

S T A T E O F N E W Y O R K

S. 2809--B

A. 4009--B

S E N A T E - A S S E M B L Y

February 1, 2011

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the elder law, in relation to Medicare part D; to amend the public health law and the insurance law, in relation to early intervention services; to amend the public health law and the elder law, in relation to creating local competitive performance grant programs for priority health initiatives and initiatives in aging; to amend the public health law, in relation to tobacco control and insurance initiatives pool distributions; to amend the public health law, in relation to clinical laboratories; to amend the public health law, in relation to distribution of HEAL NY capital grants; to amend section 32 of part A of chapter 58 of the laws of 2008, amending the elder law and other laws relating to reimbursement to particular provider pharmacies and prescription drug coverage, in relation to the effectiveness thereof; to amend section 4 of part X2 of chapter 62 of the laws of 2003, amending the public health law relating to allowing for the use of funds of the office of professional medical conduct for activities of the patient health information and quality improvement act of 2000, in relation to the effectiveness thereof; to amend paragraph b of subdivision 1 of section 76 of chapter 731 of the laws of 1993, amending the public health law and other laws relating to reimbursement, delivery and capital costs of ambulatory health care services and inpatient hospital services, in relation to the effectiveness thereof; to amend section 4 of chapter 505 of the laws of 1995, amending the public health law relating to the operation of department of health facilities, in relation to the effectiveness

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

LBD12571-03-1

thereof; to amend section 3 of chapter 303 of the laws of 1999, amending the New York state medical care facilities finance agency act relating to financing health facilities, in relation to the effectiveness thereof; to repeal subdivision 2, and paragraphs (c), (d) and (g) of subdivision 3 of section 242 of the elder law, relating to eligibility for comprehensive coverage for elderly pharmaceutical insurance; to repeal section 244 of the elder law, relating to the elderly pharmaceutical insurance coverage panel; to repeal subdivisions 1, 2 and 4 of section 247 of the elder law, relating to cost-sharing responsibilities of participants in the elderly pharmaceutical insurance coverage program; and to repeal section 248 of the elder law, relating to cost-sharing responsibilities of participants in the elderly catastrophic insurance program (Part A); to amend the public health law, in relation to rates of payment and medical assistance; and to amend chapter 58 of the laws of 2009, amending the public health law and other laws relating to Medicaid reimbursements to residential health care facilities, in relation to adjustments to Medicaid ratio of payment for inpatient services (Part B); to amend the New York Health Care Reform Act of 1996, in relation to extending certain provisions relating thereto; to amend the New York Health Care Reform Act of 2000, in relation to extending the effectiveness of provisions thereof; to amend the public health law, in relation to the distribution of pool allocations and graduate medical education; to amend chapter 62 of the laws of 2003 amending the general business law and other laws relating to enacting major components necessary to implement the state fiscal plan for the 2003-04 state fiscal year, in relation to the deposit of certain funds; to amend the public health law, in relation to health care initiative pool distributions; to amend the public authorities law, in relation to the transfer of certain funds; to amend the social services law, in relation to extending payment provisions for general hospitals; to amend chapter 600 of the laws of 1986 amending the public health law relating to the development of pilot reimbursement programs for ambulatory care services, in relation to the effectiveness of such chapter; to amend chapter 520 of the laws of 1978 relating to providing for a comprehensive survey of health care financing, education and illness prevention and creating councils for the conduct thereof, in relation to extending the effectiveness of portions thereof; to amend the public health law, in relation to extending access to community health care services in rural areas; to amend the public health law, in relation to continuing the priority restoration adjustment; to amend chapter 266 of the laws of 1986 amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, in relation to extending the applicability of certain provisions thereof; to amend the insurance law, in relation to liquidation of domestic insurers; to amend chapter 63 of the laws of 2001 amending chapter 20 of the laws of 2001 amending the military law and other laws relating to making appropriations for the support of government, in relation to extending the applicability of certain provisions thereof; to amend chapter 904 of the laws of 1984, amending the public health law and the social services law relating to encouraging comprehensive health services, in relation to the effectiveness thereof; to amend the social services law and the public health law, in relation to rates of payment for personal care service providers, residential health care facilities and diagnostic and treatment centers; and to amend chapter 495 of the laws of 2004 amending the insurance law and the public health law

relating to the New York state health insurance continuation assistance demonstration project, in relation to the effectiveness of such provisions (Part C); to amend the public health law, in relation to payments to residential health care facilities; to amend chapter 474 of the laws of 1996, amending the education law and other laws relating to rates for residential healthcare facilities, in relation to reimbursements; to amend chapter 884 of the laws of 1990, amending the public health law relating to authorizing bad debt and charity care allowances for certified home health agencies, in relation to the effectiveness thereof; to amend chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, in relation to reimbursements and the effectiveness thereof; to amend the public health law, in relation to capital related inpatient expenses; to amend part C of chapter 58 of the laws of 2007, amending the social services law and other laws relating to enacting the major components of legislation necessary to implement the health and mental hygiene budget for the 2007-2008 state fiscal year, in relation to rates of payment by state governmental agencies; to amend chapter 451 of the laws of 2007, amending the public health law, the social services law and the insurance law, relating to providing enhanced consumer and provider protections, in relation to extending the effectiveness of certain provisions thereof; to amend the public health law, in relation to rates of payment for long term home health care programs; to amend chapter 2 of the laws of 1998, amending the public health law and other laws relating to expanding the child health insurance plan, in relation to the effectiveness of certain provisions thereof; to amend chapter 649 of the laws of 1996, amending the public health law, the mental hygiene law and the social services law relating to authorizing the establishment of special needs plans, in relation to the effectiveness thereof; to amend chapter 58 of the laws of 2008, amending the social services law and the public health law relating to adjustments of rates, in relation to the effectiveness of certain provisions thereof; to amend chapter 535 of the laws of 1983, amending the social services law relating to eligibility of certain enrollees for medical assistance, in relation to the effectiveness thereof; to amend chapter 19 of the laws of 1998, amending the social services law relating to limiting the method of payment for prescription drugs under the medical assistance program, in relation to the effectiveness thereof; to amend chapter 710 of the laws of 1988, amending the social services law and the education law relating to medical assistance eligibility of certain persons and providing for managed medical care demonstration programs, in relation to the effectiveness thereof; to amend chapter 165 of the laws of 1991, amending the public health law and other laws relating to establishing payments for medical assistance, in relation to the effectiveness thereof; to repeal certain provisions of the public health law relating to capital related inpatient expenses; and to repeal certain provisions of chapter 41 of the laws of 1992, amending the public health law and other laws relating to health care providers relating to the effectiveness of certain provisions thereof (Part D); to amend the social services law, in relation to suspension of eligibility for medical assistance (Part E); to amend chapter 57 of the laws of 2006, relating to establishing a cost of living adjustment for designated human services programs, in relation to foregoing such adjustment during the 2011-2012 state fiscal year (Part F); to amend the mental hygiene law, in relation to the closure and the reduction

