

**CHAPTER 20. FAMILY CAREGIVER SUPPORT PROGRAM****GENERAL PROVISIONS**

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**Authority**

The provisions of this Chapter 20 issued under the Family Caregiver Support Act (62 P.S. §§ 3061—3068), unless otherwise noted.

**Source**

The provisions of this Chapter 20 adopted July 10, 1992, effective July 11, 1992, 22 Pa.B. 3697, unless otherwise noted.

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**GENERAL PROVISIONS****§ 20.1. Scope and authority.**

(a) The purpose of this chapter is to set forth regulations governing the administration and operation of the Program under the act.

(b) This chapter applies to the Department, area agencies on aging, service providers under contract with an area agency on aging to provide services under this chapter and caregivers and carereceivers who receive benefits of the Program.

**§ 20.2. Definitions.**

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

*Act*—The Family Caregiver Support Act (62 P.S. §§ 3061—3068).

*Area agency on aging*—The local agency designated by the Department within each planning and service area to administer the delivery of a comprehensive and coordinated plan of social and other services and activities in the planning and service area.

*Assistive devices*—Nondisposable personal devices, as distinguished from modifications to a home, that are usable to assist the carereceiver, or the caregiver on the carereceiver's behalf, to carry out an activity of daily living and, thereby, reduce the caregiver's burden.

*Benefits counseling*—A service that provides family caregivers with an individual, comprehensive review of their caregiving situations to identify appropriate resources available and to assist caregivers to access these resources.

*Caregiver education or caregiver training*—Services that provide instruction or training to family caregivers, in groups or individually, in general and specific information or skills required in the care of functionally impaired older persons.

*Carereceiver*—A functionally dependent older adult or other adult with chronic dementia such as Alzheimer's Disease who is being cared for by a relative who lives in the same residence.

*Chronic dementia*—An irreversible global loss of cognitive function causing evident intellectual impairment which always includes memory loss, without alteration of state of consciousness as diagnosed by a physician and which is severe enough to interfere with work or social activities, or both, and to require continuous care or supervision.

*Consumable supplies*—Expendable items needed on an ongoing basis to provide care to a carereceiver. Consumable supplies do not include prescription drugs.

*Continuous supervision*—Uninterrupted care which does not preclude brief periods when the carereceiver may be left alone, if appropriate and consistent with the care plan.

*Department*—The Department of Aging of the Commonwealth.

*Functionally dependent*—Requiring enough assistance with one or more activities of daily living to be deemed by the area agency on aging, under this chapter, to require continuous care or supervision. Limitations contributing to the functional dependency may include physical or cognitive impairments.

*Home modifications*—Reasonable modifications, approved under this chapter, to the structure of a home for the purpose of reducing caregiver burden. The term does not include repairs.

*Household*—Persons who occupy the same residence.

*Household income*—The income of all members of a household with the exception of a minor or dependent student.

*Income*—Income, from whatever source derived, as specified in § 20.23 (relating to income).

*OPTIONS*—A program operated by the Department for persons who need long term care because they are functionally disabled. The program provides a continuum of assessment, care management and services which may make it possible for a functionally disabled person to be maintained in the community as an alternative to institutional placement. Each of these three functions under *OPTIONS*—assessment, care management and services—is divided into Level I or Level II based on the intensity and complexity of need.

*Older adult or older person or older relative*—A person who is 60 years of age or older, and who is a relative of the caregiver.

*Ongoing caregiving expenses*—The costs of respite care and other supportive services or consumable supplies which are directly related to the provision of care to the older relative.

*Other adult*—A person 18 years of age or older residing within this Commonwealth who is suffering from a chronic dementia such as Alzheimer's Disease.

*Other supportive services*—Services other than respite care services that are directly related and necessary to the care being provided to the carereceiver and which are noted in the client's care plan. These services may include the following:

- (i) Personal care skills training and other caregiver education services not available directly from the Program.
- (ii) Counseling under a certified counseling or mental health agency.
- (iii) Legal and financial counseling necessary to manage the affairs of the carereceiver.
- (iv) Specialized transportation services.

*Planning and service area*—The geographic unit within this Commonwealth, as designated by the Secretary, for the allocation of funds for the delivery of social services to older persons residing in that unit.

*Poverty level*—The income level indicated in the Federal Poverty Income Guidelines developed, annually updated and published in the *Federal Register* by the United States Department of Health and Human Services.

*Primary caregiver*—The one identified relative who has assumed the primary responsibility for the provision of care needed to maintain the physical or mental health of a functionally dependent older adult or other adult suffering from chronic dementia such as Alzheimer's Disease, who lives in the same residence with the individual on a continuous basis and does not receive financial compensation for the care provided.

*Program*—The Family Caregiver Support Program.

*Relative*—A spouse or parent; child; stepparent; stepchild; grandparent; grandchild; brother; sister; half-brother; half-sister; aunt; great aunt; uncle; great uncle; niece; or nephew, by blood, marriage or adoption.

*Respite care service*—A regular, intermittent or emergency service which provides the primary caregiver of a functionally dependent older adult or other adult suffering from a chronic dementia such as Alzheimer's Disease with relief from normal caregiving duties and responsibilities.

*Same residence*—A house, apartment, mobile home, group of rooms, or single room, occupied as separate living quarters.

