

STATE OF NEW YORK

7443--B

Cal. No. 310

2021-2022 Regular Sessions

IN ASSEMBLY

May 10, 2021

Introduced by M. of A. ABINANTI, BICHOTTE HERMELYN, SAYEGH -- read once and referred to the Committee on Social Services -- again amended on third reading, ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the social services law, in relation to replacing certain instances of the term "mentally retarded" with the term "individuals with 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, mentally retarded or epileptic person~~]
5 person with a mental illness or developmental disability is in need of
6 public assistance or care while on convalescent status or community
7 status from a state hospital or institution under the provisions of
8 section 29.15 of the mental hygiene law, the public welfare district,
9 town or city from which he was admitted to such hospital or institution
10 shall be responsible for providing and paying for such assistance or
11 care as in the case of other persons requiring public assistance and
12 care, except that such responsibility shall continue during any period
13 such person is on convalescent status or community status outside the
14 territory of such public welfare district, town or city and shall
15 continue thereafter in accordance with the provisions of this paragraph
16 and paragraph (b) of this subdivision if such person was receiving or
17 should have been receiving public assistance or care from such public
18 welfare district, town or city outside its territory at the time he was
19 discharged from such convalescent status or community status.

20 § 2. The opening paragraph of subdivision 1 of section 131-o of the
21 social services law, as amended by section 45 of part C of chapter 58 of
22 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.

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

8 § 3. Section 199 of the social services law, as amended by chapter 322
9 of the laws of 2021, is amended to read as follows:

10 § 199. Power of commissioner of public welfare to detain certain
11 incarcerated individuals. The commissioner of public welfare shall have
12 power to detain in the public home, pending a vacancy for such person in
13 a state institution, a person over the age of sixteen who has been
14 certified as [~~mentally retarded or epileptic~~] an individual with a
15 developmental disability in accordance with the provisions of the mental
16 hygiene law and for whom an application for admission to a state insti-
17 tution has been made. Whenever the commissioner shall so detain an
18 incarcerated individual in the public home he or she shall at once noti-
19 fy the state 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 developmental disabilities which is certified
26 by the office for people with developmental disabilities of the depart-
27 ment of mental hygiene, in accordance with applicable provisions of law
28 and regulations or an adult home, or enriched housing program certified
29 by the department of health in accordance with applicable law, rules and
30 regulations to the extent permitted by federal law and regulations.

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

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

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

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

32 § 6. Paragraph (c) of subdivision 2 and paragraph (a) of subdivision 4
33 of section 365 of the social services law, paragraph (c) of subdivision
34 2 as amended by chapter 516 of the laws of 1973 and paragraph (a) of
35 subdivision 4 as amended by chapter 170 of the laws of 1994, are amended
36 to read as follows:

37 (c) who are patients in that part of a public institution operated for
38 the care of [~~the mentally retarded~~] individuals with developmental disa-
39 bilities that has been approved pursuant to law as a hospital or nursing
40 home;

41 (a) who are patients in that part of a public institution operated for
42 the care of [~~the mentally retarded~~] individuals with developmental disa-
43 bilities that has been approved pursuant to law as an intermediate care
44 facility or who are participating in a program operated by the depart-
45 ment of mental hygiene or by a voluntary agency under an agreement with
46 such department, in that part of such a facility that has been approved
47 as a day treatment program in accordance with the regulations of the
48 state commissioner of mental hygiene;

49 § 7. Clause (iii) of subparagraph 2 of paragraph (e) of subdivision 1,
50 clauses (vii), (viii) and (ix) of subparagraph 1 of paragraph (d) and
51 clauses (vii), (viii) and (ix) of subparagraph 1 of paragraph (e) of
52 subdivision 5 of section 366 of the social services law, clause (iii) of
53 subparagraph 2 of paragraph (e) of subdivision 1 as added by section 1
54 of part D of chapter 56 of the laws of 2013, clauses (vii), (viii) and
55 (ix) of subparagraph 1 of paragraph (d) of subdivision 5 as added by
56 chapter 170 of the laws of 1994, clause (vii) of subparagraph 1 of para-

