

HOUSE BILL 1971

By Pitts

AN ACT to amend Tennessee Code Annotated, Title 33, Chapter 5, relative to home and community based services for dependents of military service members.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 33, Chapter 5, Part 1, is amended by adding the following new section:

33-5-112.

(a) As used in this section:

(1) "Commissioner" means the commissioner of intellectual and developmental disabilities;

(2) "Department" means the department of intellectual and developmental disabilities;

(3) "Dependent child" means a birth child, adopted child, or stepchild of a military domiciliary resident; and

(4) "Military domiciliary resident" means a person who:

(A) Is:

(1) In the active military service of the United States as defined by § 58-1-102 at the time of filing for service pursuant to this section; or

(2) Separated from the active military service of the United States as defined by § 58-1-102 in the eighteen (18) months prior to filing for services pursuant to this section;

(B) Claims this state as the person's state of legal residence; and

(C) Intends to make, or has already made this state the person's principal place of residency following separation from active military service of the United States.

(b)

(1) A military domiciliary resident may file with the department for a dependent child to receive services provided under the home and community-based services programs of this state operated by the department. The commissioner shall review completed applications in the order received. In reviewing applications, the commissioner shall determine whether the dependent child is eligible and qualified to receive services provided under the home and community-based services programs, excluding from consideration any military service health benefit plan coverage for the dependent child. If the dependent child is eligible and qualified, the commissioner shall approve the application.

(2) Upon approval of the application, the commissioner shall direct that services be provided to the dependent child beginning on the day in which the dependent child lives in this state if the applicant furnishes the following to the commissioner:

(A) A copy of the military domiciliary resident's form DD-214 or other equivalent discharge paperwork;

(B) Proof of the military domiciliary resident's residence in this state within twelve (12) months from the date of separation from military service; and

(C) A written statement that the dependent child lacks health benefit plan coverage, excluding from consideration any military service health benefit plan coverage for the dependent child.

(3) Dependent children of military domiciliary residents shall receive services provided under home and community-based services programs when physically residing in this state if the dependent child is eligible and qualified.

(4) A person serving in the active military service of the United States as defined by § 58-1-102 or a person who separated from the active military service of the United States in the eighteen (18) months prior to filing for home and community-based services programs of this state may be considered a military domiciliary resident of this state if the person demonstrates the intent to make this state a principal place of residence. Factors supporting the person's intent to make this state a principal place of residence include the following:

(A) The person is registered to vote in this state;

(B) The person has registered a vehicle in this state;

(C) The person holds a current valid driver's license or identification card issued by this state; and

(D) The person maintains a residence in this state for personal use.

(c) Within ninety (90) days prior to receiving services provided under the home and community-based services programs of this state, a dependent child's parent or legal guardian may request the child's application to be reassessed by the department. The request must include a report by a qualified medical professional detailing changes to the level of services provided under the home and community-based services program that may be necessary for the dependent child.

(d) There is a rebuttable presumption that a dependent child of a military domiciliary resident maintains eligibility for any home and community-based services programs from the day the commissioner approves the dependent child's application.

(e) The commissioner shall request a waiver or modification of an existing waiver from the appropriate federal agency if a waiver is necessary to implement this section.

SECTION 2. The commissioner of intellectual and developmental disabilities is authorized to promulgate rules to effectuate the purposes of this act. All rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 3. For the purpose of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2015, the public welfare requiring it.