

4961

2013-2014 Regular Sessions

I N A S S E M B L Y

February 13, 2013

Introduced by M. of A. ENGLEBRIGHT, GOTTFRIED, ABBATE, CAHILL, CLARK,
DINOWITZ, GALEF, JACOBS, LUPARDO, MILLMAN, GABRYSZAK -- Multi-Spon-
sored by -- M. of A. HEASTIE, LIFTON, RIVERA, WEISENBERG -- read once
and referred to the Committee on Health

AN ACT to amend the public health law, in relation to creating adult day
services respite demonstration programs

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

1 Section 1. The public health law is amended by adding a new section
2 2801-h to read as follows:
3 S 2801-H. RESPITE DAY DEMONSTRATION PROGRAM. 1. DEFINITIONS. AS USED
4 IN THIS SECTION:
5 (A) "RESPITE DAY DEMONSTRATION PROGRAM" MEANS A STRUCTURED, COMPREHEN-
6 SIVE PROGRAM ESTABLISHED BY THE COMMISSIONER UNDER THIS SECTION, IN
7 CONJUNCTION WITH THE DIRECTOR OF THE OFFICE FOR THE AGING, PROVIDING
8 LEVEL I, LEVEL II OR LEVEL III SERVICES TO REGISTRANTS.
9 (B) "REGISTRANT" MEANS A PERSON:
10 (I) WHO IS NOT A RESIDENT OF A RESIDENTIAL HEALTH CARE FACILITY, IS
11 FUNCTIONALLY IMPAIRED AND NOT HOMEBOUND, AND REQUIRES SUPERVISION AND
12 MONITORING BUT DOES NOT REQUIRE CONTINUOUS TWENTY-FOUR HOUR A DAY INPA-
13 TIENT CARE AND SERVICES;
14 (II) WHOSE ASSESSED SOCIAL AND HEALTH CARE NEEDS CAN SATISFACTORILY BE
15 MET IN WHOLE OR IN PART BY THE DELIVERY OF APPROPRIATE SERVICES IN THE
16 COMMUNITY SETTING; AND
17 (III) WHO HAS BEEN ADMITTED TO THE PROGRAM BASED ON AN INTERDISCIPLI-
18 NARY COMPREHENSIVE ASSESSMENT.
19 (C) "FUNCTIONALLY IMPAIRED" MEANS A PERSON WHO NEEDS THE ASSISTANCE OF
20 ANOTHER PERSON IN AT LEAST ONE OF THE FOLLOWING ACTIVITIES OF DAILY
21 LIVING: TOILETING, MOBILITY, TRANSFERRING OR EATING; OR WHO NEEDS SUPER-
22 VISION DUE TO COGNITIVE OR PSYCHO-SOCIAL IMPAIRMENT.

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

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(D) "ADULT DAY HEALTH" MEANS THE HEALTH CARE SERVICES AND ACTIVITIES DEFINED BY THE COMMISSIONER UNDER REGULATIONS UNDER SUBPARAGRAPH (VII) OF PARAGRAPH F OF SUBDIVISION SIX-A OF SECTION THREE HUNDRED SIXTY-SIX OF THE SOCIAL SERVICES LAW.

(E) "LEVEL I SERVICES" MEANS THE FOLLOWING SERVICES:

(I) SOCIALIZATION AND PLANNED ACTIVITIES;

(II) SUPERVISION AND MONITORING;

(III) ROUTINE PERSONAL CARE, WHICH INCLUDES:

(A) ASSISTANCE FOR THE REGISTRANT WITH ANY OF THE FOLLOWING: TOILETING, MOBILITY, TRANSFER AND EATING;

(B) ROUTINE SKIN CARE;

(C) CHANGING SIMPLE DRESSINGS; AND

(D) USING SUPPLIES AND ADAPTIVE AND ASSISTIVE EQUIPMENT;

(IV) MEDICATION DISTRIBUTION;

(V) CASE MANAGEMENT; AND

(VI) MEALS CONSISTENT WITH STANDARDS SET FOR THE NUTRITION PROGRAM FOR THE ELDERLY ESTABLISHED BY THE STATE OFFICE FOR THE AGING.

