

# INDEPENDENT REGULATORY REVIEW COMMISSION

## ORDER

Commissioners Voting:

Public Meeting Held September 11, 2024

George D. Bedwick, Chairman

John F. Mizner, Esq., Vice Chairman

John J. Soroko, Esq.

Murray Ufberg, Esq.

Dennis A. Watson, Esq.

6 Pa. Code Chapter 20  
Department of Aging  
Family Caregiver Support Program

The House Aging and Older Adult Services Committee (Committee) submitted a letter to the Independent Regulatory Review Commission (Commission) requesting review under Section 8.1 of the Regulatory Review Act (RRA) (71 P.S. § 745.8a) of existing regulations in 6 Pa. Code, including:

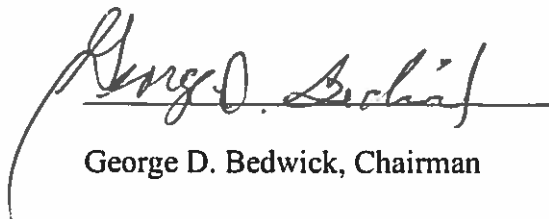
- **Chapter 20 Family Caregiver Support Program;** and
- Chapter 21 Domiciliary Care Services for Adults.

This order addresses Chapter 20 which sets forth the rules governing the administration and operation of the Family Caregiver Support Program. The content of Chapter 20 includes general provisions, program administration, caregiver participation, core program services, and reimbursed services. The underlying statutory authority for Chapter 20 was updated by Act 20 of 2021 (Pennsylvania Caregiver Support Act) (Act 20), which was enacted on June 11, 2021.

The Department of Aging (Department) reviewed Chapter 20 and acknowledged that Act 20 updated the Chapter 20 requirements. The Department recommended the following sections be revised, modified or eliminated to align with Act 20:

- Section 20.2 Definitions;
- Section 20.12 Administrative Functions;
- Section 20.21 Eligibility;
- Section 20.22 Conditions of Participation;
- Section 20.23 Assessment and Care Management;
- Section 20.34 Caregiver Education and Training;
- Section 20.41 General Reimbursement;
- Section 20.43 Home Modifications; and
- Section 20.62 Waivers.

Although we appreciate the Department's willingness to modify the existing regulations, it has not provided a timeframe within which it intends to update the Chapter 20 regulations. Consequently, we find the above-listed sections of Chapter 20 are no longer in the public interest under the RRA criteria of statutory authority, legislative intent, comments by the Committee, economic impact and clarity. *See* 71 P.S. § 745.5b. We recommend that the Department amend the Chapter 20 regulations to align with current state law and Department practices.

A handwritten signature in black ink, which appears to read "George D. Bedwick", is written over a horizontal line.

George D. Bedwick, Chairman

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6 Pa. Code Chapter 21

Department of Aging

Domiciliary Care Services for Adults

The House Aging and Older Adult Services Committee (Committee) submitted a letter to the Independent Regulatory Review Commission (Commission) requesting review under Section 8.1 of the Regulatory Review Act (RRA) (71 P.S. § 745.8a) of existing regulations in 6 Pa. Code, including:

- Chapter 20 Family Caregiver Support Program; and
- **Chapter 21 Domiciliary Care Services for Adults.**

This order addresses Chapter 21 which establishes standards for domiciliary care services. The content of Chapter 21 includes: eligibility determination, certification and application processes; Department of Aging responsibilities; Area Agency on Aging responsibilities; provider rights and responsibilities; client rights and responsibilities; fair hearing and appeals; and other administrative provisions.

The Commission's review determined that since Chapter 21 became effective in 1990, there have been legislative amendments at both the state and federal levels that are not reflected in the existing Chapter 21 regulations. The amendments at the state level include Act 169 of 1996 (Older Adults Protective Services Act - Omnibus Amendments) and Act 13 of 1997 (Older Adults Protective Services - Amend). The federal amendments include the Older Americans Act of 1965 which was reauthorized in 1992, expired in 1996, and again reauthorized with amendments in 2000, 2006, 2016, and 2020.

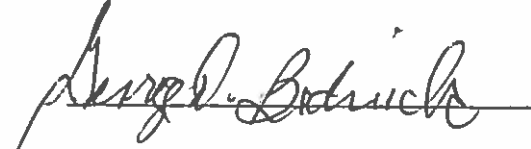
The Department of Aging (Department) has reviewed the existing Chapter 21 regulations and determined that the following sections may need to be revised, modified or eliminated:

- Section 21.2 Definitions;
- Section 21.23 Application process for domiciliary care services and the domiciliary care supplement;

- Section 21.24 Redetermination of eligibility;
- Section 21.28 Provider application and home certification;
- Section 21.55 AAA placement activities;
- Section 21.61 Domiciliary care service's relationship to service management;
- Section 21.79 Fire and safety activities; and
- Section 21.82 Other provider responsibilities.

While we appreciate the Department's willingness to update the existing regulations, it has not provided a timeframe within which it intends to update the Chapter 21 regulations. Consequently, we find the above-listed sections of Chapter 21 are no longer in the public interest under the RRA criteria of statutory authority, legislative intent, comments by the Committee, economic impact, and clarity. *See* 71 P.S. § 745.5b. We recommend that the Department amend the Chapter 21 regulations to align with current state and federal law and Department practices.



  
George D. Bedwick, Chairman

# INDEPENDENT REGULATORY REVIEW COMMISSION

## ORDER

Commissioners Voting:

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Dennis A. Watson, Esq.

6 Pa. Code Chapter 22

Department of Aging

Pharmaceutical Assistance Contract for the

Elderly (PACE)

The House Aging and Older Adult Services Committee (Committee) submitted a letter to the Independent Regulatory Review Commission (Commission) requesting review under Section 8.1 of the Regulatory Review Act (RRA) (71 P.S. § 745.8a) of existing regulations in 6 Pa. Code, including:

- Chapter 20 Family Caregiver Support Program;
- Chapter 21 Domiciliary Services for Adults; and
- **Chapter 22 Pharmaceutical Assistance Contract for the Elderly (PACE).**

This order addresses Chapter 22 which sets forth regulations governing the administration, provision, and receipt of prescription drug benefits available to older Pennsylvanians under the PACE Program.

The Department of Aging (Department) has reviewed Chapter 22 and determined that the PACE regulations remain relevant and continue to serve the administrative needs, including applicant and provider enrollment, claims adjudication, and appeals. The Department further notes that the underlying statutory authority for the regulations continues, and the regulations maintain consistency with the enabling legislation.

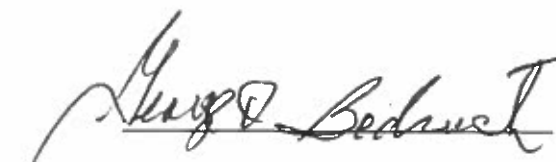
The Commission's review identified one issue regarding the definition of "Act" in Section 22.2. The definition cites a statute that was immediately repealed after the rulemaking became effective. The outdated definition in Section 22.2 states:

Act—The Pharmaceutical Assistance Contract for the Elderly Act  
(62 P. S. § § 2901—2908).

We find that the above-listed provision of Chapter 22 is no longer in the public interest under the RRA criteria of comments by the Committee and clarity. See 71 P.S. § 745.5b. This issue requires

legislative action to correct. We, therefore, recommend that the General Assembly add a short title to the PACE Program statute to provide the Department with a consistent citation to its authority that does not change with future statutory amendments.



  
George D. Bedwick, Chairman