in size of certain facilities serving persons with mental illness; and to repeal certain provisions of such law relating thereto (Part G) to amend the public health law, in relation to general hospital inpatient reimbursement for annual rates; to amend chapter 1 of the laws of 1999 amending the public health law and other laws relating to enacting the New York Health Care Reform Act of 2000, in relation to rates of payment for residential health care facilities; to amend the public health law, in relation to establishing ceiling limitations for certain rates of payment; to repeal certain provisions of the social services law relating to prescription drug payments; to amend the social services law, in relation to a study to determine costs incurred by public school districts for certain medical care, services and supplies; to amend the public health law, in relation to calculation of capital costs and to repeal certain provisions of such law relating thereto; to amend the education law, in relation to immunizations; to amend the public health law, in relation to the pharmacy and therapeutics committee and the preferred drug program; and to repeal certain provisions of such law relating thereto; to amend the social services law and the public health law, in relation to covered part D drugs, limited coverage for formula therapy, prescription footwear, speech therapy, physical therapy and occupational therapy, payment for home health care nursing services, and coverage for smoking cessation counseling services, the furnishing of medical assistance to applicants with responsible relatives, and the commissioner of health's authority to negotiate agreements resolving multiple pending rate appeals; to repeal subdivision 12 of section 272 of the public health law relating to authorization under the preferred drug program for anti-psychotics, anti-depressants, anti-rejection drugs for transplants and anti-retrovirals used in the treatment of HIV and AIDS; to amend the public health law, in relation to temporary operator certificates for general hospitals or diagnostic and treatment centers; to amend the social services law, in relation to health home services; to amend the public health law, in relation to managed long term care plans; to amend the social services law, in relation to insurance co-payments; to amend the public health law, in relation to providing palliative care support for patients with advanced life limiting conditions and illnesses; to amend the social services law, in relation to provisions of home health care services, to establish a workgroup to develop a plan and draft legislation for the purpose of operating and managing public nursing homes; to amend the public health law, in relation to encouraging cooperative, collaborative and integrative arrangements between health care providers, payers, and others; to amend the social services law, in relation to definition of estate; to amend the civil practice law and rules, in relation to damage awards and to repeal certain provisions of such law relating thereto; to amend the mental hygiene law, in relation to compliance with operational standards by hospitals and providers of services in hospitals; to amend the public health law, in relation to serious event reporting; to amend the general municipal law, in relation to including a hospital and continuing care retirement community within the definition of project and defining hospital; to amend chapter 66 of the laws of 1994, amending the public health law, the general municipal law and the insurance law relating to the financing of life care communities, in relation to repealing the application deadline for eligibility for assistance from an industrial development agency; to amend the social services law, in relation to limiting the report-

ing of death by the operator of an adult home or residence, to define certain terms as used in the social services law, and to require preclaim review for participating providers of medical assistance program items and services; to amend the public health law, and part B of chapter 58 of the laws of 2010, amending chapter 474 of the laws of 1996 amending the education law and other laws relating to rates for residential healthcare facilities and other laws relating to Medicaid payments, in relation to seeking federal approvals to establish payment methodologies with accountable care organizations, and to amend the mental hygiene law, in relation to entities subject to the visitation, examination, inspection, and investigation; to amend the social services law, in relation to medical assistance for needy persons and to repeal certain provisions of such law relating thereto; to amend the tax law, in relation to increasing credits for long-term care insurance; to amend the social services law, in relation to the character and adequacy of assistance; and providing for the repeal of certain provisions upon expiration thereof (Part H)

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to implement the state fiscal plan for the 2011-2012
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through H. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part, includ-
7 ing the effective date of the Part, which makes a reference to a section
8 "of this act", when used in connection with that particular component,
9 shall be deemed to mean and refer to the corresponding section of the
10 Part in which it is found. Section three of this act sets forth the
11 general effective date of this act.

12 PART A

13 Section 1. Paragraph (f) of subdivision 3 of section 242 of the elder
14 law, as added by section 3 of part B of chapter 58 of the laws of 2007,
15 is amended to read as follows:

16 (f) As a condition of continued eligibility for benefits under this
17 title, if a program participant is eligible for Medicare part D drug
18 coverage under section 1860D of the federal social security act, the
19 participant is required to enroll in Medicare part D at the first avail-
20 able enrollment period and to maintain such enrollment. This requirement
21 shall be waived if such enrollment would result in significant addi-
22 tional financial liability by the participant, including, but not limit-
23 ed to, individuals in a Medicare advantage plan whose cost sharing would
24 be increased, or if such enrollment would result in the loss of any
25 health coverage through a union or employer plan for the participant,
26 the participant's spouse or other dependent. [The elderly pharmaceu-
27 tical insurance coverage program shall provide premium assistance for
28 all participants enrolled in Medicare part D as follows:

29 (i) for participants with comprehensive coverage under section two
30 hundred forty-seven of this title, the elderly pharmaceutical insurance
31 coverage program shall pay for the portion of the part D monthly premium
32 that is the responsibility of the participant. Such payment shall be

1 limited to the low-income benchmark premium amount established by the
2 federal centers for Medicare and Medicaid services and any other amount
3 which such agency establishes under its de minimus premium policy,
4 except that such payments made on behalf of participants enrolled in a
5 Medicare advantage plan may exceed the low-income benchmark premium
6 amount if determined to be cost effective to the program.

7 (ii) for participants with catastrophic coverage under section two
8 hundred forty-eight of this title, the elderly pharmaceutical insurance
9 coverage program shall credit the participant's annual personal covered
10 drug expenditure amount required under this title by an amount equal to
11 the annual low-income benchmark premium amount established by the
12 centers for Medicare and Medicaid services, prorated for the remaining
13 portion of the participant's elderly pharmaceutical insurance coverage
14 program coverage period. The elderly pharmaceutical insurance coverage
15 program shall, at appropriate times, notify participants with
16 catastrophic coverage under section two hundred forty-seven of this
17 title of their right to coordinate the annual coverage period with that
18 of Medicare part D, along with the possible advantages and disadvantages
19 of doing so.]

20 S 2. Subdivision 6 of section 241 of the elder law is amended and two
21 new subdivisions 8 and 9 are added to read as follows:

22 6. "Annual coverage period" shall mean the period of twelve consec-
23 utive calendar months for which an eligible program participant has met
24 the [application fee or deductible requirements, as the case may be, of
25 sections two hundred forty-seven and two hundred forty-eight] REQUIRE-
26 MENTS OF SECTION TWO HUNDRED FORTY-TWO of this title.

27 8. "COVERAGE GAP PERIOD" SHALL MEAN THE PERIOD BETWEEN THE END OF THE
28 MEDICARE PART D INITIAL COVERAGE PHASE AND THE START OF MEDICARE PART D
29 CATASTROPHIC COVERAGE.

30 9. "MEDICARE PART D EXCLUDED DRUG CLASSES" SHALL MEAN ANY DRUGS OR
31 CLASSES OF DRUGS, OR THEIR MEDICAL USES, WHICH ARE DESCRIBED IN SECTION
32 1927(D)(2) OR 1927(D)(3) OF THE FEDERAL SOCIAL SECURITY ACT, WITH THE
33 EXCEPTION OF SMOKING CESSATION AGENTS.

34 S 3. Subdivision 1 of section 242 of the elder law, paragraph (b) as
35 amended by section 14 of part B of chapter 57 of the laws of 2006, is
36 amended to read as follows:

37 1. Persons eligible for [comprehensive] coverage under [section two
38 hundred forty-seven of] this title shall include:

39 (a) any unmarried resident who is at least sixty-five years of age,
40 WHO IS ENROLLED IN MEDICARE PART D, and whose income for the calendar
41 year immediately preceding the effective date of the annual coverage
42 period beginning on or after January first, two thousand five, is less
43 than or equal to [twenty] THIRTY-FIVE thousand dollars. After the
44 initial determination of eligibility, each eligible individual must be
45 redetermined eligible at least every twenty-four months; and

46 (b) any married resident who is at least sixty-five years of age, WHO
47 IS ENROLLED IN MEDICARE PART D, and whose income for the calendar year
48 immediately preceding the effective date of the annual coverage period
49 when combined with the income in the same calendar year of such married
50 person's spouse beginning on or after January first, two thousand one,
51 is less than or equal to [twenty-six] FIFTY thousand dollars. After the
52 initial determination of eligibility, each eligible individual must be
53 redetermined eligible at least every twenty-four months.

