STATE OF NEW YORK

7443--C

Cal. No. 310

2021-2022 Regular Sessions

IN ASSEMBLY

May 10, 2021

Introduced by M. of A. ABINANTI, BICHOTTE HERMELYN, SAYEGH, OTIS, WEPRIN, BUTTENSCHON, SANTABARBARA -- read once and referred to the Committee on Social Services -- again amended on third reading, ordered reprinted, retaining its place on the order of third reading -- passed by Assembly and delivered to the Senate, recalled from the Senate, vote reconsidered, bill amended, ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the social services law, in relation to replacing certain instances of the term "mentally retarded" with the term "individuals with developmental disabilities"

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

Section 1. Paragraph (c) of subdivision 5 of section 62 of the social services law, as amended by chapter 344 of the laws of 1973, is amended to read as follows:

(c) When a [~~mentally ill, mentally retarded or epileptic person~~] **person with a mental illness or developmental disability** is in need of public assistance or care while on convalescent status or community status from a state hospital or institution under the provisions of section 29.15 of the mental hygiene law, the public welfare district, town or city from which he was admitted to such hospital or institution shall be responsible for providing and paying for such assistance or care as in the case of other persons requiring public assistance and care, except that such responsibility shall continue during any period such person is on convalescent status or community status outside the territory of such public welfare district, town or city and shall continue thereafter in accordance with the provisions of this paragraph and paragraph (b) **of this subdivision** if such person was receiving or should have been receiving public assistance or care from such public welfare district, town or city outside its territory at the time he was discharged from such convalescent status or community status.

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

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§ 2. The opening paragraph of subdivision 1 of section 131-o of the social services law, as amended by section 45 of part C of chapter 58 of the laws of 2005, is amended to read as follows:

Each individual receiving family care, residential care or care in a school for [~~the mentally retarded~~] **individuals with developmental disabilities**, or enhanced residential care as those terms are defined in section two hundred nine of this chapter, and who is receiving benefits under the program of additional state payments pursuant to this chapter while receiving such care, shall be entitled to a monthly personal allowance out of such benefits in the following amount:

§ 3. Section 199 of the social services law, as amended by chapter 322 of the laws of 2021, is amended to read as follows:

§ 199. Power of commissioner of public welfare to detain certain incarcerated individuals. The commissioner of public welfare shall have power to detain in the public home, pending a vacancy for such person in a state institution, a person over the age of sixteen who has been certified as [~~mentally retarded or epileptic~~] **an individual with a developmental disability** in accordance with the provisions of the mental hygiene law and for whom an application for admission to a state institution has been made. Whenever the commissioner shall so detain an incarcerated individual in the public home he or she shall at once notify the state department of mental hygiene.

§ 4. Paragraph (e) of subdivision 3 of section 209 of the social services law, as amended by chapter 672 of the laws of 2019, is amended to read as follows:

(e) "Receiving enhanced residential care" shall mean residing in a privately operated school for [~~the mentally retarded and developmentally disabled~~] **individuals with developmental disabilities** which is certified by the office for people with developmental disabilities of the department of mental hygiene, in accordance with applicable provisions of law and regulations or an adult home, or enriched housing program certified by the department of health in accordance with applicable law, rules and regulations to the extent permitted by federal law and regulations.

§ 5. Subdivision 1 of section 210 of the social services law, as amended by chapter 515 of the laws of 2006, is amended to read as follows:

1. Any inconsistent provisions of this title or any other law notwithstanding, but subject to the provisions of subdivisions two and three of this section, an individual who is deemed to have met the eligibility criteria for additional state payments pursuant to paragraph (c) of subdivision one of section two hundred nine of this title, shall be entitled to receive for each month after December, nineteen hundred seventy-three an additional state payment in an amount which, when added to the supplemental security income benefit and other countable income, is equal to such individual's December, nineteen hundred seventy-three cash grant of assistance under the state's program of old age assistance, assistance to the blind, aid to the disabled or the combined program of aid to aged, blind and disabled persons, plus income not excluded under such state program, plus an amount equal to the January, nineteen hundred seventy-two bonus value of food stamps as determined in accordance with the regulations of the office of temporary and disability assistance plus, for any month after June, nineteen hundred seventy-five, an amount reflecting the federal supplemental security increases resulting from July first, nineteen hundred seventy-five cost of living increases in such benefits, plus for any month after June, nineteen hundred eighty-two, an amount equal to the July first, nineteen hundred

