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

525

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. DESTITO -- read once and referred to the Committee on Health

AN ACT to amend the public health law and the social services law, in relation to the licensing of home health care agencies and the reimbursement of such agencies

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

Section 1. Subdivision 15 of section 3602 of the public health law, as added by chapter 81 of the laws of 1995, is amended to read as follows:

15. "Limited home care services agency" means a certified operator of an adult home or an enriched housing program which directly provides[:] personal care services [authorized and provided in accordance with rules and regulations of the department of social services] TO RESIDENTS WHO REQUIRE EITHER SOME OR TOTAL ASSISTANCE WITH ACTIVITIES OF DAILY LIVING; [and the administration of medications and application of sterile dressings by a registered nurse,] provided, however, that the services ARE provided [by such agency] AND are not EXCLUSIVELY services that must be provided to residents of such facilities pursuant to article seven of the social services law; and [rules and regulations of the department of social services] THE ADMINISTRATION OF ALL MEDICATIONS, TREATMENTS, AND APPLICATION OF STERILE DRESSINGS BY AN APPROPRIATELY LICENSED PROFESSIONAL UNDER THE SUPERVISION OF A REGISTERED NURSE. Such operator may provide these services only to residents of the adult home or enriched housing program governed by the terms of such limited license.

S 2. Subdivisions 9, 10, 11 and 12 of section 3605 of the public health law, as added by chapter 81 of the laws of 1995, are amended to read as follows:

9. An entity which seeks approval as a limited home care services agency must meet the requirements of this section, the rules and regulations of the department, and must be a certified operator of an adult

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

LBD01298-01-9

home or enriched housing program pursuant to article seven of the social services law. The commissioner shall approve only those applicants [that the commissioner of the department of social services has] listed as eligible pursuant to the requirements of paragraph (a) of subdivision [eleven] TEN of this section. THE COMMISSIONER SHALL ACT ON A COMPLETE APPLICATION WITHIN NINETY DAYS OF RECEIVING SUCH APPLICATION.

10. [The department shall notify the department of social services of any action taken against a limited home care services agency pursuant to section thirty-six hundred five-a of this article.

11.] For purposes of this subdivision, eligibility of limited home care services agencies licensed by the department shall be as follows:

(a) Only those certified operators of adult homes and enriched housing programs that provide services that are consistent with the needs of each resident, meet the standards governing the operation of such facilities in accordance with the provisions of article seven of the social services law, and provide quality care shall be considered by the department as eligible for licensure.

(b) An operator that has received current official written notice from the department [of social services] of any enforcement action pursuant to section four hundred sixty-d of the social services law shall not be eligible for such certification.

(c) Such current enforcement action, when resolved to the satisfaction of the commissioner [of social services], shall not itself preclude an otherwise eligible applicant from licensure approval but shall be considered by the department in determining the character, competence, and standing in the community of the applicant pursuant to subdivision four of this section.

(d) If [the department receives notice from the department of social services that] a certified operator of an adult home or enriched housing program that is licensed as a limited home care services agency has received official written notice from the department [of social services] of a proposed enforcement action taken pursuant to section four hundred sixty-d of the social services law, the department shall review the delivery of home care services to determine whether such agency is meeting all applicable regulations and standards.

[12. Notwithstanding any law to the contrary, the commissioner shall have the authority to limit the number of adult homes and enriched housing programs eligible for licensure under this section.]

S 3. Subdivisions 1, 2 and 4 of section 367-p of the social services law, as added by section 105-d of chapter 81 of the laws of 1995, are amended to read as follows:

1. Notwithstanding any law to the contrary, the commissioner shall, subject to the approval of the director of the budget, establish rates of payment for services provided by limited home care services agencies, licensed by the department of health pursuant to section thirty-six hundred five of the public health law, to eligible individuals who are residents of adult homes and enriched housing programs certified by the department in accordance with article seven of this chapter. Services for which reimbursement shall be available are personal care services provided TO RESIDENTS WHO REQUIRE EITHER SOME OR TOTAL ASSISTANCE WITH ACTIVITIES OF DAILY LIVING directly by the agency and authorized and provided in accordance with the rules and regulations of the department; and the administration of medications and application of sterile dressings by a registered nurse provided, however, that the services provided by such agency are not services that must be provided to residents of such facilities pursuant to article seven of this chapter.

2. Notwithstanding any law to the contrary, a limited home care services agency licensed by the department of health shall be reimbursed at a rate [that is significantly less than the current costs of providing such services through a personal care provider or certified home health agency in the same service area] REASONABLY RELATED TO THE COST OF EFFICIENTLY PROVIDING THE SERVICE TRENDED FORWARD USING THE METHODOLOGY DESCRIBED IN PARAGRAPH (C) OF SUBDIVISION TEN OF SECTION TWENTY-EIGHT HUNDRED SEVEN-C OF THE PUBLIC HEALTH LAW.

4. Prior to authorizing payment for services provided to an eligible individual by a limited home care services agency, the appropriate social services district must determine that the service proposed to be provided by such agency is cost-effective in comparison to other available and appropriate service delivery options available in the district. IF AUTHORIZED, REIMBURSEMENT FOR SUCH SERVICES SHALL BE RETROACTIVE TO THE DATE WHEN CARE WAS BEGUN AND THE LIMITED HOME CARE SERVICES AGENCY APPLIED FOR APPROVAL OF SUCH CARE.

S 4. This act shall take effect immediately; provided, however, that the amendments to subdivision 15 of section 3602 of the public health law made by section one of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith; and provided, further, however that the amendments to subdivisions 9, 10, 11 and 12 of section 3605 of the public health law made by section two of this act shall not affect the expiration of such subdivisions and shall be deemed to expire therewith; and provided, further, however that the amendments to subdivisions 1, 2 and 4 of section 367-p of the social services law made by section three of this act shall not affect the expiration of such section and shall be deemed to expire therewith.