*Secretary*—The Secretary of the Department.

#### Cross References

This section cited in 6 Pa. Code § 20.21 (relating to eligibility for Program benefits).

### PROGRAM ADMINISTRATION

#### § 20.11. Administrative functions and responsibilities of the Department.

- (a) The Department will administer the Program under contract with area agencies on aging.
- (b) In the administration of the Program, the Department's functions and responsibilities include the following:
  - (1) The review and approval of annual Program plans submitted by area agencies on aging under § 20.12 (relating to administrative functions and responsibilities of area agencies on aging).
  - (2) The allocation to area agencies on aging of funds appropriated for the provision of services and benefits under this chapter.
  - (3) The establishment and maintenance of minimum standards for the operation of the Program and the provision of services and benefits under this chapter.
  - (4) The development and maintenance of fiscal and service data collection forms and procedures for collecting information on families served and services and benefits provided.

(5) The monitoring of local Programs for compliance with this chapter and approved area agency on aging Program plans.

**§ 20.12. Administrative functions and responsibilities of area agencies on aging.**

(a) *General.*

(1) Each area agency on aging shall administer a Program under this chapter in its planning and service area.

(2) In the administration of the Program, the functions and responsibilities of the area agency on aging shall include the following:

(i) The development and submission of a Program plan under subsection (b).

(ii) The coordination of service development and delivery under this chapter with other appropriate agencies and organizations in the community, with special efforts to develop and maintain an effective network of local support for family caregivers.

(iii) The collection and submission to the Department of Program and fiscal information on families served, and services and benefits provided, on forms provided by the Department.

(b) *Program plans.* Each area agency on aging shall submit annually a plan which includes the following information:

(1) An organizational chart which illustrates the staffing and flow of decisionmaking for the Program.

(2) A discussion of how the agency will assign casework staff to the Program to achieve and maintain the consistency required under § 20.32 (relating to assessment and care management).

(3) A training plan which describes special training for staff persons to be assigned to the project.

(4) A description of the procedures to be used for reimbursing caregivers.

(5) A description of area agency on aging strategies for the strengthening or developing of a local network of family caregiver resources. At a minimum, an area agency on aging shall form and utilize an inter-organizational advisory or oversight committee to establish or enhance a local network of caregiver resources. This committee may be an adjunct of the area agency on aging advisory council. The use of network models that involve local voluntary groups, churches, health care organizations active in the areas of Alzheimer's Disease, support groups for family caregivers and other similar organizations is strongly encouraged.

(6) An explanation of how the area agency on aging will assure that all ethnic groups and economic levels of the community are effectively reached by the Program.

(7) A description of strategies for carrying out caregiver education so that different kinds of caregiver education needs are effectively met. Caregiver edu-

cation shall involve, to the extent possible, the participation of existing community resources. These efforts may include support groups if appropriate.

(8) A 12-month operating budget on a form provided by the Department.

(c) *Program compliance.* Failure of an area agency on aging to comply with corrective action requirements resulting from the Department's compliance monitoring shall lead to sanctions imposed by the Department when, after discussion, the area agency on aging and the Department are unable to reach a mutually satisfactory resolution of the noncompliance issue.

#### Cross References

This section cited in 6 Pa. Code § 20.11 (relating to administrative functions and responsibilities of the Department); 6 Pa. Code § 20.32 (relating to assessment and care management); 6 Pa. Code § 20.41 (relating to general reimbursement); and 6 Pa. Code § 20.42 (relating to ongoing caregiving expenses).

### CAREGIVER PARTICIPATION

#### § 20.21. Eligibility for Program benefits.

(a) *General.* The services and benefits of the Program are available to the primary caregiver of a functionally dependent older adult relative, or other adult relative suffering from a chronic dementia such as Alzheimer's Disease, who lives in the same residence and whose household income does not exceed 380% of the poverty level. In addition to a thorough family assessment, these services include benefits counseling, caregiver education and financial benefits. The financial benefits are available, as provided under §§ 20.41—20.45 (relating to reimbursement benefits), to reimburse caregivers for expenses directly related to the provision of care. Subject to the availability of appropriated funds allocated to a planning and service area, these benefits are available on a cost-sharing basis up to specified maximum amount according to the caregiver family's household income and documented expenditures.

(b) *Criteria for the determination of eligibility.* For a caregiver to be determined eligible for the services and benefits available under this chapter, the following criteria shall be met:

(1) The caregiver shall be the primary caregiver as defined under § 20.2 (relating to definitions).

(2) The primary caregiver and the carereceiver shall be relatives and live together in the same residence as defined under § 20.2.

(3) The caregiver family (carereceiver included) shall cooperate with the area agency on aging in the completion of a comprehensive assessment of the caregiver, the carereceiver and the caregiving environment as required under § 20.32 (relating to assessment and care management).

(4) The carereceiver shall be a functionally dependent older adult or other adult with a chronic dementia such as Alzheimer's Disease as diagnosed under § 20.32.

(5) The household income of the caregiver family, as provided under § 20.23 (relating to income), may not exceed 380% of the poverty level.