54 S 3-a. Subdivision 2 of section 242 of the elder law is REPEALED.

55 S 3-b. Paragraph (c) of subdivision 3 of section 242 of the elder law
56 is REPEALED and a new paragraph (c) is added to read as follows:

1 (C) FOR PERSONS WHO MEET THE ELIGIBILITY REQUIREMENTS TO PARTICIPATE
2 IN THE ELDERLY PHARMACEUTICAL INSURANCE COVERAGE PROGRAM, THE PROGRAM
3 WILL PAY FOR A DRUG COVERED BY THE PERSON'S MEDICARE PART D PLAN OR A
4 DRUG IN A MEDICARE PART D EXCLUDED DRUG CLASS, AS DEFINED IN SUBDIVISION
5 NINE OF SECTION TWO HUNDRED FORTY-ONE OF THIS TITLE, DURING THE COVERAGE
6 GAP, AS DEFINED IN SUBDIVISION EIGHT OF SECTION TWO HUNDRED FORTY-ONE OF
7 THIS TITLE, PROVIDED THAT SUCH DRUG IS A COVERED DRUG, AS DEFINED IN
8 SUBDIVISION ONE OF SECTION TWO HUNDRED FORTY-ONE OF THIS TITLE, AND THAT
9 THE PARTICIPANT COMPLIES WITH THE POINT OF SALE CO-PAYMENT REQUIREMENTS
10 SET FORTH IN SECTION TWO HUNDRED FORTY-SEVEN OF THIS TITLE.

11 S 3-c. Paragraph (d) of subdivision 3 of section 242 of the elder law
12 is REPEALED.

13 S 3-d. Paragraphs (e) and (f) of subdivision 3 of section 242 of the
14 elder law, paragraph (e) as amended by section 112 of part C of chapter
15 58 of the laws of 2009, paragraph (f) as amended by section one of this
16 act, are amended to read as follows:

17 (e) As a condition of [continued] eligibility for benefits under this
18 title, if a program participant's income indicates that the participant
19 could be eligible for an income-related subsidy under section 1860D-14
20 of the federal social security act by either applying for such subsidy
21 or by enrolling in a medicare savings program as a qualified medicare
22 beneficiary (QMB), a specified low-income medicare beneficiary (SLMB),
23 or a qualifying individual (QI), a program participant is required to
24 provide, and to authorize the elderly pharmaceutical insurance coverage
25 program to obtain, any information or documentation required to estab-
26 lish the participant's eligibility for such subsidy, and to authorize
27 the elderly pharmaceutical insurance coverage program to apply on behalf
28 of the participant for the subsidy or the medicare savings program. The
29 elderly pharmaceutical insurance coverage program shall make a reason-
30 able effort to notify the program participant of his or her need to
31 provide any of the above required information. After a reasonable effort
32 has been made to contact the participant, a participant shall be noti-
33 fied in writing that he or she has sixty days to provide such required
34 information. If such information is not provided within the sixty day
35 period, the participant's coverage may be terminated.

36 (f) As a condition of [continued] eligibility for benefits under this
37 title, [if] a program participant is [eligible for Medicare part D drug
38 coverage under section 1860D of the federal social security act, the
39 participant is] required to [enroll] BE ENROLLED in Medicare part D [at
40 the first available enrollment period] and to maintain such enrollment.
41 [This requirement shall be waived if such enrollment would result in
42 significant additional financial liability by the participant, includ-
43 ing, but not limited to, individuals in a Medicare advantage plan whose
44 cost sharing would be increased, or if such enrollment would result in
45 the loss of any health coverage through a union or employer plan for the
46 participant, the participant's spouse or other dependent.]

47 S 3-e. Paragraph (g) of subdivision 3 of section 242 of the elder law
48 is REPEALED.

49 S 3-f. Paragraph (h) of subdivision 3 of section 242 of the elder law,
50 as added by section 3 of part B of chapter 58 of the laws of 2007, is
51 amended to read as follows:

52 (h) [In order to maximize prescription drug coverage under Medicare
53 part D, the] THE elderly pharmaceutical insurance coverage program is
54 authorized to represent program participants under this title [in the
55 pursuit of such] WITH RESPECT TO THEIR MEDICARE PART D coverage. [Such
56 representation shall not result in any additional financial liability on

1 behalf of such program participants and shall include, but not be limit-
2 ed to, the following actions:

3 (i) application for the premium and cost-sharing subsidies on behalf
4 of eligible program participants;

5 (ii) enrollment in a prescription drug plan or MA-PD plan; the elderly
6 pharmaceutical insurance coverage program shall provide program partic-
7 ipants with prior written notice of, and the opportunity to decline such
8 facilitated enrollment subject, however, to the provisions of paragraph
9 (f) of this subdivision;

10 (iii) pursuit of appeals, grievances, or coverage determinations.]

11 S 3-g. Section 243 of the elder law is amended to read as follows:

12 S 243. Pharmaceutical insurance contract. 1. The [elderly pharmaceu-
13 tical insurance coverage panel, established pursuant to section two
14 hundred forty-four of this title] COMMISSIONER OF HEALTH shall, subject
15 to the approval of the director of the budget, enter into a contract
16 with one or more contractors to assist in carrying out the provisions of
17 this title. Such contractual arrangements shall be made subject to a
18 competitive process pursuant to the state finance law and shall ensure
19 that state payments for the contractor's necessary and legitimate
20 expenses for the administration of this program are limited to the
21 amount specified in advance, and that such payments shall not exceed the
22 amount appropriated therefor in any fiscal year. The [panel] COMMISSION-
23 ER shall[, at each of its regularly scheduled meetings,] review the
24 contract pricing provisions to assure that the level of contract
25 payments are in the best interest of the state, giving consideration to
26 the total level of participant enrollment achieved, the volume of claims
27 processed, and such other factors as may be relevant in order to contain
28 state expenditures. In the event that the [panel] COMMISSIONER deter-
29 mines that the contract payment provisions do not protect the interest
30 of the state, the [executive director] COMMISSIONER shall initiate
31 contract negotiations for the purpose of modifying contract payments
32 and/or scope requirements.

33 2. The responsibilities of the contractor or contractors shall
34 include, but need not be limited to:

35 (a) providing for a method of determining, on an annual basis and upon
36 their application therefor, the eligibility of persons pursuant to
37 section two hundred forty-two of this title within a reasonable period
38 of time, including alternative methods for such determination of eligi-
39 bility, such as through the mail or home visits, where reasonable and/or
40 necessary, and for notifying applicants of such eligibility determi-
41 nations;

42 (b) notifying each eligible program participant in writing upon the
43 commencement of the annual coverage period of such participant's cost-
44 sharing responsibilities pursuant to [sections] SECTION two hundred
45 forty-seven [and two hundred forty-eight] of this title. The contractor
46 shall also notify each eligible program participant of any adjustment of
47 the co-payment schedule by mail no less than thirty days prior to the
48 effective date of such adjustments and shall inform such eligible
49 program participants of the date such adjustments shall take effect;

50 (c) issuing an identification card to each ELIGIBLE program partic-
51 ipant [who is eligible to purchase prescribed covered drugs for an
52 amount specified pursuant to subdivision three of section two hundred
53 forty-seven or subdivision three of section two hundred forty-eight of
54 this title. The dates of the annual coverage period shall be imprinted
55 on the card. When an eligible program participant meets the annual
56 limits on point of sale co-payments set forth in subdivision four of

1 section two hundred forty-seven or subdivision four of section two
2 hundred forty-eight of this title, either new identification cards shall
3 be issued to such participant indicating waiver of such co-payment
4 requirements for the remainder of the annual coverage period or the
5 contractor shall develop and implement an alternative method to permit
6 the purchase of covered drugs without a co-payment requirement];

7 (d) [developing and implementing the system for those individuals
8 electing the deductible option to record their personal covered drug
9 expenditures in accordance with subdivision three of section two hundred
10 forty-eight of this title. Such recordkeeping system shall be provided
11 to each such participant at a nominal charge which shall be subject to
12 the approval of the panel. The contractor shall also reimburse partic-
13 ipants for personal covered drug expenditures made in excess of their
14 deductible requirements, less the co-payments required by subdivision
15 four of section two hundred forty-eight of this title, made prior to
16 their receipt of an identification card issued in accordance with para-
17 graph (c) of this subdivision;

18 (e)] processing of claims for reimbursement to participating provider
19 pharmacies pursuant to section two hundred fifty of this title;

20 [(f)] (E) performing or causing to be performed utilization reviews
21 for such purposes as may be required by the [elderly pharmaceutical
22 insurance coverage panel] COMMISSIONER OF HEALTH;

23 [(g)] (F) conducting audits and surveys of participating provider
24 pharmacies as specified pursuant to the terms and conditions of the
25 contract; and

26 [(h)] (G) coordinating coverage with insurance companies and other
27 public and private organizations offering such coverage for those eligi-
28 ble program participants having partial coverage for covered drugs
29 through third-party sources, and providing for recoupment of any dupli-
30 cate reimbursement paid by the state on behalf of such eligible program
31 participants.

