

866

2015-2016 Regular Sessions

I N A S S E M B L Y

January 7, 2015

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

AN ACT to amend the mental hygiene law, in relation to transitional care

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

1 Section 1. Subdivision (a) of section 13.37-a of the mental hygiene
2 law, as amended by chapter 478 of the laws of 2014, is amended to read
3 as follows:
4 (a) For purposes of this section, "transitional care" shall mean care
5 and maintenance of persons:
6 1. who were placed in foster care by a social services district pursuant
7 to article six of the social services law and who have become twenty-
8 ty-one years of age, or who were placed in a residential educational
9 placement by a school district pursuant to article eighty-nine of the
10 education law and who are no longer eligible for free educational
11 services because they have completed the school year in which they
12 became twenty-one;
13 2. who were disabled and in need of residential care prior to becoming
14 age twenty-one or prior to becoming ineligible for free education
15 services and who have since remained continuously disabled and contin-
16 uously in need of residential care;
17 3. WHO BECAME TWENTY-ONE OR BECAME INELIGIBLE FOR FREE EDUCATIONAL
18 SERVICES PRIOR TO JULY FIRST, NINETEEN HUNDRED NINETY-SIX;
19 4. with respect to whom the office has approved a plan of continued
20 out of home care for the person but has not yet identified a currently
21 available appropriate placement; [and
22 4.] 5. whose residential needs can be met by the facility in which the
23 persons resided prior to becoming age twenty-one or becoming ineligible
24 for free educational services[.]; AND
25 6. WHO ON JULY FIRST, NINETEEN HUNDRED NINETY-EIGHT ARE IN RECEIPT OF
26 TRANSITIONAL CARE, OR WHO HAVE CONTINUOUSLY REMAINED IN THE FOSTER CARE

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

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1 OR RESIDENTIAL EDUCATION PLACEMENT WHERE THEY HAD RECEIVED TRANSITIONAL
2 CARE.

3 S 2. Subdivision (a) of section 13.38 of the mental hygiene law, as
4 amended by chapter 478 of the laws of 2014, is amended to read as
5 follows:

6 (a) The office shall, in consultation with the department of social
7 services, the education department, the office of mental health, and the
8 council on children and families, develop a plan and implement proce-
9 dures to help assure that all persons who are at the age or time to
10 first qualify for transitional care, as described in section 13.37-a of
11 this article, and for whom the office has accepted planning responsibil-
12 ities, receive assistance in locating an appropriate and available resi-
13 dential placement or plan of services, within the state and within the
14 system of care subject to the jurisdiction of the office, prior to the
15 age or time at which they would otherwise have qualified for transi-
16 tional care, IF SUCH INDIVIDUALS HAD BECOME TWENTY-ONE OR BECOME INELI-
17 GIBLE FOR EDUCATIONAL SERVICES PRIOR TO JULY FIRST, NINETEEN HUNDRED
18 NINETY-SIX. For purposes of this section, the age or time at which a
19 person would qualify for transitional care is twenty-one for persons in
20 foster care, and the end of the school year in which they become twen-
21 ty-one for persons in residential schools.

22 S 3. Subdivision (e) of section 13.38 of the mental hygiene law, as
23 amended by chapter 478 of the laws of 2014, is amended to read as
24 follows:

25 (e) Upon making a determination that a person who is receiving transi-
26 tional care OR CARE PURSUANT TO SUBDIVISION (G) OF THIS SECTION can be
27 appropriately cared for in an available adult care facility or service
28 licensed, certified or approved by the office, and whose removal from a
29 child care facility is not required on an expedited basis, the office
30 shall notify [by certified mail, return receipt requested,] IN WRITING
31 the person and the person's guardian, if one has been appointed, [and,
32 when applicable,] OR another individual who has been involved in the
33 care of the person and who may represent the person's interests, of the
34 description of the proposed new placement, the availability of an admin-
35 istrative appeal to review the determination [including a description
36 of the appeal procedure, consistent with the New York state administra-
37 tive procedure act, contact information as it relates to making an
38 objection,] and of the need to request such an appeal in writing within
39 thirty days of the notice. [Such notification shall be provided to the
40 person and the person's guardian, if one has been appointed and, when
41 applicable, another individual who has been involved in the care of the
42 person and who may represent the person's interests no later than
43 forty-five days prior to the date of the office's intended change in
44 placement.] If the person, guardian or other individual requests an
45 administrative appeal within the time required, the office shall [within
46 five days of receipt of the written request for appeal,] schedule a
47 hearing providing no less than ten days notice to the objecting party[.
48 The] AND THE commissioner or his or her designee shall issue a written
49 determination to the [involved individuals] OBJECTING PARTY within thir-
50 ty days of the adjournment of the hearing, on whether the adult place-
51 ment identified by the office is appropriate to the needs of the person
52 and is available or will become available on an identified date certain.
53 [The written determination shall be the final administrative remedy
54 available and shall be subject to review in accordance with the
55 provisions of article seventy-eight of the civil practice law and
56 rules.] If the person, guardian or other individual does not request a

1 hearing within the time required, or if the hearing results in a deter-
2 mination that the proposed adult services or placement is appropriate to
3 the needs of the person and is available or will be available on an
4 identified date certain, the office shall discontinue [transitional]
5 care funding for the person as of a date certain. THE WRITTEN DETERMI-
6 NATION SHALL BE THE FINAL ADMINISTRATIVE REMEDY AVAILABLE AND SHALL BE
7 SUBJECT TO REVIEW IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE SEVENTY-
8 EIGHT OF THE CIVIL PRACTICE LAW AND RULES.
9 S 4. This act shall take effect immediately.