

No. 202

AN ACT

HB 694

Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An act to consolidate, editorially revise, and codify the public welfare laws of the Commonwealth," adding a definition and further providing for administration of, eligibility for, qualifications of and allowances to recipients of assistance providing for the prepayment of contracted medical services and further providing for the right to inspect facilities.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 402, act of June 13, 1967 (P.L.31, No.21), known as the "Public Welfare Code," amended December 12, 1973 (P.L.403, No.143), is amended to read:

Section 402. Definitions.—As used in this article:

"Assistance" means money, services, goods, shelter, burial and medical, chiropractic and other health care, including nursing home care provided from or with State, Federal, county, county institution district or municipal funds, for needy persons who reside in Pennsylvania and need assistance to provide for themselves and their dependents a decent and healthful standard of living, and for needy homeless or transient persons.

"Benefit period" means, with respect to any individual, a period of consecutive days beginning with the first day not included in a previous benefit period, on which he is furnished inpatient hospital care, and ending with the last day of the first sixty-day period thereafter during each day of which he is not an inpatient in a hospital.

"General assistance" means assistance granted under the provisions of section 432 [(2)] (3) of this act.

"Home Health Care" means intermittent or part time nursing services or other therapeutic services furnished by a home health agency qualified to participate under Title XVIII of the Federal Social Security Act.

"Protective payments" means payments with respect to any dependent child which are made to another individual who (as determined in accordance with standards prescribed by the department) is interested in or connected with the welfare of such child or relative, or made on behalf of such child or relative directly to a person furnishing food, living accommodations, or other goods, services, or items to or for such child. Whenever possible, the protective payee shall be a public child welfare agency.

"State supplemental assistance" means assistance granted under the provisions of section 432 [(1.1) and (2.1)] (2).

Section 2. Section 403 of the act is amended to read:

Section 403. ***Uniformity in Administration of Assistance;*** Regulations as to Assistance.—(a) ***The department is responsible for maintaining***

uniformity in the administration of public welfare, including general assistance, throughout the Commonwealth.

(b) The department shall establish rules, regulations and standards, consistent with the law, as to eligibility for assistance and as to its nature and extent. The secretary or his designee in writing is the only person authorized to adopt regulations, orders, or standards of general application to implement, interpret, or make specific the law administered by the department. The secretary shall issue interim regulations whenever changes in Federal laws and regulations supersede existing statutes. In adopting regulations, orders, or standards of general application, the secretary shall strive for clarity of language which may be readily understood by those administering aid and by those who apply for or receive aid.

(c) Whenever a recipient of public assistance, as a prerequisite to receiving assistance or otherwise, has been required to encumber in favor of the Commonwealth any property, or to give any bond, note or other obligation in any sum to secure the repayment of moneys received as assistance or for any other purposes, and such bonds, notes, judgments, mortgages, or other obligations are thereafter assigned by the Commonwealth to any third party, the assignee shall not be entitled to collect, and the person liable for the payment of the lien or obligation shall not be liable for the payment of, any amount greater than the amount the assignee paid for the assignment, notwithstanding the face amount of such lien or obligation. This provision shall not be effective as to the collection of interest accruing after the date of the assignment or costs of collection.

Section 3. The act is amended by adding a section to read:

Section 405.1. Pennsylvania Employables Program.—(a) Every individual, within ten days after establishing eligibility for public assistance, as a condition of continuing eligibility for aid to families with dependent children or general assistance, shall register in accordance with regulations of the department for employment, training and manpower services, unless such individual is:

- (1) a child who is attending school or college or an approved program of vocational training on a full-time basis or who is under the age of sixteen;*
- (2) ill or incapacitated;*
- (3) so remote from a registration security office that effective participation in employment and training counseling is precluded;*
- (4) required to be present in the home because of illness or incapacity of another member of the household;*
- (5) the mother or other relative of a child under the age of six who is caring for the child;*
- (6) the mother or other caretaker of a child if the father or another adult male relative is in the home and not excluded from the requirement to register, unless such adult male relative has failed to register as herein required or has refused without good cause to accept employment or to participate in work experience or training;*

(7) the mother or other caretaker of a child between the ages of six and fourteen, unless there are adequate child care arrangements for the child;

(8) actively participating in the Federal work incentive program or was certified to said program within the previous six months; or

(9) employed full time.

(b) Any person excluded from the requirements of registration by reason of subsection (a), may register to participate in the Pennsylvania employables program.

(c) No person registered pursuant to subsection (a) shall refuse to accept a bona fide offer of employment or training. The bona fide offer of employment, training, or work experience must be consistent with the person's physical, mental and emotional capabilities.

In order to be a bona fide offer of employment, there must be reasonable assurances that:

(1) Appropriate standards for the health, safety, minimum wage and other conditions applicable to the performance of work and training in the employment are established and will be maintained.