32 3. The contractor or contractors shall be required to provide such
33 reports as may be deemed necessary by the [elderly pharmaceutical insur-
34 ance coverage panel] COMMISSIONER OF HEALTH and shall maintain files in
35 a manner and format approved by the [executive director] COMMISSIONER.

36 4. The contractor or contractors may contract with private not-for-
37 profit or proprietary corporations, or with entities of local government
38 within the state of New York, to perform such obligations of the
39 contractor or contractors as the [elderly pharmaceutical insurance
40 coverage panel] COMMISSIONER OF HEALTH shall permit.

41 S 3-h. Section 244 of the elder law is REPEALED and a new section 244
42 is added to read as follows:

43 S 244. POWERS OF THE COMMISSIONER OF HEALTH. THE POWERS OF THE
44 COMMISSIONER OF HEALTH IN ADMINISTERING THE ELDERLY PHARMACEUTICAL
45 INSURANCE COVERAGE PROGRAM SHALL INCLUDE BUT NOT BE LIMITED TO THE
46 FOLLOWING:

47 1. SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE BUDGET, PROMULGATING
48 PROGRAM REGULATIONS PURSUANT TO SECTION TWO HUNDRED FORTY-SIX OF THIS
49 TITLE;

50 2. DETERMINING THE ANNUAL SCHEDULE OF COST-SHARING RESPONSIBILITIES OF
51 ELIGIBLE PROGRAM PARTICIPANTS PURSUANT TO SECTION TWO HUNDRED FORTY-SEV-
52 EN OF THIS TITLE;

53 3. ENTERING INTO CONTRACTS PURSUANT TO SECTION TWO HUNDRED FORTY-THREE
54 OF THIS TITLE;

1 4. IMPLEMENTING ALTERNATIVE PROGRAM IMPROVEMENTS FOR THE EFFICIENT AND
2 EFFECTIVE OPERATION OF THE PROGRAM IN ACCORDANCE WITH THE PROVISIONS OF
3 THIS TITLE;

4 5. ESTABLISHING OR CONTRACTING FOR A THERAPEUTIC DRUG MONITORING
5 PROGRAM, FOR THE PURPOSE OF MONITORING THERAPEUTIC DRUG USE BY ELIGIBLE
6 PROGRAM PARTICIPANTS IN AN EFFORT TO PREVENT THE INCORRECT OR UNNECES-
7 SARY CONSUMPTION OF SUCH THERAPEUTIC DRUGS.

8 S 3-i. The section heading of section 247 of the elder law is amended
9 to read as follows:

10 Cost-sharing responsibilities of eligible program participants [for
11 comprehensive coverage].

12 S 3-j. Subdivision 1 of section 247 of the elder law is REPEALED and a
13 new subdivision 1 is added to read as follows:

14 1. AS A CONDITION OF ELIGIBILITY FOR BENEFITS UNDER THIS TITLE,
15 PARTICIPANTS MUST MAINTAIN MEDICARE PART D COVERAGE AND PAY MONTHLY
16 PREMIUMS TO THEIR MEDICARE PART D DRUG PLAN.

17 S 3-k. Subdivisions 2 and 4 of section 247 of the elder law are
18 REPEALED and subdivision 3 is renumbered subdivision 2 and paragraph (a)
19 is amended to read as follows:

20 (a) [Upon satisfaction of the registration fee pursuant to this
21 section an eligible] A program participant must pay a point of sale
22 co-payment as set forth in paragraph (b) of this subdivision at the time
23 of each purchase of a [covered] drug prescribed for such individual THAT
24 IS DESCRIBED IN PARAGRAPH (C) OF SUBDIVISION THREE OF SECTION TWO
25 HUNDRED FORTY-TWO OF THIS TITLE. [Such co-payment shall not be waived
26 or reduced in whole or in part, subject to the limits provided by subdi-
27 vision four of this section.]

28 S 3-l. Section 248 of the elder law is REPEALED.

29 S 3-m. Section 250 of the elder law, paragraph (a) of subdivision 1 as
30 amended by section 6-a and subparagraph 1 of paragraph (b) of subdivi-
31 sion 1 as amended by section 1 of part A of chapter 58 of the laws of
32 2008, paragraph (b) of subdivision 1 as amended by section 17 of part A
33 of chapter 58 of the laws of 2004, subparagraph 1 of paragraph (a) of
34 subdivision 3 and subdivision 5 as amended by section 19 of part B of
35 chapter 57 of the laws of 2006, subdivision 6 as amended by section 19-a
36 of part A of chapter 109 of the laws of 2010, is amended to read as
37 follows:

38 S 250. Reimbursement to participating provider pharmacies. 1. The
39 amount of reimbursement which shall be paid by the state to a partic-
40 ipating provider pharmacy [for any covered drug filled or refilled for
41 any eligible program participant] FILLING OR REFILLING A PRESCRIPTION
42 FOR A DRUG THAT IS DESCRIBED IN PARAGRAPH (C) OF SUBDIVISION THREE OF
43 SECTION TWO HUNDRED FORTY-TWO OF THIS TITLE shall be equal to the
44 allowed amount defined as follows, minus the point of sale co-payment as
45 required by [sections] SECTION two hundred forty-seven [and two hundred
46 forty-eight] of this title:

47 (a) Multiple source covered drugs. Except for brand name drugs that
48 are required by the prescriber to be dispensed as written, the allowed
49 amount for a multiple source covered drug shall equal the lower of:

50 (1) The pharmacy's usual and customary charge to the general public,
51 taking into consideration any quantity and promotional discounts to the
52 general public at the time of purchase, or

53 (2) The upper limit, if any, set by the centers for medicare and medi-
54 caid services for such multiple source drug, or

55 (3) Average wholesale price discounted by twenty-five percent, or

(4) The maximum allowable cost, if any, established by the commissioner of health pursuant to paragraph (e) of subdivision nine of section three hundred sixty-seven-a of the social services law.

Plus a dispensing fee for drugs reimbursed pursuant to subparagraphs two, three, and four of this paragraph, as defined in paragraph (c) of this subdivision.

(b) Other covered drugs. The allowed amount for brand name drugs required by the prescriber to be dispensed as written and for covered drugs other than multiple source drugs shall be determined by applying the lower of:

(1) Average wholesale price discounted by sixteen and twenty-five one hundredths percent, plus a dispensing fee as defined in paragraph (c) of this subdivision, or

(2) The pharmacy's usual and customary charge to the general public, taking into consideration any quantity and promotional discounts to the general public at the time of purchase.

(c) As required by paragraphs (a) and (b) of this subdivision, a dispensing fee of four dollars fifty cents will apply to generic drugs and a dispensing fee of three dollars fifty cents will apply to brand name drugs.

