

8517

I N A S S E M B L Y

January 21, 2014

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

AN ACT to amend the mental hygiene law, in relation to community mental health reinvestment services; to amend the state finance law, in relation to the community mental health reinvestment account; and to repeal certain provisions of the mental hygiene law and the state finance law relating thereto

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

1 Section 1. Section 1.03 of the mental hygiene law is amended by
2 adding a new subdivision 59 to read as follows:
3 59. "COMMUNITY MENTAL HEALTH REINVESTMENT SERVICES" SHALL MEAN THE
4 FOLLOWING PERSON-CENTERED AND EVIDENCE-BASED SERVICES FOR PERSONS WITH
5 SERIOUS MENTAL ILLNESS, INCLUDING CHILDREN AND ADOLESCENTS AND ADULTS
6 WITH SERIOUS EMOTIONAL DISTURBANCES AND CO-OCCURRING DISORDERS, AS
7 DEFINED ELSEWHERE IN THIS CHAPTER:
8 (A) EMERGENCY AND CRISIS SERVICES PROVIDED IN A PROGRAM LICENSED,
9 CERTIFIED, OPERATED, OR FUNDED BY THE OFFICE;
10 (B) CASE MANAGEMENT AND INTENSIVE CASE MANAGEMENT SERVICES;
11 (C) OUTPATIENT SERVICES WHICH PROVIDE AN ADEQUATE LEVEL OF TREATMENT
12 AND REHABILITATION TO PERSONS LIVING WITH MENTAL ILLNESS PROVIDED IN A
13 PROGRAM LICENSED, CERTIFIED, OPERATED OR FUNDED BY THE OFFICE;
14 (D) RESIDENTIAL SERVICES, OTHER THAN INPATIENT SERVICES, PROVIDED IN
15 PROGRAMS LICENSED, CERTIFIED, OPERATED OR FUNDED BY THE OFFICE, WHICH
16 MAY INCLUDE, BUT ARE NOT LIMITED TO, COMMUNITY RESIDENCES, RESIDENTIAL
17 CARE CENTERS FOR ADULTS, FAMILY CARE HOMES, CRISIS RESIDENCE OR
18 SUPPORTED HOUSING;
19 (E) COMMUNITY SUPPORT SERVICES AS DEFINED IN SUBDIVISION THIRTEEN OF
20 SECTION 41.03 OF THIS CHAPTER;
21 (F) OTHER SUPPORT SERVICES, INCLUDING, BUT NOT LIMITED TO, PSYCHIATRIC
22 REHABILITATION, CLIENT ADVOCACY, SUPPORTED EMPLOYMENT, CONSUMER
23 SELF-HELP, FAMILY SUPPORT, PEER SUPPORT AND VOCATIONAL TRAINING AS
24 APPROVED BY THE OFFICE;

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

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1 (G) SERVICES FOR SPECIAL POPULATIONS INCLUDING THOSE LIVING WITH
2 MENTAL ILLNESSES AND HOMELESSNESS, CO-OCCURRING SUBSTANCE ABUSE DISOR-
3 DERS, AND/OR PHYSICAL DISABILITIES THAT MAY IMPEDE RECOVERY FROM MENTAL
4 ILLNESS, PROVIDED BY PROGRAMS LICENSED, CERTIFIED, OPERATED OR FUNDED BY
5 THE OFFICE; AND

6 (H) ANY OTHER SERVICES THAT MEET THE NEEDS OF CHILDREN AND ADOLESCENTS
7 AND ADULTS PROVIDED BY PROGRAMS LICENSED, CERTIFIED, OPERATED OR FUNDED
8 BY THE OFFICE.

9 S 2. Subdivision (a) of section 7.15 of the mental hygiene law, as
10 amended by section 3 of part I of chapter 58 of the laws of 2005, is
11 amended to read as follows:

12 (a) The commissioner shall plan, promote, establish, develop, coordi-
13 nate, evaluate, and conduct programs and services of prevention, diagno-
14 sis, examination, care, treatment, rehabilitation, training, and
15 research for the benefit of the mentally ill. Such programs shall
16 include but not be limited to in-patient, out-patient, partial hospital-
17 ization, day care, emergency, rehabilitative, COMMUNITY MENTAL HEALTH
18 REINVESTMENT SERVICES PURSUANT TO SECTION 41.55 OF THIS CHAPTER, and
19 other appropriate treatments and services. He or she shall take all
20 actions that are necessary, desirable, or proper to implement the
21 purposes of this chapter and to carry out the purposes and objectives of
22 the department within the amounts made available therefor by appropri-
23 ation, grant, gift, devise, bequest, or allocation from the mental
24 health services fund established under section ninety-seven-f of the
25 state finance law.