**§ 20.22. Conditions of participation.**

(a) *Certification of accountability.* As a condition of participation in the Program, an eligible primary caregiver shall sign a certification of accountability as provided under § 20.32 (relating to assessment and care management). The primary caregiver's signature on the certification will attest to the truth of information provided during the assessment and will indicate the caregiver's understanding of responsibility for compliance with Program requirements, especially those under §§ 20.41—20.45 (relating to reimbursement benefits) which relate to the reimbursement of caregiver expenses and the penalties for violation of this chapter.

(b) *Change of status.* It is the responsibility of the primary caregiver to report to the area agency on aging any change of status in the caregiving situation which might affect eligibility for the Program or the service plan developed under § 20.32. Reportable changes include significant changes in the health status of the carereceiver, living arrangements or household income, the ability of the caregiver to provide the necessary care and the availability of informal supports to the care being provided.

(c) *Documentation of information.* The area agency on aging shall require a primary caregiver to document household income with a copy of Federal income tax returns from the previous calendar year. If the required tax return is unavailable, examples of other documentation which may be provided are listed under § 20.23 (relating to income). The area agency on aging may require a primary caregiver to document other eligibility-related information provided during assessment.

(d) *Choice of available services.*

(1) Individual carereceivers and their caregiver families may not receive the services of the Program and Level II Services of the OPTIONS Program simultaneously. The caregivers of carereceivers who are on a waiting list for OPTIONS Level II Services may be accepted into the Program until the carereceiver is admitted to Level II Services. When a place becomes available in Level II Services, the area agency on aging, in full consultation with a family which has been in the Program while on the waiting list for Level II Services, shall review the relative benefits and the appropriateness of the two programs and choose the one which is most appropriate. This provision does not preclude the possibility of an OPTIONS Level II care recipient living in the same residence as a separate carereceiver and caregiver who are eligible to receive benefits and services under this chapter.

(2) Carereceivers who are assessed under the OPTIONS Program and referred to Level I Services may receive these services, when appropriate, in addition to their primary caregiver receiving benefits and services from the Program.

(e) *Protection from abuse.* A substantiated case of abuse, neglect, exploitation, abandonment as defined in The Older Adults Protective Services Act (35 P. S. §§ 10211—10224) or under another civil or criminal statute regarding an older adult, shall prohibit a caregiver from receiving benefits and services under this chapter unless authorized by the Department to prevent further abuse. The caregiver is required to certify on the certification of accountability under § 20.32 whether one or more of the following apply:

- (1) The caregiver has been convicted of a crime relating to abuse, neglect, exploitation or abandonment of an older adult.
- (2) The caregiver has been found civilly liable for abuse, neglect, exploitation or abandonment of an older adult.
- (3) The caregiver has been notified that the caregiver is an alleged perpetrator in a substantiated report of need for protective services under The Older Adults Protective Services Act.

#### Cross References

This section cited in 6 Pa. Code § 20.32 (relating to assessment and case management); 6 Pa. Code § 20.41 (relating to general reimbursement); and 6 Pa. Code § 20.45 (relating to Program violations and penalties).

### § 20.23. Income.

(a) *Income limits.*

- (1) Caregivers whose household income exceeds 380% of poverty level are not eligible for the benefits and services under this chapter.
- (2) Caregivers whose income exceeds 200% of poverty level and does not exceed 380% of poverty level are required to share in the costs of reimbursable items and services under this chapter as provided under § 20.41 (relating to general reimbursement).

(b) *Income inclusions.* Income includes the following:

- (1) Salaries.
- (2) Wages.
- (3) Bonuses.
- (4) Commissions.
- (5) Net income from self-employment or partnership income.
- (6) Alimony.
- (7) Support money.
- (8) Cash Public Assistance and relief.
- (9) The gross amount of pensions or annuities, including Railroad Retirement benefits.



- (10) The gross amount of cash benefits received under the Social Security Act (42 U.S.C.A. §§ 301—1397e), except Medicare benefits.
  - (11) Benefits received under State unemployment insurance laws.
  - (12) Veteran's disability payments.
  - (13) Interest, including interest received from the Federal government, State government or an instrumentality or political subdivision thereof.
  - (14) Realized capital gains except as provided in subsection (c).
  - (15) Rental income.
  - (16) Workmen's compensation benefits and the gross amount of loss of time insurance benefits, except those benefits granted under section 306(c) of the Workmen's Compensation Act (77 P.S. § 513).
  - (17) Life insurance benefits and proceeds, except as provided in subsection (c).
  - (18) Gifts or bequests of cash or property converted to cash, other than transfers by gift between members of a household, in excess of \$300.
  - (19) Any amount of money or the net cash realized from the sale of a prize, such as an automobile or a trip won in a lottery, contest or by a form of gambling.
  - (20) Royalties.
  - (21) Dividends.
- (c) *Income exclusions.* Income does not include the following:
- (1) Surplus food or other noncash relief, including food stamps, supplied by a government agency.
  - (2) Property tax rebate payments and rent rebate payments, received under the Senior Citizens Rebate and Assistance Act (72 P.S. §§ 4751-1—4751-12).
  - (3) Medicare benefits.
  - (4) The first \$5,000 of the total of death benefit payments received upon the death of each person from whom the benefits may be due.
  - (5) The difference between the purchase price of a person's residence and its selling price, to the extent that the person uses the proceeds from the sale of the residence to purchase a different residence within 2 years of the sale of the former residence.
  - (6) The amount of damages received, whether by civil suit or settlement agreement, due to personal injuries. Damages received means an amount received through prosecution of a legal suit, action or other claim based on tort or tort type rights, or through a settlement agreement entered into in lieu of litigation, except to the extent that the amount duplicates reimbursements previously received. Damages include black lung benefits and benefits granted under section 306(c) of the Workmen's Compensation Act.
  - (7) Payments provided to eligible low income households under the Low Income Home Energy Assistance Program.
  - (8) That portion of client payments received by home providers in the Domiciliary Care Program administered by the Department under Chapter 21

(relating to domiciliary care services for adults), which, for any specific income year, does not exceed the actual expenses of providing domiciliary care services.

