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2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. DINOWITZ, ENGLEBRIGHT, J. RIVERA -- 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:

1 Section 1. Legislative intent. The legislature hereby finds that the
2 placement of persons who need only aging in place care and services in
3 assisted residences, rather than being placed in nursing homes, results
4 in substantial savings to the medical assistance program. Therefore,
5 appropriate assisted living residences, established pursuant to article
6 46-B of the public health law, should be made available to all residents
7 of the state who need or desire the benefits afforded by assisted
8 living. The benefits of assisted living are best provided in a non-in-
9 stitutional setting, which is integrated into the community; in a facil-
10 ity which complies with the provisions of the Americans with Disabili-
11 ties Act and all provisions of article 46-B of the public health law and
12 in an atmosphere that encourages resident independence, autonomy, priva-
13 cy and freedom of choice.

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

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

19 S 367-X. PAYMENTS TO ASSISTED LIVING RESIDENCES. NO ASSISTED LIVING
20 RESIDENCE, ESTABLISHED PURSUANT TO ARTICLE FORTY-SIX-B OF THE PUBLIC
21 HEALTH LAW, SHALL RECEIVE ANY PAYMENT PURSUANT TO THE PROVISIONS OF THIS
22 CHAPTER UNLESS IT PROVIDES THE DEPARTMENT OF HEALTH WITH WRITTEN PROOF
23 THAT SUCH RESIDENCE:

24 1. DOES NOT DISCRIMINATE ON THE BASIS OF SOURCE OF PAYMENT, DISABILI-
25 TY, RACE, RELIGION OR SEXUAL ORIENTATION;

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

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

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1 (A) ACTIVITIES,
2 (B) DIET CONSIDERATIONS AND FOOD SELECTIONS,
3 (C) FLEXIBLE SCHEDULING FOR DINING, BATHING, VISITING HOURS, SHOPPING,
4 ERRANDS, GETTING UP AND GOING TO BED,
5 (D) ASSISTANCE WITH ACTIVITIES OF DAILY LIVING AND RECREATIONAL ACTIV-
6 ITIES, AND
7 (E) SUPPORT IN THE MAINTENANCE OF CONNECTIONS AND INVOLVEMENT IN THE
8 RESIDENTS' ORIGINAL NEIGHBORHOOD AND THE LARGER COMMUNITY;
9 3. PROVIDES A HOME-LIKE (NON-INSTITUTIONALIZED) SETTING BY:
10 (A) HAVING A MIX OF APPROPRIATE NUMBERS OF SINGLE AND DOUBLE ROOMS,
11 (B) PROVIDING ACCESS TO SINGLE ROOMS WITHOUT DISCRIMINATING BASED ON
12 SOURCE OF PAYMENT,
13 (C) HAVING A MIX OF CENTRALIZED AND DECENTRALIZED DINING, LIVING AND
14 COMMON AREAS, SUCH AREAS BEING SUITABLE TO PROVIDE RESIDENTS WITH AN
15 ADEQUATE RANGE OF OPTIONS FOR THOSE WANTING PRIVACY OR SOCIALIZATION,
16 (D) PROVIDING EACH ROOM WITH THE FACILITIES TO PREPARE MEALS,
17 (E) ENSURING RESPECT FOR SELF-DIRECTION,
18 (F) ALLOWING RESIDENTS TO KEEP SOME OF THEIR OWN FURNITURE AND
19 FURNISHINGS,
20 (G) ENCOURAGING VISITS BY INDIVIDUALS AND GROUPS, AND
21 (H) ENCOURAGING FREEDOM TO "COME AND GO";
22 4. ENCOURAGES INDEPENDENCE BY:
23 (A) PROVIDING OPPORTUNITIES FOR RESIDENTS TO PARTICIPATE IN THEIR OWN
24 CARE PLANNING AND ASSISTED LIVING COMMUNITY PLANNING,
25 (B) PROVIDING OPTIONS FOR LIVING, INCLUDING PRIVATE AND DOUBLE ROOMS
26 WITH PRIVATE BATHS, AND ROOMS THAT CAN ACCOMMODATE SHARING,
27 (C) PROVIDING FREE REGULAR TRANSPORTATION TO LOCATIONS IN THE LOCAL
28 COMMUNITY, INCLUDING TO PHYSICIANS' APPOINTMENTS,
29 (D) PROVIDING OPPORTUNITIES FOR THE OUTSIDE COMMUNITY TO BE INVOLVED
30 WITH THE RESIDENT COMMUNITY,
31 (E) HAVING A PHYSICAL STRUCTURE THAT PERMITS RESIDENTS TO NAVIGATE
32 SAFELY, ACCESS OUTDOOR AREAS AND THE GREATER COMMUNITY, INCLUDING:
33 (1) ADEQUATE LIGHTING,
34 (2) GRAB BARS, AND
35 (3) SIDEWALKS IN GOOD REPAIR,
36 (F) PROVIDING LAUNDRY FACILITIES FOR RESIDENTS' USE,
37 (G) PROVIDING OPPORTUNITIES FOR RESIDENTS TO PREPARE THEIR OWN MEALS,
38 AND
39 (H) HAVING POLICIES AND PROCEDURES THAT ENABLE COMPETENT AND INFORMED
40 RESIDENTS TO MAKE DECISIONS AND TAKE ACTIONS THAT INVOLVE PERSONAL RISK;
41 5. PROMOTES AND HONORS RESIDENT DECISION-MAKING POWER BY:
42 (A) ENCOURAGING AND SUPPORTING RESIDENT CENTERED AND RESIDENT DIRECT
43 PLANNING, AND
44 (B) GIVING RESIDENTS THE OPPORTUNITY TO MAKE DECISIONS ABOUT AND BE
45 INVOLVED IN THEIR TREATMENT PLANS; AND
46 6. DELIVERS CARE IN A CULTURALLY COMPETENT MANNER BY:
47 (A) MAKING BEST EFFORTS TO HELP RESIDENTS WHO DO NOT SPEAK ENGLISH BY
48 FULLY UNDERSTANDING THE CARE AND QUALITY OF LIFE ISSUE OF SUCH RESIDENTS
49 BY SPEAKING THEIR LANGUAGES AND PROVIDING TRANSLATIONS,
50 (B) MAKING SURE THAT ASSESSMENTS ACKNOWLEDGE DIFFERENT CULTURES
51 (INCLUDING THE CULTURE OF THE DISABLED),
52 (C) TRAINING STAFF TO BE CULTURALLY COMPETENT, AND
53 (D) ACKNOWLEDGING AND RESPECTING DIFFERENT CULTURES AND LIFESTYLES.
54 S 3. This act shall take effect on the first of January next succeed-
55 ing the date on which it shall have become a law.