eighty-two federal supplemental security income cost of living adjustment, providing such individual was eligible to receive a mandatory state supplement for the month of December, nineteen hundred eighty-one, plus for any month after June, nineteen hundred eighty-three, an amount equal to $17.70 for individuals, $26.55 for couples who are living alone or living with others and $35.40 for couples receiving family care, residential care or care in schools for [~~the mentally retarded~~] **individuals with developmental disabilities**, plus for any month after December, nineteen hundred eighty-three, an amount equal to $9.70 for individuals, $15.60 for couples who are living alone or living with others and $19.40 for couples receiving family care, residential care or care in schools for [~~the mentally retarded~~] **individuals with developmental disabilities**, plus for any month after December, nineteen hundred eighty-four, an amount equal to $11.00 for individuals, $16.00 for couples who are living alone or living with others and $22.00 for couples receiving family care, residential care or care in schools for [~~the mentally retarded~~] **individuals with developmental disabilities**, plus for any month after December, nineteen hundred eighty-five, an amount equal to $11.00 for individuals, $16.00 for couples who are living alone or living with others and $22.00 for couples receiving family care, residential care or care in schools for [~~the mentally retarded~~] **individuals with developmental disabilities**, plus for any month after December, nineteen hundred eighty-six an amount equal to $4.00 for individuals, $6.00 for couples who are living alone or living with others and $8.00 for couples receiving family care, residential care or care in schools for [~~the mentally retarded~~] **individuals with developmental disabilities**, plus for any month after December, nineteen hundred eighty-seven an amount equal to $14.00 for individuals, $22.00 for couples who are living alone or living with others and $28.00 for couples receiving family care, residential care or care in schools for [~~the mentally retarded~~] **individuals with developmental disabilities**, plus for any month after December, nineteen hundred eighty-eight an amount equal to $14.00 for individuals, $21.00 for couples who are living alone or living with others and $28.00 for couples receiving family care, residential care or care in schools for [~~the mentally retarded~~] **individuals with developmental disabilities**, plus for any other month after December, nineteen hundred eighty-nine an amount equal to $18.00 for individuals, $27.00 for couples who are living alone or living with others and $36.00 for couples receiving family care, residential care or care in schools for [~~the mentally retarded~~] **individuals with developmental disabilities**, plus for any month after December, nineteen hundred ninety an amount equal to $21.00 for individuals, $31.00 for couples who are living alone or living with others and $42.00 for couples receiving family care, residential care or care in schools for [~~the mentally retarded~~] **individuals with developmental disabilities**, plus for any month after December, nineteen hundred ninety-one an amount equal to $15.00 for individuals, $23.00 for couples who are living alone or living with others and $30.00 for couples receiving family care, residential care or care in schools for [~~the mentally retarded~~] **individuals with developmental disabilities**, plus for any month after December, nineteen hundred ninety-two, an amount equal to $12.00 for individuals, $19.00 for couples who are living alone or living with others and $24.00 for couples receiving family care, residential care or care in schools for [~~the mentally retarded~~] **individuals with developmental disabilities,** plus for any month after December, nineteen hundred ninety-three an amount equal to $12.00 for individuals, $17.00 for couples who are

living alone or living with others and $24.00 for couples receiving family care, residential care or care in schools for [~~the mentally retarded~~] **individuals with developmental disabilities,** plus for any month after December, nineteen hundred ninety-four an amount equal to $12.00 for individuals, $18.00 for couples who are living alone or living with others and $24.00 for couples receiving family care, residential care or care in schools for [~~the mentally retarded~~] **individuals with developmental disabilities**, plus for any month after December, nineteen hundred ninety-five an amount equal to $12.00 for individuals, $18.00 for couples who are living alone or living with others and $24.00 for couples receiving family care, residential care or care in schools for [~~the mentally retarded~~] **individuals with developmental disabilities**, plus for any month after December, nineteen hundred ninety-six, an amount equal to $14.00 for individuals and $21.00 for couples plus for any month after December, nineteen hundred ninety-seven an amount equal to $10.00 for individuals and $15.00 for couples plus for any month after December, nineteen hundred ninety-eight an amount equal to $6.00 for individuals and $11.00 for couples plus for any month after December, nineteen hundred ninety-nine an amount equal to $13.00 for individuals and $18.00 for couples plus for any month after December, two thousand an amount equal to $18.00 for individuals and $27.00 for couples plus for any month after December, two thousand one an amount equal to $15.00 for individuals and $21.00 for couples plus for any month after December, two thousand two an amount equal to $7.00 for individuals and $12.00 for couples plus for any month after December, two thousand three an amount equal to $12.00 for individuals and $17.00 for couples plus for any month after December, two thousand four an amount equal to $15.00 for individuals and $23.00 for couples plus for any month after December, two thousand five an amount equal to $24.00 for individuals and $35.00 for couples plus for any month after December, two thousand six an amount equal to the amount of any increases in federal supplemental security income benefits for individuals or couples pursuant to section 1617 of the Social Security Act (42 USC § 1382f) which become effective on or after January first, two thousand seven.