(2) The offer of employment will not result in any displacement of employed workers.

(3) With respect to such employment, the conditions of work, training, education, and employment are reasonable in the light of such factors as the type of work, geographical region, and a proficiency of the participant.

(4) The employment is not available due to labor dispute, strike or lock-out.

(d) Any person required to register pursuant to subsection (a) who wilfully:

(1) fails to register; or

(2) refuses a bona fide offer of employment or training in violation of subsection (c) shall be ineligible for aid to families with dependent children or general assistance. Where there is no other parent present who is eligible for assistance any aid for which such child is eligible will be provided in the form of protective payment as defined in section 402.

(e) The department shall, within twelve months of the effective date of this act, establish a series of demonstration projects which will have as their primary purpose, the obtaining of bona fide employment for non-exempt assistance applicants and recipients. The demonstration projects may be substituted for the registration required by subsection (a). The demonstration projects shall include, but not be limited to referral to private employment agencies under contract with the department and the establishment of an employment officer in county board of assistance offices. Those demonstration projects considered by the department to be successful after at least a twelve-month trial period may be made permanent on either a Statewide or localized basis. During the trial period, a demonstration project may be expanded. Every demonstration project must include adequate provision for evaluation and each evaluation shall include participation by members of the public. Nothing in this subsection

shall be construed to permit the implementation of a demonstration program which would require an applicant or recipient to perform work as payment for an assistance grant.

(f) The department shall take all appropriate measures to obtain any necessary Federal approval and assistance for the Pennsylvania employables program. If the United States Department of Health, Education and Welfare does not approve all or part of the Pennsylvania employables program, that part of the program unapproved shall not apply to persons who are otherwise eligible for aid to families with dependent children, but it shall apply to persons eligible for general assistance. In addition, the department shall take all appropriate measures to secure Federal funding for all or part of the demonstration programs authorized by subsection (e), including but not limited to a request for financial assistance pursuant to section 1110 of the Federal Social Security Act.

(g) The department shall promptly redetermine eligibility upon receipt of notice of deregistration.

(h) No department or agency of the Commonwealth and no vendor delivering social services funded in whole or in part by contracts with or grants from the Department of Public Welfare shall discriminate in any manner including employment or job placement against any person because that person is or was an applicant for or recipient of assistance.

Section 4. Section 412 of the act is amended to read:

Section 412. Appointment of **[Trustees] Protective Payees**.—The department may appoint a **[trustee] protective payee** to take charge of the expenditure of assistance granted any person under this article when, **[in its opinion] consistent with Federal regulations**, such **[trustee] protective payee** is necessary. In any such case, payment shall be made direct to the **[trustee] protective payee**. A **[trustee] protective payee** shall serve without compensation, and shall be subject to such rules, regulations and accounting as the department shall prescribe.

Wherever possible, the protective payee shall be a public child welfare agency.

Section 5. The act is amended by adding sections to read:

Section 432.1. Continued Absence From the Home.—Where an application for aid to families with dependent children is based upon deprivation of parental support or care due to the continued absence of a parent from the home, such deprivation exists when the nature of the absence, for any reason, interrupts or terminates the parent's functioning as a provider of maintenance, physical care or guidance for the child and the known or indefinite duration of the absence precludes continuing the parent's performance of his function as a provider. A absence alone shall not constitute deprivation.

It shall be the duty of the department to verify the continued absence of the parent from the home from information regarding the absent parent supplied by the applicant on his application, or by requiring the applicant

to provide, where known, the name, social security number, description, employer and present or last known address of the absent parent upon request.

Section 432.2. Determination of Eligibility.—(a) Prior to determination of eligibility, the department shall conduct a personal interview with the applicant, or with the caretaker relatives of the needy children.

(b) As a condition of eligibility, an individual applying for assistance shall complete an application containing a written declaration of such information required to establish eligibility and amount of grant. The application shall include, but not be limited to, the following information:

- (1) Names of all persons to receive aid;
- (2) Birth dates of all persons to receive aid;
- (3) Social security numbers of all persons to receive aid, or proof of application for such social security number;
- (4) Place of residence for all persons to receive aid;
- (5) The names of any legally responsible relative living in the home;
- (6) Any income or resources as defined in this act or in regulations promulgated pursuant to this act.

The department shall provide assistance as needed to complete the application and shall insure that all applicants or recipients have or promptly obtain a social security number.

(c) The department shall determine all elements of eligibility periodically in accordance with the provisions of this section: Provided, however, That such determination shall not be less frequent than every six months. The department shall require the completion of a continuing application form at the time of redetermination and the provisions of section 432.15 shall be applicable to this subsection.

