has a nondementia-related disability and is cared for and  
21 resides with an older relative caregiver for an individual  
22 with a disability.

23 \* \* \*

24 "Household income." The income of all members of the care  
25 receiver's household with the exception of a minor or dependent  
26 student.

27 \* \* \*

28 "Older relative caregiver for a child." An individual who  
29 satisfies all of the following criteria:

30 (1) The individual is 55 years of age or older and

1 resides with a child who is younger than 18 years of age.

2 (2) The individual is the grandparent, step-grandparent,  
3 or other relative, not including the biological or adoptive  
4 parent related by blood, marriage or adoption.

5 (3) The individual is the primary caregiver of the child  
6 because the biological or adoptive parents are unable or  
7 unwilling to act as the primary caregiver of the child.

8 (4) The individual has a legal relationship to the  
9 child, including legal custody, adoption or guardianship of  
10 the child, or is caring for the child in an informal manner.

11 "Older relative caregiver for an individual with a  
12 disability." An individual who satisfies all of the following  
13 criteria:

14 (1) The individual is 55 years of age or older.

15 (2) The individual cares for and resides with an  
16 individual with a disability who is no younger than 18 years  
17 of age and no older than 59 years of age.

18 (3) The individual is the primary caregiver for the  
19 individual with a disability.

20 (4) The individual is the parent, grandparent or other  
21 relative of the individual with a disability by blood,  
22 marriage or adoption.

23 "Primary caregiver." [The one identified adult family member  
24 or other individual who has assumed the primary responsibility  
25 for the provision of care needed to maintain the physical or  
26 mental health of a care receiver and who does not receive  
27 financial compensation for the care provided. A substantiated  
28 case of abuse, neglect, exploitation, abandonment as defined in  
29 the act of November 6, 1987 (P.L.381, No.79), known as the Older  
30 Adults Protective Services Act, or pursuant to any other civil

1 or criminal statute regarding an older adult, shall prohibit a  
2 primary caregiver from receiving benefits under this act unless  
3 authorized by the department to prevent further abuse.] The one  
4 identified family member or other responsible individual who has  
5 primary responsibility for the provision of care, including the  
6 coordination of care and services needed to maintain the  
7 physical and mental health of the care receiver and who does not  
8 receive financial compensation for the care provided.

9 Section 4. Sections 4(b)(3), 5(b), 6 and 8 of the act are  
10 amended to read:

11 Section 4. Primary caregiver support program.

12 \* \* \*

13 (b) Authority.--

14 \* \* \*

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

22 \* \* \*

23 Section 5. Reimbursements.

24 \* \* \*

25 (b) Maximum amounts.--

26 (1) The maximum amount available to a qualified primary  
27 caregiver whose care receivers' household income is under  
28 200% of the Federal poverty guidelines shall be established  
29 by [regulation, but shall not exceed \$200 per month,] the  
30 department for out-of-pocket expenses incurred for services.

1 [described under section 4(c)(2) subject to the following:

2 (i) Except as otherwise provided under subparagraph

3 (ii), in individual cases where there is a demonstrated

4 need, the maximum amount available to a qualified primary

5 caregiver may exceed \$200 but shall not be more than

6 \$500. The need must be specifically documented in the

7 care receiver's care plan.

8 (ii) Reimbursement under subparagraph (i) shall be

9 limited to \$200 if an area agency on aging's average

10 monthly reimbursement exceeds \$300 across its entire

11 caregiver support program caseload.]

12 (2) The maximum amount available to a qualified primary  
13 caregiver whose care receivers' household income is under  
14 200% of the Federal poverty guidelines shall be established  
15 by [regulation, but shall not exceed \$2,000] the department  
16 for the entire duration of the case, for expenses incurred  
17 for home modifications or assistive devices as described  
18 under section 4(c)(3).

19 \* \* \*

20 Section 6. Entitlement not created and prohibition.

21 (a) Entitlement not created.--Nothing in this act creates or  
22 provides any individual with an entitlement to services or  
23 benefits. Services under this act shall be made available only  
24 to the extent of the availability and level of appropriations  
25 made by the General Assembly.

26 (b) Prohibition.--A substantiated case of abuse, neglect,  
27 exploitation or abandonment under the act of November 6, 1987  
28 (P.L.381, No.79), known as the Older Adults Protective Services  
29 Act, the act of October 7, 2010 (P.L.484, No.70), known as the  
30 Adult Protective Services Act, 23 Pa.C.S. Ch. 63 (relating to

1 child protective services) or under any other law of this  
2 Commonwealth regarding an older adult, a child or an individual  
3 with a disability, shall prohibit a primary caregiver from  
4 receiving benefits under this act unless authorized by the  
5 department to prevent further abuse, neglect, exploitation or  
6 abandonment.

7 Section 8. Enforcement.

8 The department shall have authority to establish penalties,  
9 by regulation, associated with the violation of this act or  
10 departmental rules or regulations promulgated under this act.

11 The department may not promulgate a regulation under this  
12 section that interferes with any privileges or rights provided  
13 under Federal law.

14 Section 5. This act shall take effect in 60 days.