

STATE OF NEW YORK

4462--B

2025-2026 Regular Sessions

IN SENATE

February 5, 2025

Introduced by Sens. MAYER, ASHBY, CANZONERI-FITZPATRICK, FAHY, GRIFFO, HOYLMAN-SIGAL, MATTERA, STEC -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- 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 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
18 to this section, the department shall establish a program under which a
19 family member of an enrollee in Medicaid may be certified as a complex
20 care assistant and, after receiving such certification may, under the
21 direction of a registered nurse, provide complex care assistant services

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

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1 to the enrollee through a private duty nursing agency under the
2 reimbursement rates established under paragraph (f) of this subdivision,
3 provided that the enrollee is a medically fragile child as defined in
4 section forty-four hundred one of the public health law or qualifies for
5 private duty nursing services under Medicaid. Such program shall operate
6 as a New York Medicaid private duty nursing benefit. The department
7 shall develop an assessment tool that will allow the state to identify
8 enrollees who meet these eligibility criteria.

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

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

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

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

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

52 (g) The department shall require complex care assistants providing
53 qualified complex care assistant services under the Medicaid program to
54 utilize an electronic visit verification established in accordance with
55 federal law.

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

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

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

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

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

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