

THE SOCIAL WELFARE ACT (EXCERPT)
Act 280 of 1939

400.109c Home- or community-based services; eligibility; safeguards; written plan of care; available services; per capita expenditure; waiver; rules; report; changing plan of care; hearing; appeal; expansion of program; implementation of program by department of community health and office of services to the aging.

Sec. 109c. (1) The department of community health shall include, as part of its program of medical services under this act, home- or community-based services to eligible persons whom the department of community health determines would otherwise require nursing home services or similar institutional care services under section 109. The home- or community-based services shall be offered to qualified eligible persons who are receiving inpatient hospital or nursing home services as an alternative to those forms of care.

(2) The home- or community-based services shall include safeguards adequate to protect the health and welfare of participating eligible persons, and shall be provided according to a written plan of care for each person. The services available under the home- or community-based services program shall include, at a minimum, all of the following:

- (a) Home delivered meals.
- (b) Chore services.
- (c) Homemaker services.
- (d) Respite care.
- (e) Personal care.
- (f) Adult day care.
- (g) Private duty nursing.
- (h) Mental health counseling.
- (i) Caregiver training.
- (j) Emergency response systems.
- (k) Home modification.
- (l) Transportation.
- (m) Medical equipment and supply services.

(3) This section shall be implemented so that the average per capita expenditure for home- or community-based services for eligible persons receiving those services does not exceed the estimated average per capita expenditure that would have been made for those persons had they been receiving nursing home services, inpatient hospital or similar institutional care services instead.

(4) The department of community health shall seek a waiver necessary to implement this program from the federal department of health and human services, as provided in section 1915 of title XIX, 42 USC 1396n. The department of community health shall request any modifications of the waiver that are necessary in order to expand the program in accordance with subsection (9).

(5) The department of community health shall establish policy for identifying the rules for persons receiving inpatient hospital or nursing home services who may qualify for home- or community-based services. The rules shall contain, at a minimum, a listing of diagnoses and patient conditions to which the option of home- or community-based services may apply, and a procedure to determine if the person qualifies for home- or community-based services.

(6) The department of community health shall provide to the legislature and the governor an annual report showing the detail of its home- and community-based case finding and placement activities. At a minimum, the report shall contain each of the following:

- (a) The number of persons provided home- or community-based services who would otherwise require inpatient hospital services. This shall include a description of medical conditions, services provided, and projected cost savings for these persons.
- (b) The number of persons provided home- or community-based services who would otherwise require nursing home services. This shall include a description of medical conditions, services provided, and projected cost savings for these persons.
- (c) The number of persons and the annual expenditure for personal care services.
- (d) The number of hearings requested concerning home- or community-based services and the outcome of each hearing which has been adjudicated during the year.

(7) The written plan of care required under subsection (2) for an eligible person shall not be changed unless the change is prospective only, and the department of community health does both of the following:

- (a) Not later than 30 days before making the change, except in the case of emergency, consults with the eligible person or, in the case of a child, with the child's parent or guardian.

(b) Consults with each medical service provider involved in the change. This consultation shall be documented in writing.

(8) An eligible person who is receiving home- or community-based services under this section, and who is dissatisfied with a change in his or her plan of care or a denial of any home- or community-based service, may demand a hearing as provided in section 9, and subsequently may appeal the hearing decision to circuit court as provided in section 37.

(9) The department of community health shall expand the home- and community-based services program by increasing the number of counties in which it is available, in conformance with this subsection. The program may be limited in total cost and in the number of recipients per county who may receive services at 1 time. Subject to obtaining the waiver and any modifications of the waiver sought under subsection (4), the program shall be expanded as follows:

(a) Not later than July 14, 1995, home- and community-based services shall be available to eligible applicants in those counties that, when combined, contain at least 1/4 of the population of this state.

(b) Not later than July 14, 1996, home- and community-based services shall be available to eligible applicants in those counties that, when combined, contain at least 1/2 of the population of this state.

(c) Not later than July 14, 1997, home- and community-based services shall be available to eligible applicants in those counties that, when combined, contain at least 3/4 of the population of this state.

(d) Not later than July 14, 1998, home- and community-based services shall be available to eligible applicants on a statewide basis.

(10) The department of community health shall work with the office of services to the aging in implementing the home- and community-based services program, including the provision of preadmission screening, case management, and recipient access to services.

History: Add. 1988, Act 410, Imd. Eff. Dec. 27, 1988;—Am. 1994, Act 302, Imd. Eff. July 14, 1994;—Am. 2013, Act 107, Eff. Mar. 14, 2014.

Compiler's note: For transfer of powers and duties of the home help program and the physical disabilities program from the family independence agency to the director of the department of community health, see E.R.O. No. 1997-5, compiled at MCL 400.224 of the Michigan Compiled Laws.

Enacting section 1 of Act 107 of 2013 provides:

"Enacting section 1. This amendatory act does not do either of the following:

"(a) Authorize the establishment or operation of a state-created American health benefit exchange in this state related to the patient protection and affordable care act, Public Law 111-148, as amended by the federal health care and education reconciliation act of 2010, Public Law 111-152.

"(b) Convey any additional statutory, administrative, rule-making, or other power to this state or an agency of this state that did not exist before the effective date of the amendatory act that added section 105d to the social welfare act, 1939 PA 280, MCL 400.105d, that would authorize, establish, or operate a state-created American health benefit exchange."

For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the department of community health to the aging and adult services agency created within the department of health and human services, and abolishment of the office of services to the aging, see E.R.O. No. 2015-1, compiled at MCL 400.227.

For transfer of commission on services to the aging and powers and duties of the office of services to the aging from the aging and adult services agency to the department of health and human services, and abolishment of the aging and adult services agency, see E.R.O. No. 2021-2, compiled at MCL 400.562.

Popular name: Act 280