

STATE OF NEW YORK

3459

2017-2018 Regular Sessions

IN SENATE

January 23, 2017

Introduced by Sen. ROBACH -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to pediatric day-respite center

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The public health law is amended by adding a new section
2 2803-ff to read as follows:

3 § 2803-ff. Pediatric day-respite center. 1. It is the intent of the
4 legislature to authorize Daystar for Medically Fragile Children, Inc.,
5 located at 700 Lac De Ville Boulevard, Rochester, NY 14618, (hereinafter
6 referred to as "Daystar") to be licensed as New York state's first and
7 only Pediatric Day-Respite Center, delivering comprehensive family
8 support services, educational enrichment programs, developmental
9 services, and pediatric healthcare services to serve the needs of
10 medically fragile and terminally ill children and their families.

11 2. As used in this section, the following definitions shall have the
12 following meanings:

13 (a) "Pediatric day-respite center" or "Daystar" means a center-based
14 program designed especially to promote the healthcare, psychosocial,
15 developmental, and educational goals of medically fragile children,
16 providing a structured day-program of therapeutic social, developmental,
17 and educational activities and programs, onsite healthcare services, and
18 day-respite services up to ten consecutive hours per day to medically
19 fragile children six weeks old to age twenty-one, including terminally
20 ill and technology dependent children.

21 (b) "Medically fragile child" means an individual who is under twen-
22 ty-one years of age and has an acute or chronic debilitating condition
23 and/or conditions, and/or who meets any of the following criteria:

24 (i) is technologically-dependent for life or health-sustaining func-
25 tions;

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

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1 (ii) Requires a complex medication regimen or medical interventions to
2 maintain or to improve their health status; and

3 (iii) Is in need of ongoing assessment or intervention to prevent
4 serious deterioration of their health status or medical complications
5 that place their life, health, or development at risk.

6 Chronic debilitating medical conditions include, but are not limited
7 to bronchopulmonary dysplasia, spina bifida, cerebral palsy, heart
8 disease, malignancy, cystic fibrosis, neuromuscular disease, encephalo-
9 pathies, muscular dystrophy, and seizure disorders. Individuals who
10 qualify for Care at Home I/II and Care at Home III, IV and VI waiver
11 participants are also eligible for services at Daystar's pediatric day-
12 respite center.

13 (c) "Technology-dependent child" means a person from birth through
14 twenty-one years of age who has a disability, requires the routine use
15 of a specific medical device to compensate for the loss of use of a life
16 sustaining body function, and requires daily, ongoing care or monitoring
17 by trained personnel.

18 (d) "Day-respite care" means day and up to ten consecutive hours of
19 daytime relief for the child's parent or guardian and developmentally
20 appropriate programming for the child and includes but is not limited to
21 pediatric nursing services and supervision, meals, social activities,
22 group educational enrichment programs, and other developmentally appro-
23 priate activities.

24 (e) "Comprehensive case management" means locating, coordinating, and
25 monitoring services for the eligible client population and includes all
26 of the following:

27 (i) Screening of client referrals to identify those persons who can
28 benefit from the available services;

29 (ii) Comprehensive client assessment to determine the services needed;

30 (iii) Coordinating the development of an interdisciplinary comprehen-
31 sive care plan;

32 (iv) Identifying and maximizing informal sources of care; and

33 (v) Ongoing monitoring of service delivery to determine the optimum
34 type, amount, and duration of services provided.

35 (f) "License" means a basic permit to operate a pediatric day-respite
36 center.

37 3. (a) Daystar enrollees must meet the following criteria to receive
38 authorization for reimbursement for pediatric day-respite center
39 services:

40 (i) be medicaid eligible;

41 (ii) diagnosed with a medically-complex or medically fragile condition
42 as defined in paragraph (b) of subdivision two of this section;

43 (iii) be between six weeks of age and twenty-one years old;

44 (iv) be medically stable and not present significant risk to other
45 children or personnel at the center; and

46 (v) require short-term, long-term or intermittent continuous therapeutic
47 interventions or skilled nursing supervision due to a medically
48 complex condition.

49 (b) Short-term pediatric day-respite center services at Daystar may be
50 reimbursed by Medicaid if the services are determined to be medically
51 necessary.

52 (c) Recipients enrolled in a Medicaid health plan may receive services
53 at Daystar.

54 (d) Medicaid reimburses Daystar for its basic services. Basic services
55 includes, but is not limited to, the development, implementation, and
56 monitoring of a comprehensive protocol of care, developed in conjunction

1 with the parent or guardian, which specifies the healthcare, nursing,
2 psychosocial, educational, and developmental therapies required by the
3 medically fragile or technologically dependent child served.

