STATE OF NEW YORK

4622--B

2023-2024 Regular Sessions

IN SENATE

February 13, 2023

Introduced by Sens. RIVERA, MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law and the social services law, in relation to automatic enrollment and recertification simplification for Medicaid eligible recipients

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

Section 1. Paragraph (b) of subdivision 7 of section 4403-f of the public health law is amended by adding a new subparagraph (iv) to read as follows:

(iv) Where a person determined eligible for Medicaid ("Medicaid recipient") has been determined by the commissioner or his or her designee to require community-based long term care services for more than a continuous period of one hundred twenty days, and the Medicaid recipient has not selected and enrolled in a managed long term care plan prior to any expiration date of such determination of need for long term care, after being provided with information to make an informed choice, the commissioner shall assign the recipient to a managed long term care plan, taking into account consistency with any prior community-based direct care workers having recently served the recipient, quality performance criteria, capacity, and geographic accessibility. The commissioner may assign participants pursuant to such criteria on a weighted basis. A recipient assigned to a managed long term care plan under this subparagraph shall be deemed to have been determined to be in need of long term care services for more than a continuous period of one hundred twenty days and eligible to be enrolled in a managed long term care plan.

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

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§ 2. Paragraph (b) of subdivision 2 of section 366-a of the social services law, as added by section 51 of part A of chapter 1 of the laws of 2002, is amended to read as follows:

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, an applicant or recipient may attest to the amount of his or her accumulated resources, unless such applicant or recipient is seeking medical assistance payment for long term care services **for the first time. A recipient who has already provided documentation of resources may attest to the amount of accumulated resources if it has remained the same or is less than the amount originally documented**. For purposes of this paragraph, long term care services shall mean care, treatment, maintenance, and services described in paragraph (b) of subdivision [~~1~~] **one** of section three hundred sixty-seven-f of this title, with the exception of short term rehabilitation, as defined by the commissioner of health.

§ 3. Paragraph (d) of subdivision 5 of section 366-a of the social services law, as amended by section 12 of part D of chapter 56 of the laws of 2013, is relettered paragraph (e) and three new paragraphs (f), (g) and (h) are added to read as follows:

(f) Notwithstanding paragraph (b) of subdivision two of this section and paragraphs (a), (b), (c) and (d) of this subdivision, the following recipients will be recertified automatically, unless there has been a finding of lack of eligibility for Medicaid:

(i) enrollees in Medicaid managed long term care plans as defined in section forty-four hundred three-f of the public health law;

(ii) enrollees in Medicaid managed care plans as defined in section three hundred sixty-four-j of this title who receive personal care services pursuant to paragraph (e) of subdivision two of section three hundred sixty-five-a of this title or consumer directed personal assistance services pursuant to section three hundred sixty-five-f of this title;

(iii) enrollees receiving Medicaid in the Aged, Blind and Disabled category who receive fixed income from the Social Security Administration (SSA); and

(iv) Medicare Savings Program (MSP) recipients who have a fixed income from the Social Security Administration (SSA).

(g) Nothing in paragraph (e) of this subdivision should be construed to alter a Medicaid recipient's obligation to inform the public welfare district of changes in income or other factors that might impact eligibility pursuant to subdivision four of this section.

(h) Upon a finding of lack of eligibility, recipients identified in paragraph (e) of this subdivision will be entitled to notice and hearing rights as provided in section twenty-two of this chapter.

§ 4. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided that the amendments to paragraph (b) of subdivision 7 of section 4403-f of the public health law made by section one of this act shall be subject to the expiration and reversion of such paragraph and shall expire and be deemed repealed therewith and provided further that such amendments shall not affect the repeal of such section and shall expire and be deemed repealed therewith. Effective immediately, the commissioner of health shall make regulations and take other actions reasonably necessary to implement this act on that date. Provided, further, that sections two and three of this act shall only take effect when the federal center for Medicaid and Medicare services (CMS) approves in writing to the state commissioner of health that the changes do not affect federal financial participation; provided

that the commissioner of health shall notify the legislative bill drafting commission upon the occurrence of the enactment of the legislation provided for in sections two and three of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.