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:

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

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

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

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

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

(i) is technologically-dependent for life or health-sustaining functions;

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

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

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

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

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

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

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

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

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

(iii) Coordinating the development of an interdisciplinary comprehensive care plan;

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

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

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

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

(i) be medicaid eligible;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) Adequacy, safety, and sanitation of the physical plant and equipment;

(b) Staffing with duly qualified personnel;

(c) Training of the staff; and

(d) Providing the services offered.

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

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

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

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

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

(ii) The infants and children shall not, prior to admission, present significant risk of infection to other children or personnel. The clinical advisor or nursing directors shall review, on a case-by-case basis, any child with a suspected infectious disease to determine appropriateness of admission.

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

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

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

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

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

(b) Policies and procedures shall be developed, maintained and implemented by a group of professional pediatric day-respite center staff personnel comprised of at least the clinical advisor or medical consultant, the facility's administrator, and the director of nursing services. All policies and procedures shall be reviewed at least annually and revised as needed.

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

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

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

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

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

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

(iii) provide guidance on the development of Daystar's practice guidelines and appropriate scope of work as relates to nursing, medical care, and supervision; and

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

8. (a) A pediatric nurse practitioner may serve as the director of nursing. The director of nursing shall have at least the following qualifications:

(i) holds a nurse practitioner national certification;

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

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

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

(c) Registered nurse staffing standards:

(i) The registered nurse must have at least the following qualifications and experience:

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

(B) Current certification in CPR.

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

(ii) The registered nurse staff must provide:

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

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

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

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

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

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

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

(a) Staff training must include:

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

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

(iii) Current CPR certification for all staff.

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

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

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

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

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

(iii) Physician orders.

(iv) Flow chart of medications and treatments administered.

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

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

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

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

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

(d) Immunization record.

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

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

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

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

(c) Each quarterly quality assurance review shall include:

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

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

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

(iv) Evidence that the protocol has been revised to accommodate the findings of the quality assurance report will be forwarded to the quality assurance committee within ten calendar days of receipt of the quality assurance committee report.

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

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

(i) A properly executed consent form.

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

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

12. Infection control requirements must include at least the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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