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LAW/RWH

P.L. 2009, CHAPTER 160, *approved November 20, 2009*
Assembly, No. 2889 (*Second Reprint*)

1 AN ACT concerning the Personal Assistance Services Program and
2 amending P.L.1987, c.350.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.1987, c.350 (C.30:4G-14) is amended to
8 read as follows:

9 “Advisory Council” means the Statewide Consumer Advisory
10 Council on Personal Assistance Services” established pursuant to
11 section 8 of P.L.1987, c.350 (C.30:4G-20).

12 “Applicant” means a person who applies for services under the
13 personal assistance services program.

14 “Assessor” means a person who is employed by the program to
15 conduct eligibility assessments. An assessor shall have a master’s
16 degree in social work or a baccalaureate degree and three years of
17 experience in rehabilitation services, or shall be a registered
18 professional nurse with a bachelor of science degree in nursing ¹or
19 with three years experience in home care¹.

20 ¹“Assistant” means a person who meets qualifications with
21 regard to training, equivalent work experience, or certification in
22 the provision of personal assistance services as established by the
23 commissioner by regulation and who provides personal assistance
24 services to a consumer.]¹

25 “Available” means, as applied to a caregiver, physically present,
26 able, and appropriate, as determined with full consideration of the
27 consumer’s personal situation.

28 “Cash Management Plan” means the document used by the
29 program which indicates the monthly cash allowance and details the
30 services and supports required by the consumer in order to meet the
31 consumer’s personal care needs.

32 **【**“Chronic physical disability” means a severe impairment of a
33 permanent nature which so restricts a person’s ability to perform
34 essential activities of daily living that the person needs assistance in
35 order to maintain the person’s independence and health. **】**

36 “Commissioner” means the Commissioner of Human Services.

EXPLANATION – Matter enclosed in bold-faced brackets **【 thus 】** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly floor amendments adopted October 27, 2008.

²Senate SBA committee amendments adopted March 9, 2009.

1 “Community-based independent living” means self-directed
2 living whereby a consumer is actively participating in community-
3 based activities aside from employment or education, including, but
4 not limited to, parenting, searching for employment, and
5 community service such as volunteering on governing boards or
6 serving on committees.

7 "Consumer" means a person who either meets the eligibility
8 criteria set forth in section 4 of **[this act]** P.L.1987, c.350
9 (C.30:4G-16), or has received an individual exception to the
10 eligibility criteria in subsection **[i or j]** i. or j. of section 4 of **[this**
11 **act]** P.L.1987, c.350 under rules established by the commissioner,
12 and who is receiving services.

13 **["Department" means the Department of Human Services.]**

14 "County designated agency" means a county office for the
15 disabled or other agency designated by the county government,
16 subject to approval by the commissioner, to administer in that
17 county the personal assistance services program established
18 pursuant to **[this act]** P.L.1987, c.350 (C.30:4G-13 et seq.). **[A**
19 **county designated agency shall have an advisory council of which**
20 **at least 51% of the members are persons with disabilities.]**

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23 cash or in kind, including, but not limited to, full time employment;
24 part time employment; the practice of a profession; self-
25 employment; farm work; home-based employment; or other gainful
26 work.

27 “Federal poverty level” means the official poverty level based on
28 family size, established and adjusted under Section 673(2) of
29 Subtitle B of the "Community Services Block Grant Act,
30 "Pub.L.97-35 (42 U.S.C.s. 9902 (2)).

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32 company or agency that is set up to disburse the cash benefit to
33 consumers using the cash option under the program, and serves as
34 the business agent for the consumer, handles the distribution of
35 payroll checks and other disbursements at the direction of the
36 consumer, and keeps records of all transactions.

37 “Informal caregiver” means an individual who is 18 years of age
38 or older residing in the household for a purpose other than the
39 sharing of expenses.

40 “Permanent physical disability” means a severe impairment of a
41 permanent nature which so restricts a person's ability to perform
42 essential activities of daily living that the person needs assistance to
43 maintain the person's independence and health.

44 **["Personal assistant" means a person who meets the**
45 **qualifications with regard to training, equivalent work experience or**
46 **certification in the provision of personal assistance services**

1 established by the commissioner and who provides personal
2 assistance services to a consumer.]

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8 “Personal assistance services” means health and chore related
9 tasks performed by a personal assistant. Personal assistance
10 services include, but are not limited to, assistance in essential daily
11 activities such as bathing, dressing and meal preparation; assistance
12 with mobility, laundry and shopping; and driving or other forms of
13 transportation.

14 “Program” means the Personal Assistance Services Program
15 established pursuant to P.L.1987, c.350 (C.30:4G-13 et seq.).

16 “Relative” means a person who is 18 years of age or older and is
17 related to the consumer by blood or law.

18 “Resident” means a person who abides or resides in this State for
19 other than a temporary purpose and who has no present intention of
20 moving from the State.

21 “Self-directed” means a person who is able to: make decisions
22 regarding daily activities; and make major life decisions, manage
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24 those decisions and actions.

25 “Time sheet” means a legal document used to verify the number
26 of hours worked under the program, that is issued by the fiscal
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29 “Training” means the attendance and participation of a consumer
30 or personal assistant in an established Statewide educational
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33 training curriculum to consumers and personal assistants under the
34 guidelines of the program.

35 “Vendor” mean an agency or business that provides an allowable
36 service to a consumer under the guidelines of the program.

37 (cf: P.L.1993, c.215, s.2)

38

39 2. Section 3 of P.L.1987, c.350 (C.30:4G-15 is amended to
40 read as follows:

41 3. There is established a personal assistance services program
42 in the [Office] Division of Disability Services in the Department of
43 Human Services, to be administered by county designated agencies
44 in each of the 21 counties. The program, within the limits of funds
45 appropriated or otherwise made available to it, shall assist adults
46 with [chronic] permanent physical disabilities in the performance
47 of routine, nonmedical tasks that are directly related to maintaining

1 their health and independence, in order to enable these persons to be
2 employed or receive training or education related to employment,
3 parenting, or volunteering, or to support community-based
4 independent living. The program shall seek to promote the greatest
5 possible degree of self-control and self-direction on the part of each
6 recipient of services.

7 (cf: P.L.1999, c.91, s.7)

8

9 3. Section 4 of P.L.1987, c.350 (C.30:4G-16) is amended to
10 read as follows:

11 4. A person is eligible for the personal assistance services
12 program if:

13 a. The person has a **[chronic]** permanent physical disability;

14 b. The person is 18 through **[65]** 70 years of age;

15 c. The person is a resident of this State;

16 d. The person is in need of personal assistance services
17 pursuant to a written plan of service;

18 e. The person is capable of managing and supervising their
19 personal assistance services;

20 f. A relative or other informal **[care giver]** caregiver is not
21 available to provide the services that the person needs;

22 g. The person lives or plans to live in a private house or
23 apartment, rooming or boarding house, group home, educational
24 facility or residential health care facility; and the personal
25 assistance services that the person shall receive are supplemental to,
26 and not duplicative of, services provided to the person in the
27 rooming or boarding house, group home, educational facility or
28 residential health care facility pursuant to licensure requirements.

29 A person who resides, or is a patient, in a nursing, assisted living,
30 or intermediate care facility, special hospital or other inpatient
31 medical setting is not eligible for the personal assistance services
32 program;

33 h. The attending physician of the person who shall receive the
34 personal assistance services has confirmed in writing that the
35 person has a **[chronic]** permanent physical disability, requires no
36 assistance in the coordination of therapeutic regimes, and that the
37 personal assistance services will be appropriate to meet the person's
38 needs; and

39 i. The person **[utilizes]** receives no more than 40 hours of
40 personal assistance services from **[the]** this program or any other
41 program per week. The commissioner shall develop rules for
42 individual exceptions to this requirement.

43 j. The commissioner shall develop rules for individual
44 exceptions to the age criteria.

45 (cf: P.L.1993, c.215, s.4)

1 4. Section 10 of P.L.1993, c.215, (C.30:4G-16.1) is amended to
2 read as follows:

3 10. There is established a personal assistance consumer bill of
4 rights. Each consumer, and, as appropriate, each applicant:

5 a. Shall be treated with courtesy, respect, and full recognition
6 of **[his] one's** dignity, individuality, and right to control **[his]**
7 **one's** own household and lifestyle, including the identification and
8 determination of **[his] one's** own needs, schedules and the services
9 necessary to meet these needs;

10 b. Shall be served by personal assistants or vendors who are
11 properly trained and competent to perform their duties;

12 c. Shall receive services in compliance with all State laws and
13 regulations without discrimination based on race, religion, gender,
14 age, creed or disability in the provision or quality of services;

15 d. Shall be free from mental and physical abuse, neglect and
16 exploitation, and shall be free from chemical and physical
17 restraints;

18 e. Shall be accorded privacy while receiving services in
19 communications and in all daily activities;

20 f. Shall be accorded respect for **[his] one's** property rights;

21 g. Shall have **[his] one's** personal, financial and medical
22 records treated as confidential;

23 h. Shall be free to fully exercise **[his] one's** civil and due
24 process rights and to be assisted by a personal assistant or vendors
25 as appropriate and necessary;

26 i. Shall receive in a timely manner all decisions regarding
27 eligibility and amount and kind of services and the reasons therefor
28 in writing and, if appropriate, orally, along with administrative
29 hearings and appeals procedures;

30 j. Shall have access to a fair appeals process through which
31 disputes can be resolved;

32 k. Shall receive written information regarding consumer
33 standards and responsibilities in the personal assistance services
34 program and to have them verbally explained as needed;

35 l. Shall have as few personal assistants entering **[his] one's**
36 home as possible;

37 m. Shall have the right to interview, screen and select **[his]**
38 **one's** personal assistant; and

39 n. Shall dismiss those personal assistants who do not respect
40 consumer rights.

41 (cf:P.L.1993, c.215, s.10)

42
43 5. Section 5 of P.L.1987, c.350 (C.30:4G-17) is amended to
44 read as follows:

45 5. a. An individual requesting personal assistance services
46 shall make an inquiry to the county designated agency in the county
47 where the individual resides, or intends to reside. If the applicant

1 meets the criteria set forth in subsections a., b., c., and g. of section
2 4 of **[this act]** P.L.1987, c.350 (C.30:4G-16), then the county
3 designated agency shall furnish the applicant with a complete
4 application package for services under the personal assistance
5 services program. If the applicant does not meet the criteria set
6 forth in subsections a., b., c., and g. of section 4 of **[this act]**
7 P.L.1987, c.350, the individual shall be provided with written
8 notification of ineligibility by the county designated agency.

9 b. Upon notification from the applicant that he has completed
10 the application package, the county designated agency shall arrange
11 for a social assessment of the applicant. The assessment shall be
12 used to determine the applicant's eligibility as set forth in
13 subsections d., e., f., h., and i. of section 4 of **[this act]** P.L.1987,
14 c.350.

15 c. As part of the application process, the applicant shall prepare
16 a personal assistance services plan, with participation from the
17 county designated agency and assessor, if requested by the
18 applicant, which will meet the applicant's need for personal
19 assistance services. The plan shall include a list of the types of
20 services required, and include an estimate of the time needed and
21 frequency of services to be provided under the personal assistance
22 services program.