§ 6. Paragraph (c) of subdivision 2 and paragraph (a) of subdivision 4 of section 365 of the social services law, paragraph (c) of subdivision 2 as amended by chapter 516 of the laws of 1973 and paragraph (a) of subdivision 4 as amended by chapter 170 of the laws of 1994, are amended to read as follows:

(c) who are patients in that part of a public institution operated for the care of [~~the mentally retarded~~] **individuals with developmental disabilities** that has been approved pursuant to law as a hospital or nursing home;

(a) who are patients in that part of a public institution operated for the care of [~~the mentally retarded~~] **individuals with developmental disabilities** that has been approved pursuant to law as an intermediate care facility or who are participating in a program operated by the department of mental hygiene or by a voluntary agency under an agreement with such department, in that part of such a facility that has been approved as a day treatment program in accordance with the regulations of the state commissioner of mental hygiene;

§ 7. Clause (iii) of subparagraph 2 of paragraph (e) of subdivision 1, clauses (vii), (viii) and (ix) of subparagraph 1 of paragraph (d) and clauses (vii), (viii) and (ix) of subparagraph 1 of paragraph (e) of subdivision 5 of section 366 of the social services law, clause (iii) of subparagraph 2 of paragraph (e) of subdivision 1 as added by section 1

of part D of chapter 56 of the laws of 2013, clauses (vii), (viii) and (ix) of subparagraph 1 of paragraph (d) of subdivision 5 as added by chapter 170 of the laws of 1994, clause (vii) of subparagraph 1 of paragraph (e) of subdivision 5 as amended by section 51 of part C of chapter 58 of the laws of 2008 and clauses (viii) and (ix) of subparagraph 1 of paragraph (e) of subdivision 5 as added by section 26-a of part C of chapter 109 of the laws of 2006, are amended to read as follows:

(iii) a patient in a public institution operated primarily for the care of [~~the mentally retarded~~] **individuals with developmental disabilities** who is receiving medical care or treatment in that part of such institution that has been approved pursuant to law as a hospital or nursing home;

(vii) "institutionalized individual" means any individual who is an in-patient in a nursing facility, including an intermediate care facility for [~~the mentally retarded~~] **individuals with developmental disabilities**, or who is an in-patient in a medical facility and is receiving a level of care provided in a nursing facility, or who is receiving care, services or supplies pursuant to a waiver granted pursuant to subsection (c) of section 1915 of the federal social security act.

(viii) "intermediate care facility for [~~the mentally retarded~~] **individuals with developmental disabilities**" means a facility certified under article sixteen of the mental hygiene law and which has a valid agreement with the department for providing intermediate care facility services and receiving payment therefor under title XIX of the federal social security act.

(ix) "nursing facility" means a nursing home as defined by section twenty-eight hundred one of the public health law and an intermediate care facility for [~~the mentally retarded~~] **individuals with developmental disabilities**.

(vii) "institutionalized individual" means any individual who is an in-patient in a nursing facility, including an intermediate care facility for [~~the mentally retarded~~] **individuals with developmental disabilities**, or who is an in-patient in a medical facility and is receiving a level of care provided in a nursing facility, or who is described in section 1902(a)(10)(A)(ii)(VI) of the federal social security act.

(viii) "intermediate care facility for [~~the mentally retarded~~] **individuals with developmental disabilities**" means a facility certified under article sixteen of the mental hygiene law and which has a valid agreement with the department for providing intermediate care facility services and receiving payment therefor under title XIX of the federal social security act.

(ix) "nursing facility" means a nursing home as defined by section twenty-eight hundred one of the public health law and an intermediate care facility for [~~the mentally retarded~~] **individuals with developmental disabilities**.

§ 8. The opening paragraph of subparagraph (ii) of paragraph (a) of subdivision 2 of section 369 of the social services law, as amended by section 62 of part C of chapter 60 of the laws of 2014, is amended to read as follows:

with respect to the real property of an individual who is an inpatient in a nursing facility, intermediate care facility for [~~the mentally retarded~~] **individuals with developmental disabilities**, or other medical institution, who is not reasonably expected to be discharged from the medical institution and to return home, and who is required, as a condition of receiving services in such institution under the state plan for medical assistance, to spend for costs of medical care all but a minimal

amount of his or her income required for personal needs; provided, however, any such lien will dissolve upon the individual's discharge from the medical institution and return home; in addition, no such lien may be imposed on the individual's home if one of the following persons is lawfully residing in the home:

§ 9. Paragraph (f) of subdivision 2 of section 473-e of the social services law, as added by chapter 395 of the laws of 1995, is amended to read as follows:

(f) a person named as a court-appointed evaluator or guardian in accordance with article eighty-one of the mental hygiene law, or a person named as a guardian for [~~the mentally retarded~~] **individuals with developmental disabilities** in accordance with article seventeen-A of the surrogate's court procedure act; or

§ 10. Section 2 of the social services law is amended by adding two new subdivisions 39 and 40 to read as follows:

39. "Mental illness" shall have the same meaning as defined in section 1.03 of the mental hygiene law.

40. "Developmental disability" shall have the same meaning as defined in section 1.03 of the mental hygiene law.

§ 11. This act shall take effect immediately.