

# STATE OF NEW YORK

464--A

2025-2026 Regular Sessions

## IN ASSEMBLY

(Prefiled)

January 8, 2025

Introduced by M. of A. STECK, SHIMSKY, SEAWRIGHT, JONES, LUNSFORD, BENDETT, RA, REYES -- Multi-Sponsored by -- M. of A. WALSH -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the social services law, in relation to authorizing Medicaid coverage for complex care assistant services

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

1 Section 1. The social services law is amended by adding a new section  
2 365-q to read as follows:

3 § 365-q. Complex care assistant services program. 1. As used in this  
4 section:

5 (a) "family member" means a child, parent, parent-in-law, sibling,  
6 grandparent, grandchild, spouse, domestic partner, or one partner in a  
7 civil union couple, or any other individual related by blood; and

8 (b) "complex care assistant" means a family member who is certified by  
9 the department after passing an in-person examination which tests the  
10 proficiency and competence of performing the tasks required to care for  
11 a medically fragile child and medically fragile young adult which can  
12 include, but is not limited to, all adaptive living skills (ADL's) and  
13 instrumental activities of daily living (IADL's), and allowable tasks  
14 for a home health aide as defined in section 700.2 (c)(15) of Title 10  
15 of the New York codes, rules and regulations, as well as, any enhanced  
16 task as defined by the board of nursing. Any medical necessary skilled  
17 nursing task, including but not limited to tracheostomy care, central  
18 line care, mechanical ventilation, enteral care (g-tube, gj-tube, ng  
19 tube) not otherwise included in eligible complex care assistant tasks  
20 may be performed simultaneously in the role of competent family caregiv-  
21 er in absence of an available private duty nurse.

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

LBD00675-02-5

1 2. (a) No later than one year after this section shall have become a  
2 law and receipt of federal approval for the program established pursuant  
3 to this section, the state Medicaid director shall establish a program  
4 under which a family member of an enrollee in Medicaid may be certified  
5 as a complex care assistant and, after receiving such certification may,  
6 under the direction of a registered nurse, provide complex care assist-  
7 ant services to the enrollee through a private duty nursing agency under  
8 the reimbursement rates established under paragraph (f) of this subdivi-  
9 sion, provided that the enrollee is a medically fragile child as defined  
10 in section forty-four hundred one of the public health law or medically  
11 fragile young adult as defined in section twenty-eight hundred eight-e  
12 of the public health law and qualifies for private duty nursing services  
13 under Medicaid. Such program shall operate as a New York Medicaid  
14 private duty nursing benefit. The department shall develop an assessment  
15 tool that will allow the division to identify enrollees who meet these  
16 eligibility criteria readily.

17 (b) The program established under this section shall require a family  
18 member to complete all training, testing, and other qualification crite-  
19 ria required under state and federal law for certification as a complex  
20 care assistant. The private duty nursing agency that will employ the  
21 family member to provide complex care assistant services to the enrollee  
22 shall pay all costs for the family member to become certified as a  
23 complex care assistant and to receive certification as a complex care  
24 assistant from the department of health, before providing services under  
25 the program established pursuant to this section. In no case shall a  
26 family member who becomes a complex care assistant under the provisions  
27 of this section be required to repay or reimburse the licensed home care  
28 services and certified private duty nursing agencies for the costs of  
29 the family member becoming certified as a complex care assistant under  
30 the program.

31 (c) An individual certified to practice as a complex care assistant  
32 must complete a training program and shall pass an in-person examination  
33 approved by the department of health that demonstrates the applicant's  
34 competence and proficiency. If the department of health selects the  
35 option of utilizing designated home care providers to provide the train-  
36 ing, the department shall adequately reimburse such designated providers  
37 for providing the training to family caregivers of eligible relatives.

38 (d) The services received under this program by an eligible member  
39 from a complex care assistant shall not exceed forty hours per week.  
40 Nothing in this paragraph shall restrict unpaid services provided as  
41 part of the family caregiver's familial or household relationship to the  
42 eligible relative.

43 (e) A complex care assistant shall not provide qualified complex care  
44 assistant services to an eligible member unless the plan of care for the  
45 eligible member is recertified by the provider at least every one  
46 hundred eighty calendar days. Registered nurse supervisory visits shall  
47 occur regularly to ensure support for all complex care assistants  
48 assigned to an eligible member and the ability to complete all tasks as  
49 outlined in the member's care plan.

50 (f) Complex care assistant services provided by a family member of a  
51 Medicaid enrollee who becomes certified as a complex care assistant  
52 under the program established pursuant to this section shall be reim-  
53 bursed to a private duty nursing agency at a rate that is no more than  
54 the current base reimbursement rate for private duty nursing services  
55 and dependent upon whether the services are provided in the downstate  
56 region or upstate region, provided, however, that such agencies shall

1 ensure that no less than sixty-five percent of such reimbursement is  
2 passed through to a complex care assistant. Cost of living adjustments  
3 to such rates shall be reviewed by the department bi-annually and such  
4 rates adjusted accordingly based upon any increases to the United States  
5 bureau of labor statistics consumer price index.

6 (g) The department shall require complex care assistants providing  
7 qualified complex care assistant services under the Medicaid program to  
8 utilize an electronic visit verification established in accordance with  
9 federal law.

10 (h) The New York state Medicaid director, no later than three years  
11 after the date the program is established under this section, and every  
12 two years thereafter, shall prepare and submit a report to the governor  
13 and make such report publicly available on the department's website. The  
14 report shall include but not be limited to the following:

15 (1) the number of hospitalizations and emergency room visits of eligi-  
16 ble members participating in the program;

17 (2) the number of agency private duty nursing hours each eligible  
18 member participating in the program has received and an analysis of  
19 whether such hours have increased or decreased since their participation  
20 in the program;

21 (3) the number of qualified complex care assistant services that were  
22 provided by complex care assistants to each eligible member enrolled in  
23 the program;

24 (4) the number of overpayments made to each provider employing complex  
25 care assistants and other metrics determined by the state that may be  
26 used to determine the amount of fraud, waste, and abuse in the program;

27 (5) an analysis of whether the state's waitlist for private duty nurs-  
28 ing services or other home and community-based services under the Medi-  
29 caid program has improved or declined since the introduction of the  
30 program; and

31 (6) reporting concerning the viability of such program and the Medi-  
32 caid director's recommendations concerning such program.

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

37 § 3. This act shall take effect immediately. The state Medicaid direc-  
38 tor shall adopt rules and regulations as necessary to implement the  
39 provisions of this act.