23 d. Following receipt of the results of an assessment, the
24 personal assistance services plan and the other application materials
25 from the applicant, the county designated agency shall determine
26 the applicant's eligibility and provide written notification of the
27 result to the applicant.

28 e. If the applicant has been determined to be eligible, the
29 county designated agency shall conduct a financial evaluation of the
30 applicant to determine the requirement of the person, or person's
31 spouse, to pay for personal assistance services, in accordance with
32 the sliding fee scale established pursuant to section 7 of **[this act]**
33 P.L.1987, c.350 (C.30:4G-19). If the eligible applicant is found to
34 be responsible for the payment of cost share, the applicant shall be
35 furnished with an estimate of the total monthly cost of services, and
36 a statement of the percentage of total cost, or actual amount of
37 money that the eligible person or the person's spouse is required to
38 pay.

39 f. The county designated agency shall seek to implement the
40 personal assistance service plan or Cash Management Plan, as
41 applicable, prepared by the consumer, subject to the availability of
42 funding for personal assistance services. The respective plan shall
43 be revised upon request of the consumer or the county designated
44 agency.

45 g. The county designated agency shall **[perform]** arrange for a
46 comprehensive social and financial reassessment of the consumer at
47 12-month intervals.

1 h. In the event of a dispute between the applicant and the
2 county designated agency with regard to the applicant's eligibility
3 for the personal assistance services program or concerning the
4 services plan prepared pursuant to subsection c. of this section, the
5 applicant may request a hearing, which shall be conducted pursuant
6 to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-
7 1 et seq.).

8 i. The social assessments and financial evaluations performed
9 pursuant to subsections b. and e., respectively, of this section, and
10 the personal assistance services plan prepared pursuant to
11 subsection c. of this section, shall be completed on forms prescribed
12 by the commissioner.

13 j. To assure the timeliness of the process, the commissioner
14 shall establish, in rules, specific time frames for the activities in
15 subsections a., b., d. and e. of this section.

16 (cf: P.L.1993, c.215, s.5)

17
18 6. Section 6 of P.L.1987, c.350 (C.30:4G-18) is amended to
19 read as follows:

20 6. a. **【**The county designated agency may contract with other
21 service providers, including private individuals, for the provision of
22 personal assistance services pursuant to this act, in accordance with
23 rules adopted by the commissioner.**】** (Deleted by amendment,
24 P.L. , c.)(pending before the Legislature as this bill)

25 b. The commissioner shall establish a fee schedule for
26 payments or reimbursements to providers of personal assistance
27 services. The fee schedule shall be reviewed every two years and
28 recommendations shall be made to the commissioner by the **【State】**
29 Statewide Consumer Advisory Council on Personal Assistance
30 Services.

31 (cf: P.L.1993, c.215, s.6)

32
33 7. Section 7 of P.L.1987, c.350 (C.30:4G-19) is amended to
34 read as follows:

35 7. a. The commissioner shall establish a sliding fee scale for
36 personal assistance services based upon the ability of an eligible
37 person **【**or the person's spouse**】** to pay for those services. The
38 sliding fee scale shall apply only to an eligible person **【**and the
39 person's spouse whose combined**】** whose individual annual gross
40 income is equal to or exceeds **【**the State's applicable income
41 eligibility limit for social services established pursuant to the
42 "Social Services Block Grant Act," Pub.L. 97-35 (42 U.S.C. s. 1397
43 et seq.)**】** 350% of the federal poverty level. Any eligible person
44 whose **【combined】** annual gross income is less than **【**the State's
45 applicable income eligibility limit**】** 350% of the federal poverty
46 level shall not be required to pay for personal assistance services.

1 b. If the costs of an eligible person's personal assistance
2 services are covered in whole or in part by another State or federal
3 government program or insurance contract, the government
4 program or insurance carrier shall be the primary payer and the
5 personal assistance services program shall be the secondary payer.

6 c. The eligible person receiving personal assistance services
7 and the personal assistant shall sign time sheets attesting to the
8 hours of service rendered, and the personal assistant shall then be
9 paid **[by the county designated agency]** through the fiscal
10 intermediary service organization.

11 (cf: P.L.1993, c.215, s.7)

12
13 8. Section 8 of P.L.1987, c.350 (C.30:4G-20) is amended to
14 read as follows:

15 8. a. There is established the **[State]** Statewide Consumer
16 Advisory Council on Personal Assistance Services in the **[Office]**
17 Division of Disability Services in the department, which shall
18 consist of **[21]** 19 members **[appointed by the commissioner, one**
19 **from each county]**, at least 75 percent of whom are consumers of
20 personal assistance services.

21 (1) The members of the council shall include the Commissioner
22 of Human Services, or his designee, who shall serve ex officio; and
23 18 public members appointed by the commissioner as follows:

24 (a) five members who are residents of Central New Jersey, which
25 consists of Burlington, Hunterdon, Mercer, Middlesex, Monmouth,
26 Somerset, and Warren counties;

27 (b) five members who are residents of Northern New Jersey,
28 which consists of Bergen, Essex, Hudson, Morris, Passaic, Sussex,
29 and Union counties;

30 (c) five members who are residents of Southern New Jersey,
31 which consists of Atlantic, Camden, Cape May, Cumberland,
32 Gloucester, Ocean, and Salem counties;

33 (d) one member who represents a fiscal intermediary service
34 organization;

35 (e) one member who represents a training vendor; and

36 (f) one member who represents a vendor.

37 (2) Vacancies in the membership of the advisory council shall be
38 filled in the same manner provided for the original appointments.
39 The members of the advisory council shall serve without
40 compensation but shall be reimbursed for the reasonable expenses
41 necessarily incurred in the performance of their duties.

42 (3) The public members of the council shall serve for a term of
43 three years from the date of their appointment, and until their
44 successors are appointed; except that, of the members serving on
45 the council on the date of enactment of P.L. , c. (pending before the
46 Legislature as this bill), the commissioner shall designate six
47 members to serve for a term of one year, six members to serve for a

1 term of two years, and six members to serve for a term of three
2 years.

3 (4) A member of the council shall be eligible for reappointment.

4 b. The advisory council shall organize no later than 30 days
5 after the appointment of its members and shall select a **【chairman】**
6 chairperson and vice chairperson from among its members and a
7 secretary who need not be a member of the advisory council.

8 c. The department shall provide such **【stenographic, clerical**
9 **and other administrative assistants, and such professional staff as**
10 **the advisory council requires,】** administrative and professional
11 support as needed to carry out its work.

12 d. It shall be the responsibility of the advisory council to:

13 (1) Advise the commissioner on matters pertaining to personal
14 assistance services and the development of the personal assistance
15 services program, upon the commissioner's request;

16 (2) Review the rules adopted for the personal assistance services
17 program and make recommendations to the commissioner thereon;

18 (3) Evaluate the effectiveness of the personal assistance services
19 program in meeting its objectives and share that evaluation with the
20 commissioner; and

21 (4) Actively explore innovative service delivery models to
22 enhance the consumer-driven nature of the personal assistance
23 services program.

24 (cf: P.L.1999, c.91, s.8)

25

26 ²9. (New section) A consumer shall be free to contract directly
27 with a provider of the consumer's choice, including a vendor
28 providing services on the effective date of P.L. , c. (pending before
29 the Legislature as this bill) if the vendor so agrees.²

30

31 ²【9.】 10.² This act shall take effect on the 90th day following
32 enactment.

33

34

35

36

37

Makes revisions to personal assistance services program in DHS.

[Second Reprint]

ASSEMBLY, No. 2889

STATE OF NEW JERSEY
213th LEGISLATURE

INTRODUCED JUNE 5, 2008

Sponsored by:

Assemblyman JOHN J. BURZICHELLI

District 3 (Salem, Cumberland and Gloucester)

Assemblyman JOSEPH R. MALONE, III

District 30 (Burlington, Mercer, Monmouth and Ocean)

Assemblyman DOUGLAS H. FISHER

District 3 (Salem, Cumberland and Gloucester)

Assemblywoman MARCIA A. KARROW

District 23 (Warren and Hunterdon)

Assemblyman JOSEPH VAS

District 19 (Middlesex)

Co-Sponsored by:

**Assemblymen E.Munoz, Chivukula, Coutinho, Senators Ruiz, Vitale,
Allen, Baroni, T.Kean and Assemblywoman Riley**

SYNOPSIS

Makes revisions to personal assistance services program in DHS.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on March 9, 2009, with amendments.



(Sponsorship Updated As Of: 6/26/2009)

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35 in the **[Office]** Division of Disability Services in the Department of
36 Human Services, to be administered by county designated agencies
37 in each of the 21 counties. The program, within the limits of funds
38 appropriated or otherwise made available to it, shall assist adults
39 with **[chronic]** permanent physical disabilities in the performance
40 of routine, nonmedical tasks that are directly related to maintaining
41 their health and independence, in order to enable these persons to be
42 employed or receive training or education related to employment,
43 parenting, or volunteering, or to support community-based
44 independent living. The program shall seek to promote the greatest
45 possible degree of self-control and self-direction on the part of each
46 recipient of services.

47 (cf: P.L.1999, c.91, s.7)

1 3. Section 4 of P.L.1987, c.350 (C.30:4G-16) is amended to
2 read as follows:

3 4. A person is eligible for the personal assistance services
4 program if:

5 a. The person has a **[chronic]** permanent physical disability;

6 b. The person is 18 through **[65]** 70 years of age;

7 c. The person is a resident of this State;

8 d. The person is in need of personal assistance services
9 pursuant to a written plan of service;

10 e. The person is capable of managing and supervising their
11 personal assistance services;

12 f. A relative or other informal **[care giver]** caregiver is not
13 available to provide the services that the person needs;

14 g. The person lives or plans to live in a private house or
15 apartment, rooming or boarding house, group home, educational
16 facility or residential health care facility; and the personal
17 assistance services that the person shall receive are supplemental to,
18 and not duplicative of, services provided to the person in the
19 rooming or boarding house, group home, educational facility or
20 residential health care facility pursuant to licensure requirements.

21 A person who resides, or is a patient, in a nursing, assisted living,
22 or intermediate care facility, special hospital or other inpatient
23 medical setting is not eligible for the personal assistance services
24 program;

25 h. The attending physician of the person who shall receive the
26 personal assistance services has confirmed in writing that the
27 person has a **[chronic]** permanent physical disability, requires no
28 assistance in the coordination of therapeutic regimes, and that the
29 personal assistance services will be appropriate to meet the person's
30 needs; and

31 i. The person **[utilizes]** receives no more than 40 hours of
32 personal assistance services from **[the]** this program or any other
33 program per week. The commissioner shall develop rules for
34 individual exceptions to this requirement.

35 j. The commissioner shall develop rules for individual
36 exceptions to the age criteria.

