

CHAPTER 160

AN ACT concerning the Personal Assistance Services Program and amending P.L.1987, c.350.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 2 of P.L.1987, c.350 (C.30:4G-14) is amended to read as follows:

C.30:4G-14 Definitions.

2. As used in this act:

“Advisory Council” means the Statewide Consumer Advisory Council on Personal Assistance Services” established pursuant to section 8 of P.L.1987, c.350 (C.30:4G-20).

“Applicant” means a person who applies for services under the personal assistance services program.

“Assessor” means a person who is employed by the program to conduct eligibility assessments. An assessor shall have a master’s degree in social work or a baccalaureate degree and three years of experience in rehabilitation services, or shall be a registered professional nurse with a bachelor of science degree in nursing or with three years experience in home care.

“Available” means, as applied to a caregiver, physically present, able, and appropriate, as determined with full consideration of the consumer’s personal situation.

“Cash Management Plan” means the document used by the program which indicates the monthly cash allowance and details the services and supports required by the consumer in order to meet the consumer’s personal care needs.

“Commissioner” means the Commissioner of Human Services.

“Community-based independent living” means self-directed living whereby a consumer is actively participating in community-based activities aside from employment or education, including, but not limited to, parenting, searching for employment, and community service such as volunteering on governing boards or serving on committees.

“Consumer” means a person who either meets the eligibility criteria set forth in section 4 of P.L.1987, c.350 (C.30:4G-16), or has received an individual exception to the eligibility criteria in subsection i. or j. of section 4 of P.L.1987, c.350 under rules established by the commissioner, and who is receiving services.

“County designated agency” means a county office for the disabled or other agency designated by the county government, subject to approval by the commissioner, to administer in that county the personal assistance services program established pursuant to P.L.1987, c.350 (C.30:4G-13 et seq.).

“Department” means the Department of Human Services.

“Employment” means working in a paid occupation, whether in cash or in kind, including, but not limited to, full time employment; part time employment; the practice of a profession; self-employment; farm work; home-based employment; or other gainful work.

“Federal poverty level” means the official poverty level based on family size, established and adjusted under Section 673(2) of Subtitle B of the "Community Services Block Grant Act, "Pub.L.97-35 (42 U.S.C.s.9902 (2)).

“Fiscal intermediary service organization” or “FISO” means a company or agency that is set up to disburse the cash benefit to consumers using the cash option under the program, and serves as the business agent for the consumer, handles the distribution of payroll checks and other disbursements at the direction of the consumer, and keeps records of all transactions.

“Informal caregiver” means an individual who is 18 years of age or older residing in the household for a purpose other than the sharing of expenses.

“Permanent physical disability” means a severe impairment of a permanent nature which so restricts a person's ability to perform essential activities of daily living that the person needs assistance to maintain the person's independence and health.

“Personal assistant” means a person who meets the qualifications with regard to training, equivalent work experience or certification in the provision of personal assistance services established by the commissioner and who provides personal assistance services to a consumer.

“Personal assistance services” means health and chore related tasks performed by a personal assistant. Personal assistance services include, but are not limited to, assistance in essential daily activities such as bathing, dressing and meal preparation; assistance with mobility, laundry and shopping; and driving or other forms of transportation.

“Program” means the Personal Assistance Services Program established pursuant to P.L.1987, c.350 (C.30:4G-13 et seq.).

“Relative” means a person who is 18 years of age or older and is related to the consumer by blood or law.

“Resident” means a person who abides or resides in this State for other than a temporary purpose and who has no present intention of moving from the State.

“Self-directed” means a person who is able to: make decisions regarding daily activities; and make major life decisions, manage and supervise a personal assistant, and accept the responsibility for those decisions and actions.

“Time sheet” means a legal document used to verify the number of hours worked under the program, that is issued by the fiscal intermediary service organization, completed by the employee, and verified by the consumer.

“Training” means the attendance and participation of a consumer or personal assistant in an established Statewide educational program or equivalent, as provided by regulation of the department.

“Training Vendor” means an agency or business that provides a training curriculum to consumers and personal assistants under the guidelines of the program.

“Vendor” mean an agency or business that provides an allowable service to a consumer under the guidelines of the program.

2. Section 3 of P.L.1987, c.350 (C.30:4G-15) is amended to read as follows:

C.30:4G-15 Personal assistance services program.

3. There is established a personal assistance services program in the Division of Disability Services in the Department of Human Services, to be administered by county designated agencies in each of the 21 counties. The program, within the limits of funds appropriated or otherwise made available to it, shall assist adults with permanent physical disabilities in the performance of routine, nonmedical tasks that are directly related to maintaining their health and independence, in order to enable these persons to be employed or receive training or education related to employment, parenting, or volunteering, or to support community-based independent living. The program shall seek to promote the greatest possible degree of self-control and self-direction on the part of each recipient of services.

3. Section 4 of P.L.1987, c.350 (C.30:4G-16) is amended to read as follows:

C.30:4G-16 Eligibility.

