STATE OF NEW YORK

4309

2021-2022 Regular Sessions

IN ASSEMBLY

February 1, 2021

Introduced by M. of A. GOTTFRIED, KIM, SIMON, STECK, CARROLL, OTIS, HEVESI, LUPARDO, ABINANTI -- read once and referred 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:

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

(v) subject to the availability of federal financial participation, personal care services other than personal emergency response services available pursuant to this paragraph shall be available only to individuals assessed as needing at least limited assistance with physical maneuvering with more than two activities of daily living, or for individuals with a dementia or Alzheimer's diagnosis, **traumatic brain injury, cognitive impairment, developmental disability, blindness, or visual impairment,** assessed as needing at least supervision with more than one activity of daily living, as defined and determined by using an evidenced based validated assessment instrument approved by the commissioner and in accordance with regulations of the department and any applicable state and federal laws by an independent assessor. The provisions of this subparagraph shall only apply to individuals who receive an initial authorization for such services on or after October first, two thousand twenty;

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

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

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(c) has been determined by the social services district, pursuant to an assessment of the person's appropriateness for the program, conducted with an appropriate long term home health care program, a certified home health agency, or an AIDS home care program or pursuant to the personal care program, as being in need of home care services or private duty nursing and as needing at least limited assistance with physical maneuvering with more than two activities of daily living, or for persons with a dementia or Alzheimer's diagnosis, **traumatic brain injury, cognitive impairment, developmental disability, blindness, or visual impairment, assessed** as needing at least supervision with more than one activity of daily living, provided that the provisions related to activities of daily living in this paragraph shall only apply to persons who initially seek eligibility for the program on or after October first, two thousand twenty, and who is able and willing or has a designated representative, including a legal guardian able and willing to make informed choices, or a designated relative or other adult who is able and willing to assist in making informed choices, as to the type and quality of services, including but not limited to such services as nursing care, personal care, transportation and respite services; and

§ 3. This act shall take effect immediately; provided, however, that if the amendments made to subparagraph (v) of paragraph (e) of subdivision 2 of section 365-a of the social services law by section 2-a, and to paragraph (c) of subdivision 2 of section 365-f of the social services law by section 3, of part MM of chapter 56 of the laws of 2020 shall not have taken effect on or before such date then sections one and two of this act shall take effect on the same date and in the same manner as such chapter of the laws of 2020 takes effect.