

# STATE OF NEW YORK

3055--A

2021-2022 Regular Sessions

## IN SENATE

January 27, 2021

Introduced by Sens. RIVERA, BIAGGI, GAUGHRAN, HOYLMAN, JACKSON, LIU, MAY, MYRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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;

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

LBD07223-03-1

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

4 (c) has been determined by the social services district, pursuant to  
5 an assessment of the person's appropriateness for the program, conducted  
6 with an appropriate long term home health care program, a certified home  
7 health agency, or an AIDS home care program or pursuant to the personal  
8 care program, as being in need of home care services or private duty  
9 nursing and as needing at least limited assistance with physical maneu-  
10 vering with more than two activities of daily living, or for persons  
11 with a dementia or Alzheimer's diagnosis, traumatic brain injury, cog-  
12 nitive impairment, developmental disability, blindness, or visual impair-  
13 ment, assessed as needing at least supervision with more than one activ-  
14 ity of daily living, provided that the provisions related to activities  
15 of daily living in this paragraph shall only apply to persons who  
16 initially seek eligibility for the program on or after October first,  
17 two thousand twenty, and who is able and willing or has a designated  
18 representative, including a legal guardian able and willing to make  
19 informed choices, or a designated relative or other adult who is able  
20 and willing to assist in making informed choices, as to the type and  
21 quality of services, including but not limited to such services as nurs-  
22 ing care, personal care, transportation and respite services; and

23 § 3. This act shall take effect immediately.