

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 464 Session of 2021

INTRODUCED BY BOBACK, SAMUELSON, GUENST, HILL-EVANS, HELM, HOWARD, T. DAVIS, PASHINSKI, WHEELAND, THOMAS, SCHWEYER, ISAACSON, HOHENSTEIN, O'MARA, SHUSTERMAN, HENNESSEY AND OTTEN, FEBRUARY 9, 2021

AS REPORTED FROM COMMITTEE ON AGING AND OLDER ADULT SERVICES, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 23, 2021

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:

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

1 disabilities.

2 Section 2. Section 2 introductory paragraph of the act is
3 amended to read:

4 Section 2. Intent.

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

12 * * *

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

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 * * *

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

29 "Alzheimer's disease or a related disorder." An irreversible
30 and progressive neurological disorder diagnosed by a physician

1 that:

2 (1) causes cognitive and memory impairment, behavioral
3 and psychiatric problems and the loss of the ability to care
4 for oneself;

5 (2) is severe enough to interfere with work or social
6 activities; and

7 (3) requires continuous care or supervision.

8 * * *

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

12 (1) A functionally dependent older adult who is 60 years
13 of age or older and cared for by a primary caregiver who is
14 18 years of age or older.

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

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

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

25 * * *

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

29 * * *

30 "Older relative caregiver for a child." An individual who

1 satisfies all of the following criteria:

2 (1) The individual is 55 years of age or older and
3 resides with a child who is younger than 18 years of age.

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

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

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

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

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

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

20 (3) The individual is the primary caregiver for the
21 individual with a disability.

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

25 "Primary caregiver." [The one identified adult family member
26 or other individual who has assumed the primary responsibility
27 for the provision of care needed to maintain the physical or
28 mental health of a care receiver and who does not receive
29 financial compensation for the care provided. A substantiated
30 case of abuse, neglect, exploitation, abandonment as defined in

1 the act of November 6, 1987 (P.L.381, No.79), known as the Older
2 Adults Protective Services Act, or pursuant to any other civil
3 or criminal statute regarding an older adult, shall prohibit a
4 primary caregiver from receiving benefits under this act unless
5 authorized by the department to prevent further abuse.] The one
6 identified family member or other responsible individual who has
7 primary responsibility for the provision of care, including the
8 coordination of care and services needed to maintain the
9 physical and mental health of the care receiver and who does not
10 receive financial compensation for the care provided.

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

13 Section 4. Primary caregiver support program.

14 * * *

15 (b) Authority.--

16 * * *

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

24 * * *

25 Section 5. Reimbursements.

26 * * *

27 (b) Maximum amounts.--

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

1 by [regulation, but shall not exceed \$200 per month,] the
2 department for out-of-pocket expenses incurred for services.
3 [described under section 4(c)(2) subject to the following:

4 (i) Except as otherwise provided under subparagraph
5 (ii), in individual cases where there is a demonstrated
6 need, the maximum amount available to a qualified primary
7 caregiver may exceed \$200 but shall not be more than
8 \$500. The need must be specifically documented in the
9 care receiver's care plan.

10 (ii) Reimbursement under subparagraph (i) shall be
11 limited to \$200 if an area agency on aging's average
12 monthly reimbursement exceeds \$300 across its entire
13 caregiver support program caseload.]

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

21 * * *

22 Section 6. Entitlement not created and prohibition.

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

28 ~~(b) Prohibition. A substantiated case of abuse, neglect,~~ <--
29 ~~exploitation or abandonment under the act of November 6, 1987-~~
30 ~~(P.L.381, No.79), known as the Older Adults Protective Services-~~

~~1 Act, the act of October 7, 2010 (P.L.484, No.70), known as the~~
~~2 Adult Protective Services Act, 23 Pa.C.S. Ch. 63 (relating to~~
~~3 child protective services) or under any other law of this~~
~~4 Commonwealth regarding an older adult, a child or an individual~~
~~5 with a disability, shall prohibit a primary caregiver from~~
~~6 receiving benefits under this act unless authorized by the~~
~~7 department to prevent further abuse, neglect, exploitation or~~
~~8 abandonment.~~

9 (B) PROHIBITION.--A PRIMARY CAREGIVER SHALL BE PROHIBITED <--
10 FROM RECEIVING BENEFITS UNDER THIS ACT UNDER THE FOLLOWING
11 CIRCUMSTANCES:

12 (1) THE PRIMARY CAREGIVER IS A PERPETRATOR IN A
13 SUBSTANTIATED CASE OF ABUSE, NEGLECT, EXPLOITATION OR
14 ABANDONMENT AS DEFINED IN THE ACT OF NOVEMBER 6, 1987
15 (P.L.381, NO.79), KNOWN AS THE OLDER ADULTS PROTECTIVE
16 SERVICES ACT;

17 (2) THE PRIMARY CAREGIVER IS A PERPETRATOR IN A
18 SUBSTANTIATED CASE OF ABUSE, NEGLECT, EXPLOITATION OR
19 ABANDONMENT AS DEFINED IN THE ACT OF OCTOBER 7, 2010
20 (P.L.484, NO.70), KNOWN AS THE ADULT PROTECTIVE SERVICES ACT;
21 OR

22 (3) THE PRIMARY CAREGIVER IS A PERPETRATOR IN A
23 SUBSTANTIATED CASE OF CHILD ABUSE AS DEFINED IN 23 PA.C.S.
24 CH. 63 (RELATING TO CHILD PROTECTIVE SERVICES).

25 Section 8. Enforcement.

26 The department shall have authority to establish penalties,
27 by regulation, associated with the violation of this act or
28 departmental rules or regulations promulgated under this act.
29 The department may not promulgate a regulation under this
30 section that interferes with any privileges or rights provided

1 under Federal law.

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