(d) *Documentation of income.*

(1) Except as provided in paragraph (2), a primary caregiver seeking benefits under this chapter shall document through copies of the applicable Federal income tax returns, or other acceptable documentation, the total annual household income for the calendar year immediately preceding the year in which the caregiver is assessed or reassessed for participation in the Program.

Example—A primary caregiver applies to participate in the Program on August 16, 1992. The caregiver shall provide copies of the tax returns which reflect the total annual household income for the previous year, which is calendar year 1991. Accordingly, the caregiver shall provide tax returns which document household income received from January 1, 1991, up to and including December 31, 1991.

(2) If the caregiver believes that recent changes in income have resulted in a lower household income which would affect the caregiver's eligibility or the level of cost sharing required, the caregiver may provide the area agency on aging with documentation of current annual income. The area agency on aging will determine what documentation is necessary and the period of time for which the documentation is needed in order for the agency to determine an accurate calculation of current annual household income.

(3) The failure to provide truthful information with respect to this section will subject the caregiver to the penalties provided under § 20.45 (relating to Program violations and penalties).

(e) *Acceptable documentation of income.* The following are examples of documents, photocopies of which may be provided as acceptable documentation of income under subsection (d):

(1) Federal, State or local income tax returns.

(2) Pension checks, annuity checks or checks from other sources of income. When the checks are issued monthly, or on some other less-than-annual basis, a photocopy of the check for a single month, or other applicable period, will suffice. United States Treasury checks may not be photocopied.

(3) Statements from a financial institution where direct deposit is made for the applicant or claimant or statements from a government agency, such as the Social Security Administration or the Railroad Retirement Board.

(4) Documents that clearly verify the type and amount of income or a recent change in previous annual income.

#### Cross References

This section cited in 6 Pa. Code § 20.2 (relating to definitions); 6 Pa. Code § 20.21 (relating to eligibility for Program benefits); and 6 Pa. Code § 20.22 (relating to conditions of participation).

**§ 20.24. Appeals.**

Primary caregivers have the right to appeal an adverse decision by an area agency on aging regarding eligibility or the level of cost sharing determined by the agency. Appeals shall be filed under Chapter 3 (relating to fair hearings and appeals).

**CORE PROGRAM SERVICES****§ 20.31. General.**

The core services of the Program include the assessment of the caregiver, care-receiver and caregiving environment; the development of a care plan responsive to the caregiver's needs and burdens; ongoing casework services as needs may arise; benefits counseling; and caregiver education and training.

**§ 20.32. Assessment and care management.**

(a) *Activities.* Assessment and care management services include the following activities:

- (1) The assessment of the status and needs of the caregiver, the care-receiver and the caregiving environment.
- (2) The development and management of a care plan.
- (3) The reassessment of status and needs every 6 months. Reassessment includes ongoing casework as problems arise.

(b) *Certification.* In addition to the activities provided for under subsection (a), the area agency on aging staff person who carries out the assessment shall secure, at the time of assessment, the signature of the primary caregiver on the certification of accountability required under § 20.22 (relating to conditions of participation). This certification shall make reference to the caregiver's responsibilities, including compliance with restrictions on the reimbursement of expenses, under the Program and attest to the truth of the information provided by the caregiver. As a witness, the area agency on aging staff person completing the assessment shall also sign it. This certification will serve as the contractual basis for the area agency on aging's reimbursements for the caregiver's expenses. It may also be used as a basis for the recovery of reimbursements subsequently determined to be inappropriate under § 20.45 (relating to program violations and penalties).

(c) *Standards and procedures.* Assessment and care management activities shall be carried out under the following standards and procedures:

- (1) In addition to the requirements of this chapter, the activities of assessment and care management under the Program shall be carried out in conformity with the general care management procedures currently in practice with services under Department contracts with area agencies on aging. This includes efforts by area agencies on aging to conserve resources by developing and utilizing screening instruments to target appropriate families for assessment and

subsequent services or placement on a waiting list. Waiting list procedures for the Program will establish the priority of service and position on the waiting list by rating factors relating to the status of the carereceiver, the family and the total caregiving situation to determine the situations of greatest need for agency intervention.

(2) An assessment shall be completed on each caregiver family using the current form established by the Department. The assessment provides for the collection of information concerning the caregiver, the caregiver's burden, the carereceiver and the caregiving environment.

(3) When the carereceiver is an older adult, a clinical determination of the functional dependency of the carereceiver shall be made by the caseworker on the basis of information obtained on the assessment instrument. Special reference shall be made to the carereceiver's limitations in carrying out the activities of daily living, including mobility; the cognitive limitations of the carereceiver; and the conditions of the caregiving environment that may contribute to the need for the continuous care or supervision of the carereceiver or increase the caregiver's burden, or both. If the functional dependency of the carereceiver cannot be established, the area agency on aging may not serve the caregiver under the Program.

