

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:

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;
20 § 2. Paragraph (c) of subdivision 2 of section 365-f of the social
21 services law, as amended by section 3 of part MM of chapter 56 of the
22 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.

LBD07223-02-1

1 (c) has been determined by the social services district, pursuant to
2 an assessment of the person's appropriateness for the program, conducted
3 with an appropriate long term home health care program, a certified home
4 health agency, or an AIDS home care program or pursuant to the personal
5 care program, as being in need of home care services or private duty
6 nursing and as needing at least limited assistance with physical maneu-
7 vering with more than two activities of daily living, or for persons
8 with a dementia or Alzheimer's diagnosis, traumatic brain injury, cogni-
9 tive impairment, developmental disability, blindness, or visual impair-
10 ment, assessed as needing at least supervision with more than one activ-
11 ity of daily living, provided that the provisions related to activities
12 of daily living in this paragraph shall only apply to persons who
13 initially seek eligibility for the program on or after October first,
14 two thousand twenty, and who is able and willing or has a designated
15 representative, including a legal guardian able and willing to make
16 informed choices, or a designated relative or other adult who is able
17 and willing to assist in making informed choices, as to the type and
18 quality of services, including but not limited to such services as nurs-
19 ing care, personal care, transportation and respite services; and
20 § 3. This act shall take effect immediately; provided, however, that
21 if the amendments made to subparagraph (v) of paragraph (e) of subdivi-
22 sion 2 of section 365-a of the social services law by section 2-a, and
23 to paragraph (c) of subdivision 2 of section 365-f of the social
24 services law by section 3, of part MM of chapter 56 of the laws of 2020
25 shall not have taken effect on or before such date then sections one and
26 two of this act shall take effect on the same date and in the same
27 manner as such chapter of the laws of 2020 takes effect.