(d) Each applicant shall provide, under penalty of fraud, the information necessary to complete such application. The applications used by the department shall contain, at the end thereof, in large type, a statement in the form approved by the Attorney General that the applicant understands that he has an obligation to report in accordance with section 432.14 of this act any changes in income or resources, composition of the assistance unit, addresses or any other factor which may affect eligibility, and that the declarations in the application are correct and complete to the best of the applicant's knowledge or belief when made. This declaration shall be signed by the applicant of assistance or any person completing the application for an applicant unable to do so himself.

(e) The caseworker shall insure that the applicant understands his rights and duties under this act and shall certify on each application that he has explained such rights and duties to the applicant or recipient.

Section 432.3. Voluntary Termination of Employment.—A person who is not in a class of persons excluded from mandatory participation in the Pennsylvania employables program and who without good cause: (i) voluntarily terminates employment or reduces his earning capacity for the

purpose of qualifying for assistance or a larger amount thereof; or (ii) fails or refuses to accept referral to and participate in a vocational rehabilitation or training program, including the work incentive program, or refuses to accept referral to and work in employment in which he is able to engage, provided such employment conforms to the standards established for a bona fide offer of employment in the Pennsylvania employables program, shall be disqualified from receiving assistance for thirty days thereafter and until such time as he is willing to comply with the requirements of section 405.1.

Section 432.4. Identification and Proof of Residence.—All persons applying for assistance shall provide acceptable identification and proof of residence; the department shall by regulations specify what constitutes acceptable identification and proof of residence.

For the purpose of determining eligibility for assistance, the continued absence of a recipient from the Commonwealth for a period of sixty days or longer shall be prima facie evidence of the intent of the recipient to have changed his residence to a place outside the Commonwealth. The department shall make inquiry from all recipients who have been continuously absent for a period of thirty days to determine whether or not it is their intent to remain residents of the Commonwealth or to become residents elsewhere, and shall redetermine the residence of such persons. In any case in which such inquiry does not establish that the recipient remains a resident of the Commonwealth, his aid shall be terminated after providing timely and adequate notice of such intended action.

If a recipient is prevented by illness or other good cause from returning to the Commonwealth at the end of sixty days, and has not acted to establish residence elsewhere, he shall not be deemed to have lost his residence in the Commonwealth.

When a recipient of aid to families with dependent children or general assistance is absent from the United States for a period in excess of thirty days, his aid shall thereafter be suspended whenever need cannot be determined for the ensuing period of his absence.

It is not the intent of the General Assembly, however, in enacting this section to create any durational residence requirement.

Section 432.5. Limits on Property Holdings.—(a) Real and personal property which an applicant or recipient owns or in which he has an interest are resources which must be considered in determining initial and continuous eligibility for assistance, subject to the limitations and exceptions hereinafter proscribed.

(b) An applicant or recipient may retain real property owned by him, or in conjunction with any other person without reference to its value if such real property serves as the home of such applicant or recipient.

(c) Personal property in excess of a combined amount of two hundred fifty dollars (\$250) for the first person in the assistance unit and one hundred dollars (\$100) for each additional person in the assistance unit shall be considered an available resource except as follows:

(1) Wedding and engagement rings, family heirlooms, clothing and children's toys.

(2) Household furnishings, personal effects and other items used to provide, equip, and maintain a household for the applicant and recipient.

(3) Equipment and material which are necessary to implement employment, rehabilitation, or self care plan for the applicant or recipient.

(4) Motor vehicles.

(5) Savings of school children up to two thousand dollars (\$2,000) for each child.

(6) Retroactive assistance payments received as a result of a prehearing conference or a fair hearing decision.

(7) Life insurance with a cash value not in excess of one thousand dollars (\$1,000).

(d) In the case of any nonresident real property, the applicant or recipient must take adequate steps to offer such property for sale on the open market, convert it to cash, with such sums being considered an available resource. The applicant or recipient shall acknowledge the liability of the property for reimbursement.

(e) With the exception of the items of personal property in subsection (c) personal property shall be considered immediately convertible to cash and available to meet current living expenses. Where such personal property cannot be readily converted into cash, or where it is in the form of a frozen asset, eligibility criteria shall be met provided that the owner take adequate steps to convert the property into cash, offering such personal property for sale on the open market, and acknowledging the liability of the property for reimbursement.

(f) Where aid has been received in good faith, but the recipient in fact owns excess property or has not met the requirements of subsections (c), (d) and (e), such recipient shall be considered to have been ineligible for assistance during the period for which any excess property would have supported him at the rate of the assistance granted to him. In such case, subject to the provisions of section 432.16, recipient shall repay the amount of assistance received during such period of ineligibility.

Section 432.6. Support From Legally Responsible Relatives.—(a) Every applicant for assistance whose eligibility is based on deprivation due to absence of a parent from a home shall be referred within ten days for interview to the designated support official of the department who shall be stationed in local welfare offices, unless such offices have too few applicants to warrant permanent stationing. The department shall be responsible for taking all steps necessary to identify, locate, and obtain support payments from absent parents.

