

CHAPTER 128

AN ACT concerning support services for persons with developmental disabilities, supplementing P.L.1977, c.82 (C.30:6D-1 et seq.), and amending P.L.1983, c.524.

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

C.30:6D-12.1 Short title.

1. Sections 1 through 6 of this act shall be known as the “Self-Directed Support Services for Persons with Developmental Disabilities Rights Act.”

C.30:6D-12.2 Findings, declarations relative to self-directed support services for persons with developmental disabilities.

2. The Legislature finds and declares that:

a. There is a need for innovative approaches to meet the needs of persons with developmental disabilities;

b. While there are many fine group homes, supervised apartments and other supervised living arrangements for persons with developmental disabilities, there is a need for not only an expansion of the availability of such programs, but also the development of innovative programs that are self-directed by persons with developmental disabilities and their families and guardians;

c. The availability of innovative self-directed programs will expand the capacity of the Department of Human Services to serve the needs of persons with developmental disabilities; and

d. It is important to emphasize that persons with developmental disabilities who participate in these highly desirable self-directed approaches to care retain the rights guaranteed to them under the “Developmentally Disabled Rights Act,” P.L.1977, c.82 (C.30:6D-1 et seq.).

C.30:6D-12.3 Definitions relative to self-directed support services for persons with developmental disabilities.

3. As used in this act:

“Commissioner” means the Commissioner of Human Services.

“Department” means the Department of Human Services.

“Developmental disability” means developmental disability as defined in section 3 of P.L.1977, c.82 (C.30:6D-3).

“Self-directed support services” means an arrangement in which funding is made available by the department, through the Division of Developmental Disabilities or any other division in the department, to a person with a developmental disability or person who has been authorized to serve as a fiduciary of the person with a developmental disability, who is living in his own home, the home of a family member or guardian, or some other similar living environment. The purpose of the arrangement is to support the needs of the person with a developmental disability by allowing the person, or his family or guardian, or both, to determine the nature and scope of services to be provided, in lieu of the department placing the person with a developmental disability in a residential program operated by the department directly or by contracting with a residential provider of services for persons with developmental disabilities.

“Services” means services as defined in section 3 of P.L.1977, c.82 (C.30:6D-3).

C.30:6D-12.4 Responsibilities of the commissioner.

4. The commissioner shall ensure that:

a. the provisions of section 9 of P.L.1977, c.82 (C.30:6D-9), concerning the design of services to maximize the developmental potential of persons with developmental disabilities with full recognition and respect for their dignity, individuality and legal rights, apply to persons with developmental disabilities receiving self-directed support services;

b. a written, individualized habilitation plan, as provided for in sections 10 and 11 of P.L.1977, c.82 (C.30:6D-10 and 11), is developed and placed into effect for each person receiving self-directed support services no later than the 30th day following the initial receipt of such services. In the case of persons receiving such services at the time of enactment of P.L.2008, c.128 (C.30:6D-12.1 et al.), the plan shall be effected no later than the 60th day following enactment; and

c. each person's individualized habilitation plan is reviewed annually pursuant to section 12 of P.L.1977, c.82 (C.30:6D-12).

C.30:6D-12.5 Rights applicable to persons receiving self-directed support services.

5. a. A right recognized in section 4 of P.L.1977, c.82 (C.30:6D-4), shall apply to persons receiving self-directed support services pursuant to P.L.2008, c.128 (C.30:6D-12.1 et al.).

b. A person receiving self-directed support services shall be entitled to enforce a right provided for in P.L.2008, c.128 (C.30:6D-12.1 et al.) or section 4 of P.L.1977, c.82 (C.30:6D-4), by civil action or other remedy otherwise available by common law or statute.

C.30:6D-12.6 Development, expansion of self-directed support services.

6. a. Except in the case of a short-term pilot program, the commissioner shall, to the extent feasible, develop and expand the use of self-directed support services throughout the State, and eliminate obstacles to the use of such services. The services shall be made available without regard to the severity of a person's disability, except to the extent that the person's disability would prevent that person from being safely accommodated with self-directed support services.

b. In the event that two or more divisions in the department are funding self-directed support services for the same person, the commissioner shall designate one division as the lead division for the purpose of enforcing a right guaranteed by section 4 of P.L.1977, c.82 (C.30:6D-4) or P.L.2008, c.128 (C.30:6D-12.1 et al.).

7. Section 2 of P.L.1983, c.524 (C.30:6D-14) is amended to read as follows:

C.30:6D-14 Definitions.

As used in this act:

a. "Department" means the Department of Human Services.

b. "Community residential facility" means any residential arrangement, public or private, other than an institution, in which one or more developmentally disabled persons reside under the sponsorship of the department. A family home in which all of the developmentally disabled persons residing within are related to the head of the household by blood, marriage or adoption is not a community residential facility.

c. "Transfer" means moving a developmentally disabled person from an institution to a community residential facility, from one community residential facility to another, from a community residential facility to an institution, or from receiving self-directed support services as defined in section 3 of P.L.2008, c.128 (C.30:6D-12.3) to a community residential facility as defined in this section or a facility as defined in section 3 of P.L.1977,

c.82 (C.30:6D-3). The placement of a person who has never before received services from the department directly into a community residential facility is a transfer.

8. This act shall take effect immediately.

Approved January 12, 2009.