

No. 2009-54

AN ACT

SB 47

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," in general powers and duties of the Department of Public Welfare, providing for determining whether applicants are veterans; in public assistance, further providing for establishment of county boards and expenses, for lifetime limit and for prohibited use of public assistance funds; further defining "exempt hospital" and "general acute care hospital"; further providing for authorization, for administration, for no hold harmless, for tax exemption and for cessation; and providing for fraud reporting to Inspector General.

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

Section 1. The act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, is amended by adding a section to read:

Section 215. Determining Whether Applicants are Veterans.—(a) The department shall make a good faith effort to determine whether an applicant for cash, medical or energy assistance is a veteran. While in the process of making its determination, the department shall dispense benefits to the applicant, if otherwise eligible.

(b) As a condition of eligibility to receive cash, medical or energy assistance, unless there is good cause not to do so, an applicant who is a veteran shall be required to contact a veteran service officer accredited and recognized by the United States Department of Veterans Affairs, the Department of Military and Veterans Affairs or the county director of veterans affairs in which the applicant resides in order to determine the applicant's eligibility for veteran's benefits or to file a veteran claims packet. The department shall develop a standard form to be used by a veteran service officer to verify the applicant's eligibility for veteran's benefits.

(c) An applicant who is a veteran shall provide proof of compliance with this section and the department shall, to the greatest extent possible, require the applicant to provide information on the final determination of eligibility for veteran's benefits and the type of benefits the veteran is entitled to receive.

(d) As used in this section, the following words and phrases shall have the following meanings:

"Assistance" means money, services and payment for medical coverage or energy assistance for needy persons who are residents of this Commonwealth, are in need of assistance and meet all conditions of eligibility.

“Veteran claims packet” means an application requesting a determination or entitlement or evidencing a belief in entitlement to a benefit as provided for in 38 CFR (relating to pensions, bonuses, and veterans’ relief) or 51 Pa.C.S. (relating to military affairs).

Section 2. Section 415 of the act is amended to read:

Section 415. Establishment of County Boards; Expenses.—For each county of the Commonwealth, there is hereby established a county board of assistance, to be known as the County Board of Assistance and referred to in this Article IV as the “county board,” which shall be composed of men and women, to be appointed by the Governor [with the advice and consent of two-thirds of all members of the Senate]. *Each appointment by the Governor shall bear the endorsement of the Senator of the district in which the nominee resides. In the case of a vacancy in that senatorial district, the nominee shall be endorsed by the Senator of an adjacent district.* The county boards shall be composed as far as possible of persons engaged or interested in business, social welfare, labor, industry, education or public administration. The members of the county boards shall serve without compensation, but shall be reimbursed for necessary expenses. No member of a county board shall hold office in any political party. Not all of the members of a county board shall belong to the same political party.

Section 3. Section 441.4 of the act, added July 7, 2005 (P.L.177, No.42), is amended to read:

Section 441.4. [Lifetime Limit] *Reasonable Limits* on Allowable Income Deductions for Medical Expenses When Determining Payment Toward the Cost of Long-Term Care Services.—(a) [Necessary medical or remedial care expenses recognized under Federal or State law but not paid for by the medical assistance program are allowable income deductions when determining a recipient’s payment toward the cost of long-term care services. An allowable income deduction for unpaid medical expenses incurred prior to the authorization of medical assistance eligibility and those medical expenses incurred for long-term care services after medical assistance is authorized shall be subject to a lifetime maximum of ten thousand dollars (\$10,000) unless application of the limit would result in undue hardship.] *When determining a recipient’s payment toward the cost of long-term care services, long-term care medical expenses incurred six months or more prior to application for medical assistance shall be disallowed as a deduction, and medical and remedial expenses that were incurred as a result of a transfer of assets penalty shall be limited to zero unless application of these limits would result in undue hardship.*

(b) As used in this section, the term “undue hardship” shall mean that either:

(1) denial of medical assistance would deprive the individual of medical care and endanger the individual’s health or life; or

(2) the individual or a financially dependent family member would be deprived of food, shelter or the necessities of life.

Section 4. The act is amended by adding a section to read:

Section 484. Prohibited Use of Public Assistance Funds.—*It shall be unlawful for any individual to purchase liquor or alcohol with a gift certificate or a gift card which is in the form of an electronic benefits card issued to convey public assistance benefits administered by the Department of Public Welfare or a debit card issued to convey support payment moneys.*

Section 5. The definitions of “exempt hospital” and “general acute care hospital” in section 801-E of the act, added July 4, 2008 (P.L.557, No.44), are amended and the section is amended by adding a definition to read:

Section 801-E. Definitions.

The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:

* * *

["Exempt hospital." A hospital that the Secretary of Public Welfare has determined meets one of the following:

(1) Is excluded under 42 CFR 412.23(a), (b), (d) and (f) (relating to excluded hospitals: classifications) as of March 20, 2008, from reimbursement of certain Federal funds under the prospective payment system described by 42 CFR Pt. 412 (relating to prospective payment systems for inpatient hospital services).

(2) Is a Federal veterans' affairs hospital.