(b) The department shall establish a scale of suggested minimum contributions to assist courts in determining the amount that an absent parent should be expected to pay towards the support of a dependent child. The scale shall include consideration of gross income, shall authorize expense deductions, including deductions for taxes, for determining net

income, shall designate other available resources to be considered and shall specify the circumstances which should be considered in reducing liability on the basis of hardship. Copies of this scale shall be made available to courts, district attorneys and to the public. It is intended that the scale formulated pursuant to this section should be optional.

(c) Failure of the absent parent to comply with his support obligations shall be referred to the court having jurisdiction of this matter for appropriate proceedings.

(d) Effective January 1, 1977, "legally responsible relative" means spouses and the parent for an unemancipated minor child.

Section 432.7. Determination of Paternity and Enforcement of Support Obligations.—In accordance with a child support plan approved by the Federal Government, the department shall have the power and its duty shall be to:

(a) Require as a condition of eligibility for assistance that the applicant or recipient:

(1) Furnish his social security account number or to the extent permitted by Federal law, proof of making application for a social security account number if the applicant or recipient has no social security account number.

(2) Assign to the department on forms provided by the department such support rights as the applicant or recipient may have in his own behalf or on behalf of any family member who is a part of the assistance unit.

(3) Cooperate with the department in establishing the paternity of a child born out of wedlock with respect to whom assistance is claimed, except when such cooperation would not be in the best interest of the child in accordance with standards developed by the department consistent with Federal regulations.

(4) Cooperate in obtaining support payments for such applicant or recipient and for a child with respect to whom such aid is claimed or in obtaining any other payment or property due such applicant, recipient or such child, except when such cooperation would not be in the best interest of the child in accordance with standards developed by the department consistent with Federal regulations.

(b) Provide for protective payments for any child eligible for assistance when a caretaker relative is ineligible due to the caretaker relative's failure to comply with either clause (2), (3) or (4) of subsection (a).

(c) Provide that in any case in which the child support payments are collected for a child with respect to whom an assignment has been made pursuant to clause (2) of subsection (a), such payment shall be made to the department for distribution pursuant to subsection (g) except for those payments made for any month in which the amount collected is sufficient to make such family ineligible for assistance. Whenever a family for whom child support payments have been collected and distributed ceases to receive assistance, the department may continue to collect such support payments from the legally responsible relative for a period not to exceed

three months from the month following the month in which such families ceased to receive assistance and pay all amounts so collected to the family and at the end of such three-month period, if specifically authorized by the individual on whose behalf the collection will be made, continue to collect such support payments from the legally responsible relative and pay the net amount of any amount so collected to the family after deducting any costs incurred in making the collection from the amount of any recovery made.

(d) Create a single and separate organizational unit which shall be responsible for developing and implementing, subject to the approval of the secretary, a Federally approved State plan for child support. The unit shall maintain a parent locator service to locate absent legally responsible relatives utilizing all sources of information and legally available records and the parent locator service of the Federal Government.

(e) Undertake either directly or pursuant to cooperative arrangements with appropriate courts or law enforcement officials (including domestic relations offices) to:

(1) establish paternity of children born out of wedlock with respect to whom an assignment pursuant to clause (2) of subsection (a) has been made; and

(2) secure support for a child with respect to whom such an assignment has been made from any legally responsible relative.

(f) Make available child support and paternity determination services to any individual not eligible for assistance to the extent required by Federal law and upon application submitted to the department on forms provided by the department, the payment of any application fee established by the department and the agreement to pay costs in excess of the fee out of any recovery made by the department.

(g) Provide for bonus payments to recipients consistent with Federal law from amounts collected periodically without any decrease in the amount of assistance.

(h) Make incentive payments to political subdivisions and other states consistent with Federal law whenever the political subdivision or other state enforces or collects support rights assigned to the department pursuant to clause (2) of subsection (a).

(i) Construe and implement this section in order to comply with Title IV-D of the Federal Social Security Act relating to child support and the establishment of paternity. The department shall take all steps necessary to implement a Federally approved State plan for child support.

Section 432.8. Garnishment of Wages of Commonwealth Employes.—Notwithstanding any other provision of law moneys due from or payable by the Commonwealth of Pennsylvania (including any agency, instrumentality or authority thereof) due to any individual shall be subject, in like manner and to the same extent as if the Commonwealth of Pennsylvania were a private person, to legal process brought for the enforcement against such individual of his legal obligations to provide support for a child or spouse.

