

S T A T E   O F   N E W   Y O R K

---

2005

2009-2010 Regular Sessions

I N   S E N A T E

February 10, 2009

---

Introduced by Sens. GOLDEN, LANZA, PADAVAN -- read twice and ordered printed, and when printed to be committed to the Committee on Aging

AN ACT to amend the elder law, in relation to county plans for improving the availability of community services to the elderly

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

1     Section 1. Subdivision 2 of section 214 of the elder law is amended to  
2     read as follows:  
3     2. County plans for improving the availability of community services  
4     to the elderly. (a) Counties with a designated agency are required to  
5     submit a county plan for a two-, three-, or four-year period determined  
6     by the director, with an annual update containing a budget request for  
7     the forthcoming program year and such other information as shall be  
8     required by the director, for improving the delivery of community  
9     services for elderly persons in the format prescribed by the director.  
10    The plan for the city of New York shall specifically address the needs  
11    of each county within such city. Such plan shall be a comprehensive  
12    description of the manner in which the county intends to address the  
13    needs of elderly persons living in the county through improved coordi-  
14    nation of existing community services and by the development of any new  
15    or expanded community service projects which will improve the delivery  
16    of services to the elderly. ANY CHANGE IN A PLAN AFTER APPROVAL, WHICH  
17    SHALL INCLUDE ANY PROPOSED CHANGE IN SERVICE DELIVERY, SHALL REQUIRE THE  
18    FILING OF A PROPOSED PLAN AMENDMENT TO THE DIRECTOR FOR APPROVAL OR  
19    DISAPPROVAL, AS REQUIRED IN THIS SECTION. NO PLAN AMENDMENT SHALL BE  
20    EFFECTIVE UNTIL APPROVED BY THE DIRECTOR. THE DIRECTOR SHALL HAVE SIXTY  
21    DAYS TO APPROVE A PLAN AMENDMENT, AFTER RECEIPT OF COMPLETED DOCUMENTA-  
22    TION AS REQUIRED BY THIS SECTION. Such plan OR PROPOSED PLAN AMENDMENT  
23    shall contain:  
24    (1) a statement of goals and objectives for addressing the needs of  
25    elderly persons in the county, an assessment of the needs of elderly

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

LBD08270-01-9

1 persons residing in the county, a description of public and private  
2 resources that currently provide community services to elderly persons  
3 within the county, a description of intended actions to consolidate and  
4 coordinate existing community services administered by county govern-  
5 ment, a description of the intended actions to coordinate congregate  
6 services programs for the elderly operated within the county pursuant to  
7 section two hundred seventeen of this title with other community  
8 services for the elderly, a description of the means to coordinate other  
9 community services for elderly persons in the county with those adminis-  
10 tered by county government, and a statement of the priorities for the  
11 provision of community services during the program period covered by  
12 such plan OR PLAN AMENDMENT;

13 (2) an identification of community service projects to be developed to  
14 improve the delivery of services, a budget request for approval for the  
15 forthcoming year which individually identifies each community service  
16 project to be funded pursuant to paragraph (b) of subdivision four of  
17 this section, letters of comment from the appropriate local agencies on  
18 the relationship and expected impact of the proposed community service  
19 projects, assurances that community service projects will provide  
20 services to those most in need, an indication of fee schedules by which  
21 elderly persons participating in community service projects may contrib-  
22 ute to the costs of such projects, and an indication of how the effec-  
23 tiveness of such community service projects will be evaluated;

24 (3) an identification of planning, coordination, and administrative  
25 activities necessary to achieve the goals and objectives of the plan OR  
26 PLAN AMENDMENT, together with a budget request for such activities for  
27 approval for the forthcoming year to be funded pursuant to paragraph (a)  
28 of subdivision four of this section, and assurances by the county that  
29 it will comply with the requirements of state and federal law; and

30 (4) such other components as may be required pursuant to regulations  
31 promulgated by the director INCLUDING, WITH RESPECT TO ANY NEW INITI-  
32 ATIVE OR ANY INITIATIVE CHANGED FROM A PRECEDING YEAR OR ANY PLAN AMEND-  
33 MENT: A DESCRIPTION AND ANALYSIS AT A LEVEL OF DETAIL PRESCRIBED BY THE  
34 DIRECTOR SHOWING THE NUMBER OF SENIORS WHO WOULD BE AFFECTED BY EACH NEW  
35 OR CHANGED INITIATIVE; THE DEMOGRAPHICS AND ANNUAL AND LONG TERM PROJEC-  
36 TIONS OF THE NUMBERS OF SENIORS PROPOSED TO BE SERVED BY EACH INITI-  
37 ATIVE; THE FINANCIAL SUSTAINABILITY OF SUCH INITIATIVES; WHETHER THERE  
38 WILL BE ANY DIMINISHMENT OF SERVICES AS A RESULT OF THIS NEW OR CHANGED  
39 INITIATIVE, HOW SUCH CHANGE WOULD BE MEASURED, AND EFFORTS THAT WILL BE  
40 MADE TO COUNTERACT ANY NEGATIVE IMPACT; AND COMPARISONS OF THE COST OF  
41 CURRENT AND CHANGED INITIATIVES, WHERE APPROPRIATE, TO BE BORNE BY THE  
42 DESIGNATED AGENCY AND PROVIDERS OF SERVICES.

43 (b) Such county plan for community services or annual update shall be  
44 prepared by the designated agency and approved by the chief executive  
45 officer of the county, if there be one, or otherwise the governing board  
46 of the county, or the chief executive of the city of New York and  
47 submitted to the director no later than ninety days prior to the begin-  
48 ning of the program period covered by such plan or annual update. Prior  
49 to a submission of a county plan or annual update to the director for  
50 approval, the designated agency shall conduct such public hearings as  
51 may be required by regulations of the director, provided that there  
52 shall be at least one such hearing, and one in each county contained  
53 within the city of New York.