2. For purposes of determining the amount of reimbursement which shall be paid to a participating provider pharmacy, the [panel] COMMISSIONER OF HEALTH shall determine or cause to be determined, through a statistically valid survey, the quantities of each covered drug that participating provider pharmacies buy most frequently. Using the result of this survey, the contractor shall update every thirty days the list of average wholesale prices upon which such reimbursement is determined using nationally recognized and most recently revised sources. Such price revisions shall be made available to all participating provider pharmacies. The pharmacist shall be reimbursed based on the price in effect at the time the covered drug is dispensed.

3. [(a) Notwithstanding any inconsistent provision of law, the program for elderly pharmaceutical insurance coverage shall reimburse for covered drugs which are dispensed under the program by a provider pharmacy only pursuant to the terms of a rebate agreement between the program and the manufacturer (as defined under section 1927 of the federal social security act) of such covered drugs; provided, however, that:

(1) any agreement between the program and a manufacturer entered into before August first, nineteen hundred ninety-one, shall be deemed to have been entered into on April first, nineteen hundred ninety-one; and provided further, that if a manufacturer has not entered into an agreement with the department before August first, nineteen hundred ninety-one, such agreement shall not be effective until April first, nineteen hundred ninety-two, unless such agreement provides that rebates will be retroactively calculated as if the agreement had been in effect on April first, nineteen hundred ninety-one; and

(2) the program may reimburse for any covered drugs pursuant to subdivisions one and two of this section, for which a rebate agreement does not exist and which are determined by the elderly pharmaceutical insurance coverage panel to be essential to the health of persons participating in the program; and likely to provide effective therapy or diagnosis for a disease not adequately treated or diagnosed by any other covered drug; and which are recommended for reimbursement by the panel and approved by the commissioner of health.

(b) The rebate agreement between such manufacturer and the program for elderly pharmaceutical insurance coverage shall utilize for covered drugs the identical formula used to determine the rebate for federal financial participation for drugs, pursuant to section 1927(c) of the federal social security act, to determine the amount of the rebate pursuant to this subdivision.

(c) The amount of rebate pursuant to paragraph (b) of this subdivision shall be calculated by multiplying the required rebate formulas by the total number of units of each dosage form and strength dispensed. The rebate agreement shall also provide for periodic payment of the rebate, provision of information to the program, audits, verification of data, damages to the program for any delay or non-production of necessary data by the manufacturer and for the confidentiality of information.

(d) The program in providing utilization data to a manufacturer (as provided for under section 1927 (b) of the federal social security act) shall provide such data by zip code, if requested, for the top three hundred most commonly used drugs by volume covered under a rebate agreement.

(e) Any funds collected pursuant to any rebate agreements entered into with a manufacturer pursuant to this subdivision, shall be deposited into the elderly pharmaceutical insurance coverage program premium account.

4.] Notwithstanding any other provision of law, entities which offer insurance coverage for provision of and/or reimbursement for pharmaceutical expenses, including but not limited to, entities licensed/certified pursuant to article thirty-two, forty-two, forty-three or forty-four of the insurance law (employees welfare funds) or article forty-four of the public health law, shall participate in a benefit recovery program with the elderly pharmaceutical insurance coverage (EPIC) program which includes, but is not limited to, a semi-annual match of EPIC's file of enrollees against the entity's file of insured to identify individuals enrolled in both plans with claims paid within the twenty-four months preceding the date the entity receives the match request information from EPIC. Such entity shall indicate if pharmaceutical coverage is available from the entity for the insured persons, list the copayment or other payment obligations of the insured persons applicable to the pharmaceutical coverage, and (after receiving necessary claim information from EPIC) list the amounts which the entity would have paid for the pharmaceutical claims for those identified individuals and the entity shall reimburse EPIC for pharmaceutical expenses paid by EPIC that are covered under the contract between the entity and its insured in only those instances where the entity has not already made payment of the claim. Reimbursement of the net amount payable (after rebates and discounts) that would have been paid under the coverage issued by the entity will be made by the entity to EPIC within sixty days of receipt from EPIC of the standard data in electronic format necessary for the entity to adjudicate the claim and if the standard data is provided to the entity by EPIC in paper format payment by the entity shall be made within one hundred eighty days. After completing at least one match process with EPIC in electronic format, an entity shall be entitled to elect a monthly or bi-monthly match process rather than a semi-annual match process.

[5.] 4. Notwithstanding any other provision of law, the [panel] COMMISSIONER OF HEALTH shall maximize the coordination of benefits for persons enrolled under Title XVIII of the federal social security act (medicare) and enrolled under this title in order to facilitate medicare

1 payment of claims. The [panel] COMMISSIONER OF HEALTH may select an
2 independent contractor, through a request-for-proposal process, to
3 implement a centralized coordination of benefits system under this
4 subdivision for individuals qualified in both the elderly pharmaceutical
5 insurance coverage (EPIC) program and medicare programs who receive
6 medications or other covered products from a pharmacy provider currently
7 enrolled in the elderly pharmaceutical insurance coverage (EPIC)
8 program.

9 [6. (a)] 5. The EPIC program shall be the payor of last resort for
10 individuals qualified in both the EPIC program and title XVIII of the
11 federal social security act (Medicare). [For such individuals, no
12 reimbursement shall be available under EPIC for covered drug expenses
13 except:

14 (i) where a prescription drug plan authorized by Part D of the federal
15 social security act (referred to in this subdivision as a Medicare Part
16 D plan) has approved coverage and EPIC has an obligation under this
17 title to pay a portion of the participant's cost-sharing responsibility
18 under Medicare Part D; or

19 (ii) where the provider pharmacy has certified that a Medicare Part D
20 plan has denied coverage.

21 (b) If the provider pharmacy certifies as set forth in subparagraph
22 (ii) of paragraph (a) of this subdivision, the EPIC program shall pay
23 for the drug as the primary payor upon a showing of compliance with the
24 notification and appeal provisions of subparagraph two of paragraph (c)
25 of subdivision three of section two hundred forty-two of this title.]

26 S 3-n. Section 254 of the elder law is amended to read as follows:

27 S 254. Cost of living adjustment. [1.] Within amounts appropriated,
28 the [panel] COMMISSIONER OF HEALTH shall adjust the program eligibility
29 standards set forth in subdivision [two] ONE of section two hundred
30 forty-two of this title to account for increases in the cost of living.

31 [2. The panel shall further adjust individual and joint income cate-
32 gories set forth in subdivisions two and four of section two hundred
33 forty-eight of this title to conform to the adjustments made pursuant to
34 subdivision one of this section.]

35 S 4. Notwithstanding any contrary provision of law, rates established
36 pursuant to section 69-4.30 of Title 10 of the New York Codes, Rules and
37 Regulations for approved services rendered on and after April 1, 2011
38 shall be reduced by ten percent.

39 S 5. Paragraph (a) of subdivision 3 of section 2559 of the public
40 health law, as amended by chapter 231 of the laws of 1993, is amended to
41 read as follows:

42 (a) [Providers] EXCEPT AS PROVIDED IN SUBPARAGRAPH (I) OF THIS PARA-
43 GRAPH, PROVIDERS of early intervention services and transportation
44 services shall in the first instance and where applicable, seek payment
45 from all third party payors including governmental agencies prior to
46 claiming payment from a given municipality for services rendered to
47 eligible children, provided that, for the purpose of seeking payment
48 from the medical assistance program or from other third party payors,
49 the municipality shall be deemed the provider of such early intervention
50 services to the extent that the provider has promptly furnished to the
51 municipality adequate and complete information necessary to support the
52 municipality billing, and provided further that the obligation to seek
53 payment shall not apply to a payment from a third party payor who is not
54 prohibited from applying such payment, and will apply such payment, to
55 an annual or lifetime limit specified in the insured's policy.