26 S 3. Subdivision (a) of section 41.13 of the mental hygiene law is
27 amended by adding a new paragraph 17 to read as follows:

28 17. THE OFFICE OF MENTAL HEALTH SHALL ALSO BE RESPONSIBLE FOR SUCH
29 PROGRAM DEVELOPMENT RELATING TO COMMUNITY MENTAL HEALTH REINVESTMENT
30 SERVICES IN AREAS WHERE THE RESPONSIBLE LOCAL GOVERNMENT UNIT DOES NOT
31 RECEIVE A GRANT OF STATE AID SPECIFICALLY FOR THE PURPOSE OF FUNDING
32 COMMUNITY MENTAL HEALTH REINVESTMENT SERVICES PURSUANT TO THIS CHAPTER.

33 S 4. Section 41.55 of the mental hygiene law is REPEALED and a new
34 section 41.55 is added to read as follows:

35 S 41.55 COMMUNITY MENTAL HEALTH REINVESTMENT PROGRAM.

36 (A) COMMUNITY MENTAL HEALTH REINVESTMENT FUNDS SHALL BE ANNUALLY ALLO-
37 CATED BY THE COMMISSIONER BASED UPON THE FOLLOWING CRITERIA:

38 (1) THE EFFICIENCY AND EFFECTIVENESS OF THE USE OF FUNDING WITHIN THE
39 LOCAL GOVERNMENTAL UNIT FOR THE DELIVERY OF SERVICES TO PERSONS WITH
40 SERIOUS MENTAL ILLNESS IN ORDER TO ASSURE THAT RESOURCES ARE MADE AVAIL-
41 ABLE TO FUND MENTAL HEALTH SERVICES TO PERSONS DISCHARGED INTO THE
42 COMMUNITY; AND

43 (2) OTHER RELEVANT FACTORS THAT REQUIRE THE MAINTENANCE OF EXISTING
44 MENTAL HEALTH SERVICES AND THE DEVELOPMENT OF NEW MENTAL HEALTH
45 SERVICES.

46 (B) AMOUNTS PROVIDED PURSUANT TO THIS SECTION SHALL ONLY BE USED TO
47 FUND COMMUNITY MENTAL HEALTH REINVESTMENT SERVICES, MENTAL HEALTH WORK-
48 FORCE RELATED ACTIVITIES, INCLUDING RECRUITMENT AND RETENTION INITI-
49 ATIVES AND TRAINING PROGRAMS, AND OTHER GENERAL PROGRAMMATIC ACTIVITIES
50 TO HELP ENSURE A STABLE MENTAL HEALTH SYSTEM. SUCH GRANTS AND OTHER
51 FUNDS SHALL NOT BE USED FOR CAPITAL COSTS ASSOCIATED WITH THE DEVELOP-
52 MENT OF COMMUNITY MENTAL HEALTH REINVESTMENT SERVICES.

53 (C) PRIOR TO ENTERING INTO CONTRACTS FOR THE PROVISION OF SERVICES
54 FUNDED PURSUANT TO SUBDIVISION (B) OF THIS SECTION, THE OFFICE OF MENTAL
55 HEALTH AND ANY LOCAL GOVERNMENTAL UNIT RECEIVING SUCH FUNDS SHALL
56 CONSIDER THE FOLLOWING:

(1) THE SERVICE NEEDS OF PERSONS WITH SERIOUS MENTAL ILLNESS, INCLUDING CHILDREN AND ADOLESCENTS WITH SERIOUS EMOTIONAL DISTURBANCES, IN THE GEOGRAPHICAL AREA IN WHICH THE COMMUNITY MENTAL HEALTH REINVESTMENT PROGRAM OPERATES;

