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

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2015-2016 Regular Sessions

I N A S S E M B L Y

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Introduced by M. of A. ENGLEBRIGHT, GOTTFRIED, ABBATE, CAHILL, CLARK, DINOWITZ, GALEF, LUPARDO -- Multi-Sponsored by -- M. of A. LIFTON, PERRY, RIVERA -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to creating adult day services respite demonstration programs

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

Section 1. The public health law is amended by adding a new section 2801-i to read as follows:

S 2801-I. RESPITE DAY DEMONSTRATION PROGRAM. 1. DEFINITIONS. AS USED IN THIS SECTION:

(A) "RESPITE DAY DEMONSTRATION PROGRAM" MEANS A STRUCTURED, COMPREHENSIVE PROGRAM ESTABLISHED BY THE COMMISSIONER UNDER THIS SECTION, IN CONJUNCTION WITH THE DIRECTOR OF THE OFFICE FOR THE AGING, PROVIDING LEVEL I, LEVEL II OR LEVEL III SERVICES TO REGISTRANTS.

(B) "REGISTRANT" MEANS A PERSON:

(I) WHO IS NOT A RESIDENT OF A RESIDENTIAL HEALTH CARE FACILITY, IS FUNCTIONALLY IMPAIRED AND NOT HOMEBOUND, AND REQUIRES SUPERVISION AND MONITORING BUT DOES NOT REQUIRE CONTINUOUS TWENTY-FOUR HOUR A DAY INPATIENT CARE AND SERVICES;

(II) WHOSE ASSESSED SOCIAL AND HEALTH CARE NEEDS CAN SATISFACTORILY BE MET IN WHOLE OR IN PART BY THE DELIVERY OF APPROPRIATE SERVICES IN THE COMMUNITY SETTING; AND

(III) WHO HAS BEEN ADMITTED TO THE PROGRAM BASED ON AN INTERDISCIPLINARY COMPREHENSIVE ASSESSMENT.

(C) "FUNCTIONALLY IMPAIRED" MEANS A PERSON WHO NEEDS THE ASSISTANCE OF ANOTHER PERSON IN AT LEAST ONE OF THE FOLLOWING ACTIVITIES OF DAILY LIVING: TOILETING, MOBILITY, TRANSFERRING OR EATING; OR WHO NEEDS SUPERVISION DUE TO COGNITIVE OR PSYCHO-SOCIAL IMPAIRMENT.

(D) "ADULT DAY HEALTH" MEANS THE HEALTH CARE SERVICES AND ACTIVITIES DEFINED BY THE COMMISSIONER UNDER REGULATIONS UNDER SUBPARAGRAPH (VII)

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

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OF PARAGRAPH F OF SUBDIVISION SIX-A OF SECTION THREE HUNDRED SIXTY-SIX OF THE SOCIAL SERVICES LAW.

(E) "LEVEL I SERVICES" MEANS THE FOLLOWING SERVICES:

(I) SOCIALIZATION AND PLANNED ACTIVITIES;

(II) SUPERVISION AND MONITORING;

(III) ROUTINE PERSONAL CARE, WHICH INCLUDES:

(A) ASSISTANCE FOR THE REGISTRANT WITH ANY OF THE FOLLOWING: TOILETING, MOBILITY, TRANSFER AND EATING;

(B) ROUTINE SKIN CARE;

(C) CHANGING SIMPLE DRESSINGS; AND

(D) USING SUPPLIES AND ADAPTIVE AND ASSISTIVE EQUIPMENT;

(IV) MEDICATION DISTRIBUTION;

(V) CASE MANAGEMENT; AND

(VI) MEALS CONSISTENT WITH STANDARDS SET FOR THE NUTRITION PROGRAM FOR THE ELDERLY ESTABLISHED BY THE STATE OFFICE FOR THE AGING.

(F) "LEVEL II SERVICES" MEANS ALL LEVEL I SERVICES, PLUS THE FOLLOWING SERVICES:

(I) MAJOR PERSONAL CARE SERVICES, WHICH INCLUDES:

(A) ASSISTANCE FOR THE REGISTRANT WITH SHOWERING AND BATHING; AND

(B) SOME OR TOTAL ASSISTANCE WITH DRESSING AND GROOMING;

(II) HEALTH EDUCATION;

(III) NURSING MONITORING AND SUPERVISION OF BASIC TREATMENTS;

(IV) COUNSELING; AND

(V) RESTORATIVE THERAPIES NOT LASTING LONGER THAN SIX MONTHS.

(G) "LEVEL III SERVICES" MEANS AND INCLUDES ALL LEVEL I AND LEVEL II SERVICES, PLUS THE FOLLOWING SERVICES:

(I) PSYCHIATRIC EVALUATIONS AND DIAGNOSIS;

(II) SKILLED NURSING SERVICES;

(III) MEDICATION MANAGEMENT;

(IV) MAINTENANCE AND RESTORATIVE THERAPIES GREATER THAN SIX MONTHS IN DURATION; AND

(V) ADDITIONAL MEDICAL SERVICES AS REQUIRED BY REGULATION.