4. A person is eligible for the personal assistance services program if:
 - a. The person has a permanent physical disability;
 - b. The person is 18 through 70 years of age;
 - c. The person is a resident of this State;
 - d. The person is in need of personal assistance services pursuant to a written plan of service;
 - e. The person is capable of managing and supervising their personal assistance services;
 - f. A relative or other informal caregiver is not available to provide the services that the person needs;
 - g. The person lives or plans to live in a private house or apartment, rooming or boarding house, group home, educational facility or residential health care facility; and the personal assistance services that the person shall receive are supplemental to, and not duplicative of, services provided to the person in the rooming or boarding house, group home, educational facility or residential health care facility pursuant to licensure requirements. A person who resides, or is a patient, in a nursing, assisted living, or intermediate care facility, special hospital or other inpatient medical setting is not eligible for the personal assistance services program;
 - h. The attending physician of the person who shall receive the personal assistance services has confirmed in writing that the person has a permanent physical disability, requires no assistance in the coordination of therapeutic regimes, and that the personal assistance services will be appropriate to meet the person's needs; and
 - i. The person receives no more than 40 hours of personal assistance services from this program or any other program per week. The commissioner shall develop rules for individual exceptions to this requirement.
 - j. The commissioner shall develop rules for individual exceptions to the age criteria.

4. Section 10 of P.L.1993, c.215 (C.30:4G-16.1) is amended to read as follows:

C.30:4G-16.1 Personal assistance consumer bill of rights.

10. There is established a personal assistance consumer bill of rights. Each consumer, and, as appropriate, each applicant:

- a. Shall be treated with courtesy, respect, and full recognition of one's dignity, individuality, and right to control one's own household and lifestyle, including the identification and determination of one's own needs, schedules and the services necessary to meet these needs;
- b. Shall be served by personal assistants or vendors who are properly trained and competent to perform their duties;
- c. Shall receive services in compliance with all State laws and regulations without discrimination based on race, religion, gender, age, creed or disability in the provision or quality of services;
- d. Shall be free from mental and physical abuse, neglect and exploitation, and shall be free from chemical and physical restraints;
- e. Shall be accorded privacy while receiving services in communications and in all daily activities;
- f. Shall be accorded respect for one's property rights;
- g. Shall have one's personal, financial and medical records treated as confidential;
- h. Shall be free to fully exercise one's civil and due process rights and to be assisted by a personal assistant or vendors as appropriate and necessary;

- i. Shall receive in a timely manner all decisions regarding eligibility and amount and kind of services and the reasons therefor in writing and, if appropriate, orally, along with administrative hearings and appeals procedures;
- j. Shall have access to a fair appeals process through which disputes can be resolved;
- k. Shall receive written information regarding consumer standards and responsibilities in the personal assistance services program and to have them verbally explained as needed;
- l. Shall have as few personal assistants entering one's home as possible;
- m. Shall have the right to interview, screen and select one's personal assistant; and
- n. Shall dismiss those personal assistants who do not respect consumer rights.

5. Section 5 of P.L.1987, c.350 (C.30:4G-17) is amended to read as follows:

C.30:4G-17 Application process.

5. a. An individual requesting personal assistance services shall make an inquiry to the county designated agency in the county where the individual resides, or intends to reside. If the applicant meets the criteria set forth in subsections a., b., c., and g. of section 4 of P.L.1987, c.350 (C.30:4G-16), then the county designated agency shall furnish the applicant with a complete application package for services under the personal assistance services program. If the applicant does not meet the criteria set forth in subsections a., b., c., and g. of section 4 of P.L.1987, c.350, the individual shall be provided with written notification of ineligibility by the county designated agency.

b. Upon notification from the applicant that he has completed the application package, the county designated agency shall arrange for a social assessment of the applicant. The assessment shall be used to determine the applicant's eligibility as set forth in subsections d., e., f., h., and i. of section 4 of P.L.1987, c.350.

c. As part of the application process, the applicant shall prepare a personal assistance services plan, with participation from the county designated agency and assessor, if requested by the applicant, which will meet the applicant's need for personal assistance services. The plan shall include a list of the types of services required, and include an estimate of the time needed and frequency of services to be provided under the personal assistance services program.

d. Following receipt of the results of an assessment, the personal assistance services plan and the other application materials from the applicant, the county designated agency shall determine the applicant's eligibility and provide written notification of the result to the applicant.

e. If the applicant has been determined to be eligible, the county designated agency shall conduct a financial evaluation of the applicant to determine the requirement of the person, or person's spouse, to pay for personal assistance services, in accordance with the sliding fee scale established pursuant to section 7 of P.L.1987, c.350 (C.30:4G-19). If the eligible applicant is found to be responsible for the payment of cost share, the applicant shall be furnished with an estimate of the total monthly cost of services, and a statement of the percentage of total cost, or actual amount of money that the eligible person or the person's spouse is required to pay.

