STATE OF NEW YORK

5079

2021-2022 Regular Sessions

IN SENATE

February 23, 2021

Introduced by Sens. PARKER, ADDABBO, BAILEY, KENNEDY, PERSAUD -- read twice and ordered printed, and when printed to be committed to the Committee on Disabilities

AN ACT to amend the mental hygiene law, in relation to establishing a program of tiered eligibility for services offered by the office for people with developmental disabilities for persons with learning disabilities and other complex neurological impairments

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

Section 1. The mental hygiene law is amended by adding a new section 41.59 to read as follows:

§ 41.59 Tiered services eligibility.

1. Legislative findings and purpose. The legislature hereby finds that individuals with learning disabilities and other complex neurological impairments are often not provided essential support and habilitative services due to the lack of established office for people with developmental disabilities' eligibility protocols. This includes individuals with learning disabilities, high functioning autism spectrum disorders, such as Asperger's Syndrome, and a number of other complex neurologically based cognitive disabilities. Unfortunately, these individuals are then left to navigate their lives and the challenges of their disabilities with minimal or no assistance. As a result, such individuals often lead lives of great difficulty and vulnerability that may include, but are not limited to, extended periods of incarceration, lifelong dependence on public assistance, substance abuse, and victimization, coupled with many other negative and costly outcomes. In response to this growing problem, the legislature hereby directs the commissioner of developmental disabilities to develop and implement a program of tiered eligibility for office for people with developmental disabilities' services for persons with learning disabilities and other complex neurological impairments. This tiered service-delivery model would allow services to

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

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be targeted and based on an individual's specific needs, which for some may be more intensive and for others relatively minimal. This model will also facilitate rapid response to addressing problems encountered by individuals in crisis. Providing services that are truly needed will be more cost effective and a more sensible option than the current eligibility process utilized by the office for people with developmental disabilities.

2. When used in this article, unless otherwise expressly stated or unless the context otherwise requires:

(a) "learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using spoken or written language, which may manifest itself in an imperfect ability to listen, think, speak, read, write, spell or to do mathematical calculations. This includes such conditions as perceptual disabilities, minimal brain dysfunction, dyslexia, dysgraphia, dyscalculia, dyspraxia, and developmental aphasia;

(b) "complex neurological impairment" means autism spectrum disorder, such as Asperger's Syndrome, or other cognitive disabilities of a similar nature and resulting in similar needs by affected individuals;

(c) "intensive service navigation" means a service whose primary function is to connect persons with learning disabilities and/or other complex neurological impairments to appropriate services and supports. Intensive service navigation coordinates all services for a person with a learning disability or other complex neurological impairment including, but not limited to, mental health services, parenting classes, support groups, recreational activities, vocational services, and educational transitional planning and all basic needs of the individual. The services of the intensive service navigator are time limited and oriented to short term crisis intervention.

3. Notwithstanding any inconsistent provisions of this chapter or any other state law, the commissioner of developmental disabilities shall establish a program of tiered eligibility for services offered by the office for people with developmental disabilities for persons with learning disabilities and other complex neurological impairments. Such program shall contain the following elements:

(a) when an individual presents to a service provider seeking support services, the service provider shall determine if the individual is presenting with a learning disability or other complex neurological impairment. If the service provider determines that the individual is a person with an apparent learning disability or other complex neurological impairment, and that such individual requires immediate service in order to protect and promote the individual's health and safety, or that the individual otherwise faces a crisis situation that can be helped by service and assistance, the service provider may implement the tiered services eligibility program;

(b) tier one of the tiered services eligibility program will consist of the immediate provision of intensive service navigation. This provision of services will be provided for up to six months in duration. The service may end anytime prior to the end of the six-month period if the individual and service provider agree that no further service or intervention is required. If the individual and service provider agree at the end of the six month period that the need for services persists and more intervention is required, the individual will move into tier two;

(c) tier two of the tiered services eligibility program will be provided for up to an additional six-month period and provide:

(1) continuation and intensification of the intensive service navigator's efforts to stabilize the individual's crisis situation;

(2) a process potentially leading to full eligibility for office for people with developmental disabilities' services. As part of this process, the intensive service navigator will conduct an assessment of the individual's adaptive behavior levels, conduct an assessment of an individual's ability to effectively learn and put into practice new adaptive skills, and generally prepare the individual for the eligibility process;

(d) if during tier two, the individual learns new skills and the crisis subsides, the individual and service provider can agree that services be terminated prior to the conclusion of this tier; and

(e) if the intensive service navigator and individual agree that the individual would benefit from on-going service and support, the intensive service navigator will assist the individual in applying to the office for people with developmental disabilities for a full eligibility determination.

4. The commissioner of developmental disabilities shall, in consultation with experienced service providers, develop a reimbursement methodology for intensive service navigation as described in this section. Such reimbursement shall cover the service provider's reasonable costs for providing this service and be paid to the service providers as part of the usual and customary cost reimbursement process.

5. In developing this program, the commissioner of developmental disabilities shall consult with a statewide association specifically representing individuals with learning disabilities and related services providers.

§ 2. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such date.