§ 208. Respite program. 1. The director is hereby authorized to establish and monitor respite projects for the purposes of encouraging the initiation and expansion of respite, evaluating the effectiveness of respite in deterring and/or delaying institutionalization, evaluating the demand for respite and of the cost of utilization of different service modes.

2. For the purposes of this section:

(a) "Respite" shall mean the provision of infrequent and temporary substitute care or supervision of frail or disabled adults on behalf of and in the absence of the care-giver, for the purpose of providing relief from the stresses or responsibilities concomitant with providing care, so as to enable the care-giver to maintain a normal routine. Respite shall not exceed one hundred days in any calendar year for any individual. Respite may be provided by any service or combination of services supplied by individuals, a public agency, a public corporation or a private not-for-profit corporation or any proprietary provider.

(b) "Care-giver" shall mean the family member or other natural person who normally provides the daily care or supervision of a frail or disabled adult. Such care-giver may, but need not, reside in the same household as the frail or disabled adult.

(c) "Provider" shall mean any entity enumerated in paragraph (a) of this subdivision which is the supplier of services providing respite.

(d) "Sponsor" shall mean the provider, public agency or community group approved by the director which establishes a contractual relationship with the office for the purposes of a project pursuant to this section, and which is responsible for the recruitment of providers, the coordination and arrangement of provider services in a manner which meets client needs, the general supervision of the local program, and the submission of such information or reports as may be required by the director.

(e) "Frail or disabled adult" shall mean any adult who is unable to attend to his or her daily needs without the assistance or regular supervision of a care-giver due to mental or physical impairment and who is otherwise eligible for services on the basis of his or her level of impairment. Priority shall be given in all cases to frail or disabled adults sixty years of age or older.

3. (a) Notwithstanding any inconsistent provision of law to the contrary, entities qualifying as providers or sponsors pursuant to the provisions of paragraphs (a), (c) and (d) of subdivision two of this section are hereby authorized to conduct or participate in respite projects as approved and extended by the director.

(b) The director shall publicize the existence of, and make available, application forms for such projects seeking the advice and counsel of the advisory committee for the aging established pursuant to section two hundred ten of this title.

(c) Such application forms shall require the submission of such information as the director deems necessary for the evaluation of such proposed projects. This information shall include, but not be limited to:

(1) the identity and qualifications of the sponsor;

(2) the identity and qualifications of the provider or providers and a plan for the coordination of their services;

(3) an assessment of the community need for respite services including documentation;

(4) plans for the coordination and arrangement of provider services in a manner which meets client needs;

(5) a fiscal plan, including specific provisions for the utilization of existing reimbursement and funding sources and the development of local financial support;

(6) plans for publicizing the purpose of the project and the services to be provided, including the identities, services and charges of each participating provider;

(7) indications of broad-based community support and participation; and

(8) identification of the unserved or underserved population to be served.

(d) The director shall review, require any necessary modifications, and upon such modification, approve a number of applications and, within the amounts appropriated therefor, award grants for the operation of respite projects. Such an approved application shall constitute a plan of service which may be rendered only in the manner and for the period for which such plan has been approved or from time to time extended by

the director. The director shall ensure that each such plan of service is coordinated with the "designated agency" as defined in section two hundred fourteen of this title, the local social services district or districts, and the local public health agency or agencies in which the services are to be provided in order to help ensure that every effort will be made to utilize existing funding sources for eligible individuals and to avoid unnecessary duplication of services.

(e) Within the amounts appropriated therefor, the director shall give first priority to the six existing respite projects established under the provisions of the respite demonstration program authorized pursuant to chapter seven hundred sixty-seven of the laws of nineteen hundred eighty-one.

(f) Further consideration shall be given to proposals that:

(1) develop new or expand existing respite care projects/programs to provide care to one or more target populations that are currently unserved or underserved in the community;

(2) provide for respite in a geographical area of the state that is currently without community-based respite care services;

(3) provide services that are responsive to the individual's needs and circumstances in the targeted area;

(4) show utilization of existing services, coordination of services with other agencies/resources; and utilization of various service components, such as personal emergency response systems, adult day services, and nutrition services, where appropriate.

4. (a) The director in consultation with the commissioner of the office of children and family services may apply for the appropriate waivers under federal law and regulation and may, subject to the approval of the director of the budget, waive any provision of the social services law or regulation of the office of children and family services as may be necessary to make funds which are available pursuant to the provisions of title XIX or XX of the federal social security act, the emergency assistance for families program or the emergency assistance for adults program available to eligible providers if the recipients of such services are otherwise eligible to receive benefits or services pursuant to the provisions of such programs.

(b) In the event that waivers under federal law and regulation are not

received, nothing contained in this section shall be construed to require the expenditure of funds by the state or any locality in an amount greater than if such waivers had been received.

5. Nothing contained in this section shall be construed to limit, modify or otherwise affect the provision of care and services of a long-term home health care program pursuant to article thirty-six of the public health law.

6. For purposes of determining the eligibility for benefits pursuant to this chapter, when applicable, only the financial eligibility of the frail or disabled adult shall be taken into consideration.

7. In addition, the director, within appropriations provided, may establish a training program for respite workers. The six existing respite projects established pursuant to chapter seven hundred sixty-seven of the laws of nineteen hundred eighty-one shall, insofar as they are able, assist in providing such a training program.

The director may also enter into contracts with boards of cooperative educational services pursuant to sections nineteen hundred fifty and forty-six hundred two of the education law to provide courses in training for respite care workers. This training program shall be optional for existing programs.

8. Every two years beginning on January first, two thousand five, the director shall submit a report to the governor, the temporary president of the senate and the speaker of the assembly which shall include, but not be limited to:

(a) A financial report for each project;

(b) A qualitative and quantitative profile of sponsors, providers, care-givers, and frail or disabled adults participating in the project;

(c) A comparative assessment of the costs and effectiveness of each type of service or combinations of services provided;

(d) An assessment of the nature and extent of the demand for services which provide respite and an evaluation of the success of such projects in meeting this demand;

(e) Specific identification of any factors which significantly enhance or inhibit the successful provision of respite;

(f) A review of the extent to which priority has been given to persons aged sixty and over;

(g) The coordination of the projects with other agencies, facilities and institutions providing similar services as well as the utilization and networking with case management programs;

(h) The ability of the projects to provide service at various economic levels;

(i) The adherence of the program to its original or amended respite proposal; and

(j) An assessment of the extent of the demand for the services the project provides.