(I) EARLY INTERVENTION PROGRAM PROVIDERS WHO RECEIVED PAYMENT OF FIVE HUNDRED THOUSAND DOLLARS OR MORE AS DETERMINED PURSUANT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH FOR EARLY INTERVENTION SERVICES PROVIDED TO ELIGIBLE CHILDREN THAT WERE COVERED SERVICES UNDER THE MEDICAL ASSISTANCE PROGRAM, SHALL IN THE FIRST INSTANCE AND WHERE AVAILABLE, SEEK PAYMENT FROM THE MEDICAL ASSISTANCE PROGRAM OR AN INSURANCE POLICY OR HEALTH BENEFIT PLAN FOR THOSE CHILDREN COVERED UNDER BOTH THE MEDICAL ASSISTANCE PROGRAM AND AN INSURANCE POLICY OR HEALTH BENEFIT PLAN, PRIOR TO CLAIMING PAYMENT FROM A MUNICIPALITY FOR SERVICES RENDERED TO SUCH CHILDREN;

(II) THE COMMISSIONER SHALL DETERMINE WHICH PROVIDERS RECEIVED PAYMENT OF FIVE HUNDRED THOUSAND DOLLARS OR MORE FOR EARLY INTERVENTION SERVICES THAT WERE COVERED UNDER THE MEDICAL ASSISTANCE PROGRAM BASED UPON THE MOST RECENT YEAR FOR WHICH COMPLETE INFORMATION EXISTS. THE COMMISSIONER SHALL NOTIFY A PROVIDER AT LEAST THIRTY DAYS PRIOR TO THE DATE THE PROVIDER SHALL BE REQUIRED TO BILL FOR SERVICES IN ACCORDANCE WITH SUBPARAGRAPH (I) OF THIS PARAGRAPH.

(III) PARENTS SHALL PROVIDE AND THE MUNICIPALITY SHALL OBTAIN INFORMATION ON ANY PLAN OF INSURANCE UNDER WHICH AN ELIGIBLE CHILD HAS COVERAGE.

S 6. Intentionally omitted.

S 7. Intentionally omitted.

S 8. Intentionally omitted.

S 9. Intentionally omitted.

S 10. Intentionally omitted.

S 11. Section 3235-a of the insurance law, as added by section 3 of part C of chapter 1 of the laws of 2002, is amended to read as follows:

S 3235-a. Payment for early intervention services. (a) No policy of accident and health insurance, including contracts issued pursuant to article forty-three of this chapter, shall exclude coverage for otherwise covered services solely on the basis that the services constitute early intervention program services under title two-A of article twenty-five of the public health law.

(b) Where a policy of accident and health insurance, including a contract issued pursuant to article forty-three of this chapter, provides coverage for [an] A SERVICE THAT IS PROVIDED TO AN INSURED UNDER THE early intervention program service, such coverage shall not be applied against any maximum annual or lifetime monetary limits set forth in such policy or contract. Visit limitations and other terms and conditions of the policy will continue to apply to COVERED SERVICES PROVIDED UNDER THE early intervention [services] PROGRAM. However, any visits used for early intervention program services shall not reduce the number of visits otherwise available under the policy or contract for such services. WHERE A SERVICE PROVIDED TO AN INSURED UNDER THE EARLY INTERVENTION PROGRAM IS A COVERED SERVICE UNDER THE INSURER'S POLICY OR CONTRACT, THE INDIVIDUALIZED FAMILY SERVICES PLAN AS DEFINED IN SECTION TWENTY-FIVE HUNDRED FORTY-ONE OF THE PUBLIC HEALTH LAW AND CERTIFIED BY THE EARLY INTERVENTION OFFICIAL OR SUCH OFFICIAL'S DESIGNEE, SHALL BE DEEMED TO MEET ANY PRECERTIFICATION, PREAUTHORIZATION AND MEDICAL NECESSITY REQUIREMENTS IMPOSED ON BENEFITS UNDER THE POLICY OR CONTRACT, PROVIDED, HOWEVER, THAT THE EARLY INTERVENTION OFFICIAL SHALL REMOVE OR REDACT ANY INFORMATION CONTAINED ON THE INSURED'S INDIVIDUALIZED FAMILY SERVICE PLAN THAT IS NOT REQUIRED BY THE INSURER FOR PAYMENT PURPOSES. PAYMENT FOR A SERVICE COVERED UNDER THE POLICY OR CONTRACT THAT IS PROVIDED UNDER THE EARLY INTERVENTION PROGRAM SHALL BE AT RATES ESTAB-

1 LISHED BY THE COMMISSIONER OF HEALTH FOR SUCH SERVICE PURSUANT TO REGU-
2 LATIONS.

3 (c) NO INSURER, INCLUDING A HEALTH MAINTENANCE ORGANIZATION ISSUED A
4 CERTIFICATE OF AUTHORITY UNDER ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH
5 LAW AND A CORPORATION ORGANIZED UNDER ARTICLE FORTY-THREE OF THIS CHAP-
6 TER SHALL DENY PAYMENT OF A CLAIM SUBMITTED FOR A SERVICE COVERED UNDER
7 THE INSURER'S POLICY OR CONTRACT AND PROVIDED UNDER THE EARLY INTER-
8 VENTION PROGRAM BASED UPON THE FOLLOWING:

9 (I) THE LOCATION WHERE SERVICES ARE PROVIDED;

10 (II) THE DURATION OF THE INSURED'S CONDITION OR THAT THE INSURED'S
11 CONDITION IS NOT AMENABLE TO SIGNIFICANT IMPROVEMENT WITHIN A CERTAIN
12 PERIOD OF TIME AS SPECIFIED IN THE POLICY OR CONTRACT;

13 (III) THAT THE PROVIDER OF SERVICES IS NOT A PARTICIPATING PROVIDER IN
14 THE INSURER'S NETWORK; OR

15 (IV) THE ABSENCE OF A PRIMARY CARE REFERRAL.

16 (D) Any right of subrogation to benefits which a municipality is enti-
17 tled in accordance with paragraph (d) of subdivision three of section
18 twenty-five hundred fifty-nine of the public health law shall be valid
19 and enforceable to the extent benefits are available under any accident
20 and health insurance policy. The right of subrogation does not attach to
21 insurance benefits paid or provided under any accident and health insur-
22 ance policy prior to receipt by the insurer of written notice from the
23 municipality. UPON THE INSURER'S RECEIPT OF WRITTEN NOTICE FROM THE
24 MUNICIPALITY THE INSURER SHALL PROVIDE THE MUNICIPALITY WITH INFORMATION
25 ON THE EXTENT OF BENEFITS AVAILABLE TO AN INSURED UNDER THE POLICY.

26 [(d)] (E) No insurer, including a health maintenance organization
27 issued a certificate of authority under article forty-four of the public
28 health law and a corporation organized under article forty-three of this
29 chapter, shall refuse to issue an accident and health insurance policy
30 or contract or refuse to renew an accident and health insurance policy
31 or contract solely because the applicant or insured is receiving
32 services under the early intervention program.

33 S 12. Subdivisions 4 and 5 of section 2545 of the public health law,
34 as added by section 2 of chapter 428 of the laws of 1992, are amended to
35 read as follows:

36 4. If the IFSP TEAM MEMBERS, INCLUDING THE early intervention official
37 and the parent agree on the IFSP, the IFSP shall be deemed final and the
38 service coordinator shall be authorized to implement the plan.

39 5. If the IFSP TEAM MEMBERS, INCLUDING THE early intervention official
40 and the parent do not agree on an IFSP, the service coordinator shall
41 implement the sections of the proposed IFSP that are not in dispute, and
42 the parent shall have the due process rights set forth in section twen-
43 ty-five hundred forty-nine of this title.

