

MEMORANDUM

A.6221-B (Paulin) / S.6960-A (Rivera)

AN ACT to amend the social services law and the public health law, in relation to ensuring that the state implements certain federal conflict of interest requirements in a manner that ensures limited disruption of certain services

Purpose of Bill: Ensures that the state implements certain federal conflict of interest requirements in a manner that ensures limited disruption of certain services.

LeadingAge New York supports passage of A.6221-B/S.6960-A, which will ensure that the 6,000 vulnerable individuals that receive specialized services under the 1915(c) Home and Community Based Services Traumatic Brain Injury (TBI) and Nursing Home Transition and Diversion (NHTD) Medicaid Waivers will not have a disruption in the services they need to continue to live safely, and independently, in their homes.

LeadingAge New York is a statewide association representing not-for-profit and public long-term care providers, including nursing homes, home care agencies, adult care facilities and other providers. Some of these members of LeadingAge New York also serve participants in the NHTD and TBI waivers. The Center for Medicare & Medicaid Services (CMS) final HCBS Conflict of Interest (COI) rule from 2014 requires that entities that develop service plans and monitor a recipients' wellbeing must not have a financial connection to entities that provide services. For the TBI and NHTD waivers, this regulation must be implemented six months following the end of the Public Health Emergency (PHE).

Although the federal rule is well-intentioned, there is concern that the waiver provider community is limited in its size and geography to pull apart these specialized services and restructure to serve this vulnerable population. Workforce challenges and limited provider capacity prior to COVID-19 posed significant hurdles for compliance with COI. The challenges now are even further exacerbated. The state should ensure the COI requirement will not destabilize waiver providers, limit their scale and capacity to operate, or limit their ability to deliver the care and services they provide.

This bill would ensure that the Department of Health will assess and report on workforce shortage issues, issues relating to the end of the public health emergency, and the readiness and ability of TBI and NHTD Waiver providers to both maintain their level of services and comply with federal conflict of interest rules prior to the implementation of the provisions. This will ensure that this small, yet very complex, population will continue to have access to the services and protections needed for them to remain living successfully in their homes.

For these reasons, LeadingAge New York supports A.6221-B (Paulin) / S.6960-A (Rivera).

LeadingAge New York represents over 400 not-for-profit and public long-term care providers, including nursing homes, home care agencies, senior housing, retirement communities, assisted living, adult care facilities, adult day health care and managed long term care.

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