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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2003

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- HOME AND COMMUNITY
CARE SERVICES TO THE ELDERLY

Introduced By: Senators Gibbs, Roberts, Parella, Perry, and Breene

Date Introduced: February 26, 2003

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 42-66.3-1, 42-66.3-3, 42-66.3-4, 42-66.3-5 and 42-66.3-8 of the
2 General Laws in Chapter 42-66.3 entitled "Home and Community Care Services to the Elderly"
3 are hereby amended to read as follows:

4 **42-66.3-1. Definitions.** -- As used in this chapter:

5 (1) "Adult day services program" is an agency licensed through the department of elderly
6 affairs that provides a comprehensive supervised program on a regular basis to physically and/or
7 mentally handicapped adults for a substantial part of a day in a single physical location for a
8 specified number of participants daily. Adult day services may include, medical supervision,
9 social and educational activities, snacks and/or hot lunch.

10 (2) "Case management agency" means a community-based agency designated by the
11 department of elderly affairs to provide case management service for home and community care
12 clients.

13 (3) "Director" means the director of the department of elderly affairs.

14 (4) "Home and community care services" means arranging or providing directly or
15 through contract arrangement ~~adult day care~~ adult day care services -- home health aid/homemaker services.

16 (5) "Home care agency" means an agency licensed by the department of health as a
17 "home nursing provider" and/or "home care provider" under the provisions of chapter 17 of title
18 1-1823.

1 (6) “Long-term care ombudsperson” means the person or persons designated by the
2 director of the department of elderly affairs for the purpose of advocating on behalf of recipients
3 of long-term care services and of receiving, investigating and resolving through mediation,
4 negotiation and administrative action complaints filed by recipients of long-term care services;
5 individuals acting on their behalf or any individual organization or government agency that has
6 reason to believe that a long-term care agency has engaged in activities, practices or omissions
7 that constitute a violation of applicable statutes or regulations or that may have an adverse effect
8 upon the health, safety, welfare, rights or the quality of life of recipients of long-term care
9 services.

10 ~~(3)~~ (7) “Home health aide services” means simple health care tasks, personal hygiene
11 services, housekeeping tasks essential to the patient's health, and other related supportive
12 services. These services shall be in accordance with a plan of treatment for the patient and shall
13 be under the supervision of a registered professional nurse, and under the supervision of the
14 appropriate professional therapist when the home health aide carries out simple procedures as an
15 extension of physical, speech, or occupational therapy the appropriate health care professional
16 These services shall be provided by a person who meets the standards established by the
17 department of health.

18 ~~(4)~~ (8) "Homebound" means the condition of the client is such that the client does not
19 have the normal ability to leave home, consequently leaving the home requires a considerable and
20 taxing effort by the client. A client does not have to be confined to bed to be homebound.

21 ~~(5)~~ (9) "Homemaker services" means assistance and instruction in managing and
22 maintaining a household and incidental household tasks for persons at home because of illness,
23 incapacity, or the absence of a caretaker relative. These services shall be provided by a person
24 who meets the standards established by the department of health.

25 (10) “Assisted living residences” means a publicly or privately operated residence that
26 provides directly or indirectly by means of contracts or arrangements personal assistance to meet
27 the resident’s changing needs and preferences, lodging, and meals to two (2) or more adults who
28 are unrelated to the licensee or administrator, excluding however, any privately operated
29 establishment or facility licensed pursuant to chapter 17 of title 23, as amended, and those
30 facilities licensed by or under the jurisdiction of the department of mental health, retardation, and
31 hospitals, the department of children, youth and families, or any other state agency. Assisted
32 living residences include sheltered care homes, and board and care residences or any other entity
33 by any other name providing the above services which meet the definition of assisted living
34 facilities.

1 (11) “Respite care services” means temporary care given inside or outside the home of a
2 client who cannot entirely care for themselves and thereby offers relief to caregivers. For the
3 purposes of this chapter, these services are provided by an agency funded by the department of
4 elderly affairs to provide respite care services.

5 **42-66.3-3. Services available.** -- Home and community care services shall consist of:
6 ~~home health aide service/homemaker services and adult day care services.~~ (1) medicaid waiver
7 services for Medicaid eligible clients; or (2) for the state funded co-payment program, case
8 management, a combination of homemaker/personal care services and other support services
9 deemed necessary by the director.

10 **42-66.3-4. Persons eligible.** – (a) To be eligible for this program the client must be
11 determined, through a functional assessment, to be in need of assistance with activities of daily
12 living or meets an institutional level of care;

13 ~~(a) (b) Homebound residents~~ Medicaid eligible individuals age sixty-five (65) or older of
14 the state who meet the financial guidelines of the Rhode Island medical assistance program
15 except that they may retain cash and/or liquid resources not exceeding four thousand dollars
16 (\$4,000) for an individual and six thousand dollars (\$6,000) for a married couple, shall be
17 provided the services without charge; or

18 ~~(b) (c)~~ (c) Persons eligible for assistance under the provisions of this section, subject to the
19 annual appropriations deemed necessary by the general assembly to carry out the provisions of
20 this chapter, include: (1) any homebound unmarried resident or homebound married resident of
21 the state living separate and apart ~~of the state,~~ who is at least sixty-five (65) years of age,
22 ineligible for medicaid, and whose income does not exceed the income eligibility for persons
23 eligible under section 42-66.2-5(1)(i) and (2)(i) for the Rhode Island pharmaceutical assistance to
24 the elderly program; and (2) any married resident of the state who is at least sixty-five (65) years
25 of age, ineligible for medicaid, and whose income when combined with any income of that
26 person's spouse does not exceed the income eligibility for persons eligible under section 42-66.2-
27 5(1)(i) and 2(i) for the Rhode Island pharmaceutical assistance to the elderly program. Persons
28 who meet the eligibility requirement of this subsection shall be eligible for the co-payment
29 portion as set forth in section 42-66.3-5.