4 (e) Medicaid reimbursement for Daystar's pediatric day-respite center
5 services is limited to:

6 (i) One unit of service per enrollee per day for a full day (per diem
7 rate); or

8 (ii) Four hours or less per day (billed in hourly units) for a partial
9 day.

10 Reimbursement cannot be made for a full-day and partial-day unit of
11 service on the same date of service, for the same recipient.

12 (f) Medicaid reimburses Daystar a fixed rate based on the number of
13 hours per day the enrollee attends the pediatric day-respite center. (i)
14 A full day of service is more than four hours but not to exceed ten
15 hours. A partial day of service is four hours or less. A minimum of
16 fifteen minutes of service is required to round up to a full hour, after
17 the first hour. Daystar shall keep time cards for each enrollee, to be
18 signed by either the parent or guardian at the time of drop-off or pick-
19 up, or by an authorized Medicaid transportation driver and/or other
20 adult, authorized to drop-off or pick-up the child.

21 (ii) Full-day services shall be reimbursed at a per diem rate of two
22 hundred fifty dollars per day. Partial-day services shall be reimbursed
23 at an hourly rate of thirty-five dollars, with a minimum of fifteen
24 minutes of service to round up to a full hour, after the first hour.

25 (g) The Medicaid pediatric day-respite center rate excludes reimburse-
26 ment for the following services: (i) baby food or formulas; (ii) total
27 parenteral and enteral nutrition (TPN); (iii) mental health and psychi-
28 atric services; (iv) supportive or contracted services which include
29 therapies outlined and/or contracted through early intervention (EI).
30 These services shall be funded through New York state's early inter-
31 vention program and shall be contracted separately; (v) family support
32 services contracts; and (vi) preschool programs, including SEIT services
33 authorized under the department of education for children ages three,
34 four and five.

35 (h) Private duty nursing may be provided as a wraparound service or if
36 warranted by the child's medical needs which fall outside the scope of
37 Daystar's approved nursing ratios and shall be billed separately.

38 (i) All other Medicaid services provided by Daystar will be billed
39 separately and Daystar will follow the reimbursement requirements as
40 specified in the provider handbook for each service.

41 4. The department shall develop and adopt rules and regulations for
42 the licensure of, and shall license, pediatric day-respite centers.
43 Such rules and regulations shall include, but not be limited to, the
44 following:

45 (a) Adequacy, safety, and sanitation of the physical plant and equip-
46 ment;

47 (b) Staffing with duly qualified personnel;

48 (c) Training of the staff; and

49 (d) Providing the services offered.

50 5. (a) Each pediatric day-respite center shall have written policies
51 and procedures governing the admission, transfer, and discharge of chil-
52 dren.

53 (b) The admission of each child to a pediatric day-respite center
54 shall be under the supervision of the facility administrator or desig-
55 nee, and shall be in accordance with the facility's child supervision
56 policies and procedures.

1 (c) Each child admitted to a pediatric day-respite center shall be
2 admitted upon prescription by a licensed physician and shall remain
3 under the care of the licensed physician for the duration of the child's
4 stay in the facility.

5 (d) Each child admitted for service to a pediatric day-respite center
6 shall meet at least the following criteria:

7 (i) Infants and children considered for admission to the pediatric
8 day-respite center shall be those who are medically or technologically
9 dependent and have a prescription from a licensed physician.

10 (ii) The infants and children shall not, prior to admission, present
11 significant risk of infection to other children or personnel. The clin-
12 ical advisor or nursing directors shall review, on a case-by-case basis,
13 any child with a suspected infectious disease to determine appropriate-
14 ness of admission.

15 (iii) The child shall be medically stabilized, require skilled nursing
16 care, or other interventions, and be appropriate for outpatient care.

17 (iv) If the child meets the preceding criteria, the clinical director
18 or nursing director of the pediatric day-respite center shall implement
19 a preadmission plan which delineates services to be provided and appro-
20 priate sources for such services.

21 (A) If the child is hospitalized at the time of referral, pre-admis-
22 sion planning shall include the parents or guardians, relevant hospital
23 medical, nursing, social services and developmental staff to assure that
24 the hospital discharge plans shall be implemented upon admission to the
25 pediatric day-respite center.

26 (B) A consent form outlining the purpose of a pediatric day-respite
27 center, family responsibilities, authorized treatment and appropriate
28 liability release, and emergency disposition plans must be signed by the
29 parents or guardians and witnessed prior to admission to such facility.
30 The parents or guardians shall be provided a copy of the consent form. A
31 copy of the signed consent form shall be maintained in the child's
32 medical record. Confidentiality of such facility records shall be main-
33 tained in accordance with applicable state and federal laws.

34 6. (a) Daystar shall develop, implement, and maintain written policies
35 and procedures governing all supervision of children and related medical
36 or other services provided.