Section 432.9. Central Registry.—(a) *A central registry of records shall be maintained in the department showing, as far as it is known, with respect to any parent who has deserted or abandoned any child receiving aid to families with dependent children:*

- (1) *the full and true name of such parent together with any known aliases;*
- (2) *date and place of birth;*
- (3) *physical description;*
- (4) *social security number;*
- (5) *occupation and any special skills he may have;*
- (6) *military status and veterans' administration or military service serial number;*
- (7) *last known address and the date thereof;*
- (8) *the number of the driver's license; and*
- (9) *any further information that may be of assistance in locating the person.*

(b) *To effectuate the purposes of this section, the department may request and shall receive from all departments, bureaus, boards or other agencies of this Commonwealth, or any of its political subdivisions, and the same are authorized to provide, such assistance and data except tax records as will enable the department and other public agencies to carry out their duties to locate absent parents for the support of their children. The department shall utilize the "parent locator service" pursuant to establishment in the Department of Health, Education and Welfare by filing in accordance with section 453(b) of the Social Security Act.*

(c) *Any records established pursuant to the provisions of this section shall be available only to public welfare offices, district attorneys, probation departments, central registries in other states, and courts having jurisdiction in support or abandonment proceedings or action and only for the purposes for which the records have been established.*

Section 432.10. Maximum Withholding Exemptions.—*An employed applicant or recipient shall be considered to be claiming the maximum number of exemptions for Federal income tax purposes to which he is entitled under Federal law and any earned income shall be computed accordingly. The department shall maintain tables indicating the amount of withholding for various numbers of dependents and various income levels. The department shall base assistance on the maximum number of exemptions to which the applicant or recipient is entitled. This determination shall be made at the time of application, at the periodic redetermination of eligibility and when changes in a recipient's circumstances require that the amount of assistance be redetermined.*

Section 432.11. Access to State Records.—(a) *The secretary or his designees in writing shall have access to all records other than tax records, and the department, in cooperation with all other departments of the executive branch, shall establish a single uniform system of information clearance and retrieval.*

(b) The Bureau of Employment Security shall provide the department with a statement of earnings clearance upon the request of the department.

(c) Upon request of the department, the Bureau of Motor Vehicles shall provide information as to all vehicles owned by the applicant or recipient.

(d) With the exception of the access provided by subsections (b) and (c), the provisions of subsection (a) shall not be construed to give the secretary or his designee access to information which would otherwise be deemed privileged or confidential pursuant to State or Federal law.

Section 432.12. Determination of Income.—(a) In accordance with Federal law and regulations the department shall, in determining need for aid to families with dependent children, take into consideration the income, excluding that amount equal to the expenses reasonably attributable to the earning of income, of all members of the assistance unit who are fourteen years of age or older.

In determining need for general assistance, the department shall take into consideration all income, excluding that amount equal to the expenses reasonably attributable to the earning of income up to twenty-five dollars (\$25) per month, of all members of the assistance unit who are fourteen years of age or older. In addition to said work related expenses, the first twenty dollars (\$20) plus fifty percent of the next sixty dollars (\$60) shall be deducted from the gross monthly wages of each employed recipient of general assistance. The general assistance grant shall be computed on the remainder.

(b) Income as used in subsection (a) includes benefits in cash or in kind (other than the rental value of living accommodations), as defined by the department in accordance with Federal law and regulations.

(c) To be considered in establishing financial eligibility and the amount of the assistance payment, income must be actually available for current use by the applicant or recipient. In accordance with Federal law and regulations, the applicant or recipient shall, however, as a necessary condition of eligibility:

(1) provide all information necessary to income determination; and
(2) take all actions necessary to obtain unconditionally available income including applying for unemployment compensation to the extent permitted by Federal law. Income shall be considered unconditionally available if the applicant or recipient has only to claim or accept such income, including any type of governmental benefits, social insurance, private pension or benefits plan, or offers of private contributions, including contributions from relatives not in the nature of disaster relief.

Section 432.13. Income Averaging.—For purposes of determining eligibility for assistance, the income of any person under a contract of employment on an annual basis who works and receives income from such contract in fewer than twelve months, but more than eight months, shall be prorated over the period of the contract. This provision shall apply only to such persons whose annual income, when averaged over a twelve-month

period, is expected to be in excess of that set forth in the minimum basic standards of adequate care for the appropriate number of persons dependent upon such income.

Section 432.14. Reporting Responsibility.—(a) It shall be the duty of the department to insure that every applicant for, or recipient of, assistance be notified not less frequently than semiannually as to the provisions of eligibility and his responsibility for reporting information concerning changes in circumstances which may affect the amount of grant. After such notification has been provided, the department shall require the recipient to formally acknowledge, on a form prescribed for such purpose, that the provisions of eligibility and reporting obligations have been explained to him and were understood.

(b) Each applicant for or recipient or payee of such assistance shall be responsible for reporting accurately and within a reasonable specified period those facts required of him pursuant to the explanation provided by the department.

