STATE OF NEW YORK

3974

2025-2026 Regular Sessions

IN ASSEMBLY

January 30, 2025

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

AN ACT to amend the mental hygiene law, in relation to creating the office of the ombudsperson for behavioral health access

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

Section 1. The mental hygiene law is amended by adding a new section 7.49 to read as follows:

§ 7.49 Behavioral health access ombudsperson.

(a) For the purposes of this section, the following terms shall have the following meanings:

1. "Office of the ombudsperson" shall mean the office of the ombudsperson for behavioral health access.

2. "Ombudsperson" shall mean the ombudsperson for behavioral health access to care.

(b) There is hereby created the office of the ombudsperson for behavioral health access for the purpose of assisting New Yorkers in accessing behavioral health care.

(c) The office of the ombudsperson and the department of mental hygiene shall operate pursuant to a memorandum of understanding between the two entities. The memorandum of understanding shall contain, at a minimum:

1. a requirement that the office of the ombudsperson has its own personnel rules;

2. a requirement that the ombudsperson has independent hiring and termination authority over office of the ombudsperson employees;

3. a requirement that the office of the ombudsperson shall follow state fiscal rules;

4. a requirement that the office shall offer the office of the ombudsperson limited support with respect to:

(i) personnel matters;

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

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(ii) recruitment;
(iii) payroll;
(iv) benefits;
(v) budget submission, as needed;
(vi) accounting; and
(vii) office space, facilities, and technical support; and
5. any other provisions regarding administrative support that will help maintain the independence of the office of the ombudsperson.
(d) The office of the ombudsperson shall operate with full independence and with complete autonomy, control, and authority over operations, budget, and personnel decisions related to the office of the ombudsperson and the ombudsperson.
(e) 1. On or before January first, two thousand twenty-six, the governor shall designate an ombudsperson for behavioral health access to care, who shall serve as director of the office of the ombudsperson.
2. The ombudsperson shall serve as a neutral party to help consumers, including consumers who are uninsured or have public or private health benefit coverage, including coverage that is not subject to state regulation, and health care providers acting on their own behalf, on behalf of a consumer with the consumer's written permission, or on behalf of a group of health care providers, navigate and resolve issues related to consumer access to behavioral health care, including care for mental health conditions and substance use disorders.
(f) The ombudsperson shall:
1. interact with consumers and health care providers with concerns or complaints to help such consumers and providers resolve behavioral health care access and coverage issues;
2. identify, track, and report to the appropriate regulatory or oversight agency concerns, complaints, and potential violations of state or federal rules, regulations, or statutes concerning the availability of, and terms and conditions of, benefits for mental health conditions or substance use disorders, including potential violations related to quantitative and non-quantitative treatment limitations;
3. receive and assist consumers and providers in reporting concerns and filing complaints with appropriate regulatory or oversight agencies relating to inappropriate care;
4. provide appropriate information necessary to help consumers obtain behavioral health care services;
5. develop appropriate points of contact for referrals to other state and federal agencies; and
6. provide appropriate information to help consumers and health care providers file appeals or complaints with the appropriate entities, including insurers and other state and federal agencies.
(g) The ombudsperson, employees of the office of the ombudsperson, and any persons acting on behalf of the office of the ombudsperson shall comply with all state and federal confidentiality laws that govern the department with respect to the treatment and disclosure of confidential information and records.
(h) The ombudsperson shall act independently of the office in the performance of such ombudsperson's duties. Any recommendations made or positions taken by the ombudsperson shall not reflect those of the office.
(i) The commissioner of financial services and the commissioner shall each appoint a liaison to the ombudsperson to receive reports of concerns, complaints, and potential violations described in paragraph two of subdivision (f) of this section.

(j) 1. On or before November first of each year following the effective date of this section, the ombudsperson shall prepare and submit a written report to the governor, the commissioner of financial services, the senate committee on health, the senate committee on mental health, and the senate committee on insurance, or any successor committees.

2. The report required by paragraph one of this subdivision shall:

(i) include information from the preceding fiscal year concerning actions taken by the ombudsperson relating to the duties of the office of the ombudsperson pursuant to paragraph two of subdivision (e) of this section; and

(ii) not include any personally identifying information about an individual consumer or health care provider or identifying information about a health care facility.

3. The ombudsperson shall post the report on the department's website.

§ 2. This act shall take effect immediately.