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

1910--A

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. MILLMAN, BOYLAND, JACOBS, CLARK -- Multi-Sponsored by -- M. of A. BARRETT, BARRON, BRINDISI, BROOK-KRASNY, GRAF, ROBINSON -- read once and referred to the Committee on Aging -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the elder law, in relation to allowing the director of the office for the aging to authorize enriched services or optional services to eligible entities without a grant

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

Section 1. Subdivisions 2, 4, 5 and 6 of section 215-b of the elder law, as added by section 27 of part A of chapter 58 of the laws of 2008, are amended to read as follows:

2. Definitions. For purposes of this section, the following terms shall have the following meanings:

(a) "Elderly" or "elderly persons" shall mean persons who are sixty years of age or older.

(b) "Eligible participant" shall mean elderly or elderly persons as defined in this section, who are functionally impaired, as defined in section two hundred fifteen of this title, and in need of services that exceed the level of assistance currently available through social adult day services programs but not at the level of support provided by adult day health care programs.

(c) "Eligible entity" shall mean any not-for-profit or government entity, including the governing body or council of an Indian tribal reservation, who has demonstrated to the office and the department of health, based on criteria developed by the director and the commissioner of health, that it can safely provide either directly or through a contract with a licensed health care practitioner or licensed home care

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

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provider as defined in section thirty-six hundred five of the public health law, social adult day care services as defined in section two hundred fifteen of this title[, as well as additional allowable medical services as developed by the director and the commissioner of health, and optional services as defined in this section].

[(d) "Enriched social adult day services demonstration project" or "project" shall mean programs eligible under this section that provide all of the services currently required for social adult day services programs under section two hundred fifteen of this title in addition to enriched services, and may include optional services.

(e)] (D) "Enriched services" shall include the provision of total assistance with toileting, mobility, transferring and eating; dispensing of medications by a registered nurse; health education; counseling; case management; restorative therapies lasting less than six months and maintenance therapies. Total assistance with toileting, mobility, transferring and eating shall be provided under the supervision of a licensed health care provider. Restorative and maintenance therapies shall be provided by an appropriately licensed health care provider.

[(f)] (E) "Optional services" shall mean other non-medical services approved by the director designed to improve the quality of life of eligible participants by extending their independence, avoiding unnecessary hospital and nursing home stays, and sustaining their informal supports.

4. Duties of the director. (a) The director, in conjunction with the commissioner of health, [may make up to twenty grants available on a competitive basis to eligible entities under this section. Such grants may be available for up to two hundred thousand dollars for each enriched social adult day services demonstration project and shall be for up to one hundred percent of allowable expenditures for approved services and expenses under this section.] SHALL DEVELOP AN APPLICATION PROCESS WHEREBY ELIGIBLE ENTITIES MAY APPLY FOR APPROVAL TO OFFER ENRICHED SERVICES OR OPTIONAL SERVICES OR BOTH. SUCH APPLICATION SHALL INCLUDE, BUT NOT BE LIMITED TO:

(1) AN ESTIMATE OF THE NUMBER OF ELDERLY PERSONS THAT COULD BE EFFECTIVELY SERVED BY THE ELIGIBLE ENTITY IF ENRICHED SERVICES, OPTIONAL SERVICES OR BOTH WERE OFFERED; AND

(2) A PLAN BY THE ELIGIBLE ENTITY TO OFFER ENRICHED SERVICES, OPTIONAL SERVICES OR BOTH IN ACCORDANCE WITH THE REQUIREMENTS OF PARAGRAPH (D) OF SUBDIVISION TWO OF THIS SECTION.

(b) In [making grants] CONSIDERING APPLICATIONS MADE PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, the director, in conjunction with the commissioner of health, may consider:

(1) projects that can effectively serve eligible participants residing in rural, urban, or suburban settings;

(2) projects that effectively serve culturally diverse populations;

(3) projects that demonstrate innovative use of technology, coordination, partnerships, transportation or other services to enable eligible participants to be effectively served; AND

(4) [the capacity of the eligible entity to identify eligible participants for enriched adult day services demonstration projects; and

(5)] any other criteria determined BY THE DIRECTOR, IN CONJUNCTION WITH THE COMMISSIONER OF HEALTH, to be appropriate.

5. Evaluation. On or before January thirtieth, two thousand [eleven] FIFTEEN, the director shall provide the governor, the speaker of the assembly, the temporary president of the senate, and the chairpersons of the assembly and senate aging and health committees with a written eval-

uation of the program. The evaluation shall examine the effectiveness of the project in forestalling institutional placement, the costs of providing enriched services in a day care setting, participant satisfaction and program quality, and identification of the program design elements necessary for successful replication.

6. [Funds] GRANTS. (A) THE DIRECTOR, IN CONJUNCTION WITH THE COMMISSIONER OF HEALTH, MAY, WITHIN AMOUNTS APPROPRIATED THEREFOR, MAKE UP TO TWENTY GRANTS AVAILABLE ON A COMPETITIVE BASIS TO ELIGIBLE ENTITIES UNDER THIS SECTION. SUCH GRANTS MAY BE AVAILABLE FOR UP TO TWO HUNDRED THOUSAND DOLLARS FOR EACH ENRICHED SOCIAL ADULT DAY SERVICES DEMONSTRATION PROJECT AND SHALL BE FOR UP TO ONE HUNDRED PERCENT OF ALLOWABLE EXPENDITURES FOR APPROVED SERVICES AND EXPENSES UNDER THIS SECTION.

(B) IN MAKING GRANTS, THE DIRECTOR, IN CONJUNCTION WITH THE COMMISSIONER OF HEALTH, MAY CONSIDER THE CRITERIA ESTABLISHED PURSUANT TO SUBDIVISION FOUR OF THIS SECTION.

(C) Funds made available under this [section] SUBDIVISION shall supplement and not supplant any federal, state, or local funds expended by any entity, including a unit of general purpose local government or not-for-profit, to provide services under this section. Funds under this [section] SUBDIVISION cannot pay for individuals who are eligible under title nineteen of the federal social security act.

S 2. This act shall take effect on the ninetieth day after it shall have become a law; provided, however, that the amendments to section 215-b of the elder law made by section one of this act shall not affect the repeal of such section and shall be deemed to be repealed therewith.