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I N   S E N A T E

February 21, 2014

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Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Mental Health and Developmental Disabilities

AN ACT relating to the administration of services to people with developmental disabilities

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. The legislature hereby finds and declares that the policy  
2 known as the "front door" has been implemented to control the allocation  
3 of services to people with developmental disabilities. This has led to  
4 widespread complaints about service denials to people who are in crit-  
5 ical need of services, some living at home with aging parents who them-  
6 selves have disabilities significant enough to prevent them from contin-  
7 uing as their child's caregiver. Furthermore, widespread reports suggest  
8 that the number of persons in critical need is growing larger and more  
9 severe for a broad range of people with developmental disabilities,  
10 including those transitioning out of school, in addition to those who  
11 now live at home. Compounding these problems the state has elected to  
12 assume substantial decision making and administrative authority without  
13 having the means, resources or a clear process to efficiently and expe-  
14 ditiously carry out these functions. The consequence has been inordinate  
15 delays in the allocation of critical services, constrained choice and  
16 the inability to appropriately and efficiently redirect resources to  
17 better serve people and families in need.

18     S 2. The commissioner of the office for people with developmental  
19 disabilities, in collaboration with the developmental disabilities advi-  
20 sory council established pursuant to section 13.05 of the mental hygiene  
21 law, shall develop a plan for overhauling and improving the front door  
22 process. Such commissioner shall submit the plan to the temporary presi-  
23 dent of the senate and the speaker of the assembly no later than October  
24 1, 2014 and implement guidelines putting the plan into effect no later  
25 than December 1, 2014. The plan shall consist of proposals to address  
26 the following:

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets  
[ ] is old law to be omitted.

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1 (a) Recognize critical needs of people with developmental disabilities  
2 living at home with persons whose ability to act as a caregiver has been  
3 diminished by age, disability or any other relevant factors and develop  
4 clear and transparent guidelines for when in-home placement is appropri-  
5 ate and when out-of-home placement is appropriate.

6 (b) Develop, and update quarterly, waiting lists for services provided  
7 to people with developmental disabilities.

8 (c) Provide clear and specific guidelines outlining criteria for when  
9 self-direction is and is not appropriate for each individual.

10 (d) Provide guidelines for a clear, expeditious and transparent proc-  
11 ess for allocating residential placements and other critical services to  
12 persons based on their individual needs. Such process shall be consist-  
13 ent across the state and where exceptions are made such exceptions shall  
14 be made in explicit recognition of clear and rational factors. Such  
15 guidelines shall:

16 (1) Ensure that critical needs are met in a timely fashion;

17 (2) Provide an expedited appeals process to review and approve of  
18 requests for critical services when the state has not responded to such  
19 requests within 21 business days and to review state decisions which  
20 serve to unreasonably deny services, including the creation of a perma-  
21 nent independent consumer support program to assist persons seeking  
22 services to understand the process, their rights to due process and to  
23 assist in the resolution of problems regarding services, coverage,  
24 access and due process rights.

25 (3) Provide linguistically and culturally appropriate information on  
26 services and access to services in a universally clear and transparent  
27 manner. Also, ensure that families can secure the services of a medicaid  
28 service coordinator without having to go through the front door process.

29 (4) Provide a process to ensure that people in crisis are not subject  
30 to the front door process and receive immediate services.

31 (5) Report on the extent to which the front door policy, as it has  
32 been implemented, is consistent with applicable requirements for the  
33 home and community based waiver regarding timeliness of decisions,  
34 comprehensiveness of necessary services, choice, persons centered plan-  
35 ning and other matters affecting the appropriateness and adequacy of  
36 services for people with developmental disabilities.

37 (6) Provide guidelines to facilitate and support the evaluation of  
38 post-secondary options consistent with the commissioner of education's  
39 part 200 regulations.

40 (e) In order to facilitate the administration of the "front door"  
41 process the commissioner may promulgate any necessary rules and regu-  
42 lations required to sub-contract with nonprofit developmental disabili-  
43 ties providers to provide administrative support after considering the  
44 ability and advisability of such providers to maintain records, perform  
45 needs assessments, educate consumers and families on the service system  
46 and assist in any other functions which may be required by the office.

47 S 3. This act shall take effect immediately.