(H) "BASE RATE" MEANS THE RATE PAID FOR APPROVED ADULT DAY HEALTH SERVICES UNDER SECTION THREE HUNDRED SIXTY-SIX OF THE SOCIAL SERVICES LAW.

(I) "OPERATOR" MEANS (A) AN ADULT DAY HEALTH CARE PROGRAM OR (B) A SOCIAL ADULT DAY SERVICES PROGRAM, AS DEFINED IN SECTION TWO HUNDRED FIFTEEN OF THE ELDER LAW.

2. RESPITE DAY DEMONSTRATION PROGRAM. THE COMMISSIONER, IN CONJUNCTION WITH THE DIRECTOR OF THE OFFICE FOR THE AGING, MAY ESTABLISH RESPITE DAY DEMONSTRATION PROGRAMS BASED UPON ADULT DAY HEALTH CARE AND SOCIAL ADULT DAY SERVICES, AS DEFINED IN SECTION TWO HUNDRED FIFTEEN OF THE ELDER LAW, TO EXTEND THE PERIOD A CAREGIVER CAN REMAIN ACTIVE IN THE CARE OF ELDERLY OR DISABLED INDIVIDUALS, AVOIDING THE NEED FOR MORE COSTLY INSTITUTIONAL PLACEMENT.

3. ESTABLISHMENT. THERE SHALL BE A MINIMUM OF TEN PROGRAMS ESTABLISHED IN SIX LOCATIONS, WITH AT LEAST ONE SITE TO BE LOCATED WITHIN EACH OF THE FOLLOWING SIX REGIONS: NEW YORK CITY, LONG ISLAND, HUDSON VALLEY, NORTH COUNTRY, CENTRAL AND WESTERN. EACH LOCATION'S PROGRAM SHALL CONSIST OF UP TO FIFTEEN REGISTRANTS. OPERATORS SHALL BE SELECTED BASED ON A REQUEST FOR PROPOSAL PROCESS WITH PREFERENCE GIVEN TO THOSE APPLICANTS WHO ARE ABLE TO DEMONSTRATE THEIR CAPACITY TO BUILD PARTNERSHIPS AND ENTER INTO COOPERATIVE ARRANGEMENTS. THIS SECTION SHALL NOT BE CONSTRUED TO PERMIT AN OPERATOR TO PROVIDE SERVICES FOR WHICH THE OPERATOR IS NOT OTHERWISE LICENSED OR CERTIFIED TO PROVIDE.

4. REGISTRANT CARE PLAN. THE OPERATOR SHALL ENSURE:

(A) THAT A CARE PLAN BASED ON A COMPREHENSIVE INTERDISCIPLINARY ASSESSMENT AND, WHEN APPLICABLE, A TRANSFER OR DISCHARGE PLAN IS DEVELOPED FOR EACH REGISTRANT WITHIN FIVE VISITS, NOT TO EXCEED THIRTY DAYS, FROM REGISTRATION;

(B) EACH REGISTRANT'S CARE PLAN SHALL INCLUDE:

(I) DESIGNATION OF A PROFESSIONAL PERSON TO BE RESPONSIBLE FOR COORDINATING THE CARE PLAN;

(II) THE REGISTRANT'S PERTINENT DIAGNOSES, INCLUDING MENTAL STATUS, TYPES OF EQUIPMENT AND SERVICES REQUIRED, CASE MANAGEMENT, FREQUENCY OF PLANNED VISITS, PROGNOSIS, REHABILITATION POTENTIAL, FUNCTIONAL LIMITATIONS, PLANNED ACTIVITIES, NUTRITIONAL REQUIREMENTS, MEDICATIONS AND TREATMENTS, NECESSARY MEASURES TO PROTECT AGAINST INJURY, INSTRUCTIONS FOR DISCHARGE OR REFERRAL IF APPLICABLE, ORDERS FOR THERAPY SERVICES INCLUDING THE SPECIFIC PROCEDURES AND MODALITIES TO BE USED AND THE AMOUNT, FREQUENCY AND DURATION OF SUCH SERVICES, AND ANY OTHER APPROPRIATE ITEM;

(III) THE MEDICAL AND NURSING GOALS AND LIMITATIONS ANTICIPATED FOR THE REGISTRANT AND, AS APPROPRIATE, THE NUTRITIONAL, SOCIAL, REHABILITATIVE AND LEISURE TIME GOALS AND LIMITATIONS;

(IV) THE REGISTRANT'S POTENTIAL FOR REMAINING IN THE COMMUNITY; AND

(V) A DESCRIPTION OF ALL SERVICES TO BE PROVIDED TO THE REGISTRANT BY THE PROGRAM, INFORMAL SUPPORTS AND OTHER COMMUNITY RESOURCES PURSUANT TO THE CARE PLAN, AND HOW SUCH SERVICES WILL BE COORDINATED;