37 (b) Policies and procedures shall be developed, maintained and imple-
38 mented by a group of professional pediatric day-respite center staff
39 personnel comprised of at least the clinical advisor or medical consult-
40 ant, the facility's administrator, and the director of nursing services.
41 All policies and procedures shall be reviewed at least annually and
42 revised as needed.

43 (c) The policies and procedures developed shall, at a minimum, ensure
44 compliance with the provisions of section three hundred ninety of the
45 social services law, and the standards contained in this section.

46 7. (a) Daystar shall create a medical advisory board with a minimum
47 of four active members, to provide relevant professional and technical
48 support to Daystar on issues related to the provision of healthcare
49 services to Daystar's program participants. Medical advisory board
50 participants reflect a broad spectrum of pediatric experience and other
51 relevant subspecialties, and are licensed professionals in their
52 respective fields of practice.

53 (b) Such board shall meet quarterly or as needed, to provide guidance
54 and advice to Daystar as issues emerge. Participants may be asked to
55 provide guidance on individual case studies, and/or to assist in recom-

1 mending additional resources to advise Daystar in specific content areas
2 including but not limited to:

3 (i) develop and/or adapt an appropriate medical needs assessment tool
4 to be implemented during the intake process to identify the level of
5 nursing care required and to more closely align Daystar's nursing
6 assignments based on individual medical needs, and in the context of the
7 agency's overall service capacity;

8 (ii) recommendations on Daystar's nursing requirements and capacity
9 based on intake assessment and best practices in the field;

10 (iii) provide guidance on the development of Daystar's practice guide-
11 lines and appropriate scope of work as relates to nursing, medical care,
12 and supervision; and

13 (iv) help advance Daystar's mission and relationships in the medical
14 community and advise as needed on the development of its medical program
15 model.

16 8. (a) A pediatric nurse practitioner may serve as the director of
17 nursing. The director of nursing shall have at least the following qual-
18 ifications:

19 (i) holds a nurse practitioner national certification;

20 (ii) hold a current certification in cardiopulmonary resuscitation
21 (CPR); and

22 (iii) Have a minimum of two years general pediatric nursing experience
23 of which at least six months must have been spent caring for medically
24 fragile infants or children in a pediatric intensive care, neonatal
25 intensive care, pediatric day-respite center or similar care setting
26 during the previous five years.

27 (b) The director of nursing is responsible for supervising the medical
28 program.

29 (c) Registered nurse staffing standards:

30 (i) The registered nurse must have at least the following qualifica-
31 tions and experience:

32 (A) Licensed as a registered nurse in New York, and two or more years
33 of pediatric experience, with at least six months experience caring for
34 medically or technologically dependent children.

35 (B) Current certification in CPR.

36 (C) Pediatric nursing experience, defined as being responsible for the
37 care of acutely ill or chronically ill children, within the previous
38 twenty-four months.

39 (ii) The registered nurse staff must provide:

40 (A) Nursing interventions; educational services to increase the
41 parent's or guardian's confidence and competence in caring for the child
42 with special needs; assistance to facilitate coping with the effects of
43 chronic illness on the child and family and support effective relation-
44 ships among siblings and the ill child; interventions to foster normal
45 development and psychosocial adaptation.

46 (B) Information regarding availability and access to community
47 resources.

48 (C) A collaborative relationship with the interdisciplinary health
49 team.

50 (d) Program staffing standards. For the purposes of this section,
51 other program staff include: nursing assistants, certified special
52 education and/or childhood education teachers, teacher aides, medical
53 assistants, child life, social services, and/or has experience working
54 with individuals with developmental disabilities.

55 (i) The agency shall determine job requirements for program staff.

1 (ii) Program staff must work under the supervision of the executive
2 director.

3 9. Each pediatric day-respite center shall develop staff, parent and
4 guardian training programs.

5 (a) Staff training must include:

6 (i) Quarterly staff development programs appropriate to the category
7 of personnel.

8 (ii) Documentation of all staff development programs, and required
9 participation.

10 (iii) Current CPR certification for all staff.

11 (b) Each new employee will participate in orientation to acquaint the
12 employee with the philosophy, organization, program, practices, and
13 goals of the pediatric day-respite center.

14 (c) A comprehensive orientation to acquaint the parent or guardian
15 with the philosophy and services will be provided at the time of the
16 child's admission to the pediatric day-health respite center.

17 10. (a) A medical record shall be developed at the time of admission,
18 must be maintained for each child, signed by authorized personnel and
19 contain at least the following:

20 (i) A medical plan of treatment and a nursing protocol of care.

21 (ii) All details of the referral, admission, correspondence and papers
22 concerning the child.

23 (iii) Physician orders.

24 (iv) Flow chart of medications and treatments administered.

25 (v) Concise, accurate information and initialed case notes reflecting
26 progress toward achievement of care goals or reasons for lack of
27 progress.

