

9288

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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

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

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

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

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

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

19 (2) HOME AND COMMUNITY SUPPORT SERVICES;

20 (3) POSITIVE BEHAVIORAL INTERVENTIONS AND CAREGIVER SUPPORT SERVICES;

21 (4) COMMUNITY INTEGRATION COUNSELING SERVICES PROVIDED IN AN INDIVID-
22 UAL OR GROUP SETTING;

23 (5) APPROPRIATELY STRUCTURED DAY PROGRAM SERVICES;

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

26 (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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- 1 (8) ENVIRONMENTAL MODIFICATIONS SERVICES;
2 (9) ASSISTIVE TECHNOLOGY SERVICES;
3 (10) TRANSPORTATION SUPPLEMENTS FOR NON-MEDICAL ACTIVITIES THAT
4 SUPPORT LIVING IN THE COMMUNITY;
5 (11) COMMUNITY TRANSITIONAL SERVICES;
6 (12) RESPIRE CARE; AND
7 (13) HOUSING SUBSIDIES SUBJECT TO APPROPRIATION.

8 THE COMMISSIONER MAY APPLY FOR FEDERAL FINANCIAL PARTICIPATION.

9 (V-B) FOR PURPOSES OF CLAUSE (3) OF SUBPARAGRAPH (V) OF THIS PARA-
10 GRAPH, PROGRAM FEATURES SHALL BE SUBSTANTIALLY COMPARABLE TO THOSE
11 SERVICES OFFERED TO NURSING HOME TRANSITION AND DIVERSION WAIVER PARTIC-
12 IPANTS AS OF JANUARY FIRST, TWO THOUSAND FIFTEEN, INCLUDING BUT NOT
13 LIMITED TO:

14 (1) THOSE SERVICES IDENTIFIED IN SUBPARAGRAPH (V-A) OF THIS SUBPARA-
15 GRAPH; AND

16 (2) HOME DELIVERED AND CONGREGATE MEALS.

17 (V-C) ANY MANAGED LONG TERM CARE PROGRAM OR OTHER CARE COORDINATION
18 MODEL PROVIDING SERVICES UNDER CLAUSE (2) OR (3) OF SUBPARAGRAPH (V) OF
19 THIS PARAGRAPH SHALL HAVE AN ADEQUATE NETWORK OF PROVIDERS TO MEET THE
20 NEEDS OF ENROLLEES AND PROVIDE SERVICES UNDER THIS SUBDIVISION. THEY
21 SHALL ALSO ENSURE THAT PROVIDERS OF SERVICES TO INDIVIDUALS WITH BRAIN
22 INJURY HAVE APPROPRIATE AND ADEQUATE TRAINING AND COMPETENCY TO MEET THE
23 NEEDS OF THIS POPULATION AND PROVIDE A STANDARD OF CARE THAT IS AT LEAST
24 SUBSTANTIALLY COMPARABLE TO THE 2008 TRAUMATIC BRAIN INJURY WAIVER MANU-
25 AL OR 2009 NURSING HOME TRANSITION AND DIVERSION WAIVER MANUAL, AS
26 APPROPRIATE TO THE NEEDS OF THE INDIVIDUAL.

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

30 9. to develop training programs for persons providing discharge plans
31 and case management; [and]

32 10. to develop standards for licensing or certifying residential and
33 non-residential services for persons with traumatic brain injury to the
34 extent that such services are not otherwise subject to the jurisdiction
35 of another state agency[.]; AND

36 11. TO ESTABLISH A STATEWIDE NEUROBEHAVIORAL RESOURCE PROJECT SPECIAL-
37 IZING IN THE EVALUATION AND DEVELOPMENT OF BEHAVIORAL SUPPORT PLANS FOR
38 INDIVIDUALS WITH TRAUMATIC BRAIN INJURIES WHOSE BEHAVIORS PRESENT OBSTA-
39 CLES TO LIVING SAFELY IN THE COMMUNITY. THE PROJECT WILL PROVIDE TECHNICAL
40 CONSULTATION AND TRAINING TO PROVIDERS AND CRISIS INTERVENTION AND
41 BEHAVIORAL ASSESSMENT SERVICES FOR THE INDIVIDUAL WITH BRAIN INJURY,
42 SUBJECT TO APPROPRIATION.

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

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

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

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

10 S 4. The department of health shall study and report to the legisla-
11 ture by December 31, 2017 on the need for and feasibility of repatria-
12 tion of complex-needs patients placed in out-of-state facilities.

13 S 5. This act shall take effect immediately; provided that the amend-
14 ments to paragraph (b) of subdivision 7 of section 4403-f of the public
15 health law made by section one of this act shall not affect the expira-
16 tion and reversion of such paragraph and shall be deemed to expire ther-
17 ewith; and provided further that such amendments to section 4403-f of
18 the public health law shall not affect the repeal of such section and
19 shall be deemed repealed therewith.