(F) "LEVEL II SERVICES" MEANS ALL LEVEL I SERVICES, PLUS THE FOLLOWING SERVICES:

(I) MAJOR PERSONAL CARE SERVICES, WHICH INCLUDES:

(A) ASSISTANCE FOR THE REGISTRANT WITH SHOWERING AND BATHING; AND

(B) SOME OR TOTAL ASSISTANCE WITH DRESSING AND GROOMING;

(II) HEALTH EDUCATION;

(III) NURSING MONITORING AND SUPERVISION OF BASIC TREATMENTS;

(IV) COUNSELING; AND

(V) RESTORATIVE THERAPIES NOT LASTING LONGER THAN SIX MONTHS.

(G) "LEVEL III SERVICES" MEANS AND INCLUDES ALL LEVEL I AND LEVEL II SERVICES, PLUS THE FOLLOWING SERVICES:

(I) PSYCHIATRIC EVALUATIONS AND DIAGNOSIS;

(II) SKILLED NURSING SERVICES;

(III) MEDICATION MANAGEMENT;

(IV) MAINTENANCE AND RESTORATIVE THERAPIES GREATER THAN SIX MONTHS IN DURATION; AND

(V) ADDITIONAL MEDICAL SERVICES AS REQUIRED BY REGULATION.

(H) "BASE RATE" MEANS THE RATE PAID FOR APPROVED ADULT DAY HEALTH SERVICES UNDER SECTION THREE HUNDRED SIXTY-SIX OF THE SOCIAL SERVICES LAW.

(I) "OPERATOR" MEANS (I) AN ADULT DAY HEALTH CARE PROGRAM OR (II) A SOCIAL ADULT DAY SERVICES PROGRAM, AS DEFINED IN SECTION TWO HUNDRED FIFTEEN OF THE ELDER LAW.

2. RESPITE DAY DEMONSTRATION PROGRAM. THE COMMISSIONER, IN CONJUNCTION WITH THE DIRECTOR OF THE OFFICE FOR THE AGING, MAY ESTABLISH RESPITE DAY DEMONSTRATION PROGRAMS BASED UPON ADULT DAY HEALTH CARE AND SOCIAL ADULT DAY SERVICES, AS DEFINED IN SECTION TWO HUNDRED FIFTEEN OF THE ELDER LAW, TO EXTEND THE PERIOD A CAREGIVER CAN REMAIN ACTIVE IN THE CARE OF ELDERLY OR DISABLED INDIVIDUALS, AVOIDING THE NEED FOR MORE COSTLY INSTITUTIONAL PLACEMENT.

3. ESTABLISHMENT. THERE SHALL BE A MINIMUM OF TEN PROGRAMS ESTABLISHED IN SIX LOCATIONS, WITH AT LEAST ONE SITE TO BE LOCATED WITHIN EACH OF THE FOLLOWING SIX REGIONS: NEW YORK CITY, LONG ISLAND, HUDSON VALLEY, NORTH COUNTRY, CENTRAL AND WESTERN. EACH LOCATION'S PROGRAM SHALL CONSIST OF UP TO FIFTEEN REGISTRANTS. OPERATORS SHALL BE SELECTED BASED ON A REQUEST FOR PROPOSAL PROCESS WITH PREFERENCE GIVEN TO THOSE APPLICANTS WHO ARE ABLE TO DEMONSTRATE THEIR CAPACITY TO BUILD PARTNERSHIPS AND ENTER INTO COOPERATIVE ARRANGEMENTS. THIS SECTION SHALL NOT BE

1 CONSTRUED TO PERMIT AN OPERATOR TO PROVIDE SERVICES FOR WHICH THE OPERA-
2 TOR IS NOT OTHERWISE LICENSED OR CERTIFIED TO PROVIDE.

