

VIRGINIA ACTS OF ASSEMBLY -- 1999 SESSION

CHAPTER 763

An Act to amend and reenact §§ 63.1-4 and 63.1-24 of the Code of Virginia and to amend the Code of Virginia by adding in Title 63.1 a chapter numbered 21, consisting of sections numbered 63.1-331 through 63.1-335, relating to a grant program for caregivers.

[S 910]

Approved March 28, 1999

Be it enacted by the General Assembly of Virginia:

1. That §§ 63.1-4 and 63.1-24 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 63.1 a chapter numbered 21, consisting of sections numbered 63.1-331 through 63.1-335, as follows:

§ 63.1-4. Powers and duties of Commissioner generally.

A. The Commissioner shall have all of the powers conferred upon him by law. Except as otherwise provided, he shall supervise the administration of the provisions of this title and shall see that all laws pertaining to the Department are carried out to their true intent and spirit.

B. *Without limiting the generality of the foregoing, the Commissioner shall administer the Virginia Caregivers Grant Program pursuant to Chapter 21 (§ 63.1-331 et seq.) of this title.*

§ 63.1-24. Powers and duties in general.

The State Board shall act in a capacity advisory to the Commissioner, and when requested shall confer and advise with him upon such matters as may arise in the performance of his duties. When requested by the Commissioner, or by the Governor, the Board shall investigate such questions and consider such problems as they, or either of them, may submit and shall report their findings and conclusions. *The Board shall oversee the administration of the Virginia Caregivers Grant Program pursuant to Chapter 21 (§ 63.1-331 et seq.) of this title.* The Board may also initiate investigations and consider problems and make recommendations to the Commissioner or to the Governor, of its own motion.

CHAPTER 21.

VIRGINIA CAREGIVERS GRANT PROGRAM.

§ 63.1-331. Definitions.

As used in this chapter, unless the context requires otherwise:

"Activities of daily living" or "ADLs" means bathing, dressing, toileting, transferring, bowel control, bladder control, and eating/feeding.

"Assistance" means aid that is required to be provided by another person in order to safely complete the activity.

"Care for a mentally or physically impaired relative" means assistance with the activities of daily living provided to such relative when the relative has been screened and has been found to be eligible, in accordance with relevant state regulations, for placement and Medicaid reimbursement for services in an assisted-living facility or a nursing home or for receiving community-based long-term care services.

"Caregiver" means an individual with a Virginia adjusted gross income of not more than \$50,000 who provides care for a mentally or physically impaired relative within the Commonwealth.

"Department" means the Department of Social Services.

"Fund" means the Virginia Caregivers Grant Fund established by § 63.1-333.

"Mentally or physically impaired relative" means a relative who requires assistance with two or more activities of daily living during more than half the year.

"Relative" means a spouse, child, father, mother, sibling, or other ancestor or descendent who is related by blood, marriage or adoption.

§ 63.1-332. Caregivers Grant Program established.

A. From January 1, 2000, through December 31, 2005, any caregiver who provides care for a mentally or physically impaired relative shall be eligible to receive an annual caregivers grant in the amount of \$500. The grants under this chapter shall be paid from the Fund, as provided in this chapter, to the caregiver during the calendar year immediately following the calendar year in which the care for a mentally or physically impaired relative was provided. The total amount of grants to be paid under this chapter for any year shall not exceed the amount appropriated by the General Assembly to the Fund for payment to caregivers for such year.

B. Only one grant shall be allowed annually for each mentally or physically impaired relative receiving care under the provisions of this section. Multiple caregivers providing care to the same mentally or physically impaired relative shall be eligible to file a joint application in which they allocate the \$500 grant as mutually agreed.

C. *The mentally or physically impaired relative being cared for may live in the caregiver's home or*

in his own home but shall not be receiving Medicaid-reimbursed community long-term care services, other than on a temporary or periodic basis, or living in a nursing home or other assisted living facility where assistance with ADLs is already provided and the cost of such assistance is included in the monthly bill or rental fee.

