

# STATE OF NEW YORK

6602

2017-2018 Regular Sessions

## IN SENATE

June 6, 2017

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

AN ACT to amend the public health law, in relation to partially reinstating a Medicaid reserved bed benefit for temporarily hospitalized nursing home residents

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

1 Section 1. Subdivision 25 of section 2808 of the public health law, as  
2 amended by section 2 of part E of chapter 57 of the laws of 2017, is  
3 amended to read as follows:

4 25. Reserved bed days. (a) For purposes of this subdivision, a  
5 "reserved bed day" is a day for which a governmental agency pays or  
6 otherwise requires a residential health care facility to reserve a bed  
7 for a person eligible for medical assistance pursuant to title eleven of  
8 article five of the social services law while he or she is temporarily  
9 hospitalized or on therapeutic leave of absence from the facility.

10 (b) Notwithstanding any other provisions of this section or any other  
11 law or regulation to the contrary, for reserved bed days provided on  
12 behalf of persons twenty-one years of age or older:

13 (i) payments for reserved bed days shall be made at ninety-five  
14 percent of the Medicaid rate otherwise payable to the facility for  
15 services provided on behalf of such person; [~~and~~]

16 (ii) notwithstanding subparagraph (i) of this paragraph, for periods  
17 on and after July first, two thousand seventeen, payments for reserved  
18 bed days for temporary hospitalizations shall be made at fifty percent  
19 of the Medicaid rate otherwise payable to the facility for services  
20 provided on behalf of such person, and payments for reserved bed days  
21 for therapeutic leaves of absence shall be made at ninety-five percent  
22 of the Medicaid rate otherwise payable to the facility for services  
23 provided on behalf of such person;

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

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(iii) for periods on and after July first, two thousand seventeen, payment to a facility for reserved bed days provided on behalf of such person for temporary hospitalizations may not exceed seven days in any twelve month period; provided however that such payments on behalf of persons receiving services in discrete units for long-term ventilator dependent residents may not exceed fourteen days in any twelve month period; and further provided that such facility shall reserve the same bed and room the person occupied before being hospitalized for up to fourteen days in any twelve month period, notwithstanding the seven day limitation of payment established by this subparagraph; and

(iv) payment to a facility for reserved bed days provided on behalf of such person for therapeutic leaves of absence may not exceed ten days in any twelve month period.

(c) Subject to the provisions of this subdivision and to the availability of federal financial participation, the commissioner shall promulgate regulations, and may promulgate emergency regulations, effective for periods on and after July first, two thousand seventeen, establishing payments for reserved bed days and applicable requirements permitting residents to return to a facility after they are hospitalized or placed on therapeutic leave of absence. Such regulations shall provide as follows:

(i) the limitations on payment established by this subdivision shall not apply to reserved bed days provided on behalf of persons less than twenty-one years of age, or to reserved bed days payments to hospices for persons residing in residential health care facilities who are in receipt of hospice services;

(ii) in order to qualify for coverage of reserved bed days, the person must have resided in the residential health care facility for at least thirty days since the date of his or her initial admission; and the part of the facility to which the person will return must have a vacancy rate of no more than five percent on the first day the person is hospitalized or on a therapeutic leave of absence;

(iii) unless medically contraindicated, the residential health care facility shall reserve the same bed and room the person occupied before being hospitalized or placed on therapeutic leave of absence;

(iv) a residential health care facility shall not reserve a person's bed when:

(A) it is clear when the person is hospitalized that he or she will not return to the facility within fourteen days or fewer;

(B) after hospitalization, the person will need a level of care the facility does not provide; or

(C) the recipient does not want to return to the facility; and

(v) a residential health care facility shall establish and follow a written policy under which a person whose hospitalization or therapeutic leave exceeds the bed hold period established under this subdivision, or who has resided in the nursing home for thirty days or more and who has been hospitalized or who has been placed on therapeutic leave without being given a bed hold, is readmitted to the facility immediately upon the first availability of a bed in a semi-private room if the resident wants to return to the facility; requires the services provided by the facility; and is eligible for Medicaid covered residential health care facility services.

§ 2. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2017.