37 (cf: P.L.1993, c.215, s.4)

38

39 4. Section 10 of P.L.1993, c.215, (C.30:4G-16.1) is amended to
40 read as follows:

41 10. There is established a personal assistance consumer bill of
42 rights. Each consumer, and, as appropriate, each applicant:

43 a. Shall be treated with courtesy, respect, and full recognition
44 of **[his]** one's dignity, individuality, and right to control **[his]**
45 one's own household and lifestyle, including the identification and
46 determination of **[his]** one's own needs, schedules and the services
47 necessary to meet these needs;

- 1 b. Shall be served by personal assistants or vendors who are
2 properly trained and competent to perform their duties;
- 3 c. Shall receive services in compliance with all State laws and
4 regulations without discrimination based on race, religion, gender,
5 age, creed or disability in the provision or quality of services;
- 6 d. Shall be free from mental and physical abuse, neglect and
7 exploitation, and shall be free from chemical and physical
8 restraints;
- 9 e. Shall be accorded privacy while receiving services in
10 communications and in all daily activities;
- 11 f. Shall be accorded respect for **[his]** one's property rights;
- 12 g. Shall have **[his]** one's personal, financial and medical
13 records treated as confidential;
- 14 h. Shall be free to fully exercise **[his]** one's civil and due
15 process rights and to be assisted by a personal assistant or vendors
16 as appropriate and necessary;
- 17 i. Shall receive in a timely manner all decisions regarding
18 eligibility and amount and kind of services and the reasons therefor
19 in writing and, if appropriate, orally, along with administrative
20 hearings and appeals procedures;
- 21 j. Shall have access to a fair appeals process through which
22 disputes can be resolved;
- 23 k. Shall receive written information regarding consumer
24 standards and responsibilities in the personal assistance services
25 program and to have them verbally explained as needed;
- 26 l. Shall have as few personal assistants entering **[his]** one's
27 home as possible;
- 28 m. Shall have the right to interview, screen and select **[his]**
29 one's personal assistant; and
- 30 n. Shall dismiss those personal assistants who do not respect
31 consumer rights.

32 (cf:P.L.1993, c.215, s.10)

33

34 5. Section 5 of P.L.1987, c.350 (C.30:4G-17) is amended to
35 read as follows:

36 5. a. An individual requesting personal assistance services
37 shall make an inquiry to the county designated agency in the county
38 where the individual resides, or intends to reside. If the applicant
39 meets the criteria set forth in subsections a., b., c., and g. of section
40 4 of **[this act]** P.L.1987, c.350 (C.30:4G-16), then the county
41 designated agency shall furnish the applicant with a complete
42 application package for services under the personal assistance
43 services program. If the applicant does not meet the criteria set
44 forth in subsections a., b., c., and g. of section 4 of **[this act]**
45 P.L.1987, c.350, the individual shall be provided with written
46 notification of ineligibility by the county designated agency.

- 1 b. Upon notification from the applicant that he has completed
2 the application package, the county designated agency shall arrange
3 for a social assessment of the applicant. The assessment shall be
4 used to determine the applicant's eligibility as set forth in
5 subsections d., e., f., h., and i. of section 4 of **[this act]** P.L.1987,
6 c.350.
- 7 c. As part of the application process, the applicant shall prepare
8 a personal assistance services plan, with participation from the
9 county designated agency and assessor, if requested by the
10 applicant, which will meet the applicant's need for personal
11 assistance services. The plan shall include a list of the types of
12 services required, and include an estimate of the time needed and
13 frequency of services to be provided under the personal assistance
14 services program.
- 15 d. Following receipt of the results of an assessment, the
16 personal assistance services plan and the other application materials
17 from the applicant, the county designated agency shall determine
18 the applicant's eligibility and provide written notification of the
19 result to the applicant.
- 20 e. If the applicant has been determined to be eligible, the
21 county designated agency shall conduct a financial evaluation of the
22 applicant to determine the requirement of the person, or person's
23 spouse, to pay for personal assistance services, in accordance with
24 the sliding fee scale established pursuant to section 7 of **[this act]**
25 P.L.1987, c.350 (C.30:4G-19). If the eligible applicant is found to
26 be responsible for the payment of cost share, the applicant shall be
27 furnished with an estimate of the total monthly cost of services, and
28 a statement of the percentage of total cost, or actual amount of
29 money that the eligible person or the person's spouse is required to
30 pay.
- 31 f. The county designated agency shall seek to implement the
32 personal assistance service plan or Cash Management Plan, as
33 applicable, prepared by the consumer, subject to the availability of
34 funding for personal assistance services. The respective plan shall
35 be revised upon request of the consumer or the county designated
36 agency.
- 37 g. The county designated agency shall **[perform]** arrange for a
38 comprehensive social and financial reassessment of the consumer at
39 12-month intervals.
- 40 h. In the event of a dispute between the applicant and the
41 county designated agency with regard to the applicant's eligibility
42 for the personal assistance services program or concerning the
43 services plan prepared pursuant to subsection c. of this section, the
44 applicant may request a hearing, which shall be conducted pursuant
45 to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-
46 1 et seq.).
- 47 i. The social assessments and financial evaluations performed
48 pursuant to subsections b. and e., respectively, of this section, and

1 the personal assistance services plan prepared pursuant to
2 subsection c. of this section, shall be completed on forms prescribed
3 by the commissioner.

4 j. To assure the timeliness of the process, the commissioner
5 shall establish, in rules, specific time frames for the activities in
6 subsections a., b., d. and e. of this section.
7 (cf: P.L.1993, c.215, s.5)

8
9 6. Section 6 of P.L.1987, c.350 (C.30:4G-18) is amended to
10 read as follows:

11 6. a. **【The county designated agency may contract with other**
12 **service providers, including private individuals, for the provision of**
13 **personal assistance services pursuant to this act, in accordance with**
14 **rules adopted by the commissioner.】** (Deleted by amendment,
15 P.L. , c.)(pending before the Legislature as this bill)

16 b. The commissioner shall establish a fee schedule for
17 payments or reimbursements to providers of personal assistance
18 services. The fee schedule shall be reviewed every two years and
19 recommendations shall be made to the commissioner by the **【State】**
20 Statewide Consumer Advisory Council on Personal Assistance
21 Services.
22 (cf: P.L.1993, c.215, s.6)

23
24 7. Section 7 of P.L.1987, c.350 (C.30:4G-19) is amended to
25 read as follows:

26 7. a. The commissioner shall establish a sliding fee scale for
27 personal assistance services based upon the ability of an eligible
28 person **【or the person's spouse】** to pay for those services. The
29 sliding fee scale shall apply only to an eligible person **【and the**
30 **person's spouse whose combined】** whose individual annual gross
31 income is equal to or exceeds **【the State's applicable income**
32 **eligibility limit for social services established pursuant to the**
33 **"Social Services Block Grant Act," Pub.L. 97-35 (42 U.S.C. s. 1397**
34 **et seq.)】** 350% of the federal poverty level. Any eligible person
35 whose **【combined】** annual gross income is less than **【the State's**
36 **applicable income eligibility limit】** 350% of the federal poverty
37 level shall not be required to pay for personal assistance services.

38 b. If the costs of an eligible person's personal assistance
39 services are covered in whole or in part by another State or federal
40 government program or insurance contract, the government
41 program or insurance carrier shall be the primary payer and the
42 personal assistance services program shall be the secondary payer.

43 c. The eligible person receiving personal assistance services
44 and the personal assistant shall sign time sheets attesting to the
45 hours of service rendered, and the personal assistant shall then be
46 paid **【by the county designated agency】** through the fiscal

1 intermediary service organization.

2 (cf: P.L.1993, c.215, s.7)

3

4 8. Section 8 of P.L.1987, c.350 (C.30:4G-20) is amended to
5 read as follows:

6 8. a. There is established the **[State]** Statewide Consumer
7 Advisory Council on Personal Assistance Services in the **[Office]**
8 Division of Disability Services in the department, which shall
9 consist of **[21]** 19 members **[appointed by the commissioner, one**
10 **from each county]**, at least 75 percent of whom are consumers of
11 personal assistance services.

12 (1) The members of the council shall include the Commissioner
13 of Human Services, or his designee, who shall serve ex officio; and
14 18 public members appointed by the commissioner as follows:

15 (a) five members who are residents of Central New Jersey, which
16 consists of Burlington, Hunterdon, Mercer, Middlesex, Monmouth,
17 Somerset, and Warren counties;

18 (b) five members who are residents of Northern New Jersey,
19 which consists of Bergen, Essex, Hudson, Morris, Passaic, Sussex,
20 and Union counties;

21 (c) five members who are residents of Southern New Jersey,
22 which consists of Atlantic, Camden, Cape May, Cumberland,
23 Gloucester, Ocean, and Salem counties;

24 (d) one member who represents a fiscal intermediary service
25 organization;

26 (e) one member who represents a training vendor; and

27 (f) one member who represents a vendor.

28 (2) Vacancies in the membership of the advisory council shall be
29 filled in the same manner provided for the original appointments.
30 The members of the advisory council shall serve without
31 compensation but shall be reimbursed for the reasonable expenses
32 necessarily incurred in the performance of their duties.

33 (3) The public members of the council shall serve for a term of
34 three years from the date of their appointment, and until their
35 successors are appointed; except that, of the members serving on
36 the council on the date of enactment of P.L. , c. (pending before the
37 Legislature as this bill), the commissioner shall designate six
38 members to serve for a term of one year, six members to serve for a
39 term of two years, and six members to serve for a term of three
40 years.

41 (4) A member of the council shall be eligible for reappointment.

42 b. The advisory council shall organize no later than 30 days
43 after the appointment of its members and shall select a **[chairman]**
44 chairperson and vice chairperson from among its members and a
45 secretary who need not be a member of the advisory council.

46 c. The department shall provide such **[stenographic, clerical**
47 **and other administrative assistants, and such professional staff as**

1 the advisory council requires,] administrative and professional
2 support as needed to carry out its work.

3 d. It shall be the responsibility of the advisory council to:

4 (1) Advise the commissioner on matters pertaining to personal
5 assistance services and the development of the personal assistance
6 services program, upon the commissioner's request;

7 (2) Review the rules adopted for the personal assistance services
8 program and make recommendations to the commissioner thereon;

9 (3) Evaluate the effectiveness of the personal assistance services
10 program in meeting its objectives and share that evaluation with the
11 commissioner; and

12 (4) Actively explore innovative service delivery models to
13 enhance the consumer-driven nature of the personal assistance
14 services program.

15 (cf: P.L.1999, c.91, s.8)

16

17 ²9. (New section) A consumer shall be free to contract directly
18 with a provider of the consumer's choice, including a vendor
19 providing services on the effective date of P.L. , c. (pending before
20 the Legislature as this bill) if the vendor so agrees.²

21

22 ²[9.] 10.² This act shall take effect on the 90th day following
23 enactment.

ASSEMBLY, No. 2889

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED JUNE 5, 2008

Sponsored by:

Assemblyman JOHN J. BURZICHELLI

District 3 (Salem, Cumberland and Gloucester)

Assemblyman JOSEPH R. MALONE, III

District 30 (Burlington, Mercer, Monmouth and Ocean)

Assemblyman DOUGLAS H. FISHER

District 3 (Salem, Cumberland and Gloucester)

Co-Sponsored by:

Assemblyman Munoz

SYNOPSIS

Makes revisions to personal assistance services program in DHS.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/24/2008)

1 AN ACT concerning the Personal Assistance Services Program and
2 amending P.L.1987, c.350.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.1987, c.350 (C.30:4G-14) is amended to
8 read as follows:

9 “Advisory Council” means the Statewide Consumer Advisory
10 Council on Personal Assistance Services” established pursuant to
11 section 8 of P.L.1987, c.350 (C.30:4G-20).

