

STATE OF NEW YORK

464--B

2025-2026 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 8, 2025

Introduced by M. of A. STECK, SHIMSKY, SEAWRIGHT, JONES, LUNSFORD, BENDETT, RA, REYES, McDONALD, SANTABARBARA, BUTTENSCHON, YEGER, HEVE-SI, SLATER, SIMON, DAVILA, GIGLIO, PHEFFER AMATO, MORINELLO, JENSEN, DeSTEFANO, McDONOUGH, E. BROWN, MIKULIN, GRIFFIN, TAGUE, SMULLEN, FITZPATRICK -- 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 -- again reported from said committee with amendments, 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 person who is legally responsible for the
6 medically fragile child; and

7 (b) "complex care assistant" means a family member who is certified by
8 the department after passing an in-person examination which tests the
9 proficiency and competence of performing the tasks required to care for
10 a medically fragile child which can include, but is not limited to, all
11 activities of daily living skills (ADL's) and instrumental activities of
12 daily living (IADL's), and allowable tasks for a home health aide and/or
13 personal care assistant. Complex care assistant tasks may be performed
14 simultaneously in the role of competent family caregiver in absence of
15 an available private duty nurse.

16 2. (a) No later than one year after this section shall have become a
17 law and receipt of federal approval for the program established pursuant

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

LBD00675-06-5

1 to this section, the department shall establish a program under which a
2 family member of an enrollee in Medicaid may be certified as a complex
3 care assistant and, after receiving such certification may, under the
4 direction of a registered nurse, provide complex care assistant services
5 to the enrollee through a private duty nursing agency under the
6 reimbursement rates established under paragraph (f) of this subdivision,
7 provided that the enrollee is a medically fragile child as defined in
8 section forty-four hundred one of the public health law or qualifies for
9 private duty nursing services under Medicaid. Such program shall operate
10 as a New York Medicaid private duty nursing benefit. The department
11 shall develop an assessment tool that will allow the state to identify
12 enrollees who meet these eligibility criteria.

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

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

33 (d) No complex care assistant shall be paid for more than fifty hours
34 per week. Nothing in this paragraph shall restrict unpaid services
35 provided as part of the family caregiver's familial or household
36 relationship to the eligible relative.

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

44 (f) Complex care assistant services provided by a family member of a
45 Medicaid enrollee who becomes certified as a complex care assistant
46 under the program shall be reimbursed to a private duty nursing agency
47 at a rate that is no more than the current base reimbursement rate for
48 private duty nursing services and dependent upon whether the services
49 are provided in the downstate region or upstate region, provided, howev-
50 er, that such agencies shall ensure that no less than sixty-five percent
51 of such reimbursement is passed through to a complex care assistant.
52 Cost of living adjustments to such rates shall be reviewed by the
53 department bi-annually and such rates adjusted accordingly based upon
54 any increases to the United States bureau of labor statistics consumer
55 price index.

1 (g) The department shall require complex care assistants providing
2 qualified complex care assistant services under the Medicaid program to
3 utilize an electronic visit verification established in accordance with
4 federal law.

5 (h) The department, no later than three years after the date the
6 program is established under this section, and every two years thereaft-
7 er, shall submit a report to the governor and make such report publicly
8 available on the department's website. The report shall include, but not
9 be limited to, the following:

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

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

16 (3) the number of qualified complex care assistant services that were
17 provided by complex care assistants to each eligible member enrolled in
18 the program.

19 § 2. The department of health shall apply for such state plan amend-
20 ments or waivers as may be necessary to implement the provisions of this
21 act and secure federal financial participation for state Medicaid
22 expenditures under the federal Medicaid program.

23 § 3. This act shall take effect immediately. The department of health
24 shall adopt rules and regulations as necessary to implement the
25 provisions of this act.