(3) Is part of an institution with State-related status as that term is defined in 22 Pa. Code § 31.2 (relating to definitions) and provides over 100,000 days of care to medical assistance patients annually.

(4) Provides care, including inpatient hospital services, to all patients free of charge.]

“General acute care hospital.” A hospital other than [an exempt hospital.] *a hospital that the Secretary of Public Welfare has determined meets one of the following:*

(1) *Is excluded under 42 CFR 412.23(a), (b), (d), (e) and (f) (relating to excluded hospitals: classifications) as of March 20, 2008, from reimbursement of certain Federal funds under the prospective payment system described by 42 CFR 412 (relating to prospective payment systems for inpatient hospital services).*

(2) *Is a Federal veterans' affairs hospital.*

(3) *Is a high volume Medicaid hospital.*

(4) *Provides care, including inpatient hospital services, to all patients free of charge.*

“High volume Medicaid hospital.” *A hospital that the Secretary of Public Welfare has determined meets all of the following:*

- (1) *Is a nonprofit hospital subsidiary of a State-related institution as that term is defined in 62 Pa.C.S. § 103 (relating to definitions); and*
- (2) *Provides more than 90,000 days of care to medical assistance patients annually.*

* * *

Section 6. Sections 802-E, 804-E, 805-E, 807-E and 808-E of the act, added July 4, 2008 (P.L.557, No.44), are amended to read:

Section 802-E. Authorization.

(a) **General rule.**—In order to generate additional revenues for the purpose of assuring that medical assistance recipients have access to hospital services and that all citizens have access to emergency department services, **and subject to the conditions and requirements specified under this article**, a municipality may, by ordinance, **[impose] do the following:**

(1) **Impose** a monetary assessment on the net operating revenue reduced by all revenues received from Medicare of each general acute care hospital located in the municipality **[subject to the conditions and requirements specified under this article]**.

(2) **Beginning on or after July 1, 2009, and subject to the advance written approval by the secretary, impose a monetary assessment on the net operating revenues reduced by all revenues received from Medicare of each high volume Medicaid hospital located in the municipality.**

(b) **Administrative provisions.**—The **[ordinance] ordinances adopted pursuant to subsection (a)** may include appropriate administrative provisions including, without limitation, provisions for the collection of interest and penalties.

(c) **Maximum assessment.**—In each year in which the assessment is implemented, the assessment shall be subject to the maximum aggregate amount that may be assessed under 42 CFR 433.68(f)(3)(i) (relating to permissible health care-related taxes) or any other maximum established under Federal law.

Section 804-E. Administration.

(a) **Remittance.**—Upon collection of the funds generated by the assessment authorized under this article, the municipality shall remit a portion of the funds to the Commonwealth for the purposes set forth under section 802-E, except that the municipality may retain funds in an amount necessary to reimburse it for its reasonable costs in the administration and collection of the assessment **and to fund a portion of its costs of operating public health clinics** as set forth in an agreement to be entered into between the municipality and the Commonwealth acting through the secretary.

(b) **Establishment.**—There is established a restricted account in the General Fund for the receipt and deposit of funds under subsection (a). Funds in the account are hereby appropriated to the department for purposes of making supplemental or increased medical assistance payments for emergency department services to general acute care hospitals within the municipality and to maintain or increase other medical assistance payments

to hospitals within the municipality, as specified in the Commonwealth's approved Title XIX State Plan.

Section 805-E. No hold harmless.

No general acute care hospital *or high volume Medicaid hospital* shall be directly guaranteed a repayment of its assessment in derogation of 42 CFR 433.68(f) (relating to permissible health care-related taxes), except that, in each fiscal year in which an assessment is implemented, the department shall use a portion of the funds received under section 804-E(a) for the purposes outlined under section 804-E(b) to the extent permissible under Federal and State law or regulation and without creating an indirect guarantee to hold harmless, as those terms are used under 42 CFR 433.68(f)(i). The secretary shall submit any State Medicaid plan amendments to the United States Department of Health and Human Services that are necessary to make the payments authorized under section 804-E(b).

Section 807-E. Tax exemption.

Notwithstanding any exemptions granted by any other Federal, State or local tax or other law, including section 204(a)(3) of the act of May 22, 1933 (P.L.853, No.155), known as The General County Assessment Law, no general acute care hospital *or high volume Medicaid hospital* in the municipality shall be exempt from the assessment.

Section 808-E. **[Cessation] Time period.**

(a) Cessation.—The assessment authorized under this article shall cease June 30, 2013.

(b) Assessment.—*A municipality shall have the power to enact the assessment authorized in section 802-E(a)(2) either prior to or during its fiscal year ending June 30, 2010.*

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

Section 1417. Fraud Reporting to Inspector General.—*(a) If an employe of a county assistance office who has reason to believe a recipient or applicant of public assistance is committing fraud or providing false information in order to receive public assistance benefits, including, but not limited to, medical assistance, cash assistance and food stamps, the county assistance office employe shall make a fraud report directly to the Office of Inspector General.*

(b) The county assistance employe shall not be subject to any sanctions for making a fraud report.

Section 8. This act shall take effect immediately.

APPROVED—The 17th day of December, A.D. 2009.

EDWARD G. RENDELL