(4) When the carereceiver is an adult 59 years of age or younger, the area agency on aging shall establish the categorical need for the Program by applying the following provisions:

(i) Through the assessment process, the area agency on aging shall determine that the history of the onset of the carereceiver's condition indicates an identifiable decline in intellectual function resulting in a cognitive impairment that is severe enough to interfere with work or social activities, or both, and requires the continuous care or supervision of the caregiver.

(ii) The area agency on aging shall require the presentation of written documentation from a physician, or team of physicians, that a medical diagnosis which meets the following minimum criteria indicates that the carereceiver has a chronic dementia such as Alzheimer's Disease:

(A) It shall document, to the extent possible, that the carereceiver has suffered a decline in intellectual function.

(B) It shall document through the use of a mental status examination or a neuropsychological examination that there is a global loss of cognitive function. Global loss of cognitive function includes memory impairment, the impairment of visio-constructive abilities and at least one of the following:

(I) Impairment of abstract thinking.

(II) Impairment of judgment.

(III) Impairment of other complex capabilities, such as language use, the ability to perform complex physical tasks, the ability to recognize objects or people or the ability to construct objects.

(IV) A personality change.

(C) It shall document testing to establish that the carereceiver was, at the time of diagnosis, in a state of clear consciousness and that other mental states such as acute or subacute delirium, sleep, coma, stupor and intoxication were considered and ruled out. It shall document clinical tests that were administered to insure that the patient's cognitive impairment is not due to delirium alone and is not due to a reversible loss of cognitive function.

(d) *Staff resources.*

(1) Assessments and care management shall be carried out by staff persons who meet or exceed the minimum experience and training qualifications for the caseworker classification of the Pennsylvania State Civil Service System.

(2) Consistency in the assignment of casework staff to the Program is required. While this consistency may be achieved with different combinations of shared or dedicated staff, at a minimum, assignments shall provide for the development over time of special staff expertise in the unique aspects of the Program. How the area agency on aging intends to achieve and maintain this staff expertise shall be discussed in the plan required under § 20.12 (relating to administrative functions and responsibilities of area agencies on aging).

(3) Each area agency on aging is required to secure the consultation services of a person experienced in rehabilitation technology to provide consultation, as appropriate, on the agency's home environment assessments, to help determine if special expertise is needed to assess specific situations (for example, from a rehabilitation engineer), to identify all available resources for responding to the carereceiver's need for home modifications and assistive devices and how project resources should be utilized for this purpose; and to provide technical assistance to case managers for assessing home environments.

(4) Area agencies on aging shall take special precaution and require disclosure of potential conflicts of interest when using the services of consultants; for example, a consultant who owns, or is employed by, a medical supply company. If a consultant who has a potential conflict of interest is used as a consultant for a specific caregiver case, the area agency on aging shall insure that the arrangement for the consultation precludes the purchase of a recommended item from the consultant.

#### **Cross References**

This section cited in 6 Pa. Code § 20.12 (relating to administrative functions and responsibilities of area agencies on aging); 6 Pa. Code § 20.21 (relating to eligibility for Program benefits); 6 Pa. Code § 20.22 (relating to conditions of participation); and 6 Pa. Code § 20.33 (relating to benefits counseling).

**§ 20.33. Benefits counseling.**(a) *General.*

(1) The family-centered assessment of caregiving needs and stresses required under § 20.32 (relating to assessments and care management) forms the basis for the provision of comprehensive counseling about resources and benefits appropriate to meet the specific needs of each caregiving family. This includes Federal, State and local, formal and informal resources and assistance in gaining access to these resources.

(2) Caregivers may be people from a wide range of family circumstances. The benefit and resource information relevant to a caregiver's needs may be different from that which is relevant to traditional area agency on aging clients. Benefits counseling may need to assist caregivers in securing resources to address a wide variety of problems in areas ranging from day care for young children to mental health, drug and alcohol abuse or vocational rehabilitation.

(b) *Service activities.* Benefits counseling services include the following activities:

(1) Review of existing assessment documentation, and intensive exploration of additional resources or entitlements, or both.

(2) Providing comprehensive relevant information regarding resources or making referrals to resources, or both. This may be through caseworker/client discussion, the provision of telephone contacts, pamphlets or direct referral.

(3) Exploring resources and benefits, including the following:

- (i) MH/MR Programs.
- (ii) Drug and alcohol programs.
- (iii) Insurance programs/policies.
- (iv) Specific disease related organizations—cancer, Alzheimer's Disease, and the like.
- (v) Support groups.
- (vi) Veterans Administration programs.
- (vii) Healthy Horizons.
- (viii) Social Security.
- (ix) SSI.
- (x) Food Stamps.
- (xi) PACE.
- (xii) Property Tax/Rent Rebate.
- (xiii) LIHEAP (energy assistance).
- (xiv) Medical Assistance.
- (xv) Housing programs.
- (xvi) Weatherization programs.
- (xvii) Community based soc/rec programs.
- (xviii) Local city mission services.
- (xix) Red Cross.

- (xx) Lions Club.
- (xxi) Blind Association.
- (xxii) Transportation programs.
- (xxiii) Food banks.
- (xxiv) Community action programs.
- (xxv) VISTA.