f. The county designated agency shall seek to implement the personal assistance services plan or Cash Management Plan, as applicable, prepared by the consumer, subject to the availability of funding for personal assistance services. The respective plan shall be revised upon request of the consumer or the county designated agency.

g. The county designated agency shall arrange for a comprehensive social and financial reassessment of the consumer at 12-month intervals.

h. In the event of a dispute between the applicant and the county designated agency with regard to the applicant's eligibility for the personal assistance services program or concerning the services plan prepared pursuant to subsection c. of this section, the applicant may request a hearing, which shall be conducted pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.).

i. The social assessments and financial evaluations performed pursuant to subsections b. and e., respectively, of this section, and the personal assistance services plan prepared pursuant to subsection c. of this section, shall be completed on forms prescribed by the commissioner.

j. To assure the timeliness of the process, the commissioner shall establish, in rules, specific time frames for the activities in subsections a., b., d. and e. of this section.

6. Section 6 of P.L.1987, c.350 (C.30:4G-18) is amended to read as follows:

C.30:4G-18 Fee schedule.

6. a. (Deleted by amendment, P.L.2009, c.160)

b. The commissioner shall establish a fee schedule for payments or reimbursements to providers of personal assistance services. The fee schedule shall be reviewed every two years and recommendations shall be made to the commissioner by the Statewide Consumer Advisory Council on Personal Assistance Services.

7. Section 7 of P.L.1987, c.350 (C.30:4G-19) is amended to read as follows:

C.30:4G-19 Sliding fee scale.

7. a. The commissioner shall establish a sliding fee scale for personal assistance services based upon the ability of an eligible person to pay for those services. The sliding fee scale shall apply only to an eligible person whose individual annual gross income is equal to or exceeds 350% of the federal poverty level. Any eligible person whose annual gross income is less than 350% of the federal poverty level shall not be required to pay for personal assistance services.

b. If the costs of an eligible person's personal assistance services are covered in whole or in part by another State or federal government program or insurance contract, the government program or insurance carrier shall be the primary payer and the personal assistance services program shall be the secondary payer.

c. The eligible person receiving personal assistance services and the personal assistant shall sign time sheets attesting to the hours of service rendered, and the personal assistant shall then be paid through the fiscal intermediary service organization.

8. Section 8 of P.L.1987, c.350 (C.30:4G-20) is amended to read as follows:

C.30:4G-20 Statewide Consumer Advisory Council on Personal Assistance Services.

8. a. There is established the Statewide Consumer Advisory Council on Personal Assistance Services in the Division of Disability Services in the department, which shall consist of 19 members, at least 75 percent of whom are consumers of personal assistance services.

(1) The members of the council shall include the Commissioner of Human Services, or his designee, who shall serve *ex officio*; and 18 public members appointed by the commissioner as follows:

(a) five members who are residents of Central New Jersey, which consists of Burlington, Hunterdon, Mercer, Middlesex, Monmouth, Somerset, and Warren counties;

(b) five members who are residents of Northern New Jersey, which consists of Bergen, Essex, Hudson, Morris, Passaic, Sussex, and Union counties;

(c) five members who are residents of Southern New Jersey, which consists of Atlantic, Camden, Cape May, Cumberland, Gloucester, Ocean, and Salem counties;

(d) one member who represents a fiscal intermediary service organization;

(e) one member who represents a training vendor; and

(f) one member who represents a vendor.

(2) Vacancies in the membership of the advisory council shall be filled in the same manner provided for the original appointments. The members of the advisory council shall serve without compensation but shall be reimbursed for the reasonable expenses necessarily incurred in the performance of their duties.

(3) The public members of the council shall serve for a term of three years from the date of their appointment, and until their successors are appointed; except that, of the members serving on the council on the date of enactment of P.L.2009, c.160, the commissioner shall designate six members to serve for a term of one year, six members to serve for a term of two years, and six members to serve for a term of three years.

(4) A member of the council shall be eligible for reappointment.

b. The advisory council shall organize no later than 30 days after the appointment of its members and shall select a chairperson and vice chairperson from among its members and a secretary who need not be a member of the advisory council.

c. The department shall provide such administrative and professional support as needed to carry out its work.

d. It shall be the responsibility of the advisory council to:

(1) Advise the commissioner on matters pertaining to personal assistance services and the development of the personal assistance services program, upon the commissioner's request;

(2) Review the rules adopted for the personal assistance services program and make recommendations to the commissioner thereon;

(3) Evaluate the effectiveness of the personal assistance services program in meeting its objectives and share that evaluation with the commissioner; and

(4) Actively explore innovative service delivery models to enhance the consumer-driven nature of the personal assistance services program.

C.30:4G-22 Direct contract with provider.

9. A consumer shall be free to contract directly with a provider of the consumer's choice, including a vendor providing services on the effective date of P.L.2009, c.160 if the vendor so agrees.

10. This act shall take effect on the 90th day following enactment.

Approved November 20, 2009.