

2022 -- H 7633

LC004685

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

A N A C T

RELATING TO HUMAN SERVICES – PERSONAL CARE ATTENDANT PROGRAM FOR MINORS

Introduced By: Representatives Fellela, Messier, Ajello, Serpa, and J Lombardi

Date Introduced: March 02, 2022

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 40 of the General Laws entitled "HUMAN SERVICES" is hereby  
2 amended by adding thereto the following chapter:

3 CHAPTER 8.16

4 PERSONAL CARE ATTENDANT PROGRAM FOR MINORS

5 **40-8.16-1. Short title.**

6 This chapter shall be known and may be cited as the "Personal Care Attendant Program for  
7 Minors".

8 **40-8.16-2. Definitions.**

9 For purposes of this section, the following terms shall have the following meanings:

10 (1) "Attendant care services" means one or more of the following types of care or service  
11 provided for compensation: assistance with personal care, including dressing, bathing, shaving, and  
12 grooming, and assistance with eating, meal preparation, and ambulation. Recipients of attendant  
13 care services shall have the opportunity to hire, train, and terminate the employment of attendants  
14 as necessary, establish work schedules, manage the services, and oversee payments of attendants  
15 and recordkeeping.

16 (2) "Department" means the department of human services.

17 (3) "Family member" means an individual who is related to a person by blood, civil  
18 marriage, civil union, or adoption, or who considers himself or herself to be family based upon

1 bonds of affection, and who currently shares a household with such a person or has, in the past,  
2 shared a household with that person. For purposes of this definition, the phrase "bonds of affection"  
3 means enduring ties that do not depend on the existence of an economic relationship.

4 (4) "Personal care attendant" means an individual, including a personal aide, who has been  
5 selected by a consumer or the consumer's surrogate to provide personal care services to minors  
6 with disabilities under the personal care attendant program for minors or any successor program.

7 (5) "Personal services" means attendant care services provided to a Medicaid-eligible  
8 individual who is a minor and who has a disability, in his or her home, which are necessary to avoid  
9 institutionalization.

10 (6) "Surrogate" means a consumer's parent or legal guardian and whom is responsible for  
11 hiring, directing and firing on behalf of the consumer.

12 **40-8.16-3. Authority to establish program - Administration.**

13 The department is hereby authorized to establish a participant-directed personal care  
14 attendant program for minors with severe physical disabilities, to provide personal attendant care  
15 to those disabled minors who meet certain eligibility criteria hereinafter stated. The department  
16 shall be responsible for the administration of the program but may contract with other state agencies  
17 or nonprofit organizations in connection with the program.

18 **40-8.16-4. Services provided.**

19 Services that may be provided to eligible minors if not available from other sources  
20 include:

21 (1) Any appropriate vocational rehabilitation service, as well as other services that will  
22 enhance the ability of minors with disabilities to become independent and function within the  
23 family and community;

24 (2) Attendant care services as defined in § 40-8.16-2;

25 (3) Advocacy services;

26 (4) Peer counseling;

27 (5) Housing; and

28 (6) Transportation.

29 **40-8.16-5. Eligibility for services.**

30 Services available under this chapter may be provided to any minor who meets the  
31 following criteria:

32 (1) Whose surrogate has made application therefor to the director of the department in a  
33 manner prescribed by the director;

34 (2) Has a severe physical disability that caused the person to be unduly dependent, the

1 disability to be certified by the division of vocational rehabilitation; and

2 (3) The surrogate does not have sufficient income or resources to meet the cost of home-  
3 care services, a determination of insufficiency to be made by the division of vocational  
4 rehabilitation.

5 **40-8.16-6. When services may be provided.**

6 Personal care attendant services may be provided when the requirements of §§ 40-8.16-4  
7 and 40-8.16-5 are met.

8 **40-8.16-7. Qualifications of the personal care attendant.**

9 (a) An individual must meet the following criteria in order to qualify as a personal care  
10 attendant:

11 (1) Must be at least eighteen (18) years of age;

12 (2) Must be a currently certified homemaker/home health aide;

13 (3) Must have legal authorization to work in the United States and have a social security  
14 number;

15 (4) Must have the ability to understand and carry out instructions provided by the minor's  
16 parent(s) and/or legal guardian(s); and

17 (5) Willing to receiving training and supervision as required by the department.

18 (b) A personal care attendant of a minor may be the minor's surrogate.

19 **40-8.16-8. Payment to personal care attendant of a minor.**

20 (a) The department of human services shall establish provider rates for home and  
21 community-based service in accordance with the following factors:

22 (1) Whether a provider is an individual or an agency; and

23 (2) The range of rates submitted by various providers.

24 (b) The rate of specific eligible personal care attendant shall be established at the time the  
25 provider agreement is signed.

26 (c) The department shall determine the maximum amount allowable per consumer each  
27 month for a specific service.

28 (d) The department or its designee shall establish the aggregate maximum amount  
29 allowable per consumer each month for all services.

30 (e) Personal care attendant services shall be limited to a maximum of forty (40) hours per  
31 calendar work week.

32 (f) Personal care attendant services authorized for two (2) or more minors living in the  
33 same residence shall require a combination of individual personal care services to address hands-  
34 on care needs and group hours to address the non-personal care needs such as meal preparation.

1 shopping, laundry, or housekeeping, for billing purposes.

2 **40-8.16-9. Appropriations.**

3 There is hereby appropriated to the department funds adequate to implement an  
4 independent-living program in accordance with § 40-8.1-5, including a participant-directed  
5 personal care attendant program for minors, in the amount of one million dollars (\$1,000,000) for  
6 fiscal year ending June 30, 2023. Additional funds shall be made available on a yearly basis to  
7 maintain the program.

8 **40-8.16-10. Department to recover funds upon establishment of noncompliance.**

9 A personal care attendant shall not submit a claim for payment or receive service payments  
10 for services that have not been delivered in accord with department policies and procedures. The  
11 department shall recover all payments received by a personal care attendant who fails to deliver the  
12 services in accord with the provider agreement or department policy and procedure.

13 **40-8.16-11. Denial, reduction and termination of services - Appeal.**

14 (a) The department or its designee shall inform a person who is determined to be ineligible  
15 for covered services or who becomes ineligible while receiving services in writing of the denial,  
16 termination, or reduction, the reasons for the denial, termination, or reduction, the right to appeal,  
17 and the appeal process.

18 (b) The consumer must receive ten (10) calendar days written notice before termination of  
19 services occurs. The ten (10) day notice is not required if:

20 (1) The consumer entered a basic care facility or a nursing facility;

21 (2) The termination is due to changes in federal or state law;

22 (3) The client requests termination of services; or

23 (4) The client moves out of state.

24 **40-8.16-12. Severability.**

25 If any provisions of this chapter or the application thereof to any person or circumstance is  
26 for any reason held to be invalid, the remainder of the chapter and the application of such provision  
27 to other persons or circumstances shall not be affected thereby.

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO HUMAN SERVICES – PERSONAL CARE ATTENDANT PROGRAM FOR  
MINORS

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1           This act would create a personal care attendant program for minors with disabilities to  
2 provide personal care to those individuals to enable the individual to remain at home and work  
3 towards becoming independent within the community. A personal care attendant may be a family  
4 member of the disabled minor, including a parent and/or guardian, who may be paid through the  
5 program.

6           This act would take effect upon passage.

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