

# STATE OF NEW YORK

9034

## IN ASSEMBLY

February 5, 2024

Introduced by M. of A. STECK -- read once and referred 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:

1 Section 1. As used in this act: (a) "family member" means a child,  
2 parent, parent-in-law, sibling, grandparent, grandchild, spouse, domes-  
3 tic partner, or one partner in a civil union couple, or any other indi-  
4 vidual related by blood, and any other individual with a close associ-  
5 ation that is the equivalent of a family relationship; and

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

14 § 2. (a) No later than one year after the effective date of this act  
15 and receipt of federal approval for the program established pursuant to  
16 this act, the state Medicaid director within the department of health  
17 shall establish a program under which a family member of an enrollee in  
18 Medicaid may be certified as a complex care assistant and, after receiv-  
19 ing such certification may, under the direction of a registered nurse,  
20 provide complex care assistant services to the enrollee through a  
21 private duty nursing agency under the reimbursement rates established  
22 under subdivision (d) of this section, provided that the enrollee is a  
23 medically fragile child as defined in section 4401 of the public health  
24 law and qualifies for private duty nursing services under Medicaid. Such  
25 program shall operate as a New York Medicaid private duty nursing bene-  
26 fit. The department shall develop an assessment tool that will allow the  
27 division to identify enrollees who meet these eligibility criteria read-  
28 ily.

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

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

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

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

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

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

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

44 § 5. This act shall take effect immediately.