

5712--A

2015-2016 Regular Sessions

I N S E N A T E

May 29, 2015

Introduced by Sens. FELDER, ROBACH -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the social services law, in relation to consumer directed personal assistance programs

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

1 Section 1. Paragraph (c) of subdivision 2 of section 365-f of the
2 social services law, as added by chapter 81 of the laws of 1995, is
3 amended to read as follows:
4 (c) has been determined by the social services district, pursuant to
5 an assessment of the person's appropriateness for the program, conducted
6 with an appropriate long term home health care program, a certified home
7 health agency, or an AIDS home care program or pursuant to the personal
8 care program, as being in need of home care services or private duty
9 nursing and is able and willing or has a DESIGNATED REPRESENTATIVE,
10 INCLUDING A legal guardian able and willing to make informed choices, or
11 [has designated] a DESIGNATED relative or other adult who is able and
12 willing to assist in making informed choices, as to the type and quality
13 of services, including but not limited to such services as nursing care,
14 personal care, transportation and respite services; and
15 S 2. Subdivision 3 of section 365-f of the social services law, as
16 added by chapter 81 of the laws of 1995, is amended to read as follows:
17 3. Division of responsibilities. Eligible individuals who elect to
18 participate in the program assume the responsibility for services under
19 such program as mutually agreed to by the eligible individual and
20 provider and as documented in the eligible individual's record, INCLUD-
21 ING, BUT NOT LIMITED TO, RECRUITING, HIRING AND SUPERVISING THEIR
22 PERSONAL ASSISTANTS. FOR THE PURPOSES OF THIS SECTION, PERSONAL ASSIST-
23 ANT SHALL MEAN AN ADULT WHO PROVIDES SERVICES UNDER THIS SECTION TO THE

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

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1 ELIGIBLE INDIVIDUAL UNDER THE ELIGIBLE INDIVIDUAL'S INSTRUCTION, SUPER-
2 VISION AND DIRECTION OR UNDER THE INSTRUCTION, SUPERVISION AND DIRECTION
3 OF THE ELIGIBLE INDIVIDUAL'S DESIGNATED REPRESENTATIVE, PROVIDED THAT A
4 PERSON LEGALLY RESPONSIBLE FOR AN ELIGIBLE INDIVIDUAL'S CARE AND
5 SUPPORT, AN ELIGIBLE INDIVIDUAL'S SPOUSE OR DESIGNATED REPRESENTATIVE
6 MAY NOT BE THE PERSONAL ASSISTANT FOR THE ELIGIBLE INDIVIDUAL; HOWEVER,
7 A PERSONAL ASSISTANT MAY INCLUDE ANY OTHER ADULT RELATIVE OF THE ELIGI-
8 BLE INDIVIDUAL, PROVIDED, HOWEVER, THAT THE PROGRAM DETERMINES THAT THE
9 SERVICES PROVIDED BY SUCH RELATIVE ARE CONSISTENT WITH AN INDIVIDUAL'S
10 PLAN OF CARE AND THAT THE AGGREGATE COST FOR SUCH SERVICES DOES NOT
11 EXCEED THE AGGREGATE COSTS FOR EQUIVALENT SERVICES PROVIDED BY A NON-RE-
12 LATIVE PERSONAL ASSISTANT. Such individuals shall be assisted as appro-
13 priate with service coverage, supervision, advocacy and management.
14 Providers shall not be liable for fulfillment of responsibilities agreed
15 to be undertaken by the eligible individual. This subdivision, however,
16 shall not diminish the participating provider's liability for failure to
17 exercise reasonable care in properly carrying out its responsibilities
18 under this program, which shall include monitoring such individual's
19 continuing ability to fulfill those responsibilities documented in his
20 or her records. Failure of the individual to carry out his or her agreed
21 to responsibilities may be considered in determining such individual's
22 continued appropriateness for the program.

23 S 3. This act shall take effect on the first of April next succeeding
24 the date on which it shall have become a law.