1 graph (e) of subdivision 5 as amended by section 51 of part C of chapter
2 58 of the laws of 2008 and clauses (viii) and (ix) of subparagraph 1 of
3 paragraph (e) of subdivision 5 as added by section 26-a of part C of
4 chapter 109 of the laws of 2006, are amended to read as follows:

5 (iii) a patient in a public institution operated primarily for the
6 care of [~~the mentally retarded~~] individuals with developmental disabili-
7 ties who is receiving medical care or treatment in that part of such
8 institution that has been approved pursuant to law as a hospital or
9 nursing home;

10 (vii) "institutionalized individual" means any individual who is an
11 in-patient in a nursing facility, including an intermediate care facili-
12 ty for [~~the mentally retarded~~] individuals with developmental disabili-
13 ties, or who is an in-patient in a medical facility and is receiving a
14 level of care provided in a nursing facility, or who is receiving care,
15 services or supplies pursuant to a waiver granted pursuant to subsection
16 (c) of section 1915 of the federal social security act.

17 (viii) "intermediate care facility for [~~the mentally retarded~~] indi-
18 viduals with developmental disabilities" means a facility certified
19 under article sixteen of the mental hygiene law and which has a valid
20 agreement with the department for providing intermediate care facility
21 services and receiving payment therefor under title XIX of the federal
22 social security act.

23 (ix) "nursing facility" means a nursing home as defined by section
24 twenty-eight hundred one of the public health law and an intermediate
25 care facility for [~~the mentally retarded~~] individuals with developmental
26 disabilities.

27 (vii) "institutionalized individual" means any individual who is an
28 in-patient in a nursing facility, including an intermediate care facili-
29 ty for [~~the mentally retarded~~] individuals with developmental disabili-
30 ties, or who is an in-patient in a medical facility and is receiving a
31 level of care provided in a nursing facility, or who is described in
32 section 1902(a)(10)(A)(ii)(VI) of the federal social security act.

33 (viii) "intermediate care facility for [~~the mentally retarded~~] indi-
34 viduals with developmental disabilities" means a facility certified
35 under article sixteen of the mental hygiene law and which has a valid
36 agreement with the department for providing intermediate care facility
37 services and receiving payment therefor under title XIX of the federal
38 social security act.

39 (ix) "nursing facility" means a nursing home as defined by section
40 twenty-eight hundred one of the public health law and an intermediate
41 care facility for [~~the mentally retarded~~] individuals with developmental
42 disabilities.

43 § 8. The opening paragraph of subparagraph (ii) of paragraph (a) of
44 subdivision 2 of section 369 of the social services law, as amended by
45 section 62 of part C of chapter 60 of the laws of 2014, is amended to
46 read as follows:

47 with respect to the real property of an individual who is an inpatient
48 in a nursing facility, intermediate care facility for [~~the mentally~~
49 ~~retarded~~] individuals with developmental disabilities, or other medical
50 institution, who is not reasonably expected to be discharged from the
51 medical institution and to return home, and who is required, as a condi-
52 tion of receiving services in such institution under the state plan for
53 medical assistance, to spend for costs of medical care all but a minimal
54 amount of his or her income required for personal needs; provided,
55 however, any such lien will dissolve upon the individual's discharge
56 from the medical institution and return home; in addition, no such lien

1 may be imposed on the individual's home if one of the following persons
2 is lawfully residing in the home:

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

6 (f) a person named as a court-appointed evaluator or guardian in
7 accordance with article eighty-one of the mental hygiene law, or a
8 person named as a guardian for [~~the mentally retarded~~] individuals with
9 developmental disabilities in accordance with article seventeen-A of the
10 surrogate's court procedure act; or

11 § 10. Section 2 of the social services law is amended by adding two
12 new subdivisions 39 and 40 to read as follows:

13 39. "Mental illness" shall have the same meaning as defined in section
14 1.03 of the mental hygiene law.

15 40. "Developmental disability" shall have the same meaning as defined
16 in section 1.03 of the mental hygiene law.

17 § 11. This act shall take effect immediately.