

**§5439. Program of state-funded consumer-directed personal care assistance services  
(REALLOCATED FROM TITLE 34-B, SECTION 5438)**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Applicant" means a person who has applied or is applying for services through the program. [PL 2007, c. 695, Pt. A, §41 (RAL).]

B. "Consumer" means a person who has been determined to be eligible under subsection 3. [PL 2007, c. 695, Pt. A, §41 (RAL).]

C. [PL 2011, c. 657, Pt. CC, §1 (RP).]

D. "Program" means the program of state-funded consumer-directed personal care assistance services. [PL 2007, c. 695, Pt. A, §41 (RAL).]  
[PL 2011, c. 657, Pt. CC, §1 (AMD).]

**2. Program administration.** The commissioner shall administer the program under this section. Within available funds, the commissioner shall ensure that services are delivered in the most comprehensive manner possible and shall strive to maximize the participation of adults with disabilities. [PL 2011, c. 657, Pt. CC, §2 (AMD).]

**3. Eligibility.** An applicant is eligible for personal care assistance services under the program if the commissioner or the commissioner's designee determines that the person is an adult who:

A. Has a severe disability; [PL 2007, c. 695, Pt. A, §41 (RAL).]

B. Needs personal care assistance services or an attendant at night or both to prevent or remove the adult from inappropriate placement in an institutional setting; and [PL 2007, c. 695, Pt. A, §41 (RAL).]

C. Has no or insufficient personal income or other support from public services, family members or neighbors. [PL 2007, c. 695, Pt. A, §41 (RAL).]  
[PL 2011, c. 657, Pt. CC, §2 (AMD).]

**4. Consumer cost sharing.** The commissioner shall establish a sliding scale for consumer cost sharing for services provided under the program. The sliding scale must be based on the net income of the consumer, factoring in the expenses associated with the consumer's disability, and may take assets into consideration.  
[PL 2011, c. 657, Pt. CC, §2 (AMD).]

**5. Evaluation teams.** The commissioner shall designate evaluation teams to assist the department with evaluations of applicants and consumers.

A. Each evaluation team must include the applicant or consumer and at least one registered nurse or registered occupational therapist. [PL 2007, c. 695, Pt. A, §41 (RAL).]

B. For each applicant or consumer evaluated by an evaluation team, the team shall assist the department to:

(1) Determine the eligibility of the applicant or consumer for services under the program;

(2) Determine the capability of the applicant or consumer, at the time of evaluation or after skills training provided pursuant to subsection 6, to hire and direct a personal care assistant; and

(3) Reevaluate the applicant or consumer periodically to determine continuing need for the services. [PL 2011, c. 657, Pt. CC, §3 (AMD).]

[PL 2011, c. 657, Pt. CC, §3 (AMD).]

**6. Skills training.** When sufficient funds are available, the commissioner shall arrange for skills training for consumers in the following areas by the following individuals:

A. Personal health management skills to maximize personal well-being in relation to the consumer's disability, including all aspects of prevention, maintenance and treatment techniques, provided by a registered nurse or other qualified person experienced in the rehabilitation of the severely disabled; [PL 2007, c. 695, Pt. A, §41 (RAL).]

B. Personal care assistant management skills, including training in recruiting, hiring and managing a personal care assistant, scheduling and potential problems, provided by a registered nurse or other qualified person experienced in the rehabilitation of the severely disabled; and [PL 2007, c. 695, Pt. A, §41 (RAL).]

C. Functional skills required to maximize the consumer's abilities in activities of daily living, provided by a registered occupational therapist or other qualified person experienced in the rehabilitation of the severely disabled. [PL 2007, c. 695, Pt. A, §41 (RAL).]  
[PL 2007, c. 695, Pt. A, §41 (RAL).]

**7. Relatives as providers.** The department may not refuse to pay a relative of a consumer for the provision of services under the program if the relative is qualified to provide the services and payment is not prohibited by law or rule or federal regulation.  
[PL 2007, c. 695, Pt. A, §41 (RAL).]

**8. Review of reimbursement rates.** By January 1, 2008 and every 2 years thereafter, the commissioner shall review the rates of reimbursement under the program. As part of the review, the following provisions apply.

A. The commissioner shall:

(1) Ensure the input of consumers, personal assistants and any organization that represents personal assistants regarding providing a livable wage for personal care assistance services. The commissioner may seek input through one or more public hearings or by other means determined reasonable by the commissioner. [PL 2009, c. 369, Pt. A, §34 (AMD).]

B. If the commissioner determines that an increase in one or more of the reimbursement rates is necessary after the review required in this subsection, the commissioner shall adopt rules to accomplish the required rate increase. In making a determination under this subsection, the commissioner shall consider using any savings realized from an expansion of consumer-directed services to increase wages and benefits for personal care assistants. [PL 2007, c. 695, Pt. A, §41 (RAL).]

C. The commissioner shall determine rates of reimbursement that include allowable administrative costs and that use available resources to maximize wages and benefits for personal care assistants and hours of services for consumers. [PL 2007, c. 695, Pt. A, §41 (RAL).]  
[PL 2009, c. 369, Pt. A, §34 (AMD).]

**9. Rulemaking.** The commissioner shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A, except that rules regarding consumer cost sharing under subsection 4 are major substantive rules as defined by that subchapter.  
[PL 2007, c. 695, Pt. A, §41 (RAL).]

#### SECTION HISTORY

PL 2007, c. 695, Pt. A, §41 (RAL). PL 2009, c. 369, Pt. A, §34 (AMD). PL 2011, c. 657, Pt. CC, §§1-3 (AMD).

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