WEST VIRGINIA LEGISLATURE
SECOND REGULAR SESSION, 2004

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ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 4085

(By Delegate Beane)

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Passed March 13, 2004

In Effect from Passage
ENROLLED

COMMITTEE SUBSTITUTE

FOR

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.

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.

§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 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.

§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 for programs under this article may be used only for the planning, designing, delivering and administering of personal assistance services 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 may apply for and use all funding sources to carry out this program, including state and federal funds, program fees and other allocated moneys.

(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 shall not be considered as income to those individuals for any purpose under this code or under the rules of any agency of state 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
4-1-04
4:35 pm