44 S 13. Subdivision 2 of section 605 of the public health law, as
45 amended by section 7 of part B of chapter 57 of the laws of 2006, is
46 amended to read as follows:

47 2. State aid reimbursement for public health services provided by a
48 municipality under this title, shall be made [as follows:

49 (a)] if the municipality is providing some or all of the basic public
50 health services identified in paragraph (b) of subdivision three of
51 section six hundred two of this title, pursuant to an approved plan, at
52 a rate of no less than thirty-six per centum of the difference between
53 the amount of moneys expended by the municipality for public health
54 services required by paragraph (b) of subdivision three of section six
55 hundred two of this title during the fiscal year and the base grant
56 provided pursuant to subdivision one of this section. No such reimburse-

ment shall be provided for services if they are not approved in a plan or if no plan is submitted for such services.

[(b) if the municipality is providing other public health services within limits to be prescribed by regulation by the commissioner in addition to some or all of the public health services required in paragraph (b) of subdivision three of section six hundred two of this title, pursuant to an approved plan, at a rate of not less than thirty-six per centum of the moneys expended by the municipality for such other services. No such reimbursement shall be provided for services if they are not approved in a plan or if no plan is submitted for such services.]

S 14. The public health law is amended by adding a new section 212 to read as follows:

S 212. LOCAL COMPETITIVE PERFORMANCE GRANT PROGRAM FOR PRIORITY HEALTH INITIATIVES. 1. THERE IS HEREBY ESTABLISHED WITHIN THE DEPARTMENT THE LOCAL COMPETITIVE PERFORMANCE GRANT PROGRAM FOR PRIORITY HEALTH INITIATIVES TO ADDRESS EMERGING OR ONGOING PUBLIC HEALTH MATTERS AND PURSUE INNOVATIONS IN PUBLIC HEALTH.

2. WITHIN AMOUNTS APPROPRIATED THEREFOR, THE COMMISSIONER IS AUTHORIZED TO MAKE GRANTS TO AND ENTER INTO CONTRACTS WITH PUBLIC, NON-PROFIT OR PRIVATE ENTITIES FOR PURPOSES WHICH MAY INCLUDE, BUT ARE NOT LIMITED TO, MINORITY HEALTH-RELATED INITIATIVES, REPRODUCTIVE HEALTH SERVICES, DISEASE-SPECIFIC PURPOSES, AND OTHER HEALTH-RELATED RESEARCH, OUTREACH AND EDUCATION PURPOSES. SUCH GRANTS SHALL BE AWARDED UNDER THIS SECTION ON A COMPETITIVE BASIS PURSUANT TO A REQUEST FOR APPLICATION/PROPOSAL PROCESS, IN THE NUMBER, AMOUNTS AND MANNER DETERMINED BY THE COMMISSIONER, PURSUANT TO CRITERIA DETERMINED BY THE COMMISSIONER.

3. THE COMMISSIONER MAY PROMULGATE REGULATIONS, INCLUDING ON AN EMERGENCY BASIS, AS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

S 15. The elder law is amended by adding a new section 224 to read as follows:

S 224. LOCAL COMPETITIVE PERFORMANCE GRANT PROGRAM FOR PRIORITY INITIATIVES IN AGING. 1. THERE IS HEREBY ESTABLISHED WITHIN THE OFFICE THE LOCAL COMPETITIVE PERFORMANCE GRANT PROGRAM FOR PRIORITY INITIATIVES IN AGING TO ADDRESS EMERGING OR ONGOING MATTERS THAT AFFECT OLDER ADULTS AND PURSUING INNOVATIONS IN ASSISTING OLDER ADULTS.

2. WITHIN AMOUNTS APPROPRIATED THEREFOR, THE DIRECTOR IS AUTHORIZED TO MAKE GRANTS TO AND ENTER INTO CONTRACTS WITH PUBLIC, NON-PROFIT OR PRIVATE ENTITIES. SUCH GRANTS SHALL BE AWARDED UNDER THIS SECTION ON A COMPETITIVE BASIS PURSUANT TO A REQUEST FOR APPLICATION/PROPOSAL PROCESS, IN THE NUMBER, AMOUNTS AND MANNER DETERMINED BY THE DIRECTOR, PURSUANT TO CRITERIA DETERMINED BY THE DIRECTOR.

3. THE DIRECTOR MAY PROMULGATE REGULATIONS, INCLUDING ON AN EMERGENCY BASIS, AS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

S 16. Paragraph (fff) of subdivision 1 of section 2807-v of the public health law, as amended by section 5 of part B of chapter 58 of the laws of 2008, is amended to read as follows:

(fff) Funds shall be made available to the empire state stem cell fund established by section ninety-nine-p of the state finance law [from the public asset as defined in section four thousand three hundred one of the insurance law and accumulated from the conversion of one or more article forty-three corporations and its or their not-for-profit subsidiaries occurring on or after January first, two thousand seven. Such funds shall be made available] within amounts appropriated up to fifty million dollars annually and shall not exceed five hundred million dollars in total.

1 S 17. Intentionally Omitted.

2 S 18. Subdivision 3 of section 571 of the public health law, as
3 amended by chapter 436 of the laws of 1993, is amended to read as
4 follows:

5 3. "Reference system" means a system of [periodic testing] ASSESSMENT
6 of methods, procedures and materials of clinical laboratories and blood
7 banks, including, but not limited to, ONGOING VALIDATION WHICH MAY
8 INCLUDE DIRECT TESTING AND EXPERIMENTATION BY THE DEPARTMENT OF SUCH
9 METHODS, PROCEDURES AND MATERIALS, the distribution of [manuals of
10 approved methods] STANDARDS AND GUIDELINES, inspection of facilities,
11 [cooperative research, and] periodic submission of test specimens for
12 examination, AND RESEARCH CONDUCTED BY THE DEPARTMENT THAT INVOLVES THE
13 STUDY OF NEW OR EXISTING METHODS, PROCEDURES AND MATERIALS IN THE FIELD
14 OF CLINICAL LABORATORY MEDICINE, AND SUCH OTHER ACTIVITIES AS MAY BE SET
15 FORTH IN REGULATION.

16 S 19. Subdivisions 1, 2 and 6 of section 575 of the public health law,
17 as amended by chapter 436 of the laws of 1993, are amended to read as
18 follows:

19 1. Application for a permit shall be made by the owner and the direc-
20 tor of the clinical laboratory or blood bank [upon forms provided by the
21 department] IN A MANNER AND FORMAT PRESCRIBED BY THE DEPARTMENT. The
22 application shall contain the name of the owner, the name of the direc-
23 tor, the procedures or categories of procedures or services for which
24 the permit is sought, the location or locations and physical description
25 of the facility or location or locations at which tests are to be
26 performed or at which a blood bank is to be operated, and such other
27 information as the department may require.

28 2. A permit OR PERMIT CATEGORY shall not be issued unless a valid
29 certificate of qualification in the category of procedures for which the
30 permit is sought has been issued to the director pursuant to the
31 provisions of section five hundred seventy-three of this title, [and]
32 unless ALL FEES AND OUTSTANDING PENALTIES, IF ANY, HAVE BEEN PAID, AND
33 the department finds that the clinical laboratory or blood bank is
34 competently staffed and properly equipped, and will be operated in the
35 manner required by this title.

36 6. A permit shall become void by a change in the director, owner, or
37 location. A CATEGORY ON A PERMIT SHALL BECOME VOID BY A CHANGE IN THE
38 DIRECTOR FOR THAT CATEGORY. The department may, pursuant to regulations
39 adopted under this title, extend the date on which a permit OR CATEGORY
40 ON A PERMIT shall become void for a period not to exceed sixty days from
41 the date of a change of the director, owner or location. An application
42 for a NEW permit [may] MUST be made [at any time,] in the manner
43 provided by this section.