Section 432.15. Quarterly Earnings Determination.—The department shall transmit to the Bureau of Employment Security the social security number of all persons over sixteen years of age who receive assistance during the second prior quarter. The Bureau of Employment Security shall determine the amount of wages reported by employers for the amount of unemployment compensation insurance benefits which have been paid during the second and third prior quarters to persons with those social security numbers and shall return such information, including zero wage reports to the department. The department shall compare such wage reports with earnings reported by recipients, take prompt action to resolve discrepancies, and shall refer promptly for investigation any cases of suspected fraud.

Section 432.16. Recoupment of Prior Overpayments and Retroactive Correction of Underpayments.—(a) In accordance with Federal law and regulations, the department shall establish procedures for recoupment of prior overpayments caused by the recipient's wilfull withholding of information concerning his income, resources, or other circumstances which may affect the amount of payment, provided that:

(1) The amount of overpayments recouped shall be limited to overpayments made during the twelve months preceding the month in which the overpayment was discovered: Provided, however, That where the overpayment was caused by the recipient's wilfull withholding of information regarding his income or resources, recoupment shall be permitted for overpayments made during the twenty-four months preceding the month in which the overpayment was discovered.

(2) The recoupment of overpayments may be made (i) from income or resources, exclusive of the current assistance payment, which are currently available to the recipient in the amount by which the department proposes to reduce payments; or (ii) from current assistance payments. If recoupments are made from current assistance payments, the department

shall, on a case-by-case basis, limit the proportion of such payments that may be deducted in each case, so as not to cause undue hardship on recipients.

(3) In no event, shall the grant of a needy child be reduced unless the parents or other responsible persons have sufficient available income or resources to meet the needs of the dependent child according to department standards during the period of reduction.

(4) The department shall, prior to effecting any reduction of a current grant, advise the recipient of the proposed reduction by timely and adequate notice.

(b) The department shall be permitted to recoup overpayments in accordance with the provisions of subsection (a) concurrent with a suit for restitution provided that the extent of liability for restitution shall be reduced by the amount of overpayments recouped.

(c) The department shall, in accordance with Federal regulations, establish procedures for retroactive correction of underpayments caused by administrative error provided that:

(1) retroactive corrective payments shall be limited to the twelve months preceding the month in which the underpayment first becomes known to the department;

(2) retroactive payments to correct improper denial of assistance shall be made for up to twelve months prior to the month in which the error first becomes known to the department, but in no case earlier than the date of application;

(3) for the purposes of determining continued eligibility and the amount of assistance, such retroactive corrective payments shall not be considered as income or as a resource in the month in which paid nor in the next following month; and

(4) no retroactive payment need be made where the administrative cost would exceed the amount of such payment.

Section 432.17. Timely and Adequate Notice Defined.—The department shall provide timely and adequate notice in all cases of intended action to discontinue, terminate, suspend or reduce an assistance grant except in those cases where adequate notice alone would be consistent with the requirements of Federal law or regulation.

“Timely notice” means notice which is mailed ten days before the intended change would be effective.

“Adequate notice” means a written notice that includes a statement of what action the agency intends to take, the reasons for the intended action, the specific regulations or statutes supporting such action, an explanation of the individual's right to request an evidentiary and an administrative hearing on the propriety of the intended action and the circumstances under which assistance is continued if a hearing is requested. Adequate notice shall be sent not later than the date of action.

Section 432.18. Assistance Payments; Lost, Stolen, Destroyed or not Received.—In the event that a recipient of assistance does not receive an

assistance check, or if such check is lost, stolen or destroyed after receipt but before it is cashed, the county office after a period of three days may authorize a one-time grant from the county disbursement, provided that the following conditions are met:

(1) The recipient reports the nonreceipt of the check, loss, or theft of an unendorsed check or destruction of an endorsed check. The report of a loss or theft of a check shall be accompanied by a sworn statement to that effect under penalty of fraud. The county board shall immediately stop payment on the check after receipt of its copy of the signed statement.

(2) The check was sent to the recipient.

(3) The recipient shall be instructed on his liability, should the lost, stolen, destroyed or nonreceived check come into his possession, to return such check immediately to the county office and that cashing or attempting to cash such check constitutes fraud.

Section 437. Reports to General Assembly.—Two copies of all reports required by the national center for social statistics of the Department of Health, Education and Welfare shall be furnished to the Senate Public Health and Welfare Committee and the Health and Welfare Committee of the House of Representatives when they are submitted to the Federal Government. Similar reports prepared concerning general assistance, the State Blind Pension and State supplemental assistance shall be similarly furnished to the committees.

Section 441.2. Medical Assistance Eligibility.—Medical assistance shall not be granted to or in behalf of any person who disposed of his real or personal property, of the value of five hundred dollars (\$500), or more, without fair consideration, within two years immediately preceding the date of application for medical assistance unless he is eligible for State supplemental assistance or unless he can clearly show that the transfer was not primarily for the purpose of acquiring or retaining eligibility for assistance.