54 (c) The director shall review such county plan and may approve or  
55 disapprove such plan, or any part, program, or project within such plan,  
56 OR AMENDMENT THERETO, and shall propose such modifications and condi-

1 tions as are deemed appropriate and necessary. [Compliance] THE DIREC-  
2 TOR SHALL ESTABLISH APPROPRIATE TIMELINES TO PROVIDE OPPORTUNITY FOR  
3 COMMUNITY INPUT BY STAKEHOLDERS, SERVICES PROVIDERS, AND SENIORS, AND  
4 SHALL TAKE ANY COMMENTS AND REPORTS PROVIDED BY SUCH PERSONS OR ENTITIES  
5 INTO ACCOUNT, IN ADDITION TO COMPLIANCE with paragraphs (a) and (b) of  
6 this subdivision [shall be] AS the basis for approval of a county plan,  
7 OR AMENDMENT THERETO. The director shall establish by regulation the  
8 dates for notifying the designated agency of approval or disapproval of  
9 a county plan, OR AMENDMENT THERETO. In the event the director shall  
10 disapprove the proposed county plan OR AMENDMENT, the county submitting  
11 such application shall be afforded an opportunity for an adjudicatory  
12 hearing, as prescribed by article three of the state administrative  
13 procedure act. DESIGNATED AGENCIES SHALL COMPLY WITH THE PROVISIONS OF  
14 APPROVED PLANS, AND WITH THE RESULTS OF STATE HEARINGS OR REVIEWS,  
15 UNLESS AND UNTIL AN AMENDED PLAN OR APPLICATION IS APPROVED BY THE  
16 OFFICE. THE OFFICE MAY ISSUE PROGRAM INSTRUCTIONS WHICH SHALL BE BINDING  
17 ON AREA AGENCIES AND SERVICE PROVIDERS WITH RESPECT TO SUCH PLANS OR  
18 AMENDED PLANS.

19 (d) Notwithstanding any provision of this section, nothing contained  
20 in this section shall give the director or a designated agency any  
21 administrative, fiscal, supervisory, or other authority whatsoever over  
22 any plans, programs or expenditures authorized pursuant to titles eigh-  
23 teen, nineteen and twenty of the federal social security act, or over  
24 any unit of state or local government.

25 (e) Counties with a designated agency may submit to the director a  
26 letter of intent, in the form and by the date prescribed by the director  
27 with the approval of the director of the budget, evidencing the commit-  
28 ment of the county to develop a county home care plan for functionally  
29 impaired elderly.

30 (f) Within the amounts appropriated therefor, counties submitting an  
31 approved letter of intent pursuant to paragraph (e) of this subdivision  
32 shall be eligible for reimbursement of one hundred percent of the  
33 approved expenditures for preparing a county home care plan for func-  
34 tionally impaired elderly. Such a grant-in-aid shall be available to a  
35 county only once and shall be limited to one-half the amount available  
36 to such county pursuant to subparagraph one of paragraph (a) of subdivi-  
37 sion four of this section; provided however that in either of the two  
38 years immediately following its first submission of a home care plan for  
39 functionally impaired elderly, a county which does not receive state aid  
40 during such year for expanded non-medical in-home services, non-institu-  
41 tional respite services, case management services, and ancillary  
42 services pursuant to paragraph (j) of subdivision four of this section,  
43 may apply for reimbursement of one hundred percent of the approved  
44 expenditures for revising such home care plan, limited to one-quarter  
45 the amount available to such county pursuant to subparagraph one of  
46 paragraph (a) of subdivision four of this section.

47 (g) County home care plans for functionally impaired elderly prepared  
48 pursuant to this subdivision shall include a comprehensive description  
49 of all aspects of home care, non-institutional respite, case management,  
50 and ancillary services available to elderly persons in the county; a  
51 description of intended actions to coordinate such home care, non-insti-  
52 tutional respite, case management, and ancillary services to func-  
53 tionally impaired elderly persons in their county provided under this  
54 section with other services to elderly persons; a proposal for expanded  
55 non-medical in-home services, non-institutional respite services, case  
56 management services, and ancillary services for functionally impaired

1 elderly persons with unmet needs to support such persons' continued  
2 residence in their homes; and such other components as may be required  
3 pursuant to regulations promulgated by the director, including how the  
4 proposed expanded non-medical in-home services, non-institutional  
5 respite services, case management services, and ancillary services will  
6 be delivered to unserved or underserved populations.

7 (h) Such county home care plan for functionally impaired elderly shall  
8 be prepared by the designated agency after consultation with the social  
9 services district and the local public health agency, and shall be  
10 approved by the chief executive officer of the county, if there be one,  
11 or otherwise the governing board of the county, or the chief executive  
12 of the city of New York, and submitted to the director for approval by  
13 such date as may be specified by regulation. The director shall not  
14 approve such county home care plan for functionally impaired elderly  
15 unless it complies with the standards and regulations issued pursuant to  
16 this section.

17 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-  
18 sion, section or part of this act shall be adjudged by any court of  
19 competent jurisdiction to be invalid, such judgment shall not affect,  
20 impair, or invalidate the remainder thereof, but shall be confined in  
21 its operation to the clause, sentence, paragraph, subdivision, section  
22 or part thereof directly involved in the controversy in which such judg-  
23 ment shall have been rendered. It is hereby declared to be the intent of  
24 the legislature that this act would have been enacted even if such  
25 invalid provisions had not been included herein.

26 S 3. This act shall take effect immediately.