STATE OF NEW YORK

2493

2021-2022 Regular Sessions

IN ASSEMBLY

January 19, 2021

Introduced by M. of A. EICHENSTEIN -- read once and referred to the Committee on Health

AN ACT to amend the social services law, in relation to consumer directed personal assistance programs

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

Section 1. Subdivision 3 of section 365-f of the social services law, as amended by section 9 of part QQ of chapter 56 of the laws of 2020, is amended to read as follows:

3. Division of responsibilities. Eligible individuals who elect to participate in the program assume the responsibility for services under such program as mutually agreed to by the eligible individual and provider and as documented in the eligible individual's record, including, but not limited to, recruiting, hiring and supervising their personal assistants. For the purposes of this section, personal assistant shall mean an adult who has obtained an individual unique identifier from the state by or before a date determined by the commissioner of health in consultation with the Medicaid inspector general, and provides services under this section to the eligible individual under the eligible individual's instruction, supervision and direction or under the instruction, supervision and direction of the eligible individual's designated representative, provided that [~~a person~~] **persons** legally responsible for an eligible individual's care and support, an eligible individual's spouse or designated representative may not be the personal [~~assistant~~] **assistants** for the eligible individual **unless such persons are the only persons responsible for the eligible individual's care and support**; however, a personal assistant may include any other adult relative of the eligible individual, provided, however, that the program determines that the services provided by such relative are consistent with an individual's plan of care and that the aggregate cost for such services does not exceed the aggregate costs for equivalent services

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

LBD00394-01-1

provided by a non-relative personal assistant. Any personal information submitted to obtain such unique identifier shall be maintained as confidential pursuant to article six-A of the public officers law ("New York state privacy protection law"). Such individuals shall be assisted as appropriate with service coverage, supervision, advocacy and management. Providers shall not be liable for fulfillment of responsibilities agreed to be undertaken by the eligible individual. This subdivision, however, shall not diminish the participating provider's liability for failure to exercise reasonable care in properly carrying out its responsibilities under this program, which shall include monitoring such individual's continuing ability to fulfill those responsibilities documented in his or her records. Failure of the individual to carry out his or her agreed to responsibilities may be considered in determining such individual's continued appropriateness for the program.

§ 2. This act shall take effect immediately.