WEST VIRGINIA CODE CHAPTER 18 ARTICLE 10L

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§18-10L-1. Short title.

This article may be known and cited as the "Ron Yost Personal Assistance Services Act."

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§18-10L-2. Policy; principles; projects.

(a) It is hereby declared to be the public policy of this state that:

(1) Availability of personal assistance services for persons with disabilities should be increased to enable them to live in their own homes and communities;

(2) Recipients of personal assistance will be those with severe disabilities, including mental, sensory or physical impairments, or any combination of impairments, who are in need of assistance to live in a living arrangement of their choice in lieu of a more restrictive setting; and

(3) Recipients of personal assistance have the right to make decisions regarding and to control the provision of their personal assistance services. This includes, but is not limited to, hiring, training, managing, paying and terminating an assistant's employment.

(b) Implementation of the program established in this article shall be based on the following five basic principles:

(1) Services may be received where they are needed, either at home or in the community, subject to available funding;

(2) Services may be scheduled when they are needed, twenty-four hours a day, seven days a week, as scheduled or needed on an emergency basis, subject to available funding;

(3) Recipients contribute to the cost of services based on their ability to pay;

(4) Recipients are granted control over the services provided to the fullest extent possible including how, when and by whom services are provided; and

(5) Eligibility shall be based on functional needs rather than on a medical diagnosis.

(c) Subject to available funds, other personal assistance projects shall be developed to increase the availability of services throughout the state to serve eligible individuals.

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§18-10L-3. Definitions.

The following words and phrases, when used in this article, have the following meanings unless the context clearly indicates otherwise:

(1) "Personal assistance services" means:

(A) Those basic and ancillary services that enable eligible individuals to live in their homes and communities rather than in institutions and to carry out functions of daily living, self-care and mobility;

(B) Basic services include, but are not limited to, getting in and out of a bed, wheelchair or motor vehicle; assistance with routine bodily functions, such as health maintenance activities; bathing and personal hygiene; dressing and grooming; and feeding, including preparation and cleanup.

(2) "Personal assistant" means an individual of the consumer's choice who provides personal assistance services for the eligible individual.

(3) "Recipient" means any individual receiving funds through the Ron Yost personal assistance program.

(4) "Ron Yost personal assistance program functional assessment tool" means the written and physical evaluation used to determine eligibility of individuals to receive services and the hours of service to be provided under this article.

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§18-10L-4. Program requirements.

(a) To be eligible for assistance from the Ron Yost personal assistance program, a recipient must have a physical, mental or sensory impairment that affects one or more major life activity, and who:

(1) Experiences any physical, mental or sensory impairment, or combination of impairments, which can be expected to recur or last for a period of not less than twelve months as determined by the evaluation conducted using the Ron Yost personal assistance program functional assessment tool;

(2) Requires assistance to complete functions of daily living, self-care and mobility, including, but not limited to, those functions included in the definition of personal assistance services;

(3) Must apply for Medicaid and provide written documentation of eligibility or denial to the board; and

(4) Is currently not receiving personal assistance services through Medicaid.

(b) The Division of Rehabilitation Services shall, directly or through contract approved by the Ron Yost personal assistance services board:

(1) Administer the personal assistance services program in accordance with the state plan for independent living established pursuant to the provisions of section seven, article ten-m of this chapter; and

(2) Provide training, information, and referral services relating to state and federal payroll taxes, deductions and withholding, and wage withholding for child support and workers' compensation, to recipients as necessary.

(c) The West Virginia statewide independent living council, established pursuant to section six, article ten-m of this chapter, shall:

(1) Appoint members to the Ron Yost personal assistance services board to fulfill the functions as set forth in subsection (d) of this section. The board shall be composed of individuals with disabilities: Provided, That one member shall be a representative of the West Virginia statewide independent living council with a disability; and

(2) Develop and update as necessary, the Ron Yost personal assistance program functional assessment tool.

(d) The Ron Yost personal assistance services board shall:

(1) Determine eligibility and approve hours of service for all applicants based on functional assessments conducted using the Ron Yost personal assistance program functional

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assessment tool. Each determination shall be in writing, a copy of which shall be provided to the applicant;

(2) Monitor disbursements and utilization of the program;

(3) Survey consumer satisfaction and recommend program revisions to the Division of Rehabilitation Services;

(4) Develop and maintain a waiting list for those eligible individuals who cannot be served immediately;

(5) Contract with public or private entities to assist in fulfilling the functions set forth in this subsection;

(6) Approve contracts proposed by the Division of Rehabilitation Services with a public or private entity for the fiscal management of the program established under this article; and

(7) Establish operating procedures.

(e) No member of the board is eligible to receive personal assistance services through the program provided for in this article.

(f) Recipients shall:

(1) Apply for services through Medicaid and provide a copy of that determination to the board;

(2) Comply with the employer responsibilities of hiring, supervising and, if needed, terminating the employment of a personal assistant;

(3) Manage his or her own financial and legal affairs regarding the Ron Yost personal assistance program; and

(4) Designate an individual, if necessary, to assist in fulfilling the functions set forth in this subsection.

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§18-10L-5. Funding.

(a) There is hereby created in the State Treasury a special fund designated the Ron Yost Personal Assistance Services Fund. The fund shall be an appropriated account within the Division of Rehabilitation Services and the moneys shall be expended exclusively for the purposes of this article.

(b) Funds made available under this article may be used only for the Ron Yost Personal Assistance Program, including planning; designing; delivering; and administering services, functional assessment evaluations, and training. The Division of Rehabilitation Services may use not more than seven percent of the total allocation for administrative costs.

(c) The Division of Rehabilitation Services or the contracted program administrator may apply for and use all other funding sources to carry out this program, including state, federal, and other grants and donations.

(d) Funds shall be disbursed in a manner that ensures maximum consumer control of the services provided under the program.

(e) Personal assistance services shall be available only to the extent funding is available through annual appropriations of state, federal, and other allotted funds.

(f) Funds or services provided to eligible individuals by the personal assistance services program under this article is not income to those individuals for any purpose under this code or under the rules of any agency of state government.

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§18-10L-6. Rules.

The Division of Rehabilitation Services, as directed by the consumer board, shall propose rules for legislative approval in accordance with the provisions of article three, chapter twenty-nine-a of this code, necessary for the effective administration of this article including a sliding scale for funding based on the recipient's, as the employer, ability to contribute to the cost of services.

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§18-10L-7. Report.

[Repealed.]

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§18-10L-8.

Repealed.

Acts, 2010 Reg. Sess., Ch. 32.

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