12 “Applicant” means a person who applies for services under the
13 personal assistance services program.

14 “Assessor” means a person who is employed by the program to
15 conduct eligibility assessments. An assessor shall have a master’s
16 degree in social work or a baccalaureate degree and three years of
17 experience in rehabilitation services, or shall be a registered
18 professional nurse with a bachelor of science degree in nursing.

19 “Assistant” means a person who meets qualifications with regard
20 to training, equivalent work experience, or certification in the
21 provision of personal assistance services as established by the
22 commissioner by regulation and who provides personal assistance
23 services to a consumer.

24 “Available” means, as applied to a caregiver, physically present,
25 able, and appropriate, as determined with full consideration of the
26 consumer’s personal situation.

27 “Cash Management Plan” means the document used by the
28 program which indicates the monthly cash allowance and details the
29 services and supports required by the consumer in order to meet the
30 consumer’s personal care needs.

31 **【“Chronic physical disability” means a severe impairment of a**
32 **permanent nature which so restricts a person’s ability to perform**
33 **essential activities of daily living that the person needs assistance in**
34 **order to maintain the person’s independence and health.】**

35 “Commissioner” means the Commissioner of Human Services.

36 “Community-based independent living” means self-directed
37 living whereby a consumer is actively participating in community-
38 based activities aside from employment or education, including, but
39 not limited to, parenting, searching for employment, and
40 community service such as volunteering on governing boards or
41 serving on committees.

42 “Consumer” means a person who either meets the eligibility
43 criteria set forth in section 4 of **【this act】** P.L.1987, c.350
44 (C.30:4G-16), or has received an individual exception to the

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】 in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 eligibility criteria in subsection **[i or j] i. or j.** of section 4 of **[this**
2 **act] P.L.1987, c.350** under rules established by the commissioner,
3 and who is receiving services.

4 **["Department" means the Department of Human Services.]**

5 "County designated agency" means a county office for the
6 disabled or other agency designated by the county government,
7 subject to approval by the commissioner, to administer in that
8 county the personal assistance services program established
9 pursuant to **[this act] P.L.1987, c.350 (C.30:4G-13 et seq.)**. **[A**
10 **county designated agency shall have an advisory council of which**
11 **at least 51% of the members are persons with disabilities.]**

12 "Department" means the Department of Human Services.

13 "Employment" means working in a paid occupation, whether in
14 cash or in kind, including, but not limited to, full time employment;
15 part time employment; the practice of a profession; self-
16 employment; farm work; home-based employment; or other gainful
17 work.

18 "Federal poverty level" means the official poverty level based on
19 family size, established and adjusted under Section 673(2) of
20 Subtitle B of the "Community Services Block Grant Act,
21 "Pub.L.97-35 (42 U.S.C.s. 9902 (2)).

22 "Fiscal intermediary service organization" or "FISO" means a
23 company or agency that is set up to disburse the cash benefit to
24 consumers using the cash option under the program, and serves as
25 the business agent for the consumer, handles the distribution of
26 payroll checks and other disbursements at the direction of the
27 consumer, and keeps records of all transactions.

28 "Informal caregiver" means an individual who is 18 years of age
29 or older residing in the household for a purpose other than the
30 sharing of expenses.

31 "Permanent physical disability" means a severe impairment of a
32 permanent nature which so restricts a person's ability to perform
33 essential activities of daily living that the person needs assistance to
34 maintain the person's independence and health.

35 **["Personal assistant" means a person who meets the**
36 **qualifications with regard to training, equivalent work experience or**
37 **certification in the provision of personal assistance services**
38 **established by the commissioner and who provides personal**
39 **assistance services to a consumer.]**

40 "Personal assistance services" means health and chore related
41 tasks performed by a personal assistant. Personal assistance
42 services include, but are not limited to, assistance in essential daily
43 activities such as bathing, dressing and meal preparation; assistance
44 with mobility, laundry and shopping; and driving or other forms of
45 transportation.

46 "Program" means the Personal Assistance Services Program
47 established pursuant to P.L.1987, c.350 (C.30:4G-13 et seq.)

1 “Relative” means a person who is 18 years of age or older and is
2 related to the consumer by blood or law.

3 “Resident” means a person who abides or resides in this State for
4 other than a temporary purpose and who has no present intention of
5 moving from the State.

6 “Self-directed” means a person who is able to: make decisions
7 regarding daily activities; and make major life decisions, manage
8 and supervise a personal assistant, and accept the responsibility for
9 those decisions and actions.

10 “Time sheet” means a legal document used to verify the number
11 of hours worked under the program, that is issued by the fiscal
12 intermediary service organization, completed by the employee, and
13 verified by the consumer.

14 “Training” means the attendance and participation of a consumer
15 or personal assistant in an established Statewide educational
16 program or equivalent, as provided by regulation of the department.

17 “Training Vendor” means an agency or business that provides a
18 training curriculum to consumers and personal assistants under the
19 guidelines of the program.

20 “Vendor” mean an agency or business that provides an allowable
21 service to a consumer under the guidelines of the program.

22 (cf: P.L.1993, c.215, s.2)

23

24 2. Section 3 of P.L.1987, c.350 (C.30:4G-15 is amended to
25 read as follows:

26 3. There is established a personal assistance services program
27 in the **[Office]** Division of Disability Services in the Department of
28 Human Services, to be administered by county designated agencies
29 in each of the 21 counties. The program, within the limits of funds
30 appropriated or otherwise made available to it, shall assist adults
31 with **[chronic]** permanent physical disabilities in the performance
32 of routine, nonmedical tasks that are directly related to maintaining
33 their health and independence, in order to enable these persons to be
34 employed or receive training or education related to employment,
35 parenting, or volunteering, or to support community-based
36 independent living. The program shall seek to promote the greatest
37 possible degree of self-control and self-direction on the part of each
38 recipient of services.

39 (cf: P.L.1999, c.91, s.7)

40

41 3. Section 4 of P.L.1987, c.350 (C.30:4G-16) is amended to
42 read as follows:

43 4. A person is eligible for the personal assistance services
44 program if:

45 a. The person has a **[chronic]** permanent physical disability;

46 b. The person is 18 through **[65]** 70 years of age;

47 c. The person is a resident of this State;

- 1 d. The person is in need of personal assistance services
2 pursuant to a written plan of service;
- 3 e. The person is capable of managing and supervising their
4 personal assistance services;
- 5 f. A relative or other informal **[care giver]** caregiver is not
6 available to provide the services that the person needs;
- 7 g. The person lives or plans to live in a private house or
8 apartment, rooming or boarding house, group home, educational
9 facility or residential health care facility; and the personal
10 assistance services that the person shall receive are supplemental to,
11 and not duplicative of, services provided to the person in the
12 rooming or boarding house, group home, educational facility or
13 residential health care facility pursuant to licensure requirements.
14 A person who resides, or is a patient, in a nursing, assisted living,
15 or intermediate care facility, special hospital or other inpatient
16 medical setting is not eligible for the personal assistance services
17 program;
- 18 h. The attending physician of the person who shall receive the
19 personal assistance services has confirmed in writing that the
20 person has a **[chronic]** permanent physical disability, requires no
21 assistance in the coordination of therapeutic regimes, and that the
22 personal assistance services will be appropriate to meet the person's
23 needs; and
- 24 i. The person **[utilizes]** receives no more than 40 hours of
25 personal assistance services from **[the]** this program or any other
26 program per week. The commissioner shall develop rules for
27 individual exceptions to this requirement.
- 28 j. The commissioner shall develop rules for individual
29 exceptions to the age criteria.
30 (cf: P.L.1993, c.215, s.4)
- 31
- 32 4. Section 10 of P.L.1993, c.215, (C.30:4G-16.1) is amended to
33 read as follows:
- 34 10. There is established a personal assistance consumer bill of
35 rights. Each consumer, and, as appropriate, each applicant:
- 36 a. Shall be treated with courtesy, respect, and full recognition
37 of **[his]** one's dignity, individuality, and right to control **[his]**
38 one's own household and lifestyle, including the identification and
39 determination of **[his]** one's own needs, schedules and the services
40 necessary to meet these needs;
- 41 b. Shall be served by personal assistants or vendors who are
42 properly trained and competent to perform their duties;
- 43 c. Shall receive services in compliance with all State laws and
44 regulations without discrimination based on race, religion, gender,
45 age, creed or disability in the provision or quality of services;

- 1 d. Shall be free from mental and physical abuse, neglect and
2 exploitation, and shall be free from chemical and physical
3 restraints;
- 4 e. Shall be accorded privacy while receiving services in
5 communications and in all daily activities;
- 6 f. Shall be accorded respect for **【his】** one's property rights;
- 7 g. Shall have **【his】** one's personal, financial and medical
8 records treated as confidential;
- 9 h. Shall be free to fully exercise **【his】** one's civil and due
10 process rights and to be assisted by a personal assistant or vendors
11 as appropriate and necessary;
- 12 i. Shall receive in a timely manner all decisions regarding
13 eligibility and amount and kind of services and the reasons therefor
14 in writing and, if appropriate, orally, along with administrative
15 hearings and appeals procedures;
- 16 j. Shall have access to a fair appeals process through which
17 disputes can be resolved;
- 18 k. Shall receive written information regarding consumer
19 standards and responsibilities in the personal assistance services
20 program and to have them verbally explained as needed;
- 21 l. Shall have as few personal assistants entering **【his】** one's
22 home as possible;
- 23 m. Shall have the right to interview, screen and select **【his】**
24 one's personal assistant; and
- 25 n. Shall dismiss those personal assistants who do not respect
26 consumer rights.
27 (cf:P.L.1993, c.215, s.10)

28
29 5. Section 5 of P.L.1987, c.350 (C.30:4G-17) is amended to
30 read as follows:

- 31 5. a. An individual requesting personal assistance services
32 shall make an inquiry to the county designated agency in the county
33 where the individual resides, or intends to reside. If the applicant
34 meets the criteria set forth in subsections a., b., c., and g. of section
35 4 of **【this act】** P.L.1987, c.350 (C.30:4G-16), then the county
36 designated agency shall furnish the applicant with a complete
37 application package for services under the personal assistance
38 services program. If the applicant does not meet the criteria set
39 forth in subsections a., b., c., and g. of section 4 of **【this act】**
40 P.L.1987, c.350, the individual shall be provided with written
41 notification of ineligibility by the county designated agency.
- 42 b. Upon notification from the applicant that he has completed
43 the application package, the county designated agency shall arrange
44 for a social assessment of the applicant. The assessment shall be
45 used to determine the applicant's eligibility as set forth in
46 subsections d., e., f., h., and i. of section 4 of **【this act】** P.L.1987,
47 c.350.

