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

May 18, 2015

Introduced by M. of A. MORELLE, PAULIN, GOTTFRIED, LENTOL, COOK, BRINDISI, ARROYO, PERRY, SCHIMMINGER, STIRPE, BLAKE, BRONSON, O'DONNELL -- Multi-Sponsored by -- M. of A. ABBATE, ABINANTI, GALEF, LUPARDO, MAGEE, THIELE -- read once and referred to the Committee on Health -- reported and referred to the Committee on Codes -- reported and referred to the Committee on Ways and Means -- 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:

Section 1. Paragraph (c) of subdivision 2 of section 365-f of the social services law, as added by chapter 81 of the laws of 1995, is amended to read as follows:

(c) has been determined by the social services district, pursuant to an assessment of the person's appropriateness for the program, conducted with an appropriate long term home health care program, a certified home health agency, or an AIDS home care program or pursuant to the personal care program, as being in need of home care services or private duty nursing and is able and willing or has a DESIGNATED REPRESENTATIVE, INCLUDING A legal guardian able and willing to make informed choices, or [has designated] a DESIGNATED relative or other adult who is able and willing to assist in making informed choices, as to the type and quality of services, including but not limited to such services as nursing care, personal care, transportation and respite services; and

S 2. Subdivision 3 of section 365-f of the social services law, as added by chapter 81 of the laws of 1995, is amended to read as follows:

3. Division of responsibilities. Eligible individuals who elect to participate in the program assume the responsibility for services under such program as mutually agreed to by the eligible individual and

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

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provider and as documented in the eligible individual's record, INCLUDING, BUT NOT LIMITED TO, RECRUITING, HIRING AND SUPERVISING THEIR PERSONAL ASSISTANTS. FOR THE PURPOSES OF THIS SECTION, PERSONAL ASSISTANT SHALL MEAN AN ADULT WHO PROVIDES SERVICES UNDER THIS SECTION TO THE ELIGIBLE INDIVIDUAL UNDER THE ELIGIBLE INDIVIDUAL'S INSTRUCTION, SUPERVISION AND DIRECTION OR UNDER THE INSTRUCTION, SUPERVISION AND DIRECTION OF THE ELIGIBLE INDIVIDUAL'S DESIGNATED REPRESENTATIVE, PROVIDED THAT A PERSON LEGALLY RESPONSIBLE FOR AN ELIGIBLE INDIVIDUAL'S CARE AND SUPPORT, AN ELIGIBLE INDIVIDUAL'S SPOUSE OR DESIGNATED REPRESENTATIVE MAY NOT BE THE PERSONAL ASSISTANT FOR THE ELIGIBLE INDIVIDUAL; HOWEVER, A PERSONAL ASSISTANT MAY INCLUDE ANY OTHER ADULT RELATIVE OF THE ELIGIBLE INDIVIDUAL, PROVIDED, HOWEVER, THAT THE PROGRAM DETERMINES THAT THE SERVICES PROVIDED BY SUCH RELATIVE ARE CONSISTENT WITH AN INDIVIDUAL'S PLAN OF CARE AND THAT THE AGGREGATE COST FOR SUCH SERVICES DOES NOT EXCEED THE AGGREGATE COSTS FOR EQUIVALENT SERVICES PROVIDED BY A NON-RELATIVE PERSONAL ASSISTANT. Such individuals shall be assisted as appropriate with service coverage, supervision, advocacy and management. Providers shall not be liable for fulfillment of responsibilities agreed to be undertaken by the eligible individual. This subdivision, however, shall not diminish the participating provider's liability for failure to exercise reasonable care in properly carrying out its responsibilities under this program, which shall include monitoring such individual's continuing ability to fulfill those responsibilities documented in his or her records. Failure of the individual to carry out his or her agreed to responsibilities may be considered in determining such individual's continued appropriateness for the program.

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