

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 12-119—sSB 234

Human Services Committee

Planning and Development Committee

Government Administration and Elections Committee

AN ACT CONCERNING CERTAIN SOCIAL SERVICES PROGRAMS

SUMMARY: This act:

1. establishes the Community Choices program to assist the elderly, people with disabilities, and their caregivers in gathering information and making long-term care decisions;
2. changes eligibility requirements, funding, and participation levels for the DSS-administered home care program for people with severe disabilities (the so-called “Katie Beckett” waiver);
3. changes who a municipality may appoint as a municipal agent for the elderly and gives the agents discretion regarding their duties;
4. adds to the information health insurance-related entities must provide DSS to help the department locate people enrolled in Medicaid who also have other insurance; and
5. directs to DSS certain third-party beneficiary payments that would otherwise have been disbursed to policy holders when the insured is indebted to the department.

It also repeals (1) a provision allowing the Department of Administrative Services to deposit Riverview Hospital Medicaid payments into a nonlapsing General Fund account for DSS to pay Medicaid claims; (2) a DSS personal care assistance home-care pilot program for the elderly made unnecessary by the department’s implementation of a statewide waiver; and (3) a provision requiring the DSS commissioner, when determining rates for FQHCs, to apply Medicare productivity standards and a maximum allowable per visit cost of 115% of the median cost per-visit.

Finally, it makes minor and technical changes.

EFFECTIVE DATE: Upon passage, except the Katie Beckett waiver provision is effective July 1, 2012.

§ 1 — COMMUNITY CHOICES

The act directs DSS to develop and administer a statewide Community Choices program, which will serve as the state’s Aging and Disability Resource Center (ADRC) under the federal Older Americans Act. It is intended to provide a single, coordinated information and access program for individuals seeking long-term support, such as in-home; community-based; or institutional services. The program must serve consumers, including (1) elders at least age 60, (2) those over

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age 17 with disabilities, and (3) caretakers. Currently, three regional ADRCs operate in the state.

Program Requirements and Procedures

The DSS commissioner must establish program requirements and procedures within available resources. These include:

1. information, referral, and assistance about aging and disability issues and long-term care planning;
2. comprehensive assessments to identify possible consumer needs or desires;
3. counseling for obtaining (a) employment or employment-related services, (b) screening for public benefits and private resources, and (c) information on long-term care planning;
4. follow-up to ensure consumer referrals were appropriate and to offer additional assistance and individual advocacy as needed;
5. support to consumers making decisions about current and future supports and services;
6. coordination of transitions between care providers or sites;
7. preparation and distribution of written materials about the program's services;
8. maintenance of a toll-free telephone number;
9. assistance in improving and managing the program, monitoring quality, and measuring responsiveness of care systems;
10. assistance needed to conform to federal and other grant requirements; and
11. other related services.

Contracts and Regulations

The act requires the commissioner to establish contracting procedures and allows him to adopt implementing regulations.

§ 2 — KATIE BECKETT WAIVER

DSS currently administers a Medicaid home- and community-based services waiver program (called Katie Beckett) for individuals of any age who have severe disabilities and require a level of care at home that is typically provided in a hospital, nursing home, or other long-term care setting. The program includes a waiver for those individuals whose parents' or legally liable relatives' income and assets exceed Medicaid's limits. The program counts only the participant's income and assets (up to 300% of the federal Supplemental Security Income benefit rate (\$2,094 per month in 2012) and asset limits of \$1,000, respectively).

Prior law specified that the program fund 125 slots but allowed DSS to add 75 slots if appropriations were available.

The act (1) makes the entire program subject to available appropriations, (2) eliminates the ceiling on the number of participants, (3) restricts eligibility to individuals under age 22, (4) expressly opens the program to children and young adults who are currently institutionalized but want to be cared for at home and

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those with co-occurring developmental disabilities, and (5) updates the reference to the enabling federal law.

§ 3 — MUNICIPAL AGENT FOR THE ELDERLY

If required by local ordinance, the law requires municipalities to have an appointed municipal agent for the elderly. Agents assist elders in learning about community resources and filing for benefits. Under prior law, they were required to submit annual reports to state and local government officials; the act eliminates this function.

The act removes elected state officials and members of a local commission on aging from the list of those who can be appointed municipal agents, leaving as potential appointees (1) members of a municipal agency for the elderly and (2) municipal residents with a demonstrated interest in the elderly or programs for the aged. It suggests, rather than prescribes, agents' duties. Related to this, it specifies that the agent can report any needs and problems of the elderly and recommendations for action to improve their services to the chief elected official or executive officers and DSS, eliminating the municipal legislative body and committee or commission on aging from the distribution list.

DSS Responsibility

Under the act, DSS is no longer required to ensure that municipalities are carrying out their legal responsibilities and neither DSS nor the area agencies on aging are required to provide training, but may do so if they have the resources. Likewise, the agents no longer have to attend training sessions. The department's remaining responsibility is to adopt and disseminate guidelines concerning the agents' roles and duties and informational and technical materials to assist the agents.

§§ 4 & 5 — INVESTIGATING MEDICAID PARTICIPANTS FOR OTHER HEALTH INSURANCE

The law requires health insurers, including self-insured plans; group plans regulated by federal law; service benefit plans; managed care organizations; health care centers; and entities that perform administrative services for them, to provide the DSS commissioner or a designee information about a policy-holder's transactions when presented with an official, written request to do so. DSS prescribes the format for presenting the information and uses it to identify, determine, or establish Medicaid beneficiaries with other (third-party) insurance.

The act adds third-party administrators to those that must supply this information. These are organizations that process insurance claims or certain aspects of employee benefit plans for separate entities.

By law, the information DSS requires is (1) any coverage period for a person his or her spouse or dependent; (2) covered services; (3) the name and address (presumably of the insured); and (4) the plan's identifying number. The act adds date of birth, Social Security number, plan type, services covered, and policy effective and termination dates. The department may request this information of

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any legal entity described above. Responses are due 90 days after the department's initial request and at least monthly thereafter.

Automated Data Matches

Prior law required any of the entities described above to either conduct, or allow the DSS commissioner or his designee to conduct, automated data matches to identify recipients and parents of minor children with overlapping coverage. The commissioner reimbursed the insurer for its reasonable, documented costs when it performed this function for DSS. Under the act, only the department can perform this function.

DSS Recoveries or Claims for Indemnification

When an individual applies to DSS for assistance, he or she or a legally liable relative makes DSS automatically entitled to any right of recovery those individuals have from third parties, including those providing health care items or services. The act adds third-party administrators to the entities whose payments are passed through to DSS. It also specifies that DSS' right to recovery or indemnification is not affected by the insured's failure to comply with prior authorization rules (i.e., to get the insurer's permission before undergoing certain types of procedures). The law specifies other procedural errors that will not negate DSS' right to payment.

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