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

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I N A S S E M B L Y

February 11, 2016

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

AN ACT to amend the public health law, in relation to participation in managed long term care plans by medical assistance recipients in the traumatic brain injury waiver program and the nursing home transition and diversion waiver program

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

Section 1. Clauses 2 and 3 of subparagraph (v) of paragraph (b) of subdivision 7 of section 4403-f of the public health law, as amended by section 48 of part A of chapter 56 of the laws of 2013, are amended and three new subparagraphs (v-a), (v-b) and (v-c) are added to read as follows:

(2) a participant in the traumatic brain injury waiver program OR A PERSON WHOSE CIRCUMSTANCES WOULD QUALIFY HIM OR HER FOR THE PROGRAM AS IT EXISTED ON JANUARY FIRST, TWO THOUSAND FIFTEEN;

(3) a participant in the nursing home transition and diversion waiver program OR A PERSON WHOSE CIRCUMSTANCES WOULD QUALIFY HIM OR HER FOR THE PROGRAM AS IT EXISTED ON JANUARY FIRST, TWO THOUSAND FIFTEEN;

(V-A) FOR PURPOSES OF CLAUSE (2) OF SUBPARAGRAPH (V) OF THIS PARAGRAPH, PROGRAM FEATURES SHALL BE SUBSTANTIALLY COMPARABLE TO THOSE SERVICES OFFERED TO TRAUMATIC BRAIN INJURY WAIVER PARTICIPANTS AS OF JANUARY FIRST, TWO THOUSAND FIFTEEN, INCLUDING BUT NOT LIMITED TO:

(1) FULL-TIME SERVICE COORDINATORS WHO MAY NOT EXCEED CASELOADS OF SEVENTEEN PROGRAM PATIENTS PER COORDINATOR AND MAY NOT BE EMPLOYEES OF THE PARTICIPANT'S MANAGED CARE PLAN;

(2) HOME AND COMMUNITY SUPPORT SERVICES;

(3) POSITIVE BEHAVIORAL INTERVENTIONS AND CAREGIVER SUPPORT SERVICES;

(4) COMMUNITY INTEGRATION COUNSELING SERVICES PROVIDED IN AN INDIVIDUAL OR GROUP SETTING;

(5) APPROPRIATELY STRUCTURED DAY PROGRAM SERVICES;

(6) INDEPENDENT LIVING SKILLS TRAINING AND DEVELOPMENT SERVICES PROVIDED IN AN INDIVIDUAL OR GROUP SETTING;

(7) SUBSTANCE ABUSE PROGRAM SERVICES;

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

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(8) ENVIRONMENTAL MODIFICATIONS SERVICES;
(9) ASSISTIVE TECHNOLOGY SERVICES;
(10) TRANSPORTATION SUPPLEMENTS FOR NON-MEDICAL ACTIVITIES THAT SUPPORT LIVING IN THE COMMUNITY;
(11) COMMUNITY TRANSITIONAL SERVICES;
(12) RESPITE CARE; AND
(13) HOUSING SUBSIDIES SUBJECT TO APPROPRIATION.
THE COMMISSIONER MAY APPLY FOR FEDERAL FINANCIAL PARTICIPATION.
(V-B) FOR PURPOSES OF CLAUSE (3) OF SUBPARAGRAPH (V) OF THIS PARAGRAPH, PROGRAM FEATURES SHALL BE SUBSTANTIALLY COMPARABLE TO THOSE SERVICES OFFERED TO NURSING HOME TRANSITION AND DIVERSION WAIVER PARTICIPANTS AS OF JANUARY FIRST, TWO THOUSAND FIFTEEN, INCLUDING BUT NOT LIMITED TO:
(1) THOSE SERVICES IDENTIFIED IN SUBPARAGRAPH (V-A) OF THIS SUBPARAGRAPH; AND
(2) HOME DELIVERED AND CONGREGATE MEALS.
(V-C) ANY MANAGED LONG TERM CARE PROGRAM OR OTHER CARE COORDINATION MODEL PROVIDING SERVICES UNDER CLAUSE (2) OR (3) OF SUBPARAGRAPH (V) OF THIS PARAGRAPH SHALL HAVE AN ADEQUATE NETWORK OF PROVIDERS TO MEET THE NEEDS OF ENROLLEES AND PROVIDE SERVICES UNDER THIS SUBDIVISION. THEY SHALL ALSO ENSURE THAT PROVIDERS OF SERVICES TO INDIVIDUALS WITH BRAIN INJURY HAVE APPROPRIATE AND ADEQUATE TRAINING AND COMPETENCY TO MEET THE NEEDS OF THIS POPULATION AND PROVIDE A STANDARD OF CARE THAT IS AT LEAST SUBSTANTIALLY COMPARABLE TO THE 2008 TRAUMATIC BRAIN INJURY WAIVER MANUAL OR 2009 NURSING HOME TRANSITION AND DIVERSION WAIVER MANUAL, AS APPROPRIATE TO THE NEEDS OF THE INDIVIDUAL.