(4) Reviewing of medical supply needs and, in the absence of alternative sources, attempting to obtain supplies and equipment on behalf of the caregiver.

(5) Assisting with the completion of applications for public benefits programs, such as PACE, Property Tax and Rent Rebate, Veterans Administration benefits, housing programs, and the like.

(6) Following-up as appropriate.

(c) *Exclusions.* While benefits counseling may include the exploration of options, resources and services, as well as the potential consequences of either the use or lack of use of them, it may not include recommendations or advice to caregivers on specific providers of purchased services and supplies when there are specific choices available to them.

(d) *In-service training.* Staff assigned to the benefits counseling functions shall receive special in-service training in caregiving needs and available resources.

#### § 20.34. Caregiver education and training.

(a) *General.* The purpose of caregiver education and training is to strengthen caregiving skills and ease the burden of caregiving, with special attention to health problems of care receivers, coping skills for caregivers and the performance of appropriate personal care tasks. For the purpose of this Program, caregiver education shall be carried out on a face-to-face basis or, at a minimum, through videotape instruction. Printed educational materials may be used to supplement these activities.

(b) *Service activities.* The service activities of caregiver education may consist of a variety of approaches designed to reach the general caregiver population in the community. Area agencies on aging shall take steps to ensure that opportunities for caregiver education are readily accessible to caregivers under the Program. Activities include the following:

- (1) The review of existing assessment documentation, and intensive exploration of the educational needs of individual caregivers.
- (2) The development of programming to meet the educational needs of individual Program caregivers and groups of Program caregivers.
- (3) Hands-on training to develop a caregiver's skill in performing an essential task of caregiving such as bathing.

(4) The development of an educational library. An educational library may contain either written or videotaped material, and shall promote both individual or group Program caregiver utilization of this material.

(5) Special “caregiver days,” such as events held in recognition of National Caregivers Week or Older Americans Month. These “Caregiver Days” may consist of educational programs, group interaction or group review of educational videotapes.

(6) Support group activities, including educational programming.

(7) The review of educational videotapes by individual caregivers in their homes.

(8) The facilitation of caregiver access to educational services not available directly from the Program.

(c) *Funding caregiver education.* The area agency on aging is not required to fund as a core service all caregiver education services available. In developing caregiver education services, area agencies on aging shall rely heavily upon other resources of the area agency on aging and local resources available elsewhere in the community. Program plans shall contain minimal reliance upon funding appropriated under this chapter to fund caregiver education activities.

### REIMBURSEMENT BENEFITS

#### § 20.41. General reimbursement.

(a) *Expenditure parameters.* When an area agency on aging has annualized its Program and the ongoing caseload level has stabilized at, or around, the level projected in the approved Program plan, the following parameters on expenditures shall be observed:

(1) At least 55% of the allocated funding shall be budgeted and expended for the reimbursement of care-givers.

(2) No more than 20% of the amount budgeted and expended for the reimbursement of caregivers may be budgeted and expended for home modifications and assistive devices.

(b) *Cost-shared benefits.* Funding to reimburse primary caregivers for caregiving expenses as provided in this chapter is available on a cost-sharing basis as follows:

(1) Up to 100% of the maximum amounts provided in subsection (c), depending on expenditures and availability of funds, may be used to reimburse primary caregivers whose household income does not exceed 200% of the current poverty level.

(2) As household income increases in 20% brackets, the available reimbursement benefit decreases by 10%. Thus, a primary caregiver whose household income is between 280% and 300% of the poverty level may be reimbursed for up to 50% of the maximum benefit available, or up to \$100 per



month for ongoing expenses or \$1,000 for home modifications or assistive devices as provided under subsection (c).

(3) The Department will maintain a cost-sharing table indicating the current dollar amounts of household income ranges at the different cost-sharing levels and household sizes. This table will be updated annually on the basis of revised Federal poverty guidelines published in the *Federal Register*. Interested parties may obtain a copy of the current cost-sharing table from the local area agency on aging or from the Division of Policy, Department of Aging, 231 State Street, Harrisburg, Pennsylvania 17101-1195.

(4) To determine the amount which may be reimbursable by the area agency on aging, the appropriate percentage of the maximum benefit available is applied to the amount the caregiver expended up to that maximum. When caregiver expenditures exceed the maximum amounts available, the percentage is applied only to the maximum amount. Thus, if a primary caregiver is eligible for 50% of the maximum benefit and incurs monthly caregiving expenditures of \$400, the most the caregiver may be reimbursed is \$100; that is, 50% of the \$200 maximum benefit available.

(c) *Maximum amounts.*

(1) To reimburse for ongoing expenses of respite care services, other related services and consumable supplies needed to provide the necessary care, up to \$200 per month may be made available depending upon actual expenditures, household income and the availability of funds.

(2) To reimburse for expenses incurred for home modifications and assistive devices purchased under this chapter, up to \$2,000, depending upon actual expenditures, household income and the availability of funds, may be made available during the full time that a case is active.

(3) Caregivers are not entitled to the maximum amounts under paragraphs (1) and (2). Reimbursements are made on the basis of need, income, actual expenditures and the availability of funds. Although area agencies on aging retain the discretion to control caregiver reimbursements to prevent the depletion of available funds by projected utilization patterns, an area agency on aging does not have authority to set different maximum amounts in its planning and service area.

