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OFFICE OF THE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

SECOND REGULAR SESSION, 2004



ENROLLED

COMMITTEE SUBSTITUTE
FOR

House Bill No. 4085

(By Delegate Beane)



Passed March 13, 2004

In Effect from Passage

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H. B. 4085

(BY DELEGATE BEANE)

[Passed March 13, 2004; in effect from passage.]

AN ACT to amend and reenact §18-10L-3, §18-10L-4 and §18-10L-5 of the code of West Virginia, 1931, as amended, all relating generally to the Ron Yost personal assistance services act; modifying definitions; clarifying requirements to receive personal assistance services; providing that the division of rehabilitation services shall directly or through contract administer program; providing that the statewide independent living council shall appoint members of board; duties of board members; board to approve contracts proposed by division of rehabilitation services; providing that no member of board can receive services through program; and duties of recipients.

Be it enacted by the Legislature of West Virginia:

That §18-10L-3, §18-10L-4 and §18-10L-5 of the code of West Virginia, 1931, as amended, be amended and reenacted, all to read as follows:

ARTICLE 10L. RON YOST PERSONAL ASSISTANCE SERVICES ACT.

§18-10L-3. Definitions.

1 The following words and phrases, when used in this article,
2 have the following meanings unless the context clearly indi-
3 cates otherwise:

4 (1) “Personal assistance services” means:

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

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

14 (2) “Personal assistant” means an individual of the con-
15 sumer’s choice who provides personal assistance services for
16 the eligible individual.

17 (3) “Recipient” means any individual receiving funds
18 through the Ron Yost personal assistance program.

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

§18-10L-4. Program requirements.

1 (a) To be eligible for assistance from the Ron Yost personal
2 assistance program, a recipient must have a physical, mental or

3 sensory impairment that affects one or more major life activity,
4 and who:

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

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

14 (3) Must apply for medicaid and provide written documen-
15 tation of eligibility or denial to the board; and

16 (4) Is currently not receiving personal assistance services
17 through medicaid.

18 (b) The division of rehabilitation services shall, directly or
19 through contract approved by the Ron Yost personal assistance
20 services board:

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

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

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

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

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

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

41 (1) Determine eligibility and approve hours of service for
42 all applicants based on functional assessments conducted using
43 the Ron Yost personal assistance program functional assess-
44 ment tool. Each determination shall be in writing, a copy of
45 which shall be provided to the applicant;

46 (2) Monitor disbursements and utilization of the program;

47 (3) Survey consumer satisfaction and recommend program
48 revisions to the division of rehabilitation services;

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

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

53 (6) Approve contracts proposed by the division of rehabili-
54 tation services with a public or private entity for the fiscal
55 management of the program established under this article; and

56 (7) Establish operating procedures.

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

60 (f) Recipients shall:

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

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

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

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

§18-10L-5. Funding.

1 (a) There is hereby created in the state treasury a special
2 fund designated the “Ron Yost Personal Assistance Services
3 Fund”. The fund shall be an appropriated account within the
4 division of rehabilitation services and the moneys shall be
5 expended exclusively for the purposes of this article.

6 (b) Funds made available for programs under this article
7 may be used only for the planning, designing, delivering and
8 administering of personal assistance services and training. The
9 division of rehabilitation services may use not more than seven
10 percent of the total allocation for administrative costs.

11 (c) The division of rehabilitation services may apply for and
12 use all funding sources to carry out this program, including
13 state and federal funds, program fees and other allocated
14 moneys.

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

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

21 (f) Funds or services provided to eligible individuals by the
22 personal assistance services program under this article shall not
23 be considered as income to those individuals for any purpose
24 under this code or under the rules of any agency of state
25 government.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within is approved this the 6th
day of April, 2004.

Governor

PRESENTED TO THE
GOVERNOR

DATE

4-1-04

TIME

4:35pm