(2) THE CAPACITY OF THE PROGRAM TO MEET IDENTIFIED SERVICE NEEDS AND SPECIFIED PERFORMANCE STANDARDS RELATED TO ACCESS, ADMISSION, REFERRAL, AND SERVICE COORDINATION AND DELIVERY;

(3) THE EXTENT TO WHICH COMMUNITY MENTAL HEALTH REINVESTMENT SERVICES AUTHORIZED BY THE CONTRACT ARE CONSISTENT AND INTEGRATED WITH THE PLAN PREPARED AND APPROVED PURSUANT TO SECTION 41.16 OF THIS ARTICLE AND OTHER APPLICABLE PROVISIONS OF THIS ARTICLE; AND

(4) THE RELIABILITY AND CAPABILITY OF THE PROVIDER, INCLUDING ITS EXPERTISE, PRIOR EXPERIENCE, FINANCIAL RESPONSIBILITY, RECORD OF ADHERENCE TO LAW, RECORD OF PROVIDING QUALITY CARE AND SERVICES, AND ABILITY TO DELIVER APPROPRIATE SERVICES IN A COST-EFFECTIVE AND EFFICIENT MANNER TO PERSONS WITH SERIOUS MENTAL ILLNESS. THE COMMISSIONER IS AUTHORIZED TO PROMULGATE REGULATIONS TO ESTABLISH MINIMUM CONTRACTUAL OBLIGATIONS IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBDIVISION.

(D) THE COMMISSIONER IS AUTHORIZED AND EMPOWERED TO MAKE INSPECTIONS AND EXAMINE RECORDS OF A LOCAL GOVERNMENTAL UNIT RECEIVING STATE AID UNDER THIS SECTION OR A PROVIDER OF SERVICES FUNDED PURSUANT TO SUBDIVISION (B) OF THIS SECTION. SUCH EXAMINATION SHALL INCLUDE ALL MEDICAL, SERVICE AND FINANCIAL RECORDS, RECEIPTS, DISBURSEMENTS, CONTRACTS, LOANS AND OTHER MONEYS RELATING TO THE FINANCIAL OPERATION OF THE PROVIDER.

(E) THE AMOUNT OF COMMUNITY MENTAL HEALTH REINVESTMENT FUNDS FOR THE OFFICE OF MENTAL HEALTH SHALL BE DETERMINED IN THE ANNUAL BUDGET AND SHALL INCLUDE THE AMOUNT OF ACTUAL STATE OPERATIONS GENERAL FUND APPROPRIATION REDUCTIONS, INCLUDING PERSONAL SERVICE SAVINGS AND OTHER THAN PERSONAL SERVICE SAVINGS DIRECTLY ATTRIBUTED TO EACH CHILD AND ADULT NON-GERIATRIC INPATIENT BED CLOSURE. FOR THE PURPOSES OF THIS SECTION A BED SHALL BE CONSIDERED TO BE CLOSED UPON THE ELIMINATION OF FUNDING FOR SUCH BEDS IN THE EXECUTIVE BUDGET. THE APPROPRIATION REDUCTIONS AS A RESULT OF INPATIENT BED CLOSURES SHALL BE NO LESS THAN ONE HUNDRED PERCENT AND SHALL BE NO LESS THAN ONE HUNDRED TEN THOUSAND DOLLARS OF THE CALCULATED VALUE OF SAVINGS PER BED ON A FULL ANNUAL BASIS, AS ANNUALLY CALCULATED AND RECOMMENDED BY THE COMMISSIONER, SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE BUDGET, IN THE EXECUTIVE BUDGET REQUEST PRIOR TO THE FISCAL YEAR FOR WHICH THE EXECUTIVE BUDGET IS BEING SUBMITTED. THE METHODOLOGIES USED TO CALCULATE THE PER BED CLOSURE SAVINGS SHALL BE DEVELOPED BY THE COMMISSIONER AND THE DIRECTOR OF THE BUDGET. IN NO EVENT SHALL THE FULL ANNUAL VALUE OF COMMUNITY MENTAL HEALTH REINVESTMENT PROGRAMS ATTRIBUTABLE TO BEDS CLOSED AS A RESULT OF NET INPATIENT CENSUS DECLINE EXCEED THE TWELVE MONTH VALUE OF THE OFFICE OF MENTAL HEALTH STATE OPERATIONS GENERAL FUND REDUCTIONS RESULTING FROM SUCH CENSUS DECLINE. SUCH REINVESTMENT AMOUNT SHALL BE MADE AVAILABLE IN THE SAME PROPORTION BY WHICH THE OFFICE OF MENTAL HEALTH'S STATE OPERATIONS GENERAL FUND APPROPRIATIONS ARE REDUCED EACH YEAR AS A RESULT OF CHILD AND ADULT NON-GERIATRIC INPATIENT BED CLOSURES DUE TO CENSUS DECLINE.

