S T A T E O F N E W Y O R K

2906

2009-2010 Regular Sessions

I N A S S E M B L Y

January 21, 2009

Introduced by M. of A. KOON -- Multi-Sponsored by -- M. of A. JOHN -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to creating the home health care aide retention program in Monroe county; and to amend chapter 884 of the laws of 1990 amending the public health law relating to authorizing bad debt and charity care allowances for diagnostic and treatment centers and certified home health agencies, in relation to extending the expiration of certain provisions thereof

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

Section 1. Short title. This act shall be known and may be cited as the "home health care aide retention program".

S 2. The public health law is amended by adding a new section 3607-a to read as follows:

S 3607-A. HOME HEALTH CARE AIDE RETENTION PROGRAM. 1. THE COMMISSIONER IS HEREBY AUTHORIZED AND DIRECTED TO ESTABLISH A PILOT PROGRAM TO ENCOURAGE THE RETENTION OF HOME HEALTH AIDES IN THE HOME HEALTH CARE FIELD BY PROVIDING THIRTY SUCCESSFUL CANDIDATES WITH AN OPPORTUNITY TO EARN THEIR LICENSED PRACTICAL NURSING LICENSE, AS PROVIDED IN SECTION SIXTY-NINE HUNDRED SIX OF THE EDUCATION LAW. SUCH PILOT PROGRAM SHALL CONSIST OF A SCHOLARSHIP AND STIPEND FOR TWO CONSECUTIVE GROUPS OF FIFTEEN SELECTED CANDIDATES. EACH SUCCESSFUL CANDIDATE WILL BE AWARDED A SCHOLARSHIP EQUAL TO THE COST OF AN IN-STATE RESIDENT'S TUITION AT AN ACCREDITED, LICENSED PRACTICAL NURSING PROGRAM LASTING NO LONGER THAN EIGHTEEN MONTHS IN DURATION. SUCH CANDIDATE SHALL ALSO WORK TWENTY-FOUR HOURS PER WEEK FOR A LOCAL HOME HEALTH CARE AGENCY AS A HOME HEALTH CARE AIDE AND RECEIVE A STIPEND EQUAL TO AN ADDITIONAL SIXTEEN HOURS PER WEEK OF WORK DURING PARTICIPATION IN THE LICENSED PRACTICAL NURSING PROGRAM SESSION, LASTING NO LONGER THAN EIGHTEEN MONTHS IN DURATION.

2. THE COMMISSIONER, IN CONSULTATION WITH THE BOARD OF REGENTS OF THE STATE UNIVERSITY OF NEW YORK AND THE ADVISORY GROUP ESTABLISHED BY THE

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

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MONROE COUNTY HEALTH SYSTEMS AGENCY, AS PROVIDED IN SUBDIVISION SIX OF SECTION THIRTY-SIX HUNDRED FIFTEEN OF THIS ARTICLE, SHALL DEVELOP AN APPLICATION FORM AND A PROCESS FOR ATTRACTING AND CHOOSING CANDIDATES FOR THE PROGRAM THROUGH LOCAL AND REGIONAL HOME HEALTH CARE AGENCIES. IN AWARDING GRANTS UNDER THIS SECTION, A PRIORITY SHALL BE GIVEN TO CANDIDATES WHO HAVE DEMONSTRATED EXPERIENCE, INTEREST AND ABILITY IN THE HOME HEALTH CARE FIELD ESPECIALLY, AS A HOME HEALTH CARE AIDE.