§ 63.1-333. Virginia Caregivers Grant Fund established.

There is hereby established a special fund in the state treasury to be known as the Virginia Caregivers Grant Fund, which shall be administered by the Department. The Fund shall include such moneys as may be appropriated by the General Assembly from time to time and designated for the Fund. For fiscal year 2000-2001, such sum shall not exceed \$1.4 million. The Fund shall be used solely for the payment of grants to caregivers pursuant to this chapter. Unallocated moneys in the Fund in any year shall remain in the Fund and be available for allocation for grants under this chapter in ensuing fiscal years.

§ 63.1-334. Grant application process; administration.

A. Grant applications shall be submitted by caregivers to the Department between February 1 and May 1 of the year following the calendar year in which the care for a mentally or physically impaired relative was provided. Failure to meet the application deadline shall render the caregiver ineligible to receive a grant for care provided during such calendar year. For filings by mail, the postmark cancellation shall govern the date of the filing determination.

B. Applications for grants shall include (i) proof of the caregiver's income; (ii) certification by the private physician who has screened the mentally or physically impaired relative and found him to be eligible, in accordance with relevant state regulations, for placement in an assisted-living facility or a nursing home or for receiving community long-term care services; (iii) the mentally or physically impaired relative's place of residence; and (iv) such other relevant information as the Department may reasonably require. Any caregiver applying for the grant pursuant to this chapter shall affirm, by signing and submitting his application for a grant, that the mentally or physically impaired relative for whom he provided care and the care provided meet the criteria set forth in this chapter. As a condition of receipt of a grant, a caregiver shall agree to make available to the Department for inspection, upon request, all relevant and applicable documents to determine whether the caregiver meets the requirements for the receipt of grants as set forth in this chapter, and to consent to the use by the Department of all relevant information relating to eligibility for the requested grant.

C. The Department shall review applications for grants and determine the amount of the grant to be allocated to each caregiver. The Department shall allocate moneys in the following order of priority: (i) first, to unpaid grant amounts carried forward from prior years because caregivers did not receive the full amount of any grant to which they were eligible in a prior year and (ii) then to other eligible applicants. If the moneys in the Fund are less than the amount of grants to which applicants in any class of priority are eligible, the moneys in the Fund shall be apportioned among eligible applicants in such class pro rata, based upon the amount of the grant for which an applicant is eligible and the amount of money in the Fund available for allocation to such class.

D. If a caregiver is allocated less than the full amount of a grant for which he is eligible in any year, the caregiver shall not be eligible for the deficiency in that year, but the unpaid portion of the grant to which the caregiver was eligible shall be carried forward by the Department to the following year, during which it shall be in the first class of priority as provided in subsection C. A caregiver shall have no claim against the Commonwealth with respect to any grant authorized by this chapter.

E. The Department shall certify to the Comptroller the amount of grant to be allocated to eligible caregiver applicants. Payments shall be made by check issued by the Treasurer of Virginia on warrant of the Comptroller. The Comptroller shall not draw any warrants to issue checks for this program without a specific legislative appropriation as specified in conditions and restrictions on expenditures in the appropriation act.

F. Actions of the Department relating to the review, allocation and awarding of grants shall be exempt from the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.) pursuant to subdivision B 4 of § 9-6.14:4.1. Decisions of the Department shall be final and not subject to review or appeal.

§ 63.1-335. Confidentiality of information.

Except in accordance with proper judicial order or as otherwise provided by law, any employee or former employee of the Department shall not divulge any information acquired by him in the performance of his duties with respect to the income or grant eligibility of any caregiver submitted pursuant to this chapter. The provisions of this section shall not be applicable to (i) acts performed or words spoken or published in the line of duty under law; (ii) inquiries and investigations to obtain information as to the implementation of this chapter by a duly constituted committee of the General Assembly, or when such inquiry or investigation is relevant to its study, provided that any such information shall be privileged; or (iii) the publication of statistics so classified as to prevent the identification of particular caregivers.