30 **42-66.3-5. Amount of co-payment.** -- ~~The state shall pay sixty percent (60%) of the~~
31 ~~maximum allowable amount per service as formulated in the contract, as of the date of purchase~~
32 ~~of the service between the contractor and department of elderly affairs. The director may~~
33 ~~promulgate rules and regulations for special circumstances which allow the state to pay ninety~~
34 ~~percent (90%) of the maximum allowable amount per service as formulated in the contract, as of~~

1 ~~the date of purchase of the service between the contractor and the department of elderly affairs.~~
2 ~~Rules and regulations for special circumstances dealing with this section shall consider the~~
3 ~~client's needs and ability to pay.~~ The department of elderly affairs shall establish client co-
4 payments by regulation in accordance with section 42-66.3-7.

5 **42-66.3-8. Home and community care advisory committee. [Effective January 7,**
6 **2003.]** -- (a) There is established a permanent state committee to be known as the home and
7 community care services advisory committee established for the purpose of advising the director
8 of elderly affairs relative to the needs and concerns of home and community care services care
9 recipients. ~~The commission shall consist of fifteen (15) members, three (3) of whom shall be~~
10 ~~members of the American association of retired persons to be appointed by the speaker of the~~
11 ~~house; one of whom shall be a member of the national retired teachers association to be appointed~~
12 ~~by the senate majority leader; one of whom shall be the director of human services or his or her~~
13 ~~designee; one of whom shall be the auditor general or his or her designee; one of whom shall be~~
14 ~~the executive director of the visiting nurses association of Rhode Island or his or her designee;~~
15 ~~three (3) of whom shall be representatives of the visiting nurses agencies within the state, one to~~
16 ~~be appointed by the senate majority leader, one to be appointed by the senate minority leader; and~~
17 ~~one to be appointed by the speaker; three (3) of whom shall be representatives of home and~~
18 ~~community care services, two (2) to be appointed by the speaker of the house, and one to be~~
19 ~~appointed by the house minority leader; one of whom shall be a third party insurer to be~~
20 ~~appointed by the senate majority leader; and one of whom shall be the director of health or his or~~
21 ~~her designee.~~ twenty-three (23) members: six (6) of whom shall be representatives of the general
22 public age sixty (60) years of age or older, two (2) to be appointed by the speaker of the house
23 who shall be members of AARP; one (1) to be appointed by the house minority leader; two (2) to
24 be appointed by the senate president; one (1) of whom shall be a member of AARP; and one (1)
25 to be appointed by the senate minority leader; one (1) of whom shall be a representative of the
26 general public, fifty-nine (59) years of age or under to be appointed by the governor's
27 commission on disability; six (6) of whom shall be representatives of home and community care
28 providers to be appointed by the director of elderly affairs, including, one (1) representative of
29 adult day services centers; one (1) representative of assisted living residences; one (1)
30 representative of home nursing care providers/home care providers; one (1) representative of case
31 management agencies; one (1) representative of respite care providers; and one (1) representative
32 of a visiting nurses association; one (1) of whom shall be a family caregiver or a person sixty (60)
33 years of age or older to be appointed by the director of elderly affairs; one (1) of whom shall be
34 the long-term care ombudsperson; one (1) of whom shall be the chairperson of long-term care

1 coordinating council or his or her designee; one (1) of whom shall be the health care advocate of
2 the attorney general's department; one (1) of whom shall be the executive director of the Rhode
3 Island partnership for home care incorporated, or his or her designee; one (1) of whom shall be
4 the director of the Rhode Island visiting nurse network, or his or her designee; one (1) of whom
5 shall be the director of the Rhode Island chapter of the alzheimer's association, or his or her
6 designee; one (1) of whom shall be the director of health, or his or her designee; one (1) of whom
7 shall be the director of human services, or his or her designee; and one (1) of whom shall be the
8 director of mental health, retardation and hospitals, or his or her designee.

9 (b) The members of the committee shall meet at the call of the ~~speaker of the house~~
10 director and organize and shall select from among themselves a chairperson. Vacancies in the
11 committee shall be filled in the same manner as the original appointment. The membership of the
12 committee shall receive no compensation for their services, ~~but shall be allowed their travel and~~
13 ~~necessary expenses.~~ The committee may ~~engage any clerical,~~ call upon the department of elderly
14 affairs to provide technical and other assistance as it may deem necessary, ~~and spend those other~~
15 ~~funds as are necessary~~ to accomplish its purpose.

16 (c) All departments and agencies of the state shall furnish any advice and information,
17 documentary and otherwise, to the committee and its agents as is deemed necessary or desirable
18 by the committee to facilitate the purposes of this chapter.

19 ~~(d) The director of administration is authorized and directed to provide suitable quarters~~
20 ~~for the committee.~~

21 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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- 1 This act would update the home and community care statute to reflect current practice
- 2 and would modify the membership of the home and care advisory committee.
- 3 This act would take effect upon passage.

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