

9262

I N A S S E M B L Y

April 4, 2014

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

AN ACT to amend the public health law, in relation to enacting the "home care stabilization act"; and providing for the repeal of certain provisions upon expiration thereof

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

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "home care stabilization act".  
3 S 2. Section 3622 of the public health law, as renumbered by section  
4 22 of part C of chapter 58 of the laws of 2004, is renumbered section  
5 3625 and two new sections 3614-d and 3622 are added to read as follows:  
6 S 3614-D. STANDARDS FOR PROMPT, FAIR AND EQUITABLE SETTLEMENT OF  
7 CLAIMS FOR PAYMENTS FOR PERSONAL CARE, HOME HEALTH CARE SERVICES OR  
8 OTHER LONG TERM CARE SERVICES. 1. IN THE PROCESSING OF CLAIMS SUBMITTED  
9 UNDER CONTRACTS OR AGREEMENTS ISSUED OR ENTERED INTO OR BETWEEN CERTI-  
10 FIED HOME HEALTH AGENCIES, LONG TERM HOME HEALTH CARE PROGRAMS, LICENSED  
11 HOME CARE SERVICES PROGRAMS, FISCAL INTERMEDIARIES OPERATING PURSUANT TO  
12 SECTION THREE HUNDRED SIXTY-FIVE-F OF THE SOCIAL SERVICES LAW, INSURERS,  
13 MANAGED LONG TERM CARE PLANS, MANAGED CARE PLANS OR ORGANIZATIONS  
14 LICENSED OR OPERATED PURSUANT TO THE PROVISIONS OF THIS CHAPTER, THE  
15 SOCIAL SERVICES LAW OR THE INSURANCE LAW AND FOR ALL BILLS FOR PERSONAL  
16 CARE, HOME HEALTH CARE SERVICES, CONSUMER DIRECTED PERSONAL ASSISTANCE  
17 SERVICES OPERATING PURSUANT TO SECTION THREE HUNDRED SIXTY-FIVE-F OF THE  
18 SOCIAL SERVICES LAW OR OTHER LONG TERM CARE SERVICES RENDERED BY  
19 LICENSED HOME CARE SERVICES PROGRAMS, CERTIFIED HOME HEALTH AGENCIES,  
20 LONG TERM HOME HEALTH CARE PROGRAMS OR A FISCAL INTERMEDIARY OPERATING  
21 PURSUANT TO SECTION THREE HUNDRED SIXTY-FIVE-F OF THE SOCIAL SERVICES  
22 LAW PURSUANT TO SUCH CONTRACTS OR AGREEMENTS, ANY CERTIFIED HOME HEALTH  
23 CARE AGENCY, LONG TERM HOME HEALTH CARE PROGRAM, INSURER, MANAGED LONG  
24 TERM CARE PLAN, MANAGED CARE PLAN OR ORGANIZATION LICENSED OR OPERATED  
25 PURSUANT TO THE PROVISIONS OF THIS CHAPTER, THE SOCIAL SERVICES LAW, THE  
26 EXECUTIVE LAW OR THE INSURANCE LAW, SHALL ADHERE TO THE FOLLOWING STAND-  
27 ARDS:

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

LBD09417-06-4

1 (A) SHALL PAY A CLEAN CLAIM SUBMITTED BY A LICENSED HOME CARE SERVICES  
2 PROGRAM, CERTIFIED HOME HEALTH AGENCY, LONG TERM HOME HEALTH CARE  
3 PROGRAM OR A FISCAL INTERMEDIARY OPERATING PURSUANT TO SECTION THREE  
4 HUNDRED SIXTY-FIVE-F OF THE SOCIAL SERVICES LAW WITHIN THIRTY DAYS OF  
5 RECEIPT OF THE CLEAN CLAIM FOR SERVICES RENDERED THAT IS TRANSMITTED VIA  
6 THE INTERNET OR ELECTRONIC MAIL, OR FORTY-FIVE DAYS OF RECEIPT OF THE  
7 CLEAN CLAIM FOR SERVICES RENDERED THAT IS SUBMITTED BY OTHER MEANS, SUCH  
8 AS PAPER OR FACSIMILE;

9 (B) SHALL PAY ANY UNDISPUTED PORTION OF A CLAIM AS A CLEAN CLAIM AS  
10 SET FORTH IN PARAGRAPH (A) OF THIS SUBDIVISION SUBMITTED BY A LICENSED  
11 HOME CARE SERVICES PROGRAM, CERTIFIED HOME HEALTH AGENCY, LONG TERM HOME  
12 HEALTH CARE PROGRAM OR FISCAL INTERMEDIARY OPERATING PURSUANT TO SECTION  
13 THREE HUNDRED SIXTY-FIVE-F OF THE SOCIAL SERVICES LAW;

14 (C) NOTIFY ANY SUCH AGENCY, PROGRAM OR FISCAL INTERMEDIARY IN WRITING  
15 WITHIN FIFTEEN CALENDAR DAYS OF THE RECEIPT OF AN INITIAL CLAIM OF ALL  
16 SPECIFIC DEFECTS OR DISPUTES OF SUCH CLAIM AND SPECIFICALLY REQUEST IN  
17 WRITING THE ADDITIONAL INFORMATION OR REMEDY NEEDED TO PROCESS ANY  
18 DISPUTED PORTIONS OF THE CLAIM; AND

19 (D) ANY DISPUTED CLAIM REMEDIED SHALL BE PAID AS A CLEAN CLAIM AS SET  
20 FORTH IN PARAGRAPH (A) OF THIS SUBDIVISION.