3 4. REGISTRANT CARE PLAN. THE OPERATOR SHALL ENSURE:

4 (A) THAT A CARE PLAN BASED ON A COMPREHENSIVE INTERDISCIPLINARY
5 ASSESSMENT AND, WHEN APPLICABLE, A TRANSFER OR DISCHARGE PLAN IS DEVEL-
6 OPED FOR EACH REGISTRANT WITHIN FIVE VISITS, NOT TO EXCEED THIRTY DAYS,
7 FROM REGISTRATION;

8 (B) EACH REGISTRANT'S CARE PLAN SHALL INCLUDE:

9 (I) DESIGNATION OF A PROFESSIONAL PERSON TO BE RESPONSIBLE FOR COORDI-
10 NATING THE CARE PLAN;

11 (II) THE REGISTRANT'S PERTINENT DIAGNOSES, INCLUDING MENTAL STATUS,
12 TYPES OF EQUIPMENT AND SERVICES REQUIRED, CASE MANAGEMENT, FREQUENCY OF
13 PLANNED VISITS, PROGNOSIS, REHABILITATION POTENTIAL, FUNCTIONAL LIMITA-
14 TIONS, PLANNED ACTIVITIES, NUTRITIONAL REQUIREMENTS, MEDICATIONS AND
15 TREATMENTS, NECESSARY MEASURES TO PROTECT AGAINST INJURY, INSTRUCTIONS
16 FOR DISCHARGE OR REFERRAL IF APPLICABLE, ORDERS FOR THERAPY SERVICES
17 INCLUDING THE SPECIFIC PROCEDURES AND MODALITIES TO BE USED AND THE
18 AMOUNT, FREQUENCY AND DURATION OF SUCH SERVICES, AND ANY OTHER APPROPRI-
19 ATE ITEM;

20 (III) THE MEDICAL AND NURSING GOALS AND LIMITATIONS ANTICIPATED FOR
21 THE REGISTRANT AND, AS APPROPRIATE, THE NUTRITIONAL, SOCIAL, REHABILITA-
22 TIVE AND LEISURE TIME GOALS AND LIMITATIONS;

23 (IV) THE REGISTRANT'S POTENTIAL FOR REMAINING IN THE COMMUNITY; AND

24 (V) A DESCRIPTION OF ALL SERVICES TO BE PROVIDED TO THE REGISTRANT BY
25 THE PROGRAM, INFORMAL SUPPORTS AND OTHER COMMUNITY RESOURCES PURSUANT TO
26 THE CARE PLAN, AND HOW SUCH SERVICES WILL BE COORDINATED;

27 (C) DEVELOPMENT AND MODIFICATION OF THE CARE PLAN IS COORDINATED WITH
28 OTHER HEALTH CARE PROVIDERS OUTSIDE THE PROGRAM WHO ARE INVOLVED IN THE
29 REGISTRANT'S CARE; AND

30 (D) THE RESPONSIBLE PERSONS, WITH THE APPROPRIATE PARTICIPATION OF
31 CONSULTANTS IN THE MEDICAL, SOCIAL, PARAMEDICAL AND RELATED FIELDS
32 INVOLVED IN THE REGISTRANT'S CARE:

33 (I) RECORD IN THE CLINICAL RECORD CHANGES IN THE REGISTRANT'S STATUS
34 WHICH REQUIRE ALTERATIONS IN THE REGISTRANT CARE PLAN;

35 (II) MODIFY THE CARE PLAN ACCORDINGLY;

36 (III) REVIEW THE CARE PLAN AT LEAST ONCE EVERY SIX MONTHS AND WHENEVER
37 THE REGISTRANT'S CONDITION WARRANTS AND DOCUMENT EACH SUCH REVIEW IN THE
38 CLINICAL RECORD; AND

39 (IV) PROMPTLY ALERT THE REGISTRANT'S AUTHORIZED HEALTH CARE PRACTI-
40 TIONER OF ANY SIGNIFICANT CHANGES IN THE REGISTRANT'S CONDITION WHICH
41 INDICATE A NEED TO REVISE THE CARE PLAN.

