STATE OF NEW YORK

9023

IN ASSEMBLY

January 21, 2022

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

AN ACT to amend the social services law and the public health law, in relation to independent assessment of person-centered service plans for long term care assistance; and to repeal certain provisions of the social services law relating thereto

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

Section 1. Subparagraph (i) of paragraph (e) of subdivision 2 of section 365-a of the social services law, as amended by section 2 of part MM of chapter 56 of the laws of 2020, is amended to read as follows:

(i) personal care services, including personal emergency response services, shared aide and an individual aide, subject to the provisions of subparagraphs (ii), (iii), (iv), (v) and (vi) of this paragraph, furnished to an individual who is not an inpatient or resident of a hospital, nursing facility, intermediate care facility for individuals with intellectual disabilities, or institution for mental disease, as determined to meet the recipient's needs for assistance when cost effective and appropriate, and when prescribed by a [~~qualified independent~~] physician [~~selected or approved by the department of health~~], **physician assistant or nurse practitioner** in accordance with the recipient's plan of treatment and provided by individuals who are qualified to provide such services, who are supervised by a registered nurse and who are not members of the recipient's family, and furnished in the recipient's home or other location;

§ 2. Subdivision 10 of section 365-a of the social services law is REPEALED.

§ 3. Section 365-a of the social services law is amended by adding a new subdivision 10 to read as follows:

10. (a) (i) Long term care assistance under this article shall require a person-centered service plan (which may be referred to in this subdivision as a "service plan") for the recipient. A "person-centered service plan" is a written document of specific health care goals to be

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

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achieved and the amount, duration and scope of the covered services to be provided to a medical assistance recipient in order to achieve those goals. The service plan shall be based on assessment of the recipient's health care needs and developed in consultation with the recipient and the recipient's informal supports. The service plan shall include consideration of the current and specific psycho-social, cognitive, and medical needs and history of the recipient, as well as the recipient's functional level and support systems. The service plan shall include the plan of care determined by an independent assessor which states the type of long term care services appropriate to a recipient's needs and the number of hours of care per week necessary to meet those needs.

(ii) The effectiveness and appropriateness of the recipient's service plan shall be monitored through reassessment and a determination as to whether the health care goals are being met. The service plan shall be reassessed and reviewed, and revised appropriately, at least annually.

(iii) Services not covered by medical assistance which interrelate with the covered services identified in the service plan and services of informal supports necessary to support the health care goals and effectiveness and appropriateness of the covered services should be clearly identified in the service plan or elsewhere in the care management record.

(b) The assessment of the recipient and the development of the service plan shall be conducted by an independent assessor that is an entity that is unaffiliated with any managed long term care plan and has been contracted by the commissioner for this purpose. Independent assessors shall be not-for-profit organizations that have demonstrated cultural and linguistic competence and expertise in evaluating service needs of individuals needing long term care, including individuals with disabilities, seeking to live in the community.

§ 4. Paragraph (g) of subdivision 7 of section 4403-f of the public health law, as amended by section 41-b of part H of chapter 59 of the laws of 2011, subparagraph (i) as amended by section 1 of part GGG of chapter 59 of the laws of 2017, subparagraph (iii) as amended by section 54 of part A of chapter 56 of the laws of 2013, subparagraph (iv) as amended by section 22 of part MM of chapter 56 of the laws of 2020, is amended to read as follows:

(g) (i) Managed long term care plans and demonstrations may enroll eligible persons in the plan or demonstration upon the completion of a [~~comprehensive assessment that shall include, but not be limited to, an evaluation of the medical, social, cognitive, and environmental needs of each prospective enrollee in such program~~] person-centered service plan under subdivision ten of section three hundred sixty-five-a of the social services law. This [~~assessment~~] service plan shall also serve as the basis for the development and provision of an appropriate plan of care for the enrollee. Upon approval of federal waivers pursuant to paragraph (b) of this subdivision which require medical assistance recipients who require community-based long term care services to enroll in a plan, and upon approval of the commissioner, a plan may enroll an applicant who is currently receiving home and community-based services and complete the [~~comprehensive assessment~~] person-centered service plan within thirty days of enrollment provided that the plan continues to cover transitional care until such time as the [~~assessment~~] service plan is completed.

(ii) [~~The assessment shall be completed by a representative of the managed long term care plan or demonstration, in consultation with the prospective enrollee's health care practitioner as necessary. The~~

~~commissioner shall prescribe the forms on which the assessment shall be made.~~

~~(iii)~~] The enrollment application shall be submitted by the managed long term care plan or demonstration to the entity designated by the department prior to the commencement of services under the managed long term care plan or demonstration. Enrollments conducted by a plan or demonstration shall be subject to review and audit by the department or a contractor selected pursuant to paragraph (d) of this subdivision.

[~~(iv)~~] (iii) Continued enrollment in a managed long term care plan or demonstration paid for by government funds shall be based upon a [~~comprehensive assessment of the medical, social and environmental needs of the recipient of the services~~] person-centered service plan under subdivision ten of section three hundred sixty-five-a of the social services law, including periodic revisions of the service plan. [~~Such assessment shall be performed a least annually by the managed long term care plan serving the enrollee. The commissioner shall prescribe the forms on which the assessment will be made.~~]

§ 5. Subparagraph (i) of paragraph (g) of subdivision 7 of section 4403-f of the public health law, as added by section 65-c of part A of chapter 57 of the laws of 2006 and as relettered by section 20 of part C of chapter 58 of the laws of 2007, is amended to read as follows:

(i) Managed long term care plans and demonstrations may enroll eligible persons in the plan or demonstration upon the completion of a [~~comprehensive assessment that shall include, but not be limited to, an evaluation of the medical, social and environmental needs of each prospective enrollee in such program~~] person-centered service plan under subdivision ten of section three hundred sixty-five-a of the social services law. This [~~assessment~~] service plan shall also serve as the basis for the development and provision of an appropriate plan of care for the prospective enrollee.

§ 6. This act shall take effect immediately; provided, however, that sections three and four of this act shall take effect on the one hundred eightieth day after it shall have become a law; provided, further, that the amendments to paragraph (g) of subdivision 7 of section 4403-f of the public health law as amended by sections four and five of this act shall not affect the repeal of such section and shall be deemed repealed therewith; and provided, further, that the amendments to subparagraph (i) of paragraph (g) of subdivision 7 of section 4403-f of the public health law made by section four of this act shall be subject to the expiration and reversion of such subparagraph when upon such date the provisions of section five of this act shall take effect. Effective immediately, the commissioner of health shall make regulations and take other actions reasonably necessary to implement those sections on that date.