

STATE OF NEW YORK

7443

2021-2022 Regular Sessions

IN ASSEMBLY

May 10, 2021

Introduced by M. of A. ABINANTI -- read once and referred to the Committee on Social Services

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

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

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

4 (c) When a [~~mentally ill~~] person with a mental illness, [~~mentally~~
5 ~~retarded~~] an intellectual or developmental disability or [~~epileptic~~
6 ~~person~~] epilepsy is in need of public assistance or care while on conva-
7 lescent status or community status from a state hospital or institution
8 under the provisions of section 29.15 of the mental hygiene law, the
9 public welfare district, town or city from which he was admitted to such
10 hospital or institution shall be responsible for providing and paying
11 for such assistance or care as in the case of other persons requiring
12 public assistance and care, except that such responsibility shall
13 continue during any period such person is on convalescent status or
14 community status outside the territory of such public welfare district,
15 town or city and shall continue thereafter in accordance with the
16 provisions of this paragraph and paragraph (b) of this subdivision if
17 such person was receiving or should have been receiving public assist-
18 ance or care from such public welfare district, town or city outside its
19 territory at the time he was discharged from such convalescent status or
20 community status.

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

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

LBD10591-02-1

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

8 § 3. Section 199 of the social services law, as amended by chapter 195
9 of the laws of 1973, is amended to read as follows:

10 § 199. Power of commissioner of public welfare to detain certain
11 inmates. The commissioner of public welfare shall have power to detain
12 in the public home, pending a vacancy for such person in a state insti-
13 tution, a person over the age of sixteen who has been certified as
14 [~~mentally retarded~~] an individual with an intellectual or developmental
15 disability or [~~epileptic~~] epilepsy in accordance with the provisions of
16 the mental hygiene law and for whom an application for admission to a
17 state institution has been made. Whenever the commissioner shall so
18 detain an inmate in the public home he shall at once notify the state
19 department of mental hygiene.

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

23 (e) "Receiving enhanced residential care" shall mean residing in a
24 privately operated school for [~~the mentally retarded and developmentally~~
25 ~~disabled~~] individuals with intellectual or developmental disabilities
26 which is certified by the office for people with developmental disabili-
27 ties of the department of mental hygiene, in accordance with applicable
28 provisions of law and regulations or an adult home, or enriched housing
29 program certified by the department of health in accordance with appli-
30 cable law, rules and regulations to the extent permitted by federal law
31 and regulations.

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

35 1. Any inconsistent provisions of this title or any other law notwith-
36 standing, but subject to the provisions of subdivisions two and three of
37 this section, an individual who is deemed to have met the eligibility
38 criteria for additional state payments pursuant to paragraph (c) of
39 subdivision one of section two hundred nine of this title, shall be
40 entitled to receive for each month after December, nineteen hundred
41 seventy-three an additional state payment in an amount which, when added
42 to the supplemental security income benefit and other countable income,
43 is equal to such individual's December, nineteen hundred seventy-three
44 cash grant of assistance under the state's program of old age assist-
45 ance, assistance to the blind, aid to the disabled or the combined
46 program of aid to aged, blind and disabled persons, plus income not
47 excluded under such state program, plus an amount equal to the January,
48 nineteen hundred seventy-two bonus value of food stamps as determined in
49 accordance with the regulations of the office of temporary and disabili-
50 ty assistance plus, for any month after June, nineteen hundred seventy-
51 five, an amount reflecting the federal supplemental security increases
52 resulting from July first, nineteen hundred seventy-five cost of living
53 increases in such benefits, plus for any month after June, nineteen
54 hundred eighty-two, an amount equal to the July first, nineteen hundred
55 eighty-two federal supplemental security income cost of living adjust-
56 ment, providing such individual was eligible to receive a mandatory