(F) ADDITIONAL REINVESTMENT AMOUNTS SHALL BE MADE AVAILABLE FOR APPROPRIATION IN THE EXECUTIVE BUDGET BASED UPON STATE OPERATION GENERAL FUND APPROPRIATIONS DIRECTLY ATTRIBUTED TO THE CO-LOCATION OR CLOSURE OF PSYCHIATRIC CENTERS MADE PURSUANT TO LAW. SUCH AMOUNT SHALL BE MADE AVAILABLE AT THE SAME PROPORTION BY WHICH THE OFFICE OF MENTAL HEALTH STATE OPERATIONS GENERAL FUND APPROPRIATIONS ARE REDUCED EACH YEAR AS A RESULT OF FACILITY CO-LOCATIONS AND CLOSURES.

1 (G) THE ANNUAL COMMUNITY MENTAL HEALTH REINVESTMENT APPROPRIATION
2 SHALL REFLECT THE AMOUNT OF STATE OPERATIONS GENERAL FUND APPROPRIATION
3 REDUCTIONS RESULTING FROM SUBDIVISIONS (E) AND (F) OF THIS SECTION.
4 WITHIN ANY FISCAL YEAR WHERE APPROPRIATION INCREASES ARE RECOMMENDED FOR
5 THE COMMUNITY MENTAL HEALTH REINVESTMENT PROGRAM, INsofar AS PROJECTED
6 INPATIENT CENSUS DECLINE OR FACILITY CO-LOCATIONS OR CLOSURES DO NOT
7 OCCUR AS ESTIMATED, AND STATE OPERATIONS GENERAL FUND SAVINGS DO NOT
8 RESULT, THEN THE REINVESTMENT APPROPRIATIONS SHALL BE MADE AVAILABLE, AS
9 NEEDED, FOR TRANSFER FROM THE OFFICE OF MENTAL HEALTH GENERAL FUND-AID
10 TO LOCALITIES ACCOUNT TO THE OFFICE OF MENTAL HEALTH GENERAL FUND-STATE
11 PURPOSES ACCOUNT TO PAY FOR ANY NECESSARY INPATIENT EXPENSES. THE TOTAL
12 COMMUNITY MENTAL HEALTH REINVESTMENT APPROPRIATION ALSO MAY INCLUDE SUCH
13 ADDITIONAL APPROPRIATIONS, AS SHALL BE DETERMINED TO BE NEEDED AND
14 APPROVED BY THE LEGISLATURE, TO FUND ALL THE PROVISIONS OF THIS SECTION.

15 (H) AMOUNTS MADE AVAILABLE TO THE COMMUNITY MENTAL HEALTH REINVESTMENT
16 PROGRAM OF THE OFFICE OF MENTAL HEALTH SHALL BE SUBJECT TO ANNUAL APPROPRIATIONS THEREFOR. UP TO FIFTEEN PERCENT OF THE AMOUNTS SO APPROPRIATED
17 SHALL BE MADE AVAILABLE FOR STAFF TRAINING, STAFFING AT STATE MENTAL
18 HEALTH FACILITIES OR TO AID IN WORKFORCE TRANSITION AND AT LEAST SEVEN
19 PERCENT OF THE REMAINING FUNDS MAY BE ALLOCATED FOR STATE OPERATED
20 COMMUNITY SERVICES PURSUANT TO THIS SECTION.

