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

7374

I N S E N A T E

May 14, 2014

Introduced by Sen. BONACIC -- read twice and ordered printed, and when printed to be committed to the Committee on Mental Health and Developmental Disabilities

AN ACT to amend the mental hygiene law, in relation to transitional care

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

Section 1. Subdivision (a) of section 13.37-a of the mental hygiene law, as added by chapter 405 of the laws of 1998, is amended to read as follows:

(a) For purposes of this section, "transitional care" shall mean care and maintenance of persons:

1. who were placed in foster care by a social services district pursuant to article six of the social services law and who have become twenty-one years of age, or who were placed in a residential educational placement by a school district pursuant to article eighty-nine of the education law and who are no longer eligible for free educational services because they have completed the school year in which they became twenty-one;

2. who were disabled and in need of residential care prior to becoming age twenty-one or prior to becoming ineligible for free education services and who have since remained continuously disabled and continuously in need of residential care;

3. [who became twenty-one or became ineligible for free educational services prior to July first, nineteen hundred ninety-six;

4.]with respect to whom the office has approved a plan of continued out of home care for the person but has not yet identified a currently available appropriate placement; AND

[5.] 4. whose residential needs can be met by the facility in which the persons resided prior to becoming age twenty-one or becoming ineligible for free educational services[; and].

[6. who on July first, nineteen hundred ninety-eight are in receipt of transitional care, or who have continuously remained in the foster care or residential education placement where they had received transitional care.]

S 2. Subdivision (a) of section 13.38 of the mental hygiene law, as amended by chapter 405 of the laws of 1998, is amended to read as follows:

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

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(a) The office shall, in consultation with the department of social services, the education department, the office of mental health, and the council on children and families, develop a plan and implement procedures to help assure that all persons who are at the age or time to first qualify for transitional care, as described in section 13.37-a of this article, and for whom the office has accepted planning responsibilities, receive assistance in locating an appropriate and available residential placement or plan of services, within the state and within the system of care subject to the jurisdiction of the office, prior to the age or time at which they would otherwise have qualified for transitional care[, if such individuals had become twenty-one or become ineligible for educational services prior to July first, nineteen hundred ninety-six]. For purposes of this section, the age or time at which a person would qualify for transitional care is twenty-one for persons in foster care, and the end of the school year in which they become twenty-one for persons in residential schools.

S 3. Subdivision (e) of section 13.38 of the mental hygiene law, as amended by chapter 405 of the laws of 1998, is amended to read as follows:

(e) Upon making a determination that a person who is receiving transitional care can be appropriately cared for in an available adult care facility or service licensed, certified or approved by the office, and whose removal from a child care facility is not required on an expedited basis, the office shall notify BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, the person and the person's guardian, if one has been appointed, [or] AND, WHEN APPLICABLE, another individual who has been involved in the care of the person and who [can] MAY represent the person's interests, of the DESCRIPTION OF THE PROPOSED NEW PLACEMENT, THE availability of an administrative appeal to review the determination INCLUDING A DESCRIPTION OF THE APPEAL PROCEDURE, CONSISTENT WITH THE NEW YORK STATE ADMINISTRATIVE PROCEDURE ACT, CONTACT INFORMATION AS IT RELATES TO MAKING AN OBJECTION, and of the need to request such an appeal IN WRITING within thirty days of the notice. SUCH NOTIFICATION SHALL BE PROVIDED TO THE PERSON AND THE PERSON'S GUARDIAN, IF ONE HAS BEEN APPOINTED AND, WHEN APPLICABLE, ANOTHER INDIVIDUAL WHO HAS BEEN INVOLVED IN THE CARE OF THE PERSON AND WHO MAY REPRESENT THE PERSON'S INTERESTS NO LATER THAN FORTY-FIVE DAYS PRIOR TO THE DATE OF THE OFFICE'S INTENDED CHANGE IN PLACEMENT. If the person, guardian or other individual requests an administrative appeal within the time required, the office shall WITHIN FIVE DAYS OF RECEIPT OF THE WRITTEN REQUEST FOR APPEAL, schedule a hearing [and the] PROVIDING NO LESS THAN TEN DAYS NOTICE TO THE OBJECTING PARTY. THE commissioner or his or her designee shall issue a WRITTEN determination TO THE INVOLVED INDIVIDUALS within thirty days of the adjournment of the hearing, on whether the adult placement identified by the office is appropriate to the needs of the person and is available or will become available on an identified date certain. THE WRITTEN DETERMINATION SHALL BE THE FINAL ADMINISTRATIVE REMEDY AVAILABLE AND SHALL BE SUBJECT TO REVIEW IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE SEVENTY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES. If the person, guardian or other individual does not request a hearing within the time required, or if the hearing results in a determination that the proposed adult services or placement is appropriate to the needs of the person and is available or will be available on an identified date certain, the office shall discontinue transitional care funding for the person as of a date certain.

S 4. This act shall take effect immediately.