(C) DEVELOPMENT AND MODIFICATION OF THE CARE PLAN IS COORDINATED WITH OTHER HEALTH CARE PROVIDERS OUTSIDE THE PROGRAM WHO ARE INVOLVED IN THE REGISTRANT'S CARE; AND

(D) THE RESPONSIBLE PERSONS, WITH THE APPROPRIATE PARTICIPATION OF CONSULTANTS IN THE MEDICAL, SOCIAL, PARAMEDICAL AND RELATED FIELDS INVOLVED IN THE REGISTRANT'S CARE:

(I) RECORD IN THE CLINICAL RECORD CHANGES IN THE REGISTRANT'S STATUS WHICH REQUIRE ALTERATIONS IN THE REGISTRANT CARE PLAN;

(II) MODIFY THE CARE PLAN ACCORDINGLY;

(III) REVIEW THE CARE PLAN AT LEAST ONCE EVERY SIX MONTHS AND WHENEVER THE REGISTRANT'S CONDITION WARRANTS AND DOCUMENT EACH SUCH REVIEW IN THE CLINICAL RECORD; AND

(IV) PROMPTLY ALERT THE REGISTRANT'S AUTHORIZED HEALTH CARE PRACTITIONER OF ANY SIGNIFICANT CHANGES IN THE REGISTRANT'S CONDITION WHICH INDICATE A NEED TO REVISE THE CARE PLAN.

5. REIMBURSEMENT. FOR THE PURPOSES OF THIS SECTION, REIMBURSEMENT RATES UNDER TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW FOR PROGRAMS SHALL BE AS FOLLOWS:

(A) LEVEL I SERVICES WILL BE REIMBURSED AT FORTY PERCENT OF THE BASE RATE;

(B) LEVEL II SERVICES WILL BE REIMBURSED AT SEVENTY-FIVE PERCENT OF THE BASE RATE; AND

(C) LEVEL III SERVICES WILL BE REIMBURSED AT ONE HUNDRED PERCENT OF THE BASE RATE.

6. EVALUATION AND REPORT. NO LATER THAN JANUARY FIRST, TWO THOUSAND EIGHTEEN, THE COMMISSIONER SHALL PROVIDE THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY WITH A WRITTEN EVALUATION OF THE PROGRAM, BASED ON AN ASSESSMENT TOOL DEVELOPED BY THE DEPARTMENT. SUCH EVALUATION SHALL ADDRESS THE OVERALL EFFECTIVENESS OF THE PROGRAM IN IMPROVING OUTCOMES FOR INDIVIDUAL PATIENTS AND GROUPS OF PATIENTS, REDUCING COSTS, ENCOURAGING PLACEMENTS IN APPROPRIATE ADULT DAY HEALTH SERVICES SETTINGS, AND ENHANCING THE AVAILABILITY OF LESS RESTRICTIVE AND LESS INSTITUTIONAL SERVICES; SHALL EVALUATE THE NEED FOR

LEVEL I, II AND III SERVICES AND THE IMPACT ON THE AVAILABILITY OF EACH OF THE SERVICES ON COST AND INSTITUTIONAL PLACEMENT; AND SHALL CONTAIN RECOMMENDATIONS RELATIVE TO EXTENDING AND EXPANDING THE PROGRAM. IN EVALUATING INDIVIDUAL OUTCOMES, THE COMMISSIONER SHALL CONSULT WITH THE CENTER FOR FUNCTIONAL ASSESSMENT RESEARCH AT THE STATE UNIVERSITY OF NEW YORK AT BUFFALO.

7. WAIVERS AND FEDERAL APPROVALS. (A) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY UNLESS ALL NECESSARY APPROVALS UNDER FEDERAL LAW AND REGULATION HAVE BEEN OBTAINED TO RECEIVE FEDERAL FINANCIAL PARTICIPATION IN THE COSTS OF SERVICES PROVIDED UNDER THIS SECTION.

(B) THE COMMISSIONER IS AUTHORIZED TO SUBMIT AMENDMENTS TO THE STATE PLAN FOR MEDICAL ASSISTANCE AND SUBMIT ONE OR MORE APPLICATIONS FOR WAIVERS OF THE FEDERAL SOCIAL SECURITY ACT, TO OBTAIN THE FEDERAL APPROVALS NECESSARY TO IMPLEMENT THIS SECTION. THE COMMISSIONER SHALL SUBMIT SUCH AMENDMENTS OR APPLICATIONS FOR WAIVERS BY SEPTEMBER THIRTIETH, TWO THOUSAND FIFTEEN, AND SHALL USE BEST EFFORTS TO OBTAIN THE APPROVALS REQUIRED BY THIS SUBDIVISION IN A TIMELY MANNER SO AS TO ALLOW EARLY IMPLEMENTATION OF THIS SECTION.

S 2. This act shall take effect immediately.