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SENATE BILL NO. 596

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Rehabilitation and Social Services
on January 27, 2012)

(Patron Prior to Substitute—Senator Howell)

A *BILL to amend and reenact § 63.2-800 of the Code of Virginia, relating to auxiliary grants; third-party payments.*

Be it enacted by the General Assembly of Virginia:

1. That § 63.2-800 of the Code of Virginia is amended and reenacted as follows:

§ 63.2-800. Auxiliary grants program; administration of program.

A. The Board is authorized to prepare and implement, effective with repeal of Titles I, X, and XIV of the Social Security Act, a plan for a state and local funded auxiliary grants program to provide assistance to certain individuals ineligible for benefits under Title XVI of the Social Security Act, as amended, and to certain other individuals for whom benefits provided under Title XVI of the Social Security Act, as amended, are not sufficient to maintain the minimum standards of need established by the Board. The plan shall be in effect in all political subdivisions in the Commonwealth and shall be administered in conformity with Board regulations.

Nothing herein is to be construed to affect any such section as it relates to Temporary Assistance for Needy Families, general relief or services to persons eligible for assistance under Public Law 92-603 enacted by the Ninety-second United States Congress.

B. Those individuals who receive an auxiliary grant and who reside in licensed assisted living facilities or adult foster care homes shall be entitled to a personal needs allowance when computing the amount of the auxiliary grant. The amount of such personal needs allowance shall be set forth in the appropriation act.

C. The Board shall adopt regulations for the administration of the auxiliary grants program that shall include requirements for the Department to use in establishing auxiliary grant rates for licensed assisted living facilities and adult foster care homes. At a minimum these requirements shall address (i) the process for the facilities and homes to use in reporting their costs, including allowable costs and resident charges, the time period for reporting costs, forms to be used, financial reviews and audits of reported costs; (ii) the process to be used in calculating the auxiliary grant rates for the facilities and homes; and (iii) the services to be provided to the auxiliary grant recipient and paid for by the auxiliary grant and not charged to the recipient's personal needs allowance.

D. In order to receive an auxiliary grant while residing in an assisted living facility, an individual shall have been evaluated by a case manager or other qualified assessor to determine his need for residential living care. An individual may be admitted to an assisted living facility pending evaluation and assessment as allowed by Board regulations, but in no event shall any public agency incur a financial obligation if the individual is determined ineligible for an auxiliary grant. For purposes of this section, "case manager" means an employee of a human services agency who is qualified and designated to develop and coordinate plans of care. The Board shall adopt regulations to implement the provisions of this subsection.

E. *Assisted living facilities and adult foster care homes providing services to auxiliary grant recipients may accept payments made by third parties for services provided to an auxiliary grant recipient, and the Department shall not include such payments as income for the purpose of determining eligibility for or calculating the amount of an auxiliary grant, provided that the payment is made:*

1. Directly to the assisted living facility or adult foster care home by the third party on behalf of the auxiliary grant recipient;

2. Voluntarily by the third party, and not in satisfaction of a condition of admission, stay, or provision of proper care and services to the auxiliary grant recipient, unless the auxiliary grant recipient's physical needs exceed the services required to be provided by the assisted living facility as a condition of participation in the auxiliary grant program pursuant to subsection C; and

3. For specific goods and services provided to the auxiliary grant recipient other than food, shelter, or specific goods or services required to be provided by the assisted living facility or adult foster care home as a condition of participation in the auxiliary grant program pursuant to subsection C.

F. *Assisted living facilities and adult foster care homes shall document all third-party payments received on behalf of an auxiliary grant recipient, including the source and amount of the payment and the goods and services for which such payments are to be used. Documentation related to the third-party payments shall be provided to the Department upon request.*

G. *Assisted living facilities and adult foster care homes shall provide each auxiliary grant recipient with a written list of the goods and services that are covered by the auxiliary grant pursuant to*

60 *subsection C, including a clear statement that the facility may not charge an auxiliary grant recipient or*
61 *the recipient's family additional amounts for goods or services included on such list.*