

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2684 Session of 2020

INTRODUCED BY BOBACK, DONATUCCI, MURT, ULLMAN, BARRAR, READSHAW, DELLOSO, ROZZI, MILLARD, PASHINSKI, HOWARD, DeLUCA, NEILSON, SAMUELSON, OTTEN AND COMITTA, JULY 14, 2020

AS REPORTED FROM COMMITTEE ON AGING AND OLDER ADULT SERVICES, HOUSE OF REPRESENTATIVES, AS AMENDED, OCTOBER 19, 2020

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
20 disabilities.

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

3 Section 2. Intent.

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

11 \* \* \*

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

16 Section 3. Definitions.

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

20 \* \* \*

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

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

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

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

6       (3) requires continuous care or supervision.

7       \* \* \*

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

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

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

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

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

24       \* \* \*

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

28       \* \* \*

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

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

3       (2) The individual is the grandparent, step-grandparent,  
4       or other relative, not including a biological parent or a <--  
5       parent related by blood, marriage or adoption, of the child.  
6       THE BIOLOGICAL OR ADOPTIVE PARENT RELATED BY BLOOD, MARRIAGE <--  
7       OR ADOPTION.

8       (3) The individual is the primary caregiver of the child  
9       because the biological parents or parents related by blood, <--  
10       marriage or adoption of the child OR ADOPTIVE PARENTS are <--  
11       unable or unwilling to act as the primary caregiver of the  
12       child.

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

16       "Older relative caregiver for an individual with a  
17       disability." An individual who satisfies all of the following  
18       criteria:

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

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

23       (3) The individual is the primary caregiver for the  
24       individual with a disability.

25       (4) The individual is the parent, grandparent or other  
26       relative of the individual with a disability by blood,  
27       marriage or adoption.

28       "Primary caregiver." [The one identified adult family member  
29       or other individual who has assumed the primary responsibility  
30       for the provision of care needed to maintain the physical or

1 mental health of a care receiver and who does not receive  
2 financial compensation for the care provided. A substantiated  
3 case of abuse, neglect, exploitation, abandonment as defined in  
4 the act of November 6, 1987 (P.L.381, No.79), known as the Older  
5 Adults Protective Services Act, or pursuant to any other civil  
6 or criminal statute regarding an older adult, shall prohibit a  
7 primary caregiver from receiving benefits under this act unless  
8 authorized by the department to prevent further abuse.] The one  
9 identified family member or other responsible individual who has  
10 primary responsibility for the provision of care, including the  
11 coordination of care and services needed to maintain the  
12 physical and mental health of the care receiver. AND WHO DOES <--  
13 NOT RECEIVE FINANCIAL COMPENSATION FOR THE CARE PROVIDED.

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

16 Section 4. Primary caregiver support program.

17 \* \* \*

18 (b) Authority.--

19 \* \* \*

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

27 \* \* \*

28 Section 5. Reimbursements.

29 \* \* \*

30 (b) Maximum amounts.--

1 (1) The maximum amount available to a qualified primary  
2 caregiver whose care receivers' household income is under  
3 200% of the Federal poverty guidelines shall be established  
4 by [regulation, but shall not exceed \$200 per month,] the  
5 department for out-of-pocket expenses incurred for services.  
6 [described under section 4(c)(2) subject to the following:

7 (i) Except as otherwise provided under subparagraph

8 (ii), in individual cases where there is a demonstrated  
9 need, the maximum amount available to a qualified primary  
10 caregiver may exceed \$200 but shall not be more than  
11 \$500. The need must be specifically documented in the  
12 care receiver's care plan.

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

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

24 \* \* \*

25 Section 6. Entitlement not created and prohibition.

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

1 (b) Prohibition.--A substantiated case of abuse, neglect,  
2 exploitation or abandonment under the act of November 6, 1987  
3 (P.L.381, No.79), known as the Older Adults Protective Services  
4 Act, the act of October 7, 2010 (P.L.484, No.70), known as the  
5 Adult Protective Services Act, 23 Pa.C.S. Ch. 63 (relating to  
6 child protective services) or under any other law of this  
7 Commonwealth regarding an older adult, a child or an individual  
8 with a disability, shall prohibit a primary caregiver from  
9 receiving benefits under this act unless authorized by the  
10 department to prevent further abuse, neglect, exploitation or  
11 abandonment.

12 Section 8. Enforcement.

13 The department shall have authority to establish penalties,  
14 by regulation, associated with the violation of this act or  
15 departmental rules or regulations promulgated under this act.  
16 The department may not promulgate a regulation under this  
17 section that interferes with any privileges or rights provided  
18 under Federal law.

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