

# Public Health and Health Planning Council

## *Codes, Regulations and Legislation Committee Meeting Agenda and Informational Announcements*

*Thursday, April 8, 2021  
9:30 AM*

*Via Live Webcasting*

### **I. WELCOME AND INTRODUCTION**

Angel Gutiérrez, Chair of the Committee on Codes, Regulations and Legislation

#### **For Adoption**

20-33 Amendment of Parts 11, 46 and 85 of  
Title 10 NYCRR (Name Change for the  
Physically Handicapped Children's Program)

#### **Program Area**

Division of Legal  
Affairs

#### **Unit Representative**

Jaclyn F. Sheltry

Pursuant to the authority vested in the Public Health and Health Planning Council and subject to approval by the Commissioner of Health by sections 225(4) and 2803(2) of the Public Health Law, and in the Commissioner of Health pursuant to section 2583 of the Public Health Law, sections 11.15, 11.16, 46.1, 46.2, 46.10, 85.3 and 85.13 of Title 10 (Health) of the Official Compilation of Codes, Rules and Regulations of the State of New York are amended, to be effective upon publication of a Notice of Adoption in the New York State Register, to read as follows:

Sections 11.15 and 11.16, and the title thereof, are amended to read as follows:

MEDICAL DIRECTOR OF COUNTY [PHYSICALLY HANDICAPPED CHILDREN'S]  
CHILDREN AND YOUTH WITH SPECIAL HEALTH CARE NEEDS SUPPORT SERVICES  
PROGRAMS

11.15 Definition.

The term medical director of a county [physically handicapped children's] children and youth with special health care needs support services program shall mean a physician appointed pursuant to the provisions of the Public Health Law by the board of supervisors of a county lacking a county health district to authorize medical service for [physically handicapped] children and youth with special health care needs and otherwise administer the county [physically handicapped children's] children and youth with special health care needs support services program.

11.16 Qualifications.

The medical director of a county [physically handicapped children's] children and youth with special health care needs support services program shall be a physician who is currently registered to practice medicine in New York State.

Sections 46.1, 46.2, and 46.10 of Part 46, and the title thereof, are amended to read as follows:

Part 46 - State Aid For [Physically Handicapped] Children and Youth with Special Health Care Needs

Section 46.1 Definition of medical service.

Medical service, as it relates to [physically handicapped] children and youth with special health care needs, means such diagnostic, therapeutic and rehabilitative care by medical and paramedical personnel, including hospital and related care, and drugs, prostheses, appliances, equipment and devices, as necessary.

Section 46.2 Conditions eligible.

Conditions for which medical service is reimbursable under State aid to counties or the City of New York under the [physically handicapped] children and youth with special health care needs support services program shall be only those approved by the Bureau of Medical Rehabilitation, the Bureau of Dental Health, or the Bureau of Maternal and Child Health of the State Department of Health.

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Section 46.10 Financial investigators.

(a) Definition. A financial investigator is a person employed under a county's [physically handicapped] children['s] and youth with special health care needs support services program for the purpose of:

- (1) conducting financial investigations of families of children for whom care has been requested under the program; and
- (2) detecting problems in families which may have a bearing on the utilization or outcome of services provided under the program, and referring families to appropriate agencies for help regarding these problems.

(b) Qualifications. The financial investigator shall meet one of the following qualifications:

- (1) graduation from a recognized college or university with a bachelor's degree;
- (2) satisfactory completion of training leading to nursing registration, and one year of satisfactory full-time experience as a registered professional nurse;
- (3) four years of satisfactory full-time paid experience either in financial investigations or in casework with a social work agency adhering to acceptable standards or in supervised teaching in an accredited school;
- (4) a satisfactory combination of the training and experience described in paragraphs (1)-(3) of this subdivision; or
- (5) full-time employment specifically in the performance of financial investigations under the [physically handicapped] children['s] and youth with special health care needs support services program as of April 1, 1964.

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Subdivision (d) of section 85.3 is amended to read as follows:

(d) Prior to making a determination, the designated person may require a written second opinion from a qualified specialist designated by the Commissioner of Health. A written second opinion shall be based upon an examination of the patient and a review of information about the patient provided by the proposing surgeon. A second written opinion under this section shall in every instance be required for the following surgical procedures except when performed as urgent or emergency surgery as set forth in this Part, or when not required under the provisions of the [physically handicapped children's] children and youth with special health care needs support services program:

\* \* \*

Section 83.13, and the title thereof, is amended to read as follows:

85.13 [Physically handicapped] [c]Children and youth with special health care needs.

For persons under the age of 21 years having conditions covered under the scope of the [physically handicapped children's] children and youth with special health care needs support services program, all determinations of coverability in this Part shall be made by the [physically handicapped children's] children and youth with special health care needs support services program county medical director, the county commissioner of health or the health services administration of the City of New York as the designee of the Commissioner of Health. Such

designee may utilize any diagnosis and evaluation carried out in a center approved by the [physically handicapped children's] children and youth with special health care needs support services program as the second opinion upon which determination of coverability is made, or may require an additional second opinion.

## NOTICE OF CONSENSUS RULEMAKING

### **Statutory Authority:**

Public Health Law (PHL) section 225(4) authorizes the Public Health and Health Planning Council, subject to approval by the Commissioner of Health, to amend regulations affecting the New York State Sanitary Code, including 10 NYCRR Part 11. Likewise, PHL section 2803(2) authorizes the Public Health and Health Planning Council, subject to approval by the Commissioner of Health, to amend regulations concerning facilities licensed and certified pursuant to PHL Article 28, including the medical assistance benefit regulations applicable to hospitals, as set forth in 10 NYCRR Part 85. Further, PHL section 2583(1) authorizes the Commissioner of Health to promulgate regulations concerning the treatment and rehabilitation of children with physical disabilities.

### **Basis:**

The proposed regulatory change is non-substantive and non-controversial. It changes the name of the “Physically Handicapped Children’s Program” (PHCP) to the “Children and Youth with Special Health Care Needs Support Services” program, in recognition of the fact that the term “physically handicapped” is outdated and limiting, as it refers to the loss of or failure to develop a specific bodily function or functions. This name change would coincide with similar statutory changes in 2020 to Public Health Law §§ 356(1), 608(1), and 2511(10), and would also align the New York State program name with its federal funding source, as the federal Title V Maternal and Child Health Services Block Grant supports the Children and Youth with Special Health Care Needs Program.

## **JOB IMPACT STATEMENT**

No Job Impact Statement is required pursuant to section 201-a(2)(a) of the State Administrative Procedure Act. It is apparent from the nature of the proposed amendment that it will not have a substantial adverse impact on jobs and employment opportunities.