

DRAFT LBDC

A BUDGET BILL submitted by the Governor  
in accordance with Article VII of the Constitution

AN ACT to amend the mental hygiene law, in relation to eliminating the duplication of regulatory efforts between the department of health and the office for people with developmental disabilities associated with rates and fees received by OPWDD providers; and to repeal certain provisions of such law relating thereto

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

1 Section 1. Subdivisions (a), (b), (c), (d), (e), (f), (g), (h), (i),  
2 (j), (k), (l), (m) and (o) of section 41.36 of the mental hygiene law  
3 are REPEALED.

4 § 2. Subdivision (n) of section 41.36 of the mental hygiene law, as  
5 amended by chapter 525 of the laws of 1985, is amended to read as  
6 follows:

7 [(n)] The commissioner of developmental disabilities shall establish a  
8 procedure, subject to the approval of the state comptroller, whereby  
9 payments in addition to the [client's] personal allowance of an individ-  
10 ual living in a community residential facility may be made to providers  
11 of services for one or more of the following needs of [clients] individ-  
12 uals residing in such facilities, limited to two hundred fifty dollars  
13 per [client] individual per year and paid semi-annually in the manner  
14 specified by such procedures:

15 [1.] (a) Replacement of necessary clothing;

16 [2.] (b) Personal requirements and incidental needs of [clients] indi-  
17 viduals residing in the facility;

18 [3.] (c) Recreational and cultural activities of [clients] individuals  
19 residing in the facility. Such payments may be made from monies appro-

1 priated to the office for this purpose. Such payments shall be audited  
2 by the office pursuant to an audit plan approved by the comptroller.

3 § 3. Section 43.02 of the mental hygiene law, as amended by chapter  
4 168 of the laws of 2010, is amended to read as follows:

5 § 43.02 Rates or methods of payment for services at facilities subject  
6 to licensure or certification by the office of mental health,  
7 the office for people with developmental disabilities or the  
8 office of alcoholism and substance abuse services.

9 (a) Notwithstanding any inconsistent provision of law, payment made by  
10 government agencies pursuant to title eleven of article five of the  
11 social services law for services provided by any facility licensed by  
12 the office of mental health pursuant to article thirty-one of this chap-  
13 ter [or licensed or operated by the office for people with developmental  
14 disabilities pursuant to article sixteen of this chapter] or certified  
15 by the office of alcoholism and substance abuse services pursuant to  
16 this chapter to provide inpatient chemical dependence services, as  
17 defined in section 1.03 of this chapter, shall be at rates or fees  
18 certified by the commissioner of the respective office and approved by  
19 the director of the division of the budget, provided, however, the  
20 commissioner of mental health shall annually certify such rates or fees  
21 which may vary for distinct geographical areas of the state and,  
22 provided, further, that rates or fees for service for inpatient psychi-  
23 atric services or inpatient chemical dependence services, at hospitals  
24 otherwise licensed pursuant to article twenty-eight of the public health  
25 law shall be established in accordance with section two thousand eight  
26 hundred seven of the public health law and, provided, further, that  
27 rates or fees for services provided by any facility or program licensed,  
28 operated or approved by the office for people with developmental disa-

1 bilities, shall be certified by the commissioner of health; provided,  
2 however, that such methodologies shall be subject to approval by the  
3 office for people with developmental disabilities and shall take into  
4 account the policies and goals of such office.

5 (b) Operators of facilities licensed by the office of mental health  
6 pursuant to article thirty-one of this chapter, licensed by the office  
7 for people with developmental disabilities pursuant to article sixteen  
8 of this chapter or certified by the office of alcoholism and substance  
9 abuse services pursuant to this chapter to provide inpatient chemical  
10 dependence services shall provide to the commissioner of the respective  
11 office such financial, statistical and program information as the  
12 commissioner may determine to be necessary. The commissioner of the  
13 appropriate office shall have the power to conduct on-site audits of  
14 books and records of such facilities.

15 (c) The commissioner of the office of mental health, the commissioner  
16 of the office for people with developmental disabilities and the commis-  
17 sioner of the office of alcoholism and substance abuse services shall  
18 adopt rules and regulations to effectuate the provisions of this  
19 section. Such rules and regulations shall include, but not be limited  
20 to, provisions relating to:

21 (i) the establishment of a uniform statewide system of reports and  
22 audits relating to the quality of care provided, facility utilization  
23 and costs of providing services; such a uniform statewide system may  
24 provide for appropriate variation in the application of the system to  
25 different classes or subclasses of facilities licensed by the office of  
26 mental health pursuant to article thirty-one of this chapter or licensed  
27 or operated by the office for people with developmental disabilities  
28 pursuant to article sixteen of this chapter, or certified by the office

1 of alcoholism and substance abuse services pursuant to this chapter to  
2 provide inpatient chemical dependence services; and

3 (ii) methodologies used in the establishment of the schedules of rates  
4 or fees pursuant to this section provided, however, that the commission-  
5 er of health shall adopt rules and regulations including methodologies  
6 developed by him or her for services provided by any facility or program  
7 licensed, operated or approved by the office for people with develop-  
8 mental disabilities.

9 § 4. This act shall take effect immediately.