- 1 c. As part of the application process, the applicant shall prepare
2 a personal assistance services plan, with participation from the
3 county designated agency and assessor, if requested by the
4 applicant, which will meet the applicant's need for personal
5 assistance services. The plan shall include a list of the types of
6 services required, and include an estimate of the time needed and
7 frequency of services to be provided under the personal assistance
8 services program.
- 9 d. Following receipt of the results of an assessment, the
10 personal assistance services plan and the other application materials
11 from the applicant, the county designated agency shall determine
12 the applicant's eligibility and provide written notification of the
13 result to the applicant.
- 14 e. If the applicant has been determined to be eligible, the
15 county designated agency shall conduct a financial evaluation of the
16 applicant to determine the requirement of the person, or person's
17 spouse, to pay for personal assistance services, in accordance with
18 the sliding fee scale established pursuant to section 7 of **[this act]**
19 P.L.1987, c.350 (C.30:4G-19). If the eligible applicant is found to
20 be responsible for the payment of cost share, the applicant shall be
21 furnished with an estimate of the total monthly cost of services, and
22 a statement of the percentage of total cost, or actual amount of
23 money that the eligible person or the person's spouse is required to
24 pay.
- 25 f. The county designated agency shall seek to implement the
26 personal assistance service plan or Cash Management Plan, as
27 applicable, prepared by the consumer, subject to the availability of
28 funding for personal assistance services. The respective plan shall
29 be revised upon request of the consumer or the county designated
30 agency.
- 31 g. The county designated agency shall **[perform]** arrange for a
32 comprehensive social and financial reassessment of the consumer at
33 12-month intervals.
- 34 h. In the event of a dispute between the applicant and the
35 county designated agency with regard to the applicant's eligibility
36 for the personal assistance services program or concerning the
37 services plan prepared pursuant to subsection c. of this section, the
38 applicant may request a hearing, which shall be conducted pursuant
39 to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-
40 1 et seq.).
- 41 i. The social assessments and financial evaluations performed
42 pursuant to subsections b. and e., respectively, of this section, and
43 the personal assistance services plan prepared pursuant to
44 subsection c. of this section, shall be completed on forms prescribed
45 by the commissioner.

1 j. To assure the timeliness of the process, the commissioner
2 shall establish, in rules, specific time frames for the activities in
3 subsections a., b., d. and e. of this section.
4 (cf: P.L.1993, c.215, s.5)

5
6 6. Section 6 of P.L.1987, c.350 (C.30:4G-18) is amended to
7 read as follows:

8 6. a. **【The county designated agency may contract with other**
9 **service providers, including private individuals, for the provision of**
10 **personal assistance services pursuant to this act, in accordance with**
11 **rules adopted by the commissioner.】** (Deleted by amendment,
12 P.L. , c.)(pending before the Legislature as this bill)

13 b. The commissioner shall establish a fee schedule for
14 payments or reimbursements to providers of personal assistance
15 services. The fee schedule shall be reviewed every two years and
16 recommendations shall be made to the commissioner by the **【State】**
17 Statewide Consumer Advisory Council on Personal Assistance
18 Services.
19 (cf: P.L.1993, c.215, s.6)

20
21 7. Section 7 of P.L.1987, c.350 (C.30:4G-19) is amended to
22 read as follows:

23 7. a. The commissioner shall establish a sliding fee scale for
24 personal assistance services based upon the ability of an eligible
25 person **【or the person's spouse】** to pay for those services. The
26 sliding fee scale shall apply only to an eligible person **【and the**
27 **person's spouse whose combined】** whose individual annual gross
28 income is equal to or exceeds **【the State's applicable income**
29 **eligibility limit for social services established pursuant to the**
30 **"Social Services Block Grant Act," Pub.L. 97-35 (42 U.S.C. s. 1397**
31 **et seq.)】** 350% of the federal poverty level. Any eligible person
32 whose **【combined】** annual gross income is less than **【the State's**
33 **applicable income eligibility limit】** 350% of the federal poverty
34 level shall not be required to pay for personal assistance services.

35 b. If the costs of an eligible person's personal assistance
36 services are covered in whole or in part by another State or federal
37 government program or insurance contract, the government
38 program or insurance carrier shall be the primary payer and the
39 personal assistance services program shall be the secondary payer.

40 c. The eligible person receiving personal assistance services
41 and the personal assistant shall sign time sheets attesting to the
42 hours of service rendered, and the personal assistant shall then be
43 paid **【by the county designated agency】** through the fiscal
44 intermediary service organization.

45 (cf: P.L.1993, c.215, s.7)

1 8. Section 8 of P.L.1987, c.350 (C.30:4G-20) is amended to
2 read as follows:

3 8. a. There is established the **[State]** Statewide Consumer
4 Advisory Council on Personal Assistance Services in the **[Office]**
5 Division of Disability Services in the department, which shall
6 consist of **[21]** 19 members **[appointed by the commissioner, one**
7 **from each county]**, at least 75 percent of whom are consumers of
8 personal assistance services.

9 (1) The members of the council shall include the Commissioner
10 of Human Services, or his designee, who shall serve ex officio; and
11 18 public members appointed by the commissioner as follows:

12 (a) five members who are residents of Central New Jersey, which
13 consists of Burlington, Hunterdon, Mercer, Middlesex, Monmouth,
14 Somerset, and Warren counties;

15 (b) five members who are residents of Northern New Jersey,
16 which consists of Bergen, Essex, Hudson, Morris, Passaic, Sussex,
17 and Union counties;

18 (c) five members who are residents of Southern New Jersey,
19 which consists of Atlantic, Camden, Cape May, Cumberland,
20 Gloucester, Ocean, and Salem counties;

21 (d) one member who represents a fiscal intermediary service
22 organization;

23 (e) one member who represents a training vendor; and

24 (f) one member who represents a vendor.

25 (2) Vacancies in the membership of the advisory council shall be
26 filled in the same manner provided for the original appointments.
27 The members of the advisory council shall serve without
28 compensation but shall be reimbursed for the reasonable expenses
29 necessarily incurred in the performance of their duties.

30 (3) The public members of the council shall serve for a term of
31 three years from the date of their appointment, and until their
32 successors are appointed; except that, of the members serving on
33 the council on the date of enactment of P.L. , c. (pending before the
34 Legislature as this bill), the commissioner shall designate six
35 members to serve for a term of one year, six members to serve for a
36 term of two years, and six members to serve for a term of three
37 years.

38 (4) A member of the council shall be eligible for reappointment.

39 b. The advisory council shall organize no later than 30 days
40 after the appointment of its members and shall select a **[chairman]**
41 chairperson and vice chairperson from among its members and a
42 secretary who need not be a member of the advisory council.

43 c. The department shall provide such **[stenographic, clerical**
44 **and other administrative assistants, and such professional staff as**
45 **the advisory council requires,]** administrative and professional
46 support as needed to carry out its work.

47 d. It shall be the responsibility of the advisory council to:

- 1 (1) Advise the commissioner on matters pertaining to personal
2 assistance services and the development of the personal assistance
3 services program, upon the commissioner's request;
- 4 (2) Review the rules adopted for the personal assistance services
5 program and make recommendations to the commissioner thereon;
- 6 (3) Evaluate the effectiveness of the personal assistance services
7 program in meeting its objectives and share that evaluation with the
8 commissioner; and
- 9 (4) Actively explore innovative service delivery models to
10 enhance the consumer-driven nature of the personal assistance
11 services program.
- 12 (cf: P.L.1999, c.91, s.8)

13
14 9. This act shall take effect on the 90th day following
15 enactment.

16
17
18 STATEMENT

19
20 This bill makes various changes to P.L.1987, c.350 (C.30:4G-13
21 et seq.), which establishes the "Personal Assistance Services
22 Program" in the Division of Disability Services in the Department
23 of Human Services. The purpose of the changes is to enable the
24 program to be operated on a "cash and counseling" model, wherein
25 the consumer of personal assistance services exercises control over
26 the individual workers the consumer employs, and manages and
27 directs the his own service plan.

28 Specifically, the bill:

- 29 • Revises the eligibility criteria for personal assistance services to
30 provide that a eligible person must have a "permanent," rather
31 than a "chronic" physical disability, and the person may be
32 between 18 and 70 years of age, rather than 18 and 65 years of
33 age, as the program currently provides;
- 34 • Revises the requirements regarding cost sharing for services to
35 provide that only the income of the eligible person shall be
36 considered (rather than that of the person and the person's
37 spouse), and that only those eligible persons whose gross annual
38 income is equal to or greater than 350% of the federal poverty
39 level would be required to share in the cost of personal assistant
40 services;
- 41 • Renames and revises the membership of the Statewide Consumer
42 Advisory Council on Personal Assistance Services to reduce the
43 membership to 19 members, including the Commissioner of
44 Human Services and 18 public members appointed by the
45 commissioner. Five each of the public members will be from the
46 northern, central and southern counties of the State, respectively,
47 one member shall represent a fiscal intermediary service
48 organization, one member shall represent a training vendor, and

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11

- 1 one member shall represent a vendor. The bill also provides for
2 staggered terms for the members currently serving on the council,
3 and three year terms for subsequent appointees; and
4 • Makes various technical changes to the statute to make the
5 terminology more gender neutral.

ASSEMBLY HUMAN SERVICES COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2889

STATE OF NEW JERSEY

DATED: SEPTEMBER 22, 2008

The Assembly Human Services Committee reports favorably on Assembly Bill No. 2889.

This bill makes various changes to P.L.1987, c.350 (C.30:4G-13 et seq.), which establishes the “Personal Assistance Services Program” in the Division of Disability Services in the Department of Human Services. The purpose of the changes is to enable the program to be operated on a “cash and counseling” model, wherein the consumer of personal assistance services exercises control over the individual workers the consumer employs, and manages and directs his own service plan.

Specifically, the bill:

- Revises the eligibility criteria for personal assistance services to provide that an eligible person must have a “permanent,” rather than a “chronic” physical disability, and the person may be between 18 and 70 years of age, rather than 18 and 65 years of age, as the program currently provides;
- Revises the requirements regarding cost sharing for services to provide that only the income of the eligible person shall be considered (rather than that of the person and the person’s spouse), and that only those eligible persons whose gross annual income is equal to or greater than 350% of the federal poverty level would be required to share in the cost of personal assistant services;
- Renames and revises the membership of the Statewide Consumer Advisory Council on Personal Assistance Services to reduce the membership to 19 members, including the Commissioner of Human Services and 18 public members appointed by the commissioner. Five each of the public members will be from the northern, central and southern counties of the State, respectively, one member shall represent a fiscal intermediary service organization, one member shall represent a training vendor, and one member shall represent a vendor. The bill also provides for staggered terms for the members currently serving on the council, and three year terms for subsequent appointees; and
- Makes various technical changes to the statutes to make the terminology more gender neutral.

In the Fiscal Note prepared by the Office of Legislative Services (OLS), OLS concurs with the Office of Management and Budget that there is no additional cost associated with this bill. Since the Personal Assistance Services Program is not an entitlement program, the number of persons served is limited by the annual appropriation for the program. In fiscal year 2009, the \$11.0 million appropriation in General and Casino Revenue Funds will enable about 660 persons to receive services even if the eligibility changes reflected in the bill result in more persons qualifying.

This bill is identical to Senate Bill No. 1986 (Ruiz/Vitale) which is pending in the Senate Health, Human Services and Senior Citizens Committee.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 2889

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 9, 2009

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 2889 (1R), with committee amendments.