3. WITHIN ONE YEAR OF THE EFFECTIVE DATE OF THIS SECTION, THE COMMISSIONER SHALL DESIGNATE A CERTIFIED HOME HEALTH CARE AGENCY IN MONROE COUNTY TO ADMINISTER THE STIPENDS, MENTOR THE CANDIDATES, AND OVERSEE THE PILOT PROGRAM ONCE THE CANDIDATES ARE SELECTED AND ENROLLED IN THE PROGRAM. THE PILOT PROGRAM SHALL CONTINUE FOR TWO CONSECUTIVE LICENSED PRACTICAL NURSING PROGRAM SESSIONS, EACH LASTING NO MORE THAN EIGHTEEN MONTHS IN DURATION, WITH A MAXIMUM OF FIFTEEN CANDIDATES PER CLASS. THE MONROE COUNTY AGENCY SHALL REPORT TO THE COMMISSIONER AT A FREQUENCY TO BE DETERMINED BY THE COMMISSIONER. WITHIN THREE MONTHS AFTER CERTIFICATION OF THE FIRST CLASS OF FIFTEEN CANDIDATES, AND AGAIN WITHIN THREE MONTHS AFTER THE CERTIFICATION OF THE SECOND CLASS OF FIFTEEN CANDIDATES, THE COMMISSIONER SHALL REPORT TO THE GOVERNOR, AND THE LEGISLATURE WITH A CRITICAL EVALUATION OF THE PILOT PROGRAM AND RECOMMENDATIONS FOR CONTINUATION, CHANGES OR IMPROVEMENT.

4. FUNDS FOR SUCH PILOT PROGRAM SHALL BE ALLOCATED FROM THE STATE FUNDS AVAILABLE TO EACH HEALTH SYSTEM AGENCY REGION, AS PROVIDED IN SECTION THIRTY-SIX HUNDRED FIFTEEN OF THIS ARTICLE, IN DIRECT PROPORTION TO THE NUMBER OF SUCCESSFUL CANDIDATES CHOSEN. IN ADDITION, THE CERTIFIED HOME HEALTH CARE AGENCY DESIGNATED BY THE COMMISSIONER AS PROVIDED IN SUBDIVISION THREE OF THIS SECTION SHALL BE AWARDED REIMBURSEMENT FOR APPROPRIATE ADMINISTRATIVE COSTS AS DEEMED NECESSARY BY THE COMMISSIONER.

S 3. Section 3615 of the public health law, as amended by chapter 884 of the laws of 1990, is amended to read as follows:

S 3615. State aid to certified home health agencies AND HOME HEALTH CARE AIDE RETENTION PROGRAM. 1. State aid shall be provided to certified home health agencies OR TO THE HOME HEALTH CARE AIDE RETENTION PROGRAM, AS PROVIDED IN SECTION THIRTY-SIX HUNDRED SEVEN-A OF THIS ARTICLE, to assist in developing and ensuring their capacity to meet community need. Funds for such aid shall be made available each year in an amount equal to twenty-five cents per capita of the population within each health systems agency region, as established pursuant to article twenty-nine of this chapter, or two hundred thousand dollars, whichever is greater. Two million five hundred thousand dollars shall be for the state's share of payments provided pursuant to subdivision five of section thirty-six hundred fourteen of this article. The remaining amount shall be for purposes of providing grants pursuant to this section and sections thirty-six hundred seven and thirty-six hundred nine of this article.

2. For purposes of funding grants pursuant to sections thirty-six hundred seven and thirty-six hundred nine of this article and grants pursuant to this section, the commissioner shall allocate the proportion of funds among the health systems agency regions using the last preceding federal census or other census data approved by the comptroller.

3. Such annual funds allocated to each health systems agency region shall be made available for grants to applicants within each such region which are determined eligible and approved by the commissioner pursuant to the provisions of this section and sections thirty-six hundred seven, THIRTY-SIX HUNDRED SEVEN-A and thirty-six hundred nine of this article.

4. [In] EXCEPT AS PROVIDED IN SECTION THIRTY-SIX HUNDRED SEVEN-A OF THIS ARTICLE, IN order to be considered eligible for receipt of a grant pursuant to this section, a certified home health agency shall submit an application to the department. Such application shall demonstrate, to the satisfaction of the commissioner, that the agency:

(a) received a certificate of approval pursuant to the provisions of section thirty-six hundred eight of this article at least two years prior to the date of the application and that such certificate has not been revoked or annulled subsequent to its receipt and is not limited as of the time of application;

(b) shall utilize grant funds to provide home care services to persons whose residence is in an area which, due to location, is more costly to serve, or persons whose conditions require a more intensive level of home care than typically provided in a visit;

(c) shall undertake reasonable efforts to maintain financial support from public and community contributed funding sources;

(d) shall make every reasonable effort to collect payments for services from third party insurance payers, governmental payers and self-paying patients;

(e) shall have professional assistance available on a seven day per week, twenty-four hour per day basis;

(f) shall establish a reasonable relationship between costs and charges, or establish charges at approximate cost; and

(g) has no other available financial resources to serve the populations as identified in paragraph (b) of this subdivision.