21 2. FOR THE PURPOSES OF THIS SECTION, A "CLEAN CLAIM" SHALL:

22 (A) IDENTIFY THE LICENSED HOME CARE SERVICES PROGRAM, CERTIFIED HOME  
23 HEALTH AGENCY, LONG TERM HOME HEALTH CARE PROGRAM OR FISCAL INTERMEDIARY  
24 OPERATING PURSUANT TO SECTION THREE HUNDRED SIXTY-FIVE-F OF THE SOCIAL  
25 SERVICES LAW;

26 (B) SUFFICIENTLY IDENTIFY THE ELIGIBLE COVERED PERSON;

27 (C) LIST THE DATE AND PLACE OF SERVICE;

28 (D) SUBSTANTIATE THE APPROPRIATENESS OF THE SERVICE PROVIDED;

29 (E) STATE IF PRIOR AUTHORIZATION IS REQUIRED FOR SUCH ELIGIBLE COVERED  
30 PERSON AND SERVICE; AND

31 (F) STATE ANY DOCUMENTATION AS REASONABLY REQUIRED BY ANY ENTITY  
32 REFERENCED IN THIS SECTION.

33 3. EACH CLEAN CLAIM OR PAYMENT FOR SERVICES PROCESSED IN VIOLATION OF  
34 THIS SECTION SHALL CONSTITUTE A SEPARATE VIOLATION. IN ADDITION TO THE  
35 PENALTIES PROVIDED IN THIS CHAPTER, ANY ORGANIZATION OR CORPORATION THAT  
36 FAILS TO ADHERE TO THE STANDARDS CONTAINED IN THIS SECTION SHALL BE  
37 OBLIGATED TO PAY TO CERTIFIED HOME HEALTH AGENCIES, LONG TERM HOME  
38 HEALTH CARE PROGRAMS, LICENSED HOME HEALTH CARE PROGRAMS OR FISCAL  
39 INTERMEDIARIES OPERATING PURSUANT TO SECTION THREE HUNDRED SIXTY-FIVE-F  
40 OF THE SOCIAL SERVICES LAW IN FULL SETTLEMENT OF THE BILL, CLAIM OR  
41 PAYMENT PLUS INTEREST ON THE AMOUNT OF SUCH BILL, CLAIM OR PAYMENT OF  
42 THE GREATER OF THE RATE EQUAL TO THE RATE SET BY THE COMMISSIONER OF  
43 TAXATION AND FINANCE FOR CORPORATE TAXES PURSUANT TO PARAGRAPH ONE OF  
44 SUBSECTION (E) OF SECTION ONE THOUSAND NINETY-SIX OF THE TAX LAW OR  
45 TWELVE PERCENT PER ANNUM, TO BE COMPUTED FROM THE DATE THE BILL, CLAIM  
46 OR PAYMENT WAS REQUIRED TO BE MADE.

47 S 3622. MEDICAL ASSISTANCE RECOUPMENTS AND REDUCTIONS. NOTWITHSTAND-  
48 ING ANY OTHER PROVISION OF LAW TO THE CONTRARY, ON AND AFTER APRIL  
49 FIRST, TWO THOUSAND NINE, ANY RECOUPMENTS OR REDUCTIONS IN MEDICAL  
50 ASSISTANCE PAYMENTS FOR LICENSED HOME CARE SERVICES AGENCIES AND CERTI-  
51 FIED HOME HEALTH AGENCIES LICENSED PURSUANT TO THIS ARTICLE OR FISCAL  
52 INTERMEDIARIES OPERATING PURSUANT TO SECTION THREE HUNDRED SIXTY-FIVE-F  
53 OF THE SOCIAL SERVICES LAW SHALL NOT BE SUBJECT TO INTEREST OR INTEREST  
54 PENALTIES.

55 S 3. Section 4406-c of the public health law is amended by adding a  
56 new subdivision 9 to read as follows:

1 9. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, CONTRACTS WITH  
2 CERTIFIED HOME HEALTH AGENCIES, LONG TERM HOME HEALTH CARE PROGRAMS,  
3 LICENSED HOME CARE SERVICES PROGRAMS OR FISCAL INTERMEDIARIES OPERATING  
4 PURSUANT TO SECTION THREE HUNDRED SIXTY-FIVE-F OF THE SOCIAL SERVICES  
5 LAW TO PROVIDE HOME CARE AIDE SERVICES AS DEFINED IN SECTION THIRTY-SIX  
6 HUNDRED FOURTEEN-C OF THIS CHAPTER OR CONSUMER DIRECTED PERSONAL ASSIST-  
7 ANCE SERVICES AS AUTHORIZED PURSUANT TO SECTION THREE HUNDRED  
8 SIXTY-FIVE-F OF THE SOCIAL SERVICES LAW SHALL AT A MINIMUM ENSURE THAT  
9 THE RESOURCES MADE AVAILABLE BY SUCH CONTRACTS SHALL SUPPORT COMPEN-  
10 SATION FOR PERSONS PROVIDING SUCH HOME CARE AIDE SERVICES AND CONSUMER  
11 DIRECTED PERSONAL ASSISTANCE SERVICES TO ENSURE THE RETENTION OF A QUAL-  
12 IFIED WORKFORCE CAPABLE OF PROVIDING HIGH QUALITY CARE TO RECIPIENTS OF  
13 SUCH SERVICES CONSISTENT WITH THE PROVISIONS OF SUCH SECTION.

14 S 4. This act shall take effect immediately, provided that section  
15 3622 of the public health law, as added by section two of this act,  
16 shall expire and be deemed repealed March 31, 2015.