WEST VIRGINIA CODE: §18-10A-4A

§18-10A-4a. Attendant care services.

The purpose of this section is to declare the intent of the state to enable severely physically disabled adults to enter or continue in the workforce, to enhance the opportunities for disabled individuals to participate fully in society through self-fulfillment and economic independence.

The division shall administer the provision of attendant care services as a separate and distinct program to any severely physically disabled adult who is present in the state at the time of filing their application. The division may administer the program or may enter into a contract with a private or public organization to administer and operate the program. If the program is administered by the division, the funds shall be used as payments for attendant care services, evaluations, attendant management training and administrative costs. If the division enters into a contract with a private or public organization, the private or public organization may use the funds as payments for attendant care services, evaluations, attendant management training and for reasonable administrative costs. The administrative costs allowed under the contract shall be negotiated and approved by the director. The division shall establish a waiting list of eligible disabled individuals if sufficient funds are not available under the program. Determination will be made by a certified evaluation unit that such adult needs fourteen or more hours of attendant care per week: Provided, That the severely physically disabled adult is eighteen years of age or older, is employed or will be ready for employment within six months of the time application for services is made and has a total income of no more than $30,000 annually. The maximum income allowable will be recalculated each year based on changes in the consumer price index. The eligible adult shall be reevaluated by a certified evaluation unit at the direction of the division at least once every two years to determine their continuing need for attendant care services. The eligible adult is responsible for hiring, firing and supervising his or her attendant. Any subsidy received under the provisions of this section for the purpose of providing attendant care services shall not be considered income to the severely disabled person for any purpose to the extent permitted by federal law and regulations (IRS Act of 1954) but shall supplement any other aid for which the adult is eligible.

The division is responsible for accepting applications for attendant care services from severely physically disabled adults and making determinations of eligibility. The division shall provide for certifying evaluation units and shall make determination regarding certification for each evaluation unit which makes application.

The cost of evaluation fees, training of both attendants and eligible adults in the management of attendants and provision of attendant care services shall be borne by the division from funds allocated for this program.

The division shall acquire from a certified evaluation unit an evaluation of the attendant care

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needs for each applicant. Within thirty days of the time that any application for attendant care services is filed, the applicant shall be notified that arrangements have been made for the applicant to be evaluated by a certified evaluation unit. Based upon the evaluator's information, the division shall develop a plan for each eligible applicant that shall include the amount of attendant care time needed per week and an estimate of the length of time the attendant care services will be needed. Notice shall be given to the applicant and the evaluator as soon as a decision has been made regarding the eligibility of each applicant. If the recommendations of the certified evaluation unit are not followed, the division shall include the reasons for reaching its decision in the notice sent to the applicant and evaluator.

The division shall promulgate policies and procedures for the administration of this program. The division shall adopt rules for full fiscal accountability for all appropriated funds and financial assistance shall be given in accordance with a sliding payment scale established by the division. The division shall also establish a consumer advisory committee for the purpose of advising on policies and procedures and related matters involved in administration of the program.

The division shall be responsible for establishing an appeals procedure for those applicants who have been denied attendant care services and for informing all applicants of their right to appeal a decision of the division.

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