21 (I) FOR PURPOSES OF THIS SECTION, THE TERM "STATE OPERATIONS GENERAL
22 FUND" SHALL MEAN THE OFFICE OF MENTAL HEALTH STATE OPERATIONS GENERAL
23 FUND APPROPRIATIONS BEFORE ANY OFFSET FROM THE SPECIAL REVENUE
24 FUNDS-OTHER MISCELLANEOUS SPECIAL REVENUE FUND OR MENTAL HYGIENE PATIENT
25 INCOME ACCOUNT.

26 (J) NO PROVISION IN THIS SECTION SHALL CREATE OR BE DEEMED TO CREATE
27 ANY RIGHT, INTEREST OR ENTITLEMENT TO SERVICES OR FUNDS THAT ARE THE
28 SUBJECT OF THE CHAPTER OF THE LAWS OF TWO THOUSAND FOURTEEN WHICH ADDED
29 THIS SECTION, OR TO ANY OTHER SERVICES OR FUNDS, WHETHER TO INDIVIDUALS,
30 LOCALITIES, PROVIDERS OR OTHERS, INDIVIDUALLY OR COLLECTIVELY.

31 (K) ALL APPROPRIATIONS FOR COMMUNITY MENTAL HEALTH REINVESTMENT
32 SERVICES SHALL BE ADJUSTED IN THE FOLLOWING FISCAL YEAR TO REFLECT THE
33 VARIANCE BETWEEN THE INITIAL AND REVISED ESTIMATES OF CENSUS DECLINE.

34 S 5. Section 97-dddd of the state finance law is REPEALED and a new
35 section 97-dddd is added to read as follows:

36 S 97-DDDD. COMMUNITY MENTAL HEALTH REINVESTMENT ACCOUNT. 1. THERE IS
37 HEREBY CREATED IN THE CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE AN ACCOUNT OF THE SPECIAL REVENUE FUND TO
38 BE KNOWN AS THE COMMUNITY MENTAL HEALTH REINVESTMENT ACCOUNT.

39 2. THE COMMISSIONER OF THE OFFICE OF MENTAL HEALTH SHALL NOTIFY THE
40 DIRECTOR OF THE BUDGET WHEN THE NUMBER OF CHILDREN'S PSYCHIATRIC CENTER
41 BEDS OR ADULT, NON-GERIATRIC PSYCHIATRIC CENTER BEDS CLOSED IN ANY ONE
42 YEAR EXCEEDS THE NUMBER OF BEDS PROJECTED TO BE CLOSED BY THE OFFICE OF
43 MENTAL HEALTH IN THE EXECUTIVE BUDGET REQUEST SUBMITTED IN THE YEAR
44 PRIOR TO THE FISCAL YEAR FOR WHICH THE EXECUTIVE BUDGET IS BEING SUBMITTED. NOTWITHSTANDING ANY OTHER LAW, RULE OR REGULATION TO THE CONTRARY
45 THE DIRECTOR OF THE BUDGET SHALL THEN TRANSFER THE AMOUNT OF ACTUAL
46 STATE OPERATIONS GENERAL FUND APPROPRIATION REDUCTIONS, INCLUDING
47 PERSONAL SERVICE AND NONPERSONAL SERVICE, DIRECTLY ATTRIBUTED TO THE
48 CLOSURE OF SUCH BEDS, TO THE STATE COMPTROLLER WHO SHALL THEN CREDIT
49 SUCH APPROPRIATION REDUCTIONS TO THE COMMUNITY MENTAL HEALTH REINVESTMENT ACCOUNT. THE PER BED APPROPRIATION REDUCTION SHALL BE NO LESS THAN
50 ONE HUNDRED PERCENT AND SHALL BE NO LESS THAN ONE HUNDRED TEN THOUSAND
51 DOLLARS OF THE CALCULATED VALUE OF SAVINGS ON A FULL ANNUAL BASIS.

1 3. MONEYS OF THIS ACCOUNT, FOLLOWING APPROPRIATION BY THE LEGISLATURE,
2 SHALL BE AVAILABLE TO THE OFFICE OF MENTAL HEALTH FOR DISBURSEMENT TO
3 LOCAL GOVERNMENTS AND NOT-FOR-PROFIT OPERATED MENTAL HEALTH AGENCIES FOR
4 SERVICES AND EXPENSES OF COMMUNITY SERVICES REINVESTMENT.
5 S 6. This act shall take effect immediately.