STATE OF NEW YORK

10189

IN ASSEMBLY

May 10, 2024

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Gunther) -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to establishing an advanced residential health care for aging adults with medical fragility demonstration program

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

Section 1. The public health law is amended by adding a new section 2808-f to read as follows:

§ 2808-f. Advanced residential health care for aging adults medical fragility demonstration program. 1. Notwithstanding any law, rule, or regulation to the contrary, the commissioner shall, within amounts appropriated and subject to the availability of federal financial participation, establish a demonstration program for eligible adult residential health care facilities, as defined in paragraph (c) of subdivision two of this section, to construct a new facility or repurpose part of an existing facility to operate as an adult residential health care facility for the purpose of improving the quality of care for aging adults with medical fragility.

2. For purposes of this section:

(a) "Aging adults with medical fragility" shall mean adults from age thirty-five to end of life who have a chronic debilitating condition or conditions, are at risk of hospitalization, are technology-dependent for life or health sustaining functions, require complex medication regimens or medical interventions to maintain or to improve their health status, and/or are in need of ongoing assessment or intervention to prevent serious deterioration of their health status or medical complications that place their life, health or development at risk.

(b) "Adult residential health care facility" shall mean a residential health care facility or discrete unit of a residential health care facility providing services to adults over the age of thirty-five.

(c) "Eligible adult residential health care facilities" shall mean adult health care facilities that meet the following eligibility criteria for the demonstration program set forth in subdivision one of this

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

LBD15463-01-4

section: (i) has over one hundred ten adult beds licensed under article sixteen of this chapter; or (ii) is currently licensed for adult beds pursuant to article sixteen of this chapter, is licensed to provide diagnostic and treatment services pursuant to this article, and qualifies for funds pursuant to a vital access provider assurance program or a value based payment incentive program, as administered by the department in accordance with all requirements set forth in the state's federal 1115 Medicaid waiver standard terms and conditions.

3. Upon receipt of a certificate of need application from an eligible adult residential health care facility selected by the commissioner for the demonstration program authorized under this section, the commissioner is authorized to approve, with the written approval of the public health and health planning council pursuant to section twenty-eight hundred two of this article, the construction of a new residential health care facility to be constructed and operated on a parcel of land within the same county as that of an eligible adult residential health care facility that is proposing such new facility and over which it will have site control, or the repurposing of a portion of a residential health care facility that is currently serving geriatric residents or those with similar needs for the provision of nursing, medical, psychological and counseling support services appropriate to the needs of nursing home-eligible adults with medical fragility, referred to herein below as an aging adult facility, provided that the established operator of such eligible adult residential health care facility proposing the aging adult facility is in good standing and possesses at least forty years' prior experience operating as an adult residential health care facility in the state or more than forty years' experience serving medically fragile adult patients, and provided further that such facility qualifies for the demonstration program set forth in subdivision one of this section.

4. An aging adult facility established pursuant to subdivision three of this section may admit, from the community-at-large or upon referral from an unrelated facility, aging adults with medical fragility who, prior to reaching age thirty-five, were young adults with medical fragility, and who are eligible for nursing home care and in need of extensive nursing, medical, psychological and counseling support services, provided that the aging adult facility, to promote continuity of care, undertakes to provide priority admission to aging adults with medical fragility transitioning from the pediatric residential health care facility or unit operated by the entity that proposed the aging adult facility and ensure sufficient capacity to admit such adults as they attain thirty-five years of age.

5. (a) For inpatient services provided to any aging adults with medical fragility eligible for medical assistance pursuant to title eleven of article five of the social services law residing at any eligible residential health care facility as authorized in subdivision three of this section, the commissioner shall establish the operating component of rates of reimbursement appropriate for aging adults with medical fragility residing at an adult residential health care facility, to apply to such adults thirty-five years of age or older. Such methodology shall take into account the methodology used to establish the operating component of the rates pursuant to section twenty-eight hundred eight of this article for adult residential health care facilities with an increase or decrease adjustment as appropriate to account for any discrete expenses associated with caring for aging adults with medical

fragility, including addressing their distinct needs as aging adults for medical and psychological support services.

(b) For inpatient services provided to any aging adults with medical fragility eligible for medical assistance pursuant to title eleven of article five of the social services law at any young adult facility as authorized in section twenty-eight hundred eight-e of this article, the commissioner shall establish the operating component of rates of reimbursement appropriate for adults with medical fragility. Such methodology shall take into account the methodology used to establish the operating component of the rates pursuant to section twenty-eight hundred eight of this article for young adult residential health care facilities with an increase or decrease adjustment as appropriate to account for any discrete expenses associated with caring for aging adults with medical fragility, including addressing their distinct needs as aging adults for medical and psychological services.

6. The commissioner shall have authority to waive any rule or regulation to effectuate the demonstration program authorized pursuant to subdivision one of this section.

§ 2. This act shall take effect immediately.