Section 6. Section 443.1 of the act, added July 31, 1968 (P.L.904, No.273) and clause (3) amended October 26, 1972 (P.L.1027, No.252), is amended to read:

Section 443.1. Medical Assistance Payments for Institutional Care.—The following medical assistance payments shall be made in behalf of eligible persons whose institutional care is prescribed by physicians:

(1) The reasonable cost of inpatient hospital care, as specified by regulations of the department adopted under Title XIX of the Federal Social Security Act and certified to the department by the Auditor General[, for a maximum of sixty days in a benefit period] for a bed patient on a continuous twenty-four hour a day basis in a multi bed accommodation of a hospital, exclusive of a hospital or distinct part of a hospital wherein twenty-five percent of patients remain six months or more. To be eligible for such payments a hospital must be qualified to participate under Title XIX of the Federal Social Security Act and have entered into a written agreement with the department regarding matters

designated by the secretary as necessary to efficient administration, such as hospital utilization, maintenance of proper cost accounting records and access to patients' records. Such efficient administration shall require the department to permit participating hospitals to utilize the same fiscal intermediary for this Title XIX program as such hospitals use for the Title XVIII program;

(2) The cost of skilled nursing [**home**] *and intermediate nursing* care in State-owned geriatric centers, [**and**] institutions for the mentally retarded, *institutions for the mentally ill*, and in county homes which meet the State and Federal requirements for participation under Title XIX of the Federal Social Security Act and which are approved by the department. This cost in county homes shall be as specified by the regulations of the department adopted under Title XIX of the Federal Social Security Act and certified to the department by the Auditor General; elsewhere the cost shall be determined by the department;

(3) Rates *on a cost-related basis* established by the department for skilled nursing home or intermediate care in a non-public nursing home, when furnished by a nursing home licensed or approved by the department and qualified to participate under Title XIX of the Federal Social Security Act;

(4) The cost of care in any mental hospital or in a public tuberculosis hospital. To be eligible for such payments a hospital must be qualified to participate under Title XIX of the Federal Social Security Act and have entered into a written agreement with the department regarding matters designated by the secretary as necessary to efficient administration, such as hospital utilization, maintenance of proper cost accounting records and access to patients' records. Care in a private mental hospital shall be limited to sixty days in a benefit period. Only persons *aged twenty-one years or under and* aged sixty-five years or older shall be eligible for care in a public mental or tuberculosis hospital. This cost shall be the reasonable cost, as determined by the department for a State institution or as specified by regulations of the department adopted under Title XIX of the Federal Social Security Act and certified to the department by the Auditor General for county and non-public institutions.

Section 7. The act is amended by adding a section to read:

Section 443.5. Prepayment for Contracted Medical Services.—*For categorically needy or medically needy persons eligible for medical assistance, prepaid capitation payments or insurance premiums for services under the medical assistance State plan may be made on behalf of eligible persons through competitive bidding with profit or non-profit contractors, insurers, or health maintenance organizations. Profit and non-profit insurers must be approved under applicable State laws. Prepaid capitation or premium payments made under such contracts shall not exceed payments made to other third party payers for comparable services and similar benefit conditions. Capitation payments charged for anticipated medical assistance eligible persons under a contract may be*

prepaid by the Commonwealth subject to monthly, quarterly, and annual adjustment by the department based on actual enrollment and fixed capitation rates.

Section 8. Sections 451, 481, 487 and 488 and subsections (a) and (b) of section 911 of the act are amended to read:

Section 451. Conformity with Federal Legislation.—Notwithstanding any other provision of law, the department, with the approval of the Governor, may by regulation grant **[medical]** assistance to any persons, modify or discontinue any type of **[medical]** assistance and establish new types of **[medical]** assistance in order to insure receipt of Federal contributions for such **[medical]** assistance. Any such regulation shall be void at the end of the regular session of the General Assembly held during the odd-numbered year next following the adoption of the regulation.

Section 481. False Statements; Penalty.—(a) Any person who, either prior to, or at the time of, or subsequent to the application for assistance, by means of a wilfully false statement of misrepresentation, or by impersonation or other fraudulent means, secures, or attempts to secure, or aids or abets any person in securing assistance, *or Federal food stamps*, under this article shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1,000), or to undergo imprisonment not exceeding one year, or both, and also shall be sentenced to make restitution of any moneys he has received by reason of any such false statement, misrepresentation, impersonation, or fraudulent means.

