

# STATE OF NEW YORK

8403

## IN SENATE

May 22, 2020

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

AN ACT to amend the social services law, in relation to eligibility for medical assistance for personal care services for persons with traumatic brain injury, cognitive impairments, developmental disabilities, blindness, or visual impairment

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

1 Section 1. Subparagraph (v) of paragraph (e) of subdivision 2 of  
2 section 365-a of the social services law, as added by section 2-a of  
3 part MM of chapter 56 of the laws of 2020, is amended to read as  
4 follows:

5 (v) subject to the availability of federal financial participation,  
6 personal care services other than personal emergency response services  
7 available pursuant to this paragraph shall be available only to individ-  
8 uals assessed as needing at least limited assistance with physical  
9 maneuvering with more than two activities of daily living, or for indi-  
10 viduals with a dementia or Alzheimer's diagnosis, traumatic brain inju-  
11 ry, cognitive impairment, developmental disability, blindness, or visual  
12 impairment, assessed as needing at least supervision with more than one  
13 activity of daily living, as defined and determined by using an  
14 evidenced based validated assessment instrument approved by the commis-  
15 sioner and in accordance with regulations of the department and any  
16 applicable state and federal laws by an independent assessor. The  
17 provisions of this subparagraph shall only apply to individuals who  
18 receive an initial authorization for such services on or after October  
19 first, two thousand twenty;

20 § 2. Paragraph (c) of subdivision 2 of section 365-f of the social  
21 services law, as amended by section 3 of part MM of chapter 56 of the  
22 laws of 2020, is amended to read as follows:

23 (c) has been determined by the social services district, pursuant to  
24 an assessment of the person's appropriateness for the program, conducted  
25 with an appropriate long term home health care program, a certified home  
26 health agency, or an AIDS home care program or pursuant to the personal

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

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1 care program, as being in need of home care services or private duty  
2 nursing and as needing at least limited assistance with physical maneu-  
3 vering with more than two activities of daily living, or for persons  
4 with a dementia or Alzheimer's diagnosis, traumatic brain injury, cogni-  
5 tive impairment, developmental disability, blindness, or visual impair-  
6 ment, assessed as needing at least supervision with more than one activ-  
7 ity of daily living, provided that the provisions related to activities  
8 of daily living in this paragraph shall only apply to persons who  
9 initially seek eligibility for the program on or after October first,  
10 two thousand twenty, and who is able and willing or has a designated  
11 representative, including a legal guardian able and willing to make  
12 informed choices, or a designated relative or other adult who is able  
13 and willing to assist in making informed choices, as to the type and  
14 quality of services, including but not limited to such services as nurs-  
15 ing care, personal care, transportation and respite services; and  
16 § 3. This act shall take effect October 1, 2020; provided however,  
17 that if part MM of chapter 56 of the laws of 2020 shall not have taken  
18 effect on or before such date then sections one and two of this act  
19 shall take effect on the same date and in the same manner as such chap-  
20 ter of the laws of 2020 takes effect.