

VIRGINIA ACTS OF ASSEMBLY -- 2005 SESSION

CHAPTER 725

An Act to amend and reenact §§ 37.1-179 and 51.5-14.1 of the Code of Virginia, relating to Medicaid Brain Injury Waiver.

[H 2826]

Approved March 25, 2005

Be it enacted by the General Assembly of Virginia:

1. That §§ 37.1-179 and 51.5-14.1 of the Code of Virginia are amended and reenacted as follows:

§ 37.1-179. Definitions.

For the purposes of this chapter:

"Brain injury" is any injury to the brain that occurs after birth, but before age 65, that is acquired through traumatic or non-traumatic insults. Non-traumatic insults may include, but are not limited to anoxia, hypoxia, aneurysm, toxic exposure, encephalopathy, surgical interventions, tumor and stroke. Brain injury does not include hereditary, congenital or degenerative brain disorders, or injuries induced by birth trauma.

"Provider" means any person, entity or organization, excluding an agency of the federal government by whatever name or designation, that provides (i) services to persons with mental illness, mental retardation or substance addiction or abuse including the detoxification, treatment or rehabilitation of drug addicts through the use of the controlled drug methadone or other opioid replacements or, (ii) services to persons who receive day support, in-home support or crisis stabilization services funded through the Individual and Families Developmental Disabilities Support Waiver, (iii) services to persons under the Brain Injury Waiver, or (iv) residential services for persons with brain injury. Such person, entity or organization shall include a hospital as defined in § 32.1-123, community services board as defined in § 37.1-194.1, behavioral health authority as defined in § 37.1-243, private provider, and any other similar or related person, entity or organization. It shall not include any individual practitioner who holds a license issued by a health regulatory board of the Department of Health Professions or who is exempt from licensing pursuant to §§ 54.1-3501, 54.1-3601 or § 54.1-3701.

"Service or services" means:

1. Individually planned interventions intended to reduce or ameliorate mental illness, mental retardation, or substance addiction or abuse through care, treatment, training, habilitation or other supports that are delivered by a provider to individuals with mental illness, mental retardation, or substance addiction or abuse. Services include, but are not limited to, outpatient services, intensive in-home services, inpatient psychiatric hospitalization, community gero-psychiatric residential services, assertive community treatment and other clinical services; day support, day treatment, partial hospitalization, psychosocial rehabilitation, and habilitation services; case management services; and supportive residential, special school, halfway house and other residential services; and

2. Day support, in-home support and crisis stabilization services provided to individuals under the Individual and Families Developmental Disabilities Support Waiver; and

3. Planned individualized interventions intended to reduce or ameliorate the effects of brain injury through care, treatment, or other supports provided under the Brain Injury Waiver or in residential services for persons with brain injury.

§ 51.5-14.1. Cooperation of Department with other state departments.

The Department of Rehabilitative Services shall collaborate with the Department of Mental Health, Mental Retardation and Substance Abuse Services in activities related to licensing providers of (i) services under the Individual and Families Developmental Disabilities Support Waiver, (ii) services under the Brain Injury Waiver, and (iii) residential services for individuals with brain injuries as defined in § 37.1-179. These activities include involving advocacy and consumer groups who represent persons with developmental disabilities or brain injuries in the regulatory process; training the Department of Mental Health, Mental Retardation and Substance Abuse Services, local human rights committees and the State Human Rights Committee on the unique needs and preferences of individuals with developmental disabilities or brain injuries; assisting in the development of regulatory requirements for such providers; and providing technical assistance in the regulatory process and in performing annual inspections and complaint investigations.

2. That the State Board of Mental Health, Mental Retardation and Substance Abuse Services shall promulgate regulations to implement the provisions of this act to be effective within 280 days of its enactment.