The bill, as amended, makes various changes to P.L.1987, c.350 (C.30:4G-13 et seq.), which establishes the “Personal Assistance Services Program” in the Division of Disability Services in the Department of Human Services. The purpose of the changes is to enable the program to be operated on a “cash and counseling” model, wherein the consumer of personal assistance services exercises control over the individual workers the consumer employs, and manages and directs his own service plan.

Specifically, the bill:

- Revises the eligibility criteria for personal assistance services to provide that an eligible person must have a “permanent,” rather than a “chronic” physical disability, and the person may be between 18 and 70 years of age, rather than 18 and 65 years of age, as the program currently provides;
- Revises the requirements regarding cost sharing for services to provide that only the income of the eligible person shall be considered (rather than that of the person and the person’s spouse), and that only those eligible persons whose gross annual income is equal to or greater than 350% of the federal poverty level would be required to share in the cost of personal assistant services;
- Renames and revises the membership of the Statewide Consumer Advisory Council on Personal Assistance Services to reduce the membership to 19 members, including the Commissioner of Human Services and 18 public members appointed by the commissioner. Five each of the public members will be from the northern, central and southern counties of the State, respectively, one member shall represent a fiscal intermediary service organization, one member shall represent a training vendor, and one member shall represent a vendor. The bill also provides for staggered terms for the members currently serving on the council, and three year terms for subsequent appointees; and

- Makes various technical changes to the statutes to make the terminology more gender neutral.

As amended and reported, this bill is identical to Senate Bill No. 1986 (1R), as also amended and reported by the committee.

COMMITTEE AMENDMENTS:

The committee amendments provide that a consumer shall be free to contract directly with a provider of the consumer's choice, including a vendor providing services on the effective date of the bill, if the vendor so agrees.

FISCAL IMPACT:

In the Fiscal Note to the bill as introduced, the Office of Legislative Services (OLS) agreed with the Executive that there is no cost associated with the bill as only the method by which services are provided is changed. Further, as the Personal Assistance Services Program (PASP) is not an entitlement, the number of persons the PASP can serve in a given year is limited by the annual appropriation.

The OLS also noted that while changes to the eligibility requirements may increase the number of persons that qualify for the PASP, the PASP is not an entitlement program that requires a mandatory level of funding. The FY 2009 \$11.0 million appropriation in General and Casino Revenue Funds enables about 660 persons to receive services. If the eligibility changes in the bill result in more persons qualifying, given that the effective date of the bill is 90 days after enactment, any additional cost may first impact FY2010 appropriations.

STATEMENT TO
ASSEMBLY, No. 2889

with Assembly Floor Amendments
(Proposed By Assemblyman BURZICHELLI)

ADOPTED: OCTOBER 27, 2008

These floor amendments:

- expand the definition of “assessor” to include a registered professional nurse with three years experience in home care; and
- delete the definition of “assistant” and restore the definition of “personal assistant” (which definitions are identical), since the latter term is used throughout the bill.

FISCAL NOTE
ASSEMBLY, No. 2889
STATE OF NEW JERSEY
213th LEGISLATURE

DATED: SEPTEMBER 15, 2008

SUMMARY

Synopsis: Makes revisions to personal assistance services program in DHS.

Type of Impact: None.

Agencies Affected: Department of Human Services. County government agencies that administer the program.

Executive Estimate

Fiscal Impact	<u>Years 1 - 3</u>
State Cost	\$0

Office of Legislative Services Estimate

Fiscal Impact	<u>Years 1 -3</u>
State Cost	None.

- The Office of Legislative Services **concurs** with the Office of Management and Budget (OMB) that there is no additional cost associated with the legislation. The legislation restructures how personal assistance services are provided through the Personal Assistance Services Program (PASP). At present, once an individual is determined eligible for PASP, a county government agency determines the type, the dollar amount and the entities that will provide services. Under the proposed changes, the individual will determine the services to be provided and who will provide those services so long as the cost of the services to be provided does not exceed the cost of services the individual currently receives.
- Changes to the PASP eligibility requirements may result in more people qualifying for PASP. But as PASP is not an entitlement, the annual appropriation limits the number of people PASP can serve.

BILL DESCRIPTION

Assembly Bill No. 2889 of 2008 makes various changes to the "Personal Assistance Services Program" (PASP) in the Division of Disability Services in the Department of Human Services.

The changes will enable the program to be operated on a “cash and counseling” model, wherein the consumer of personal assistance services exercises control over the individual workers the consumer employs, and manages and directs his own service plan. Eligibility changes include:

- A person must have a “permanent” disability rather than a “chronic” physical disability.
- The maximum eligible age for services is raised from 65 to 70 years of age.
- The cost sharing requirements are changed so that only income from the person eligible for the program will be considered and not the income of a spouse, and that only eligible persons with income greater than 350 percent of the federal poverty level would be subject to a cost sharing requirement.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Office of Management and Budget (OMB) has indicated that there is no cost associated with the legislation as only the method by which services are provided is changed. Further, as PASP is not an entitlement, the number of persons PASP can serve in a given year is limited by the annual appropriation.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services concurs with the OMB that there is no additional cost associated with the legislation.

While changes to the eligibility requirements may increase the number of persons that qualify for PASP, PASP is not an entitlement program. Thus, in FY 2009, the \$11.0 million appropriation in General and Casino Revenue Funds will enable about 660 persons to receive services even if the eligibility changes results in more persons qualifying for PASP.

Section: Human Services

*Analyst: Jay A. Hershberg
Principal Fiscal Analyst*

*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).

SENATE, No. 1986

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED JUNE 16, 2008

Sponsored by:

Senator M. TERESA RUIZ
District 29 (Essex and Union)
Senator JOSEPH F. VITALE
District 19 (Middlesex)

Co-Sponsored by:

Senators Allen, Baroni and T.Kean

SYNOPSIS

Makes revisions to personal assistance services program in DHS.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 10/17/2008)

1 AN ACT concerning the Personal Assistance Services Program and
2 amending P.L.1987, c.350.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 2 of P.L.1987, c.350 (C.30:4G-14) is amended to
8 read as follows:

9 “Advisory Council” means the Statewide Consumer Advisory
10 Council on Personal Assistance Services” established pursuant to
11 section 8 of P.L.1987, c.350 (C.30:4G-20).

12 “Applicant” means a person who applies for services under the
13 personal assistance services program.

14 “Assessor” means a person who is employed by the program to
15 conduct eligibility assessments. An assessor shall have a master’s
16 degree in social work or a baccalaureate degree and three years of
17 experience in rehabilitation services, or shall be a registered
18 professional nurse with a bachelor of science degree in nursing.

19 “Assistant” means a person who meets qualifications with regard
20 to training, equivalent work experience, or certification in the
21 provision of personal assistance services as established by the
22 commissioner by regulation and who provides personal assistance
23 services to a consumer.

24 “Available” means, as applied to a caregiver, physically present,
25 able, and appropriate, as determined with full consideration of the
26 consumer’s personal situation.

27 “Cash Management Plan” means the document used by the
28 program which indicates the monthly cash allowance and details the
29 services and supports required by the consumer in order to meet the
30 consumer’s personal care needs.

31 **【“Chronic physical disability” means a severe impairment of a**
32 **permanent nature which so restricts a person’s ability to perform**
33 **essential activities of daily living that the person needs assistance in**
34 **order to maintain the person’s independence and health.】**

35 “Commissioner” means the Commissioner of Human Services.

36 “Community-based independent living” means self-directed
37 living whereby a consumer is actively participating in community-
38 based activities aside from employment or education, including, but
39 not limited to, parenting, searching for employment, and
40 community service such as volunteering on governing boards or
41 serving on committees.

42 “Consumer” means a person who either meets the eligibility
43 criteria set forth in section 4 of **【this act】** P.L.1987, c.350
44 (C.30:4G-16), or has received an individual exception to the
45 eligibility criteria in subsection **【i or j】** i. or j. of section 4 of **【this**

EXPLANATION – Matter enclosed in bold-faced brackets **【thus】 in the above bill is not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 act] P.L.1987, c.350 under rules established by the commissioner,
2 and who is receiving services.

3 **["Department" means the Department of Human Services.]**

4 "County designated agency" means a county office for the
5 disabled or other agency designated by the county government,
6 subject to approval by the commissioner, to administer in that
7 county the personal assistance services program established
8 pursuant to **[this act] P.L.1987, c.350 (C.30:4G-13 et seq.)**. **[A**
9 **county designated agency shall have an advisory council of which**
10 **at least 51% of the members are persons with disabilities.]**

11 "Department" means the Department of Human Services.

12 "Employment" means working in a paid occupation, whether in
13 cash or in kind, including, but not limited to, full time employment;
14 part time employment; the practice of a profession; self-
15 employment; farm work; home-based employment; or other gainful
16 work.

17 "Federal poverty level" means the official poverty level based on
18 family size, established and adjusted under Section 673(2) of
19 Subtitle B of the "Community Services Block Grant Act,
20 "Pub.L.97-35 (42 U.S.C.s. 9902 (2)).

21 "Fiscal intermediary service organization" or "FISO" means a
22 company or agency that is set up to disburse the cash benefit to
23 consumers using the cash option under the program, and serves as
24 the business agent for the consumer, handles the distribution of
25 payroll checks and other disbursements at the direction of the
26 consumer, and keeps records of all transactions.

27 "Informal caregiver" means an individual who is 18 years of age
28 or older residing in the household for a purpose other than the
29 sharing of expenses.

30 "Permanent physical disability" means a severe impairment of a
31 permanent nature which so restricts a person's ability to perform
32 essential activities of daily living that the person needs assistance to
33 maintain the person's independence and health.

34 **["Personal assistant" means a person who meets the**
35 **qualifications with regard to training, equivalent work experience or**
36 **certification in the provision of personal assistance services**
37 **established by the commissioner and who provides personal**
38 **assistance services to a consumer.]**

39 "Personal assistance services" means health and chore related
40 tasks performed by a personal assistant. Personal assistance
41 services include, but are not limited to, assistance in essential daily
42 activities such as bathing, dressing and meal preparation; assistance
43 with mobility, laundry and shopping; and driving or other forms of
44 transportation.

45 "Program" means the Personal Assistance Services Program
46 established pursuant to P.L.1987, c.350 (C.30:4G-13 et seq.).

1 “Relative” means a person who is 18 years of age or older and is
2 related to the consumer by blood or law.

3 “Resident” means a person who abides or resides in this State for
4 other than a temporary purpose and who has no present intention of
5 moving from the State.

6 “Self-directed” means a person who is able to: make decisions
7 regarding daily activities; and make major life decisions, manage
8 and supervise a personal assistant, and accept the responsibility for
9 those decisions and actions.

10 “Time sheet” means a legal document used to verify the number
11 of hours worked under the program, that is issued by the fiscal
12 intermediary service organization, completed by the employee, and
13 verified by the consumer.

14 “Training” means the attendance and participation of a consumer
15 or personal assistant in an established Statewide educational
16 program or equivalent, as provided by regulation of the department.

17 “Training Vendor” means an agency or business that provides a
18 training curriculum to consumers and personal assistants under the
19 guidelines of the program.

20 “Vendor” mean an agency or business that provides an allowable
21 service to a consumer under the guidelines of the program.

