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

5244

2009-2010 Regular Sessions

I N A S S E M B L Y

February 11, 2009

Introduced by M. of A. MENG, COLTON -- Multi-Sponsored by -- M. of A. PHEFFER -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to establishing the state multi-agency council on access to durable medical equipment for the disabled

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

Section 1. The public health law is amended by adding a new article 27-M to read as follows:

ARTICLE 27-M

STATE MULTI-AGENCY COUNCIL ON ACCESS TO DURABLE MEDICAL EQUIPMENT FOR THE DISABLED

SECTION 2799-U. DEFINITIONS.

2799-V. FUNCTIONS, DUTIES AND POWERS OF THE STATE MULTI-AGENCY COUNCIL ON ACCESS TO DURABLE MEDICAL EQUIPMENT FOR THE DISABLED.

S 2799-U. DEFINITIONS. FOR PURPOSES OF THIS ARTICLE:

1. "ELIGIBLE PERSON" MEANS:

A. A PERSON WHO IS ELIGIBLE FOR MEDICAL ASSISTANCE IN ACCORDANCE WITH TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW; AND

B. A DEVELOPMENTALLY DISABLED PERSON WHO IS ELIGIBLE FOR MEDICAL ASSISTANCE IN ACCORDANCE WITH TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW AND WHO IS ALSO A BENEFICIARY UNDER SUBCHAPTER XVIII OF CHAPTER 7 OF TITLE 42 OF THE UNITED STATES CODE.

2. "DURABLE MEDICAL EQUIPMENT" MEANS WHEELED MOBILITY DEVICES, WHEELCHAIR ACCESSORIES, AUGMENTATIVE COMMUNICATION AND SPEECH GENERATING DEVICES AND ACCESSORIES, AND ANY OTHER EQUIPMENT OR ACCESSORIES THAT ARE NECESSARY FOR THE PERFORMANCE OF ESSENTIAL DAILY ACTIVITIES INCLUDING, BUT NOT LIMITED TO, MOBILITY, COMMUNICATION, BATHING AND EATING.

3. "COUNCIL" MEANS THE STATE MULTI-AGENCY COUNCIL ON ACCESS TO DURABLE MEDICAL EQUIPMENT FOR THE DISABLED.

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

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S 2799-V. FUNCTIONS, DUTIES AND POWERS OF THE STATE MULTI-AGENCY COUNCIL ON ACCESS TO DURABLE MEDICAL EQUIPMENT FOR THE DISABLED. 1. THERE IS HEREBY CREATED, IN THE DEPARTMENT, THE STATE MULTI-AGENCY COUNCIL ON ACCESS TO DURABLE MEDICAL EQUIPMENT FOR THE DISABLED FOR THE PURPOSES OF ENSURING TIMELY ACCESS TO DURABLE MEDICAL EQUIPMENT BY INDIVIDUALS WHO REQUIRE THE ASSISTANCE OF SUCH EQUIPMENT TO ENGAGE IN ESSENTIAL ACTIVITIES OF DAILY LIVING. THE COUNCIL SHALL CONSIST OF THE FOLLOWING PERSONS OR THEIR DESIGNEE: THE COMMISSIONER, THE COMMISSIONER OF MENTAL HEALTH AND THE COMMISSIONER OF MENTAL RETARDATION AND DEVELOPMENTAL DISABILITIES. IN ADDITION, THE COUNCIL SHALL CONSIST OF TWELVE RESIDENTS OF THE STATE, OF WHOM TWO SHALL BE APPOINTED BY THE GOVERNOR, FIVE SHALL BE APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE AND FIVE SHALL BE APPOINTED BY THE SPEAKER OF THE ASSEMBLY. OF THESE TWELVE RESIDENTS OF THE STATE, SIX SHALL BE PERSONS WHO ARE DEVELOPMENTALLY DISABLED, AND SIX SHALL BE PERSONS WITH DEMONSTRATED EXPERTISE AND INTEREST IN THE NEEDS OF PERSONS WHO ARE DEVELOPMENTALLY DISABLED. SUCH APPOINTMENTS SHALL BE MADE IN CONSULTATION WITH ORGANIZATIONS REPRESENTING PERSONS WHO ARE DEVELOPMENTALLY DISABLED. OF THE TWELVE PERSONS INITIALLY APPOINTED BY THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY, FOUR SHALL SERVE FOR A TERM OF ONE YEAR, FOUR SHALL SERVE FOR A TERM OF TWO YEARS AND FOUR SHALL SERVE FOR A TERM OF THREE YEARS. SUBSEQUENT APPOINTMENTS UPON THE EXPIRATION OF THE INITIAL TERM SHALL BE FOR A TERM OF THREE YEARS AND SHALL BE FILLED IN THE SAME MANNER AS THE ORIGINAL APPOINTMENT.

2. THE MEMBERS OF THE COUNCIL WHO ARE NOT COMMISSIONERS SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES, BUT SHALL BE ALLOWED THEIR ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THEIR DUTIES.

3. THE COUNCIL IS CHARGED WITH MAKING RECOMMENDATIONS TO INCREASE TIMELY ACCESS TO DURABLE MEDICAL EQUIPMENT BY ELIGIBLE PERSONS. SUCH RECOMMENDATIONS SHALL INCLUDE:

A. ESTABLISHMENT OF WRITTEN GUIDELINES REGARDING THE DOCUMENTATION REQUIRED FOR THE PRIOR APPROVAL BY THE DEPARTMENT OF DURABLE MEDICAL EQUIPMENT FOR ELIGIBLE PERSONS. SUCH GUIDELINES SHALL INCLUDE A CHECKLIST OF THE DOCUMENTATION REQUIRED, AND A TIMEFRAME WITHIN WHICH THE DEPARTMENT MUST MAKE A FINAL DETERMINATION THEREON AND PROVIDE NOTICE OF SUCH FINAL DETERMINATION TO AN ELIGIBLE PERSON WHO HAS PROVIDED THE REQUIRED DOCUMENTATION ON THE CHECKLIST.

B. ESTABLISHMENT OF A WRITTEN PROCESS TO EXPEDITE THE REVIEW AND FINAL DETERMINATION OF ANY REQUEST FOR DURABLE MEDICAL EQUIPMENT MADE BY AN ELIGIBLE PERSON ON OR AFTER NOVEMBER FIRST, TWO THOUSAND NINE.

C. ESTABLISHMENT OF A WRITTEN PROCESS AND PAYMENT SCHEDULE WHEREBY AN ELIGIBLE PERSON, AS DEFINED IN PARAGRAPH B OF SUBDIVISION ONE OF SECTION TWENTY-SEVEN HUNDRED NINETY-NINE-U OF THIS ARTICLE, IS ASSURED ACCESS TO THE SAME DURABLE MEDICAL EQUIPMENT AS AN ELIGIBLE PERSON AS DEFINED IN PARAGRAPH A OF SUBDIVISION ONE OF SECTION TWENTY-SEVEN HUNDRED NINETY-NINE-U OF THIS ARTICLE.

D. ANY OTHER RECOMMENDATIONS THAT WILL ENSURE THE TIMELY ACCESS TO DURABLE MEDICAL EQUIPMENT BY ELIGIBLE PERSONS.

4. THE COUNCIL SHALL PROVIDE ITS WRITTEN RECOMMENDATIONS REQUIRED BY THIS SECTION TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY NO LATER THAN THE ONE HUNDRED EIGHTIETH DAY AFTER THE EFFECTIVE DATE OF THIS ARTICLE.

S 2. This act shall take effect immediately.