5. [For] EXCEPT AS PROVIDED IN SECTION THIRTY-SIX HUNDRED SEVEN-A OF THIS ARTICLE, FOR the purpose of this section and sections thirty-six hundred seven and thirty-six hundred nine of this article, a grant applicant shall submit a copy of its application to the health systems agency in whose region the applicant is located.

6. [For] EXCEPT AS PROVIDED IN SECTION THIRTY-SIX HUNDRED SEVEN-A OF THIS ARTICLE, FOR the purpose of this section and sections thirty-six hundred seven and thirty-six hundred nine of this article, each health systems agency shall convene an advisory group with representatives from, but not limited to, local departments of health, including those organized and unorganized as county and part-county health districts, social services districts, offices for the aging, certified home health agencies, and consumers of home health agency services. Such advisory group, after considering recommendations from persons involved in or knowledgeable about home care services delivered in that region, shall, consistent with state and regional health plans, identify priority regional and local needs for the purposes identified in this section and sections thirty-six hundred seven and thirty-six hundred nine of this article. The health systems agency shall provide to the commissioner the recommendations of the advisory group regarding which grant applications meet regional and local needs, as well as the advisory group's prioritization of applications.

7. [For] EXCEPT AS PROVIDED IN SECTION THIRTY-SIX HUNDRED SEVEN-A OF THIS ARTICLE, FOR the purposes of this section and sections thirty-six hundred seven and thirty-six hundred nine of this article, the commissioner shall approve applications for grants which meet the requirements of this section pursuant to which the application is submitted and rules and regulations adopted pursuant thereto. In approving such applications, the commissioner shall take into prime consideration the recommendations of the advisory group convened by the health systems agency in whose region the applicants are located and also take into consider-

ation other applications submitted by the same applicant for grants submitted pursuant to such sections. The commissioner shall notify each advisory group and each applicant in writing of his approval or disapproval and, if disapproval, shall state the reasons for disapproval.

8. [Grants] EXCEPT AS PROVIDED IN SECTION THIRTY-SIX HUNDRED SEVEN-A OF THIS ARTICLE, GRANTS approved for the purposes of this section may be made each year for up to a two-year period or until the costs for such services provided by virtue of receipt of the grant are included in rates of payment, whichever is sooner. Certified home health agencies which receive grants pursuant to this section may reapply for grants and may be approved if the applicant satisfies the requirements of subdivision four of this section and rules and regulations adopted pursuant to this section.

9. [In] EXCEPT AS PROVIDED IN SECTION THIRTY-SIX HUNDRED SEVEN-A OF THIS ARTICLE, IN the event that a public certified home health agency is approved for a grant, pursuant to this section, funds provided under the grant shall not reduce the amount of aid otherwise reimbursable to such agency pursuant to article six of this chapter.

10. The commissioner is authorized to promulgate such rules and regulations, in consultation with the state council on home care services, as are necessary to carry out the provisions of this section. Such rules and regulations may include, but not be limited to, minimum and maximum grant levels.

11. [Recipients] EXCEPT AS PROVIDED IN SECTION THIRTY-SIX HUNDRED SEVEN-A OF THIS ARTICLE, RECIPIENTS of grants shall submit to the commissioner reports on the use of grants provided under this section at such times and in such format as the commissioner may prescribe.

S 4. Section 11 of chapter 884 of the laws of 1990 amending the public health law relating to authorizing bad debt and charity care allowances for diagnostic and treatment centers and certified home health agencies, as amended by section 68 of part C of chapter 58 of the laws of 2007, is amended to read as follows:

S 11. This act shall take effect immediately and:

(a) sections one and three shall expire on December 31, 1996,

(b) sections four through ten shall expire on June 30, [2009] 2013, and

(c) provided that the amendment to section 2807-b of the public health law by section two of this act shall not affect the expiration of such section 2807-b as otherwise provided by law and shall be deemed to expire therewith.

S 5. This act shall take effect immediately, provided, however, that the amendments to section 3615 of the public health law made by section three of this act shall not affect the expiration of such section and shall be deemed to expire therewith; provided, further, that the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.