28 (vi) Documentation of nutritional management and special diets, as
29 appropriate.

30 (vii) Documentation of physical, occupational, speech and other
31 special therapies.

32 (b) The individualized nursing care protocol shall be developed within
33 ten working days of admission. The protocol shall be reviewed monthly
34 and revised quarterly, and include any recommendations and revisions to
35 the plan based on consultation with other professionals involved in the
36 child's care.

37 (c) Medical history, including allergies and special precautions.

38 (d) Immunization record.

39 (e) A discharge order written by the primary physician will be docu-
40 mented and entered in the child's record. A discharge summary, which
41 includes the reason for discharge, will also be included.

42 11. All pediatric day-respite centers shall have a quality assurance
43 program and must conduct quarterly reviews of the pediatric day-respite
44 center's medical records for at least half of the children served by the
45 pediatric day health and respite care facility at the time of the quali-
46 ty assurance review. The quarterly review sample must be randomly
47 selected so each child served at the facility has an equal opportunity
48 to be included in the review.

49 (a) The quality assurance committee must include the following: the
50 clinical advisor, administrator, director of nursing, and three other
51 committee members as determined by each pediatric day-respite center.

52 (b) The quality assurance review will be conducted by two members of
53 the quality assurance committee. Within fifteen calendar days of its
54 review, the quality assurance committee shall furnish copies of its
55 report to the pediatric day-respite center clinical advisor and nursing
56 director.

1 (c) Each quarterly quality assurance review shall include:

2 (i) A review of the goals in each child's nursing protocol.

3 (ii) A review of the steps, process, and success in achieving the
4 goals.

5 (iii) Identification of goals not being achieved as expected, reasons
6 for lack of achievement and plans to promote goal achievement.

7 (iv) Evidence that the protocol has been revised to accommodate the
8 findings of the quality assurance report will be forwarded to the quali-
9 ty assurance committee within ten calendar days of receipt of the quali-
10 ty assurance committee report.

11 (v) Implementation of revisions to the protocol shall be documented in
12 the child's record.

13 (d) The quality assurance review will also ascertain and assure the
14 presence of the following documents in each child's medical record:

15 (i) A properly executed consent form.

16 (ii) A medical history for the child, including notations from visits
17 to health care providers.

18 (iii) An immunization record with documentation of allergies and
19 special precautions.

20 12. Infection control requirements must include at least the follow-
21 ing:

22 (a) The pediatric day-respite center shall have an isolation room with
23 one large glass area for observation of the child.

24 (b) Isolation procedures must be used to prevent cross-infections.

25 (c) All cribs and beds must be labeled with the individual child's
26 name. Linens must be removed from the crib for laundering purposes
27 only.

28 (d) Bed linens must be changed when soiled and as necessary, but not
29 less than twice weekly.

30 (e) Antimicrobial soap and disposable paper towels must be at each
31 sink.

32 (f) Staff must wash their hands after direct contact with each child,
33 using appropriate hand washing techniques to prevent the spread of
34 infection from one child to another.

35 (g) Children suspected of having a communicable disease, which may be
36 transmitted through casual contact, as determined by the facility's
37 clinical advisor or director of nursing, must be isolated; the parents
38 or guardians must be notified of the condition; and the child must be
39 removed from the pediatric day-respite center as soon as possible. When
40 the communicable disease is no longer present, as evidenced by a written
41 provider's statement, the child may return to the pediatric day-respite
42 center.

43 (h) Pediatric day-respite center staff members suspected of having a
44 communicable disease must not return to the pediatric day-respite center
45 until the signs and symptoms related to the communicable disease are no
46 longer present, as evidenced by a written physician's statement.

47 13. (a) Pediatric day-respite centers must conform to state fire stan-
48 dards and must be inspected annually. A copy of the current annual fire
49 inspection report, conducted by the local authority having jurisdiction
50 over fire safety or the state fire marshal, must be on file at the
51 pediatric day-respite center. Documentation of a satisfactory fire
52 safety inspection shall be provided at the time of the licensee's annual
53 survey.

54 (b) There must be a working telephone, which is neither locked nor a
55 pay station, in the pediatric day-respite center.

1 (c) Emergency telephone numbers must be posted on or in the immediate
2 vicinity of all telephones.

3 (d) An emergency generator must exist, with sufficient generating
4 power to continue function of medical equipment in the event of a power
5 failure. The emergency generator must be tested every thirty days and
6 satisfactory mechanical operation must be documented on a log designed
7 for that purpose and signed by the person conducting the test.

8 (e) Emergency transportation must be performed by a licensed E.M.S.
9 provider.

10 (f) The pediatric day-respite center must have an emergency kit avail-
11 able to provide basic first aid and cardiopulmonary resuscitation.

12 § 2. This act shall take effect on the one hundred eightieth day after
13 it shall have become a law.