

# STATE OF NEW YORK

7320

2019-2020 Regular Sessions

## IN ASSEMBLY

April 22, 2019

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

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:

1 Section 1. Subdivision 3 of section 365-f of the social services law,  
2 as amended by chapter 511 of the laws of 2015, is amended to read as  
3 follows:

4 3. Division of responsibilities. Eligible individuals who elect to  
5 participate in the program assume the responsibility for services under  
6 such program as mutually agreed to by the eligible individual and  
7 provider and as documented in the eligible individual's record, includ-  
8 ing, but not limited to, recruiting, hiring and supervising their  
9 personal assistants. For the purposes of this section, personal assist-  
10 ant shall mean an adult who provides services under this section to the  
11 eligible individual under the eligible individual's instruction, super-  
12 vision and direction or under the instruction, supervision and direction  
13 of the eligible individual's designated representative, provided that [~~a~~  
14 ~~person~~] persons legally responsible for an eligible individual's care  
15 and support, an eligible individual's spouse or designated represen-  
16 tative may not be the personal [~~assistant~~] assistants for the eligible  
17 individual unless such persons are the only persons responsible for the  
18 eligible individual's care and support; however, a personal assistant  
19 may include any other adult relative of the eligible individual,  
20 provided, however, that the program determines that the services  
21 provided by such relative are consistent with an individual's plan of  
22 care and that the aggregate cost for such services does not exceed the  
23 aggregate costs for equivalent services provided by a non-relative  
24 personal assistant. Such individuals shall be assisted as appropriate  
25 with service coverage, supervision, advocacy and management. Providers

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

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1 shall not be liable for fulfillment of responsibilities agreed to be  
2 undertaken by the eligible individual. This subdivision, however, shall  
3 not diminish the participating provider's liability for failure to exer-  
4 cise reasonable care in properly carrying out its responsibilities under  
5 this program, which shall include monitoring such individual's continu-  
6 ing ability to fulfill those responsibilities documented in his or her  
7 records. Failure of the individual to carry out his or her agreed to  
8 responsibilities may be considered in determining such individual's  
9 continued appropriateness for the program.

10 § 2. This act shall take effect immediately.