22 (cf: P.L.1993, c.215, s.2)

23

24 2. Section 3 of P.L.1987, c.350 (C.30:4G-15) is amended to
25 read as follows:

26 3. There is established a personal assistance services program
27 in the **[Office]** Division of Disability Services in the Department of
28 Human Services, to be administered by county designated agencies
29 in each of the 21 counties. The program, within the limits of funds
30 appropriated or otherwise made available to it, shall assist adults
31 with **[chronic]** permanent physical disabilities in the performance
32 of routine, nonmedical tasks that are directly related to maintaining
33 their health and independence, in order to enable these persons to be
34 employed or receive training or education related to employment,
35 parenting, or volunteering, or to support community-based
36 independent living. The program shall seek to promote the greatest
37 possible degree of self-control and self-direction on the part of each
38 recipient of services.

39 (cf: P.L.1999, c.91, s.7)

40

41 3. Section 4 of P.L.1987, c.350 (C.30:4G-16) is amended to
42 read as follows:

43 4. A person is eligible for the personal assistance services
44 program if:

45 a. The person has a **[chronic]** permanent physical disability;

46 b. The person is 18 through **[65]** 70 years of age;

47 c. The person is a resident of this State;

- 1 d. The person is in need of personal assistance services
2 pursuant to a written plan of service;
- 3 e. The person is capable of managing and supervising their
4 personal assistance services;
- 5 f. A relative or other informal **[care giver]** caregiver is not
6 available to provide the services that the person needs;
- 7 g. The person lives or plans to live in a private house or
8 apartment, rooming or boarding house, group home, educational
9 facility or residential health care facility; and the personal
10 assistance services that the person shall receive are supplemental to,
11 and not duplicative of, services provided to the person in the
12 rooming or boarding house, group home, educational facility or
13 residential health care facility pursuant to licensure requirements.
14 A person who resides, or is a patient, in a nursing, assisted living,
15 or intermediate care facility, special hospital or other inpatient
16 medical setting is not eligible for the personal assistance services
17 program;
- 18 h. The attending physician of the person who shall receive the
19 personal assistance services has confirmed in writing that the
20 person has a **[chronic]** permanent physical disability, requires no
21 assistance in the coordination of therapeutic regimes, and that the
22 personal assistance services will be appropriate to meet the person's
23 needs; and
- 24 i. The person **[utilizes]** receives no more than 40 hours of
25 personal assistance services from **[the]** this program or any other
26 program per week. The commissioner shall develop rules for
27 individual exceptions to this requirement.
- 28 j. The commissioner shall develop rules for individual
29 exceptions to the age criteria.
30 (cf: P.L.1993, c.215, s.4)
31
- 32 4. Section 10 of P.L.1993, c.215, (C.30:4G-16.1) is amended to
33 read as follows:
- 34 10. There is established a personal assistance consumer bill of
35 rights. Each consumer, and, as appropriate, each applicant:
- 36 a. Shall be treated with courtesy, respect, and full recognition
37 of **[his]** one's dignity, individuality, and right to control **[his]**
38 one's own household and lifestyle, including the identification and
39 determination of **[his]** one's own needs, schedules and the services
40 necessary to meet these needs;
- 41 b. Shall be served by personal assistants or vendors who are
42 properly trained and competent to perform their duties;
- 43 c. Shall receive services in compliance with all State laws and
44 regulations without discrimination based on race, religion, gender,
45 age, creed or disability in the provision or quality of services;

- 1 d. Shall be free from mental and physical abuse, neglect and
2 exploitation, and shall be free from chemical and physical
3 restraints;
- 4 e. Shall be accorded privacy while receiving services in
5 communications and in all daily activities;
- 6 f. Shall be accorded respect for **【his】** one's property rights;
- 7 g. Shall have **【his】** one's personal, financial and medical
8 records treated as confidential;
- 9 h. Shall be free to fully exercise **【his】** one's civil and due
10 process rights and to be assisted by a personal assistant or vendors
11 as appropriate and necessary;
- 12 i. Shall receive in a timely manner all decisions regarding
13 eligibility and amount and kind of services and the reasons therefor
14 in writing and, if appropriate, orally, along with administrative
15 hearings and appeals procedures;
- 16 j. Shall have access to a fair appeals process through which
17 disputes can be resolved;
- 18 k. Shall receive written information regarding consumer
19 standards and responsibilities in the personal assistance services
20 program and to have them verbally explained as needed;
- 21 l. Shall have as few personal assistants entering **【his】** one's
22 home as possible;
- 23 m. Shall have the right to interview, screen and select **【his】**
24 one's personal assistant; and
- 25 n. Shall dismiss those personal assistants who do not respect
26 consumer rights.
27 (cf:P.L.1993, c.215, s.10)

28
29 5. Section 5 of P.L.1987, c.350 (C.30:4G-17) is amended to
30 read as follows:

- 31 5. a. An individual requesting personal assistance services
32 shall make an inquiry to the county designated agency in the county
33 where the individual resides, or intends to reside. If the applicant
34 meets the criteria set forth in subsections a., b., c., and g. of section
35 4 of **【this act】** P.L.1987, c.350 (C.30:4G-16), then the county
36 designated agency shall furnish the applicant with a complete
37 application package for services under the personal assistance
38 services program. If the applicant does not meet the criteria set
39 forth in subsections a., b., c., and g. of section 4 of **【this act】**
40 P.L.1987, c.350, the individual shall be provided with written
41 notification of ineligibility by the county designated agency.
- 42 b. Upon notification from the applicant that he has completed
43 the application package, the county designated agency shall arrange
44 for a social assessment of the applicant. The assessment shall be
45 used to determine the applicant's eligibility as set forth in
46 subsections d., e., f., h., and i. of section 4 of **【this act】** P.L.1987,
47 c.350.

- 1 c. As part of the application process, the applicant shall prepare
2 a personal assistance services plan, with participation from the
3 county designated agency and assessor, if requested by the
4 applicant, which will meet the applicant's need for personal
5 assistance services. The plan shall include a list of the types of
6 services required, and include an estimate of the time needed and
7 frequency of services to be provided under the personal assistance
8 services program.
- 9 d. Following receipt of the results of an assessment, the
10 personal assistance services plan and the other application materials
11 from the applicant, the county designated agency shall determine
12 the applicant's eligibility and provide written notification of the
13 result to the applicant.
- 14 e. If the applicant has been determined to be eligible, the
15 county designated agency shall conduct a financial evaluation of the
16 applicant to determine the requirement of the person, or person's
17 spouse, to pay for personal assistance services, in accordance with
18 the sliding fee scale established pursuant to section 7 of **[this act]**
19 P.L.1987, c.350 (C.30:4G-19). If the eligible applicant is found to
20 be responsible for the payment of cost share, the applicant shall be
21 furnished with an estimate of the total monthly cost of services, and
22 a statement of the percentage of total cost, or actual amount of
23 money that the eligible person or the person's spouse is required to
24 pay.
- 25 f. The county designated agency shall seek to implement the
26 personal assistance service plan or Cash Management Plan, as
27 applicable, prepared by the consumer, subject to the availability of
28 funding for personal assistance services. The respective plan shall
29 be revised upon request of the consumer or the county designated
30 agency.
- 31 g. The county designated agency shall **[perform]** arrange for a
32 comprehensive social and financial reassessment of the consumer at
33 12-month intervals.
- 34 h. In the event of a dispute between the applicant and the
35 county designated agency with regard to the applicant's eligibility
36 for the personal assistance services program or concerning the
37 services plan prepared pursuant to subsection c. of this section, the
38 applicant may request a hearing, which shall be conducted pursuant
39 to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-
40 1 et seq.).
- 41 i. The social assessments and financial evaluations performed
42 pursuant to subsections b. and e., respectively, of this section, and
43 the personal assistance services plan prepared pursuant to
44 subsection c. of this section, shall be completed on forms prescribed
45 by the commissioner.
- 46 j. To assure the timeliness of the process, the commissioner
47 shall establish, in rules, specific time frames for the activities in

1 subsections a., b., d. and e. of this section.

2 (cf: P.L.1993, c.215, s.5)

3

4 6. Section 6 of P.L.1987, c.350 (C.30:4G-18) is amended to
5 read as follows:

6 6. a. **【The county designated agency may contract with other**
7 **service providers, including private individuals, for the provision of**
8 **personal assistance services pursuant to this act, in accordance with**
9 **rules adopted by the commissioner.】** (Deleted by amendment,
10 P.L. , c.)(pending before the Legislature as this bill)

11 b. The commissioner shall establish a fee schedule for
12 payments or reimbursements to providers of personal assistance
13 services. The fee schedule shall be reviewed every two years and
14 recommendations shall be made to the commissioner by the **【State】**
15 Statewide Consumer Advisory Council on Personal Assistance
16 Services.

17 (cf: P.L.1993, c.215, s.6)

18

19 7. Section 7 of P.L.1987, c.350 (C.30:4G-19) is amended to
20 read as follows:

21 7. a. The commissioner shall establish a sliding fee scale for
22 personal assistance services based upon the ability of an eligible
23 person **【or the person's spouse】** to pay for those services. The
24 sliding fee scale shall apply only to an eligible person **【and the**
25 **person's spouse whose combined】** whose individual annual gross
26 income is equal to or exceeds **【the State's applicable income**
27 **eligibility limit for social services established pursuant to the**
28 **"Social Services Block Grant Act," Pub.L. 97-35 (42 U.S.C. s. 1397**
29 **et seq.)】** 350% of the federal poverty level. Any eligible person
30 whose **【combined】** annual gross income is less than **【the State's**
31 **applicable income eligibility limit】** 350% of the federal poverty
32 level shall not be required to pay for personal assistance services.

33 b. If the costs of an eligible person's personal assistance
34 services are covered in whole or in part by another State or federal
35 government program or insurance contract, the government
36 program or insurance carrier shall be the primary payer and the
37 personal assistance services program shall be the secondary payer.

38 c. The eligible person receiving personal assistance services
39 and the personal assistant shall sign time sheets attesting to the
40 hours of service rendered, and the personal assistant shall then be
41 paid **【by the county designated agency】** through the fiscal
42 intermediary service organization.