(d) *Other general controls.*

(1) An area agency on aging may control the utilization of reimbursement funding through the use of waiting lists for new families, delay in accepting families from waiting lists to permit attrition to decrease funding demands, delay in preapprovals of home modifications and assistive devices until additional funds are available. Primary caregivers shall be made aware at intake that reimbursements are not entitlements and are contingent upon the availability of funds under the Program appropriation.

(2) An area agency on aging may require a primary caregiver to provide additional documentation of the income information provided during assessment when there is clear justification to question the validity of the documentation provided previously.

(3) Some form of direct reimbursement of documented caregiving expenses shall be instituted. If explained in an approved Program plan, as provided under § 20.12 (relating to administrative functions and responsibilities of area agencies on aging), an area agency on aging may also use one or more other methods, such as a voucher system, to get the reimbursement benefits to primary caregivers.

(4) Funding available for the reimbursement of care-givers is not intended to displace other resources available to the caregiver family. Area agencies on aging may not knowingly use the resources of the Program to provide benefits available under other resources and shall take steps through benefits counseling to promote the utilization of other available resources to assure that displacement of other resources does not occur.

(5) To provide an adequate audit trail for reimbursements, the area agency on aging shall obtain from primary caregivers and retain in agency files documentation of caregiver expenditures for which reimbursements are made.

(6) Funding available for the reimbursement of caregiving expenses may not be used to cover caregiver payments for the services of relatives. Area agencies on aging shall make primary caregivers aware of this restriction at the time they are admitted into the Program by including it in the certification of accountability required under § 20.22 (relating to conditions of participation).

(7) Categories for reimbursed purchases shall remain distinct when maximum amounts are applied. Costs of ongoing expenses and consumable supplies are subject to the \$200 per month maximum. Costs of home modifications and assistive device purchases are subject to the \$2,000 maximum during the full time the case is active. Since the costs of leasing an assistive device are also an ongoing “out-of-pocket” expense, an area agency may have some discretion in determining which category is to be charged if the caregiver’s needs for other respite care are not jeopardized.

(8) Area agencies on aging are expected to promote the concept that the reimbursement for ongoing expenses is available to empower caregivers to make their own decisions and choices. While it is important to work with caregivers in planning appropriate responses to their needs, the emphasis should be on expanding the awareness of caregivers of the various options which may be open to them.

#### Cross References

This section cited in 6 Pa. Code § 20.21 (relating to eligibility for Program benefits); 6 Pa. Code § 20.22 (relating to conditions of participation); and 6 Pa. Code § 20.23 (relating to income).

**§ 20.42. Ongoing caregiving expenses.**

(a) *Reimbursable expenses.* To qualify for reimbursement under this chapter, ongoing expenses shall be for services or consumable supplies directly related and necessary to the care being provided to the carereceiver. To the extent that they are consistent with the developed care plan, the services may include all forms of respite care, other supportive services and consumable supplies as defined in this chapter.

(b) *Accumulated benefits.* To facilitate the purchase of more expensive respite care and other supportive services for a period of time that would afford a primary caregiver the opportunity to be away for several days of vacation, hospitalization or special emergency absences, an area agency on aging may permit caregivers to accumulate unused financial benefits under the following provisions:

(1) Unused reimbursement benefits may only be accumulated for the purposes described under this subsection when an area agency on aging has included its intent and procedures for allowing accumulated benefits in its approved Program plan as provided under § 20.12 (relating to administrative functions and responsibilities of area agencies on aging).

(2) Reimbursement benefits available for home modifications and assistive devices may not be used for the special circumstances provided under this subsection.

(3) Accumulated reimbursement benefits may not be anticipated. They shall have been earned on a monthly basis prior to use.

(4) Unused reimbursement benefits may be accumulated over a period of time not to exceed 6 months.

(5) Accumulated reimbursement benefits may not be carried over from 1 contract year to another unless the Department has waived this requirement. The Department will consider waiving this requirement only if an area agency submits a written request for a waiver which adequately explains how the area agency on aging proposes to provide accumulated benefits across contract years without charging expenditures in 1 contract year to the budget for a different contract year. This paragraph is not subject to § 20.62 (relating to waivers).

**Cross References**

This section cited in 6 Pa. Code § 20.21 (relating to eligibility for Program benefits); and 6 Pa. Code § 20.22 (relating to conditions of participation).

**§ 20.43. Home modifications.**

(a) *Preapproval.* Area agencies on aging shall develop a system for the preapproval of home modifications to be authorized for reimbursement benefits. The system shall require all approved home modifications to be in response to specific details noted in the caregiver's assessment and care plan. The system may include standards for controlling the expenditure of available funding for this

purpose in a way that optimizes the distribution of these funds to the most caregivers with the greatest need for home modifications.

(b) *Property ownership.*

(1) The area agency on aging may approve reimbursement for a home modification of a property owned by the caregiver family without regard for whether the caregiver or the carereceiver is the owner of the property.

(2) An area agency may approve reimbursement of a home modification of rented property at the agency's discretion if the following minimum standards are observed:

(i) The area agency shall determine that there is a reasonable expectation that the family, including the caregiver, will continue to live in the home in the foreseeable future.

