

# STATE OF NEW YORK

7583

2025-2026 Regular Sessions

## IN ASSEMBLY

April 1, 2025

Introduced by M. of A. ALVAREZ -- read once and referred to the Committee on Health

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 parent, sibling, grandparent, legal guard-  
6 ian or any other individual related by blood; 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 child or young adult with developmental disabilities which can  
11 include, but is not limited to, all adaptive living skills (ADL's) and  
12 instrumental activities of daily living (IADL's), and providing academic  
13 assistance in accordance to such child or young adult's level of need.

14 2. (a) No later than one year after this section shall have become a  
15 law and receipt of federal approval for the program established pursuant  
16 to this section, the state Medicaid director shall establish a program  
17 under which a family member of an enrollee in Medicaid may be certified  
18 as a complex care assistant and, after receiving such certification may,  
19 under the direction of a certified complex care assistant, provide  
20 complex care assistant services to the enrollee through a complex care  
21 agency under the reimbursement rates established under paragraph (f) of  
22 this subdivision, provided that the enrollee is a child or young adult  
23 with developmental disabilities as defined in subdivision twenty-two of  
24 section 1.03 of the mental hygiene law and qualifies for services under  
25 Medicaid. Such program shall operate as a New York Medicaid private duty

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

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1 nursing benefit. The department shall develop an assessment tool that  
2 will allow the division to identify enrollees who meet these eligibility  
3 criteria readily.

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

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

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

29 (e) A complex care assistant shall not provide qualified complex care  
30 assistant services to an eligible member unless the plan of care for the  
31 eligible member is recertified by the provider at least every one  
32 hundred eighty calendar days. Registered nurse supervisory visits shall  
33 occur regularly to ensure support for all complex care assistants  
34 assigned to an eligible member and the ability to complete all tasks as  
35 outlined in the member's care plan.

36 (f) Complex care assistant services provided by a family member of a  
37 Medicaid enrollee who becomes certified as a complex care assistant  
38 under the program established pursuant to this section shall be reim-  
39 bursed to a complex care agency at a rate that is no more than the  
40 current base reimbursement rate for complex care services and dependent  
41 upon whether the services are provided in the downstate region or  
42 upstate region, provided, however, that such agencies shall ensure that  
43 no less than sixty-five percent of such reimbursement is passed through  
44 to a complex care assistant. Cost of living adjustments to such rates  
45 shall be reviewed by the department bi-annually and such rates adjusted  
46 accordingly based upon any increases to the United States bureau of  
47 labor statistics consumer price index.

48 (g) The department shall require complex care assistants providing  
49 qualified complex care assistant services under the Medicaid program to  
50 utilize an electronic visit verification established in accordance with  
51 federal law.

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

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

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

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

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

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

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

19 § 2. The state Medicaid director shall apply for such state plan  
20 amendments or waivers as may be necessary to implement the provisions of  
21 this 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 state Medicaid direc-  
24 tor shall adopt rules and regulations as necessary to implement the  
25 provisions of this act.