(b) Any person who, either prior to or at the time of or subsequent to the application for assistance, by means of a wilfully false statement or misrepresentation, or by impersonation, or other fraudulent means, secures or attempts to secure assistance *or Federal food stamps* not exceeding three hundred dollars (\$300) under this article shall, upon conviction thereof in a summary proceeding, be sentenced to make restitution of such assistance, and to pay a fine of not more than two hundred dollars (\$200). **[and, in default of making restitution and the payment of the fine imposed, to undergo imprisonment not-exceeding sixty days.]** *When having available sufficient means or the ability to acquire such means, wilfull failure to make restitution and pay the fine imposed shall result in imprisonment not exceeding sixty days.*

(c) *There shall be a four-year statute of limitations on all offenses under this section.*

Section 487. Information to be Supplied.—(a) Every bank, *industrial bank, credit union*, trust company, bank and trust company, private banker, and building and loan association, *or other financial institutions doing business in Pennsylvania*, shall, when requested in writing so to do by the department, or any county board or by any official legislative investigating committee, or by any authorized agent thereof, disclose to such department, board, committee, or authorized agent, whether or not any person applying for or receiving public assistance, or any legally

responsible relative of such applicant or recipient, has had, or has any money on deposit with, or invested in, such banking institution or building and loan association within one year prior to their application for assistance, or at any time thereafter, the amount and date of such deposit or investment, and the amounts and dates of withdrawals therefrom.

(b) Every employer shall, when requested in writing so to do by the department or any county board or by any official legislative investigating committee, or by any authorized agent thereof, disclose to such department, board, committee, or authorized agent within thirty days, whether or not any person applying for or receiving public assistance, or any legally responsible relative of such applicant or recipient has or had received, or will receive, any money in salary, wages, commission, or other compensation from such employer, and if so, the amount and date of such salary, wages, commission, or other compensation.

Section 488. Violation; Penalty.—Any bank, *industrial bank, credit union*, trust company, bank and trust company, private banker, building and loan association, or *other financial institution doing business in Pennsylvania*, or employer who or which wilfully violates the provisions of section 487 of this act, or who or which wilfully makes any false or misleading statement in connection with any disclosure required by said section, shall be guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1000).

Section 911. Visitation and Inspection.—(a) The department shall have the power, and its duty shall be:

(1) To make and enforce rules and regulations for a visitation, examination and inspection of all supervised institutions *and said visitation, examination or inspection may occur both before and after the beginning of operation of the supervised facility*.

(2) To visit and inspect, at least once in each year, all State and supervised institutions; to inquire and examine into their methods of instruction, discipline, detention, care or treatment, the care, treatment, government or management of their inmates or those committed thereto, or being detained, treated or residing therein, the official conduct of their inspectors, trustees, managers, directors or other officer or officers charged with their management by law or otherwise, or having the management, care, custody or control thereof, the buildings, grounds, premises, and equipment thereof, or connected therewith, and all and every matter and thing relating to their usefulness, administration, and management, and to the welfare of the inmates thereof, or those committed thereto or being detained, treated or residing therein.

(b) For these purposes *and for the purpose of determining whether or not a facility should be subject to the supervision of the department in accordance with section 902*, the secretary, or other officer, inspector or agent of the department, shall have free and full access to the grounds, premises, and buildings of and to all the records, books or papers of or relating to any such State or supervised institution, and full opportunity to

interrogate or interview any inmate thereof, or any person or persons committed to or being detained, treated or residing therein, and all persons connected with any such State or supervised institution as officers, or charged with the management, thereof, by law or otherwise, or in any way having the care, custody, control, or management thereof, or connected therewith as employes, are hereby directed and required to give to the secretary, or to such officer, inspector or agent of the department, such means, facilities and opportunity for such visitation, examination, inquiry and interrogation, as is hereby provided and required, or as the department, by its duly ordained rules or regulations, may require.

* * *

Section 9. Section 1016 of the act is amended to read:

Section 1016. Right to Enter and Inspect.—For the purpose of determining the suitability of the applicants and of the premises *or whether or not any premises in fact qualifies as a facility as defined in section 1001 of this act* or the continuing conformity of the licensees to this act and to the applicable regulations of the department, any authorized agent of the department shall have the right to enter, visit and inspect any facility licensed or requiring a license under this act and shall have full and free access to the records of the facility and to the individuals therein and full opportunity to interview, inspect or examine such individuals.

An authorized agent of the department shall also confer with the operators of facilities regarding the minimum standards of the department, encourage the adoption of higher standards and recommend methods of improving care and services.

Section 10. (a) Section 3, act of June 24, 1937 (P.L.2045, No.397), known as "The Support Law," is repealed in so far as it is inconsistent herewith.

(b) All other acts and parts of acts, general, local and special, are repealed in so far as they are inconsistent herewith.

Section 11. If any provision of this act shall be held invalid, the remainder of this act shall not be affected thereby.

Section 12. This act shall apply also to those facilities transferred to the Department of Health by Reorganization Plan No. 3 of 1975.

Section 13. This act shall take effect in 60 days.

APPROVED—The 15th day of July, A. D. 1976.

MILTON J. SHAPP