(ii) The caregiver shall secure the permission of the owner before the area agency on aging grants preapproval for the home modification.

(iii) The permission obtained from the owner shall indicate whether the owner will or will not require the home to be returned to its original state when the caregiver family moves out. In some cases, this indication may be a major factor related to area agency on aging approval of the requested home modification. Program funds may not be used for restoring the home to its original state if the owner requires it. In some cases, restoration by the caregiver may be possible without additional funding.

(iv) Major modifications shall only be approved with the highest discretion with regard to caregiver need and the availability of funding.

(v) The documentation maintained by the area agency on aging of an approval of a modification of rented property shall indicate that the minimum standards of this paragraph have been observed and shall state the area agency's rationale for approving the reimbursement.

**Cross References**

This section cited in 6 Pa. Code § 20.21 (relating to eligibility for Program benefits); and 6 Pa. Code § 20.22 (relating to conditions of participation).

**§ 20.44. Assistive devices.**

(a) *Preapprovals.* Area agencies on aging shall develop a system of preapproval of reimbursable purchases of assistive devices. An area agency on aging shall take appropriate steps to determine the availability of other funding—such as Medicare or Medical Assistance, or local charitable organizations—before authorizing the purchase of assistive devices.

(b) *Leased equipment.* If the area agency on aging determines that a caregiver-requested assistive device may be leased at a potential saving to the Program, the area agency on aging shall limit reimbursement to the costs of leasing rather than the purchase of the equipment.

(c) *Return of assistive devices.* When an assistive device purchased under the Program is no longer needed in the caregiving situation, the area agency on aging shall encourage the family to return it to the area agency on aging for use with future clients of the Program.

#### Cross References

This section cited in 6 Pa. Code § 20.21 (relating to eligibility for Program benefits); and 6 Pa. Code § 20.22 (relating to conditions of participation).

### § 20.45. Program violations and penalties.

(a) *Violations.* Caregivers who receive services under the Program are subject to the administrative actions and penalties under this section if they commit one or more of the following acts:

(1) Making or causing to be made a false statement or representation of a material fact relating to information affecting eligibility for the benefits of the Program.

(2) Submitting false or fraudulent documentation of caregiving expenses for which reimbursement is sought or received.

(3) Violating this chapter, including a provision which affects the eligibility status of the primary caregiver, the payment of reimbursement benefits under this chapter or the refusal to provide requested documentation of eligibility-related information as provided under § 20.22 (relating to conditions of participation).

(b) *Administrative actions and penalties.*

(1) If the area agency on aging determines that a primary caregiver has violated the act or this chapter, the area agency on aging has the authority to suspend or terminate services to the caregiver under this chapter.

(2) If the area agency on aging determines that a primary caregiver has knowingly received financial reimbursement for which the caregiver is not eligible as a result of violations under this section, the area agency on aging may recover twice the amount of the reimbursements determined to be inappropriate plus interest.

(3) If the area agency on aging determines that a primary caregiver has knowingly received reimbursement monies from the Program by false or fraudulent documentation of eligibility for that reimbursement, the area agency on aging shall request the appropriate district attorney to initiate proceedings against the caregiver.

(c) *Caregiver right to appeal.* Actions by an area agency on aging against a primary caregiver for violations under subsection (b)(1) and (2) are subject to the right of appeal under Chapter 3 (relating to hearings and appeals).

**Cross References**

This section cited in 6 Pa. Code § 20.21 (relating to eligibility for Program benefits); 6 Pa. Code § 20.22 (relating to conditions of participation); 6 Pa. Code § 20.23 (relating to income); and 6 Pa. Code § 20.32 (relating to assessment and case management).

**OTHER PROVISIONS****§ 20.61. Entitlement.**

The act does not create or provide an individual with an entitlement to services or benefits under this chapter. As provided in section 6 of the act (62 P.S. § 3066), it is the intent of the General Assembly that services under the act shall be made available only to the extent of the availability and level of appropriations made by the General Assembly.

**§ 20.62. Waivers.**

(a) The Department may for justifiable reasons, grant exceptions to and departures from this chapter to an area agency on aging when the area agency on aging can, by clear and convincing evidence, demonstrate that compliance would cause an unreasonable and undue hardship upon the area agency on aging and that an exception would not create a negative impact upon the participation of a caregiver family in the Program or otherwise compromise the intent of this chapter. The Department will not waive requirements in the act.

(b) A waiver request shall be made in writing to the Secretary. A request shall specifically identify and explain the burden created by the requirement for which the exception is being sought, the alternative method for fulfilling the basic intent of the requirement and evidence of the steps to be taken to prevent a negative impact upon the participation of caregiver families in the Program.

(c) An exception granted under this chapter may be revoked by the Department for a justifiable reason. Notice of revocation will be in writing and will include the reason for the action of the Department and a specific date upon which the exception will be terminated.

(d) In revoking an exception, the Department will provide for a reasonable time between the date of the written notice of revocation and the date of termination of an exception for the agency to come into compliance with the applicable provision of this chapter.

(e) If an agency wishes to request a reconsideration of a denial or revocation of an exception, it shall do so in writing to the Secretary within 15 days of receipt of the notification of adverse action.

**Cross References**

This section cited in 6 Pa. Code § 20.42 (relating to ongoing caregiving expenses).

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