1 state supplement for the month of December, nineteen hundred eighty-one,
2 plus for any month after June, nineteen hundred eighty-three, an amount
3 equal to \$17.70 for individuals, \$26.55 for couples who are living alone
4 or living with others and \$35.40 for couples receiving family care,
5 residential care or care in schools for [~~the mentally retarded~~] individ-
6 uals with intellectual or developmental disabilities, plus for any month
7 after December, nineteen hundred eighty-three, an amount equal to \$9.70
8 for individuals, \$15.60 for couples who are living alone or living with
9 others and \$19.40 for couples receiving family care, residential care or
10 care in schools for [~~the mentally retarded~~] individuals with intellectu-
11 al or developmental disabilities, plus for any month after December,
12 nineteen hundred eighty-four, an amount equal to \$11.00 for individuals,
13 \$16.00 for couples who are living alone or living with others and \$22.00
14 for couples receiving family care, residential care or care in schools
15 for [~~the mentally retarded~~] individuals with intellectual or develop-
16 mental disabilities, plus for any month after December, nineteen hundred
17 eighty-five, an amount equal to \$11.00 for individuals, \$16.00 for
18 couples who are living alone or living with others and \$22.00 for
19 couples receiving family care, residential care or care in schools for
20 [~~the mentally retarded~~] individuals with intellectual or developmental
21 disabilities, plus for any month after December, nineteen hundred eight-
22 y-six an amount equal to \$4.00 for individuals, \$6.00 for couples who
23 are living alone or living with others and \$8.00 for couples receiving
24 family care, residential care or care in schools for [~~the mentally~~
25 ~~retarded~~] individuals with intellectual or developmental disabilities,
26 plus for any month after December, nineteen hundred eighty-seven an
27 amount equal to \$14.00 for individuals, \$22.00 for couples who are
28 living alone or living with others and \$28.00 for couples receiving
29 family care, residential care or care in schools for [~~the mentally~~
30 ~~retarded~~] individuals with intellectual or developmental disabilities,
31 plus for any month after December, nineteen hundred eighty-eight an
32 amount equal to \$14.00 for individuals, \$21.00 for couples who are
33 living alone or living with others and \$28.00 for couples receiving
34 family care, residential care or care in schools for [~~the mentally~~
35 ~~retarded~~] individuals with intellectual or developmental disabilities,
36 plus for any other month after December, nineteen hundred eighty-nine an
37 amount equal to \$18.00 for individuals, \$27.00 for couples who are
38 living alone or living with others and \$36.00 for couples receiving
39 family care, residential care or care in schools for [~~the mentally~~
40 ~~retarded~~] individuals with intellectual or developmental disabilities,
41 plus for any month after December, nineteen hundred ninety an amount
42 equal to \$21.00 for individuals, \$31.00 for couples who are living alone
43 or living with others and \$42.00 for couples receiving family care,
44 residential care or care in schools for [~~the mentally retarded~~] individ-
45 uals with intellectual or developmental disabilities, plus for any month
46 after December, nineteen hundred ninety-one an amount equal to \$15.00
47 for individuals, \$23.00 for couples who are living alone or living with
48 others and \$30.00 for couples receiving family care, residential care or
49 care in schools for [~~the mentally retarded~~] individuals with intellectu-
50 al or developmental disabilities, plus for any month after December,
51 nineteen hundred ninety-two, an amount equal to \$12.00 for individuals,
52 \$19.00 for couples who are living alone or living with others and \$24.00
53 for couples receiving family care, residential care or care in schools
54 for [~~the mentally retarded~~] individuals with intellectual or develop-
55 mental disabilities, plus for any month after December, nineteen hundred
56 ninety-three an amount equal to \$12.00 for individuals, \$17.00 for

1 couples who are living alone or living with others and \$24.00 for
2 couples receiving family care, residential care or care in schools for
3 ~~[the mentally retarded]~~ individuals with intellectual or developmental
4 disabilities, plus for any month after December, nineteen hundred nine-
5 ty-four an amount equal to \$12.00 for individuals, \$18.00 for couples
6 who are living alone or living with others and \$24.00 for couples
7 receiving family care, residential care or care in schools for ~~[the~~
8 ~~mentally retarded]~~ individuals with intellectual or developmental disa-
9 bilities, plus for any month after December, nineteen hundred ninety-
10 five an amount equal to \$12.00 for individuals, \$18.00 for couples who
11 are living alone or living with others and \$24.00 for couples receiving
12 family care, residential care or care in schools for ~~[the mentally~~
13 ~~retarded]~~ individuals with intellectual or developmental disabilities,
14 plus for any month after December, nineteen hundred ninety-six, an
15 amount equal to \$14.00 for individuals and \$21.00 for couples plus for
16 any month after December, nineteen hundred ninety-seven an amount equal
17 to \$10.00 for individuals and \$15.00 for couples plus for any month
18 after December, nineteen hundred ninety-eight an amount equal to \$6.00
19 for individuals and \$11.00 for couples plus for any month after Decem-
20 ber, nineteen hundred ninety-nine an amount equal to \$13.00 for individ-
21 uals and \$18.00 for couples plus for any month after December, two thou-
22 sand an amount equal to \$18.00 for individuals and \$27.00 for couples
23 plus for any month after December, two thousand one an amount equal to
24 \$15.00 for individuals and \$21.00 for couples plus for any month after
25 December, two thousand two an amount equal to \$7.00 for individuals and
26 \$12.00 for couples plus for any month after December, two thousand three
27 an amount equal to \$12.00 for individuals and \$17.00 for couples plus
28 for any month after December, two thousand four an amount equal to
29 \$15.00 for individuals and \$23.00 for couples plus for any month after
30 December, two thousand five an amount equal to \$24.00 for individuals
31 and \$35.00 for couples plus for any month after December, two thousand
32 six an amount equal to the amount of any increases in federal supple-
33 mental security income benefits for individuals or couples pursuant to
34 section 1617 of the Social Security Act (42 USC § 1382f) which become
35 effective on or after January first, two thousand seven.

36 § 6. Paragraph (c) of subdivision 2 and paragraph (a) of subdivision 4
37 of section 365 of the social services law, paragraph (c) of subdivision
38 2 as amended by chapter 516 of the laws of 1973 and paragraph (a) of
39 subdivision 4 as amended by chapter 170 of the laws of 1994, are amended
40 to read as follows:

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

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

53 § 7. Clause (iii) of subparagraph 2 of paragraph (e) of subdivision 1,
54 clauses (vii), (viii) and (ix) of subparagraph 1 of paragraph (d) and
55 clauses (vii), (viii) and (ix) of subparagraph 1 of paragraph (e) of
56 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 intellectual or 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 intellectual or 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 intellectual or 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 intellectual or 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 intellectual or 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 intellectual or 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 intellectual or 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 intellectual or developmental disabilities, or other medical institution, who is not reasonably expected to be

1 discharged from the medical institution and to return home, and who is
2 required, as a condition of receiving services in such institution under
3 the state plan for medical assistance, to spend for costs of medical
4 care all but a minimal amount of his or her income required for personal
5 needs; provided, however, any such lien will dissolve upon the individ-
6 ual's discharge from the medical institution and return home; in addi-
7 tion, no such lien may be imposed on the individual's home if one of the
8 following persons is lawfully residing in the home:

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

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

17 § 10. This act shall take effect immediately.