S 2. Subdivisions 9 and 10 of section 2742 of the public health law, as added by chapter 196 of the laws of 1994 are amended and a new subdivision 11 is added to read as follows:

9. to develop training programs for persons providing discharge plans and case management; [and]
10. to develop standards for licensing or certifying residential and non-residential services for persons with traumatic brain injury to the extent that such services are not otherwise subject to the jurisdiction of another state agency[.]; AND
11. TO ESTABLISH A STATEWIDE NEUROBEHAVIORAL RESOURCE PROJECT SPECIALIZING IN THE EVALUATION AND DEVELOPMENT OF BEHAVIORAL SUPPORT PLANS FOR INDIVIDUALS WITH TRAUMATIC BRAIN INJURIES WHOSE BEHAVIORS PRESENT OBSTACLES TO LIVING SAFELY IN THE COMMUNITY. THE PROJECT WILL PROVIDE TECHNICAL CONSULTATION AND TRAINING TO PROVIDERS AND CRISIS INTERVENTION AND BEHAVIORAL ASSESSMENT SERVICES FOR THE INDIVIDUAL WITH BRAIN INJURY, SUBJECT TO APPROPRIATION.

S 3. Section 3614-d of the public health law, as added by section 49 of part B of chapter 57 of the laws of 2015, is amended to read as follows:

S 3614-d. Universal standards for coding of payment for medical assistance claims for long term care. (A) Claims for payment submitted under contracts or agreements with insurers under the medical assistance program for home and community-based long-term care services provided under this article, by fiscal intermediaries operating pursuant to section three hundred sixty-five-f of the social services law, and by residential health care facilities operating pursuant to article twenty-eight of this chapter shall have standard billing codes. Such insurers shall include but not be limited to Medicaid managed care plans and managed long term care plans. Such payments shall be based on universal billing codes approved by the department or a nationally accredited

organization as approved by the department; provided, however, such coding shall be consistent with any codes developed as part of the uniform assessment system for long term care established by the department.

(B) THE DEPARTMENT SHALL IMPLEMENT A HIGH NEEDS RATE CELL FOR CODING OF PAYMENT FOR MEDICAL ASSISTANCE CLAIMS RELATING TO SERVICES AND BENEFITS THAT ARE SUPPLEMENTARY TO THE BASIC BENEFIT PACKAGE AND NECESSARY IN ORDER THAT THE INDIVIDUAL MAY REMAIN IN THE MOST INTEGRATED SETTING APPROPRIATE.

S 4. The department of health shall study and report to the legislature by December 31, 2017 on the need for and feasibility of repatriation of complex-needs patients placed in out-of-state facilities.

S 5. This act shall take effect immediately; provided that the amendments to paragraph (b) of subdivision 7 of section 4403-f of the public health law made by section one of this act shall not affect the expiration and reversion of such paragraph and shall be deemed to expire therewith; and provided further that such amendments to section 4403-f of the public health law shall not affect the repeal of such section and shall be deemed repealed therewith.