43 (cf: P.L.1993, c.215, s.7)

44

45 8. Section 8 of P.L.1987, c.350 (C.30:4G-20) is amended to
46 read as follows:

- 1 8. a. There is established the **[State]** Statewide Consumer
2 Advisory Council on Personal Assistance Services in the **[Office]**
3 Division of Disability Services in the department, which shall
4 consist of **[21]** 19 members **[appointed by the commissioner, one**
5 **from each county]**, at least 75 percent of whom are consumers of
6 personal assistance services.
- 7 (1) The members of the council shall include the Commissioner
8 of Human Services, or his designee, who shall serve ex officio; and
9 18 public members appointed by the commissioner as follows:
- 10 (a) five members who are residents of Central New Jersey,
11 which consists of Burlington, Hunterdon, Mercer, Middlesex,
12 Monmouth, Somerset, and Warren counties;
- 13 (b) five members who are residents of Northern New Jersey,
14 which consists of Bergen, Essex, Hudson, Morris, Passaic, Sussex,
15 and Union counties;
- 16 (c) five members who are residents of Southern New Jersey,
17 which consists of Atlantic, Camden, Cape May, Cumberland,
18 Gloucester, Ocean, and Salem counties;
- 19 (d) one member who represents a fiscal intermediary service
20 organization;
- 21 (e) one member who represents a training vendor; and
22 (f) one member who represents a vendor.
- 23 (2) Vacancies in the membership of the advisory council shall
24 be filled in the same manner provided for the original appointments.
25 The members of the advisory council shall serve without
26 compensation but shall be reimbursed for the reasonable expenses
27 necessarily incurred in the performance of their duties.
- 28 (3) The public members of the council shall serve for a term of
29 three years from the date of their appointment, and until their
30 successors are appointed; except that, of the members serving on
31 the council on the date of enactment of P.L. , c. (pending before the
32 Legislature as this bill), the commissioner shall designate six
33 members to serve for a term of one year, six members to serve for a
34 term of two years, and six members to serve for a term of three
35 years.
- 36 (4) A member of the council shall be eligible for reappointment.
- 37 b. The advisory council shall organize no later than 30 days
38 after the appointment of its members and shall select a **[chairman]**
39 chairperson and vice chairperson from among its members and a
40 secretary who need not be a member of the advisory council.
- 41 c. The department shall provide such **[stenographic, clerical**
42 **and other administrative assistants, and such professional staff as**
43 **the advisory council requires,]** administrative and professional
44 support as needed to carry out its work.
- 45 d. It shall be the responsibility of the advisory council to:

1 (1) Advise the commissioner on matters pertaining to personal
2 assistance services and the development of the personal assistance
3 services program, upon the commissioner's request;

4 (2) Review the rules adopted for the personal assistance services
5 program and make recommendations to the commissioner thereon;

6 (3) Evaluate the effectiveness of the personal assistance services
7 program in meeting its objectives and share that evaluation with the
8 commissioner; and

9 (4) Actively explore innovative service delivery models to
10 enhance the consumer-driven nature of the personal assistance
11 services program.

12 (cf: P.L.1999, c.91, s.8)

13

14 9. This act shall take effect on the 90th day following
15 enactment.

16

17

18

STATEMENT

19

20 This bill makes various changes to P.L.1987, c.350 (C.30:4G-13
21 et seq.), which establishes the "Personal Assistance Services
22 Program" in the Division of Disability Services in the Department
23 of Human Services. The purpose of the changes is to enable the
24 program to be operated on a "cash and counseling" model, wherein
25 the consumer of personal assistance services exercises control over
26 the individual workers the consumer employs, and manages and
27 directs the his own service plan.

28 Specifically, the bill:

29 • Revises the eligibility criteria for personal assistance services to
30 provide that a eligible person must have a "permanent," rather
31 than a "chronic" physical disability, and the person may be
32 between 18 and 70 years of age, rather than 18 and 65 years of
33 age, as the program currently provides;

34 • Revises the requirements regarding cost sharing for services to
35 provide that only the income of the eligible person shall be
36 considered (rather than that of the person and the person's
37 spouse), and that only those eligible persons whose gross annual
38 income is equal to or greater than 350% of the federal poverty
39 level would be required to share in the cost of personal assistant
40 services;

41 • Renames and revises the membership of the Statewide Consumer
42 Advisory Council on Personal Assistance Services to reduce the
43 membership to 19 members, including the Commissioner of
44 Human Services and 18 public members appointed by the
45 commissioner. Five each of the public members will be from the
46 northern, central and southern counties of the State, respectively,
47 one member shall represent a fiscal intermediary service
48 organization, one member shall represent a training vendor, and

S1986 RUIZ, VITALE

11

- 1 one member shall represent a vendor. The bill also provides for
2 staggered terms for the members currently serving on the council,
3 and three year terms for subsequent appointees; and
4 • Makes various technical changes to the statute to make the
5 terminology more gender neutral.

SENATE HEALTH, HUMAN SERVICES AND SENIOR
CITIZENS COMMITTEE

STATEMENT TO

SENATE, No. 1986

with committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 16, 2008

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill No. 1986.

As amended by committee, this bill makes various changes to P.L.1987, c.350 (C.30:4G-13 et seq.), which establishes the “Personal Assistance Services Program” in the Division of Disability Services in the Department of Human Services. The purpose of the changes is to enable the program to be operated on a “cash and counseling” model, wherein the consumer of personal assistance services exercises control over the individual workers the consumer employs, and manages and directs the his own service plan.

Specifically, the bill:

- Revises the eligibility criteria for personal assistance services to provide that a eligible person must have a “permanent,” rather than a “chronic” physical disability, and the person may be between 18 and 70 years of age, rather than 18 and 65 years of age, as the program currently provides;
- Revises the requirements regarding cost sharing for services to provide that only the income of the eligible person shall be considered (rather than that of the person and the person’s spouse), and that only those eligible persons whose gross annual income is equal to or greater than 350% of the federal poverty level would be required to share in the cost of personal assistant services;
- Renames and revises the membership of the Statewide Consumer Advisory Council on Personal Assistance Services to reduce the membership to 19 members, including the Commissioner of Human Services and 18 public members appointed by the commissioner. Five each of the public members will be from the northern, central and southern counties of the State, respectively, one member shall represent a fiscal intermediary service organization, one member shall represent a training vendor, and one member shall represent a vendor. The bill also provides for staggered terms for the members

currently serving on the council, and three year terms for subsequent appointees; and

- Makes various technical changes to the statute to make the terminology more gender neutral.

The committee amended the bill to:

-- delete the definition of “assistant” and restore the definition of “personal assistant” (which definitions are identical), since the latter term is used throughout the bill;

-- expand the definition of “assessor” to include a registered professional nurse with three years experience in home care; and

-- provide that notwithstanding any provisions of this bill to the contrary, a consumer who is receiving services through the traditional personal assistance services program that is in effect on the effective date of this bill may elect to continue to receive services through the traditional program.

This bill is similar to Assembly Bill No. 2889 (Burzichelli/Malone/Fischer), which is on second reading in the Assembly.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 1986

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 9, 2009

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 1986 (1R), with committee amendments.

The bill, as amended, makes various changes to P.L.1987, c.350 (C.30:4G-13 et seq.), which establishes the “Personal Assistance Services Program” in the Division of Disability Services in the Department of Human Services. The purpose of the changes is to enable the program to be operated on a “cash and counseling” model, wherein the consumer of personal assistance services exercises control over the individual workers the consumer employs, and manages and directs the his own service plan.

Specifically, the bill:

- Revises the eligibility criteria for personal assistance services to provide that a eligible person must have a “permanent,” rather than a “chronic” physical disability, and the person may be between 18 and 70 years of age, rather than 18 and 65 years of age, as the program currently provides;
- Revises the requirements regarding cost sharing for services to provide that only the income of the eligible person shall be considered (rather than that of the person and the person’s spouse), and that only those eligible persons whose gross annual income is equal to or greater than 350% of the federal poverty level would be required to share in the cost of personal assistant services;
- Renames and revises the membership of the Statewide Consumer Advisory Council on Personal Assistance Services to reduce the membership to 19 members, including the Commissioner of Human Services and 18 public members appointed by the commissioner. Five each of the public members will be from the northern, central and southern counties of the State, respectively, one member shall represent a fiscal intermediary service organization, one member shall represent a training vendor, and one member shall represent a vendor. The bill also provides for staggered terms for the members currently serving on the council, and three year terms for subsequent appointees; and

- Makes various technical changes to the statute to make the terminology more gender neutral.

As amended and reported, this bill is identical to Assembly Bill No. 2889 (1R), as also amended and reported by the committee.

COMMITTEE AMENDMENTS:

The committee amendments provide that a consumer shall be free to contract directly with a provider of the consumer's choice, including a vendor providing services on the effective date of the bill, if the vendor so agrees.

FISCAL IMPACT:

In the Fiscal Note to the bill as introduced, the Office of Legislative Services (OLS) agreed with the Executive that there is no cost associated with the bill as only the method by which services are provided is changed. Further, as the Personal Assistance Services Program (PASP) is not an entitlement, the number of persons the PASP can serve in a given year is limited by the annual appropriation.

The OLS also noted that while changes to the eligibility requirements may increase the number of persons that qualify for the PASP, the PASP is not an entitlement program that requires a mandatory level of funding. The FY 2009 \$11.0 million appropriation in General and Casino Revenue Funds enables about 660 persons to receive services. If the eligibility changes in the bill result in more persons qualifying, given that the effective date of the bill is 90 days after enactment, any additional cost may first impact FY2010 appropriations.

FISCAL NOTE
SENATE, No. 1986
STATE OF NEW JERSEY
213th LEGISLATURE

DATED: SEPTEMBER 15, 2008

SUMMARY

Synopsis: Makes revisions to personal assistance services program in DHS.

Type of Impact: None.

Agencies Affected: Department of Human Services. County government agencies that administer the program.

Executive Estimate

Fiscal Impact	<u>Years 1 - 3</u>
State Cost	\$0

Office of Legislative Services Estimate

Fiscal Impact	<u>Years 1 - 3</u>
State Cost	None.

- The Office of Legislative Services **concurs** with the Office of Management and Budget (OMB) that there is no additional cost associated with the legislation. The legislation restructures how personal assistance services are provided through the Personal Assistance Services Program (PASP). At present, once an individual is determined eligible for PASP, a county government agency determines the type, the dollar amount and the entities that will provide services. Under the proposed changes, the individual will determine the services to be provided and who will provide those services so long as the cost of the services to be provided does not exceed the cost of services the individual currently receives.
- Changes to the PASP eligibility requirements may result in more people qualifying for PASP. But as PASP is not an entitlement, the annual appropriation limits the number of people PASP can serve.

BILL DESCRIPTION

Senate Bill No. 1986 of 2008 makes various changes to the "Personal Assistance Services Program" (PASP) in the Division of Disability Services in the Department of Human Services.

The changes will enable the program to be operated on a “cash and counseling” model, wherein the consumer of personal assistance services exercises control over the individual workers the consumer employs, and manages and directs his own service plan. Eligibility changes include:

- A person must have a “permanent” disability rather than a “chronic” physical disability.
- The maximum eligible age for services is raised from 65 to 70 years of age.
- The cost sharing requirements are changed so that only income from the person eligible for the program will be considered and not the income of a spouse, and that only eligible persons with income greater than 350 percent of the federal poverty level would be subject to a cost sharing requirement.

FISCAL ANALYSIS

EXECUTIVE BRANCH

The Office of Management and Budget (OMB) has indicated that there is no cost associated with the legislation as only the method by which services are provided is changed. Further, as PASP is not an entitlement, the number of persons PASP can serve in a given year is limited by the annual appropriation.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services concurs with the OMB that there is no additional cost associated with the legislation.

While changes to the eligibility requirements may increase the number of persons that qualify for PASP, PASP is not an entitlement program. Thus, in FY 2009, the \$11.0 million appropriation in General and Casino Revenue Funds will enable about 660 persons to receive services even if the eligibility changes results in more persons qualifying.

Section: Human Services

*Analyst: Jay A. Hershberg
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*Approved: David J. Rosen
Legislative Budget and Finance Officer*

This fiscal note has been prepared pursuant to P.L. 1980, c.67 (C. 52:13B-1 et seq.).