42 5. REIMBURSEMENT. FOR THE PURPOSES OF THIS SECTION, REIMBURSEMENT
43 RATES UNDER TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW FOR
44 PROGRAMS SHALL BE AS FOLLOWS:

45 (A) LEVEL I SERVICES WILL BE REIMBURSED AT FORTY PERCENT OF THE BASE
46 RATE;

47 (B) LEVEL II SERVICES WILL BE REIMBURSED AT SEVENTY-FIVE PERCENT OF
48 THE BASE RATE; AND

49 (C) LEVEL III SERVICES WILL BE REIMBURSED AT ONE HUNDRED PERCENT OF
50 THE BASE RATE.

51 6. EVALUATION AND REPORT. NO LATER THAN JANUARY FIRST, TWO THOUSAND
52 SIXTEEN, THE COMMISSIONER SHALL PROVIDE THE GOVERNOR, THE TEMPORARY
53 PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY WITH A WRITTEN
54 EVALUATION OF THE PROGRAM, BASED ON AN ASSESSMENT TOOL DEVELOPED BY THE
55 DEPARTMENT. SUCH EVALUATION SHALL ADDRESS THE OVERALL EFFECTIVENESS OF
56 THE PROGRAM IN IMPROVING OUTCOMES FOR INDIVIDUAL PATIENTS AND GROUPS OF

1 PATIENTS, REDUCING COSTS, ENCOURAGING PLACEMENTS IN APPROPRIATE ADULT
2 DAY HEALTH SERVICES SETTINGS, AND ENHANCING THE AVAILABILITY OF LESS
3 RESTRICTIVE AND LESS INSTITUTIONAL SERVICES; SHALL EVALUATE THE NEED FOR
4 LEVEL I, II AND III SERVICES AND THE IMPACT ON THE AVAILABILITY OF EACH
5 OF THE SERVICES ON COST AND INSTITUTIONAL PLACEMENT; AND SHALL CONTAIN
6 RECOMMENDATIONS RELATIVE TO EXTENDING AND EXPANDING THE PROGRAM. IN
7 EVALUATING INDIVIDUAL OUTCOMES, THE COMMISSIONER SHALL CONSULT WITH THE
8 CENTER FOR FUNCTIONAL ASSESSMENT RESEARCH AT THE STATE UNIVERSITY OF NEW
9 YORK AT BUFFALO.

10 7. WAIVERS AND FEDERAL APPROVALS. (A) THE PROVISIONS OF THIS SECTION
11 SHALL NOT APPLY UNLESS ALL NECESSARY APPROVALS UNDER FEDERAL LAW AND
12 REGULATION HAVE BEEN OBTAINED TO RECEIVE FEDERAL FINANCIAL PARTICIPATION
13 IN THE COSTS OF SERVICES PROVIDED UNDER THIS SECTION.

14 (B) THE COMMISSIONER IS AUTHORIZED TO SUBMIT AMENDMENTS TO THE STATE
15 PLAN FOR MEDICAL ASSISTANCE AND SUBMIT ONE OR MORE APPLICATIONS FOR
16 WAIVERS OF THE FEDERAL SOCIAL SECURITY ACT, TO OBTAIN THE FEDERAL
17 APPROVALS NECESSARY TO IMPLEMENT THIS SECTION. THE COMMISSIONER SHALL
18 SUBMIT SUCH AMENDMENTS OR APPLICATIONS FOR WAIVERS BY SEPTEMBER THIRTI-
19 ETH, TWO THOUSAND THIRTEEN, AND SHALL USE BEST EFFORTS TO OBTAIN THE
20 APPROVALS REQUIRED BY THIS SUBDIVISION IN A TIMELY MANNER SO AS TO ALLOW
21 EARLY IMPLEMENTATION OF THIS SECTION.

22 S 2. This act shall take effect immediately.