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

5416

2009-2010 Regular Sessions

I N A S S E M B L Y

February 13, 2009

Introduced by M. of A. ENGLEBRIGHT, GABRYSZAK, PHEFFER, ALFANO, DESTITO, COLTON, JAFFEE, BROOK-KRASNY, GALEF, FIELDS, P. LOPEZ, PERRY -- Multi-Sponsored by -- M. of A. ABBATE, BARRA, GUNTHER, McDONOUGH, PAULIN, SAYWARD, SCOZZAFAVA, TITONE -- read once and referred to the Committee on Social Services

AN ACT to amend the social services law, in relation to establishing certain requirements for payment of medical assistance for needy persons to assisted living residences

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

Section 1. Legislative intent. The legislature hereby finds that the placement of persons who need only aging in place care and services in assisted residences, rather than being placed in nursing homes, results in substantial savings to the medical assistance program. Therefore, appropriate assisted living residences, established pursuant to article 46-B of the public health law, should be made available to all residents of the state who need or desire the benefits afforded by assisted living. The benefits of assisted living are best provided in a non-institutional setting, which is integrated into the community; in a facility which complies with the provisions of the Americans with Disabilities Act and all provisions of article 46-B of the public health law and in an atmosphere that encourages resident independence, autonomy, privacy and freedom of choice.

The legislature hereby declares that no assisted living residence shall receive medical assistance payments or reimbursement unless it complies with the standards specified in this act.

S 2. The social services law is amended by adding a new section 367-v to read as follows:

S 367-V. PAYMENTS TO ASSISTED LIVING RESIDENCES. NO ASSISTED LIVING RESIDENCE, ESTABLISHED PURSUANT TO ARTICLE FORTY-SIX-B OF THE PUBLIC HEALTH LAW, SHALL RECEIVE ANY PAYMENT PURSUANT TO THE PROVISIONS OF THIS

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

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CHAPTER UNLESS IT PROVIDES THE DEPARTMENT OF HEALTH WITH WRITTEN PROOF THAT SUCH RESIDENCE:

1. DOES NOT DISCRIMINATE ON THE BASIS OF SOURCE OF PAYMENT, DISABILITY, RACE, RELIGION OR SEXUAL ORIENTATION;

2. PROVIDES A WIDE RANGE OF RESIDENT CHOICE WITH REGARD TO:

(A) ACTIVITIES,

(B) DIET CONSIDERATIONS AND FOOD SELECTIONS,

(C) FLEXIBLE SCHEDULING FOR DINING, BATHING, VISITING HOURS, SHOPPING, ERRANDS, GETTING UP AND GOING TO BED,

(D) ASSISTANCE WITH ACTIVITIES OF DAILY LIVING AND RECREATIONAL ACTIVITIES, AND

(E) SUPPORT IN THE MAINTENANCE OF CONNECTIONS AND INVOLVEMENT IN THE RESIDENTS' ORIGINAL NEIGHBORHOOD AND THE LARGER COMMUNITY;

3. PROVIDES A HOME-LIKE (NON-INSTITUTIONALIZED) SETTING BY:

(A) HAVING A MIX OF APPROPRIATE NUMBERS OF SINGLE AND DOUBLE ROOMS,

(B) PROVIDING ACCESS TO SINGLE ROOMS WITHOUT DISCRIMINATING BASED ON SOURCE OF PAYMENT,

(C) HAVING A MIX OF CENTRALIZED AND DECENTRALIZED DINING, LIVING AND COMMON AREAS, SUCH AREAS BEING SUITABLE TO PROVIDE RESIDENTS WITH AN ADEQUATE RANGE OF OPTIONS FOR THOSE WANTING PRIVACY OR SOCIALIZATION,

(D) PROVIDING EACH ROOM WITH THE FACILITIES TO PREPARE MEALS,

(E) ENSURING RESPECT FOR SELF-DIRECTION,

(F) ALLOWING RESIDENTS TO KEEP SOME OF THEIR OWN FURNITURE AND FURNISHINGS,

(G) ENCOURAGING VISITS BY INDIVIDUALS AND GROUPS, AND

(H) ENCOURAGING FREEDOM TO "COME AND GO";

4. ENCOURAGES INDEPENDENCE BY:

(A) PROVIDING OPPORTUNITIES FOR RESIDENTS TO PARTICIPATE IN THEIR OWN CARE PLANNING AND ASSISTED LIVING COMMUNITY PLANNING,

(B) PROVIDING OPTIONS FOR LIVING, INCLUDING PRIVATE AND DOUBLE ROOMS WITH PRIVATE BATHS, AND ROOMS THAT CAN ACCOMMODATE SHARING,

(C) PROVIDING FREE REGULAR TRANSPORTATION TO LOCATIONS IN THE LOCAL COMMUNITY, INCLUDING TO PHYSICIANS' APPOINTMENTS,

(D) PROVIDING OPPORTUNITIES FOR THE OUTSIDE COMMUNITY TO BE INVOLVED WITH THE RESIDENT COMMUNITY,

(E) HAVING A PHYSICAL STRUCTURE THAT PERMITS RESIDENTS TO NAVIGATE SAFELY, ACCESS OUTDOOR AREAS AND THE GREATER COMMUNITY, INCLUDING:

(1) ADEQUATE LIGHTING,

(2) GRAB BARS, AND

(3) SIDEWALKS IN GOOD REPAIR,

(F) PROVIDING LAUNDRY FACILITIES FOR RESIDENTS' USE,

(G) PROVIDING OPPORTUNITIES FOR RESIDENTS TO PREPARE THEIR OWN MEALS, AND

(H) HAVING POLICIES AND PROCEDURES THAT ENABLE COMPETENT AND INFORMED RESIDENTS TO MAKE DECISIONS AND TAKE ACTIONS THAT INVOLVE PERSONAL RISK;

5. PROMOTES AND HONORS RESIDENT DECISION-MAKING POWER BY:

(A) ENCOURAGING AND SUPPORTING RESIDENT CENTERED AND RESIDENT DIRECT PLANNING, AND

(B) GIVING RESIDENTS THE OPPORTUNITY TO MAKE DECISIONS ABOUT AND BE INVOLVED IN THEIR TREATMENT PLANS; AND

6. DELIVERS CARE IN A CULTURALLY COMPETENT MANNER BY:

(A) MAKING BEST EFFORTS TO HELP RESIDENTS WHO DO NOT SPEAK ENGLISH BY FULLY UNDERSTANDING THE CARE AND QUALITY OF LIFE ISSUE OF SUCH RESIDENTS BY SPEAKING THEIR LANGUAGES AND PROVIDING TRANSLATIONS,

(B) MAKING SURE THAT ASSESSMENTS ACKNOWLEDGE DIFFERENT CULTURES (INCLUDING THE CULTURE OF THE DISABLED),

(C) TRAINING STAFF TO BE CULTURALLY COMPETENT, AND
(D) ACKNOWLEDGING AND RESPECTING DIFFERENT CULTURES AND LIFESTYLES.

S 3. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.