STATE OF NEW YORK

8599

IN SENATE

February 20, 2024

Introduced by Sen. MAYER -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT relating to complex care assistants and home care services and supplementing

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

Section 1. As used in this act: (a) "family member" means a child, parent, parent-in-law, sibling, grandparent, grandchild, spouse, domestic partner, or one partner in a civil union couple, or any other individual related by blood, and any other individual with a close association that is the equivalent of a family relationship; and

(b) "complex care assistant" means a family member who is certified by the department of health after passing an in-person examination which tests the proficiency and competence of performing the tasks required to care for a medically fragile child which can include, but is not limited to, medication administration, airway clearance therapies, tracheostomy care, intravenous line care, ventilator care, enteral care and other tasks approved by the board of nursing for an individual under 21 years of age.

§ 2. (a) No later than one year after the effective date of this act and receipt of federal approval for the program established pursuant to this act, the state Medicaid director within the department of health shall establish a program under which a family member of an enrollee in Medicaid may be certified as a complex care assistant and, after receiving such certification may, under the direction of a registered nurse, provide complex care assistant services to the enrollee through a private duty nursing agency under the reimbursement rates established under subdivision (d) of this section, provided that the enrollee is a medically fragile child as defined in section 4401 of the public health law and qualifies for private duty nursing services under Medicaid. Such program shall operate as a New York Medicaid private duty nursing benefit. The department shall develop an assessment tool that will allow the division to identify enrollees who meet these eligibility criteria readily.

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

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(b) The program established under this act shall require a family member to complete all training, testing, and other qualification criteria required under state and federal law for certification as a complex care assistant. The private duty nursing agency that will employ the family member to provide complex care assistant services to the enrollee shall pay all costs for the family member to become certified as a complex care assistant and to receive certification as a complex care assistant from the department of health, before providing services under the program established pursuant to this act. In no case shall a family member who becomes a complex care assistant under the provisions of this section be required to repay or reimburse the licensed home care services and certified private duty nursing agencies for the costs of the family member becoming certified as a complex care assistant under the program.

(c) An individual certified to practice as a complex care assistant must complete a training program and shall pass an in-person examination approved by the department that demonstrates the applicant's competence and proficiency. Such training program shall include the following: medication administration, airway clearance therapies, tracheostomy care, intravenous line care, ventilator care, enteral care and other tasks approved by the board of nursing for an individual under 21 years of age.

(d) Complex care assistant services provided by a family member of a Medicaid enrollee who becomes certified as a complex care assistant under the program established pursuant to this act shall be reimbursed to a private duty nursing agency at a rate of no less than thirty-six dollars for complex care assistant services downstate and thirty-three dollars upstate. For care assistant high tech services it shall be at a rate no less than forty-two dollars downstate and thirty-seven dollars upstate. Cost of living adjustments to such rates shall be reviewed by the department bi-annually and such rates adjusted accordingly based upon any increases to the United States bureau of labor statistics consumer price index.

(e) The state Medicaid director, no later than three years after the date the program is established under this act, shall prepare and submit a report to the governor and the legislature concerning the viability of such program and the director's recommendations concerning such program.

§ 3. The state Medicaid director shall adopt rules and regulations as necessary to implement the provisions of this act.

§ 4. The state Medicaid director shall apply for such state plan amendments or waivers as may be necessary to implement the provisions of this act and secure federal financial participation for state Medicaid expenditures under the federal Medicaid program.

§ 5. This act shall take effect immediately.