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

9801

I N A S S E M B L Y

April 10, 2012

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

AN ACT to amend the social services law, in relation to enhancing the quality of adult living program for adult care facilities

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

Section 1. Section 461-s of the social services law, as added by section 21 of part D of chapter 56 of the laws of 2012, is amended to read as follows:

S 461-s. Enhancing the quality of adult living program for adult care facilities. 1. The commissioner of health shall establish the enhanced quality of adult living program (referred to in this section as the "EQUAL program" or the "program") for adult care facilities. The program shall be targeted at improving the quality of life for adult care facility residents by means of grants to facilities for specified purposes. The department of health, subject to the approval of the director of the budget, shall develop an allocation methodology taking into account the financial status and size of the facility as well as resident needs.

2. (A) No payment shall be made under the program to a facility that, IN THE PRECEDING YEAR:

(I) has received official written notice from the department of a proposed revocation, suspension, limitation or denial of the operator's operating certificate[.];

(II) HAS RECEIVED ISSUANCE OF A DEPARTMENT ORDER UNDER SUBDIVISION TWO OF SECTION FOUR HUNDRED SIXTY-D OF THIS ARTICLE; A PROPOSED ASSESSMENT OF CIVIL PENALTIES FOR A VIOLATION OF SUBPARAGRAPH TWO OF PARAGRAPH (B) OF SUBDIVISION SEVEN OF SECTION FOUR HUNDRED SIXTY-D OF THIS ARTICLE; THE GRANTING OF EQUITABLE RELIEF UNDER SUBDIVISION FIVE OF SECTION FOUR HUNDRED SIXTY-D OF THIS ARTICLE; OR THE ISSUANCE OF A COMMISSIONER'S ORDER UNDER SUBDIVISION EIGHT OF SECTION FOUR HUNDRED SIXTY-D OF THIS ARTICLE;

(III) IS SUBJECT TO AN ORDER BY A COURT OF COMPETENT JURISDICTION OR AN APPROVED SETTLEMENT AGREEMENT WHICH AFFIRMS THAT THE RIGHTS AFFORDED

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

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TO RESIDENTS OF ADULT CARE FACILITIES AS PROVIDED FOR BY SECTION FOUR HUNDRED SIXTY-ONE-D OF THIS ARTICLE HAVE BEEN VIOLATED; OR

(IV) HAS FAILED TO COMPLY WITH SUBDIVISION FIVE OF THIS SECTION.

(B) WHEN PAYMENT IS DENIED UNDER THIS SUBDIVISION, THE DEPARTMENT SHALL DETERMINE THE MEANS WHEREBY PAYMENT SHALL BE MADE TO THE RESIDENTS LIVING IN THE FACILITY IN ENFORCEMENT, PROVIDED THAT THE FUNDS WILL SUPPORT EXPENSES THAT DIRECTLY BENEFIT THE RESIDENTS.

3. Prior to applying for EQUAL program funds, a facility shall receive approval of its expenditure plan from the residents' council for the facility. THE RESIDENTS' COUNCIL SHALL IDENTIFY THE PRIORITIES OF THE MAJORITY OF RESIDENTS FOR THE USE OF THE PROGRAM FUNDS AND DOCUMENT RESIDENTS' TOP PREFERENCES BY MEANS OF A VOTE OR SURVEY. THE PLAN SHALL DETAIL HOW PROGRAM FUNDS WILL BE USED TO IMPROVE THE PHYSICAL ENVIRONMENT OF THE FACILITY OR THE QUALITY OF CARE AND SERVICES RENDERED TO RESIDENTS AND MAY INCLUDE, BUT NOT BE LIMITED TO, STAFF TRAINING, AIR CONDITIONING IN RESIDENTS' AREAS, CLOTHING, IMPROVEMENTS IN FOOD QUALITY, FURNISHINGS, EQUIPMENT, SECURITY, AND MAINTENANCE OR REPAIRS TO THE FACILITY. THE DEPARTMENT SHALL INVESTIGATE REPORTS OF RESIDENT ABUSE AND RETALIATION RELATED TO PROGRAM APPLICATIONS AND EXPENDITURES.

4. EQUAL PROGRAM FUNDS SHALL NOT BE EXPENDED FOR A FACILITY'S DAILY OPERATING EXPENSES, INCLUDING EMPLOYEE SALARIES OR BENEFITS, FOR EXPENSES INCURRED RETROSPECTIVELY, OR FOR EXPENDITURES RELATED TO CORRECTIVE ACTION AS REQUIRED BY AN INSPECTION REPORT OR AUDIT UNDER SUBDIVISION FIVE OF THIS SECTION.

5. THE DEPARTMENT OF HEALTH SHALL CONDUCT AN ANNUAL AUDIT OF EACH FACILITY THAT HAS RECEIVED PAYMENT UNDER THIS SECTION TO ENSURE THAT PROGRAM FUNDS WERE SPENT AS INDICATED IN THE EXPENDITURE PLAN UPON WHICH THE RESPECTIVE PAYMENT WAS MADE. AT THE COMPLETION OF THE AUDIT, THE FACILITY SHALL PREPARE A CORRECTIVE ACTION PLAN TO ADDRESS OR DISPUTE EACH NEGATIVE AUDIT FINDING INCLUDED IN THE CURRENT YEAR AUDITOR'S REPORTS. THE CORRECTIVE ACTION PLAN SHALL PROVIDE THE NAMES OF THE CONTACT PERSONS RESPONSIBLE FOR CORRECTIVE ACTION, THE CORRECTIVE ACTION PLANNED, AND THE ANTICIPATED COMPLETION DATE.

6. THE DEPARTMENT SHALL PROMULGATE REGULATIONS TO IMPLEMENT THIS SECTION.

S 2. This act shall take effect immediately.