44 S 20. Subdivision 3 and paragraphs (a), (b), (c) and (e) of subdivi-
45 sion 4 of section 576 of the public health law, as amended by chapter
46 436 of the laws of 1993, are amended to read as follows:

47 3. The department shall operate a reference system and shall prescribe
48 standards for the PROPER OPERATION OF CLINICAL LABORATORIES AND BLOOD
49 BANKS AND FOR THE examination of specimens. As part of such reference
50 system, the department may REVIEW AND APPROVE TESTING METHODS DEVELOPED
51 OR MODIFIED BY CLINICAL LABORATORIES AND BLOOD BANKS PRIOR TO THE TEST-
52 ING METHODS BEING OFFERED IN THIS STATE, AND MAY require clinical labo-
53 ratories and blood banks to analyze test samples submitted by the
54 department and to report on the results of such analyses. The rules and
55 regulations of the department shall prescribe the REQUIREMENTS FOR THE
56 PROPER OPERATION OF A CLINICAL LABORATORY OR BLOOD BANK, FOR THE

1 APPROVAL OF METHODS AND THE manner in which proficiency testing or
2 analyses of samples shall be performed and reports submitted. Failure to
3 meet department standards FOR THE PROPER OPERATION OF A CLINICAL LABORA-
4 TORY OR BLOOD BANK, INCLUDING THE CRITERIA FOR APPROVAL OF METHODS, OR
5 FAILURE TO MAINTAIN SATISFACTORY PERFORMANCE in proficiency testing
6 shall result in termination of the permit in the category or categories
7 of testing established by the department in regulation until remediation
8 is achieved. Such standards shall be at least as stringent as federal
9 standards promulgated under the federal clinical laboratory improvement
10 [act] AMENDMENTS of nineteen hundred eighty-eight. Such failure and
11 termination shall be subject to review in accordance with regulations
12 adopted by the department.

13 (a) The department may adopt and amend rules and regulations to effec-
14 tuate the provisions and purposes of this title. Such rules and regu-
15 lations shall establish [inspection and reference] fees for clinical
16 laboratories and blood banks in amounts not exceeding the cost of the
17 [inspection and] reference [program] SYSTEM for clinical laboratories
18 and blood banks and shall be subject to the approval of the director of
19 the budget. THE COMMISSIONER SHALL DETERMINE THE PROPER COST ALLOCATION
20 METHOD TO UTILIZE TO DETERMINE THE COST OF THE REFERENCE SYSTEM. THE FEE
21 PAID BY THE DEPARTMENT TO MAINTAIN AN EXEMPTION FOR CLINICAL LABORA-
22 TORIES AND BLOOD BANKS FROM THE REQUIREMENTS OF THE FEDERAL CLINICAL LABO-
23 RATORY IMPROVEMENT AMENDMENTS OF NINETEEN HUNDRED EIGHTY-EIGHT SHALL BE
24 DEEMED A COST OF THE REFERENCE SYSTEM.

25 (b) In determining the fee charges to be assessed, the department
26 shall, on or before May first of each year, compute the [total actual]
27 costs for the preceding state fiscal year which were expended to operate
28 and administer the duties of the department pursuant to this title. The
29 department shall, at such time or times and pursuant to such procedure
30 as it shall determine by regulation, bill and collect from each clinical
31 laboratory and blood bank an amount computed by multiplying such total
32 computed operating expenses of the department by a fraction the numera-
33 tor of which is the gross annual receipts of such clinical laboratory or
34 blood bank during such twelve month period preceding the date of compu-
35 tation as the department shall designate by regulation, and the denomi-
36 nator of which is the total gross annual receipts of all clinical labo-
37 ratories or blood banks operating in the state during such period.

38 (c) Each such clinical laboratory and blood bank shall submit to the
39 department, in such form and at such times as the department may
40 require, a report containing information regarding its gross annual
41 receipts [from the performance of tests or examination of specimens] FOR
42 ALL ACTIVITIES PERFORMED pursuant to a permit issued by the department
43 in accordance with the provisions of section five hundred seventy-five
44 of this title. The department may require additional information and
45 audit and review such information to verify its accuracy.

46 (e) On or before September fifteenth of each year, the department
47 shall [recompute the actual] RECONCILE ITS costs and expenses [of the
48 department] FOR THE REFERENCE SYSTEM for the preceding state fiscal year
49 and shall, on or before October fifteenth send to each clinical labora-
50 tory and blood bank, a statement setting forth the amount due and paya-
51 ble by, or the amount computed to the credit of, such clinical laborato-
52 ry or blood bank, computed on the basis of the above stated formula,
53 except that for the purposes of such computation the fraction shall be
54 multiplied against the total recomputed [actual] expenses of the depart-
55 ment for such fiscal year. Any amount due shall be payable not later

1 than thirty days following the date of such statement. Any credit shall
2 be applied against any succeeding payment due.

3 S 21. Subdivision 1 of section 577 of the public health law is amended
4 by adding a new paragraph (i) to read as follows:

5 (I) HAS BEEN FOUND UPON INSPECTION BY THE DEPARTMENT TO BE IN NONCOM-
6 PLIANCE WITH A PROVISION OR PROVISIONS OF THIS TITLE OR THE RULES AND
7 REGULATIONS PROMULGATED HEREUNDER, AND HAS FAILED TO ADDRESS SUCH FIND-
8 INGS AS REQUIRED BY THE DEPARTMENT.

9 S 22. Intentionally Omitted.

10 S 23. Intentionally Omitted.

11 S 24. Intentionally Omitted.

12 S 25. Intentionally Omitted.

13 S 25-a. Section 2818 of the public health law is amended by adding a
14 new subdivision 6 to read as follows:

15 6. NOTWITHSTANDING ANY CONTRARY PROVISION OF THIS SECTION, SECTIONS
16 ONE HUNDRED TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW,
17 OR ANY OTHER CONTRARY PROVISION OF LAW, SUBJECT TO AVAILABLE APPROPRI-
18 ATIONS, FUNDS AVAILABLE FOR EXPENDITURE PURSUANT TO THIS SECTION MAY BE
19 DISTRIBUTED BY THE COMMISSIONER WITHOUT A COMPETITIVE BID OR REQUEST FOR
20 PROPOSAL PROCESS FOR GRANTS TO GENERAL HOSPITALS AND RESIDENTIAL HEALTH
21 CARE FACILITIES FOR THE PURPOSE OF FACILITATING CLOSURES, MERGERS AND
22 RESTRUCTURING OF SUCH FACILITIES IN ORDER TO STRENGTHEN AND PROTECT
23 CONTINUED ACCESS TO ESSENTIAL HEALTH CARE RESOURCES.

24 S 26. Section 32 of part A of chapter 58 of the laws of 2008, amending
25 the elder law and other laws relating to reimbursement to particular
26 provider pharmacies and prescription drug coverage, as amended by
27 section 20 of part 00 of chapter 57 of the laws of 2008, is amended to
28 read as follows:

29 S 32. This act shall take effect immediately and shall be deemed to
30 have been in full force and effect on and after April 1, 2008; provided
31 however, that sections one, six-a, nineteen, twenty, twenty-four, and
32 twenty-five of this act shall take effect July 1, 2008; [provided howev-
33 er that sections sixteen, seventeen and eighteen of this act shall
34 expire April 1, 2011;] provided, however, that the amendments made by
35 section twenty-eight of this act shall take effect on the same date as
36 section 1 of chapter 281 of the laws of 2007 takes effect; provided
37 further, that sections twenty-nine, thirty, and thirty-one of this act
38 shall take effect October 1, 2008; provided further, that section twen-
39 ty-seven of this act shall take effect January 1, 2009; and provided
40 further, that section twenty-seven of this act shall expire and be
41 deemed repealed March 31, 2011; and provided, further, however, that the
42 amendments to subdivision 1 of section 241 of the education law made by
43 section twenty-nine of this act shall not affect the expiration of such
44 subdivision and shall be deemed to expire therewith and provided that
45 the amendments to section 272 of the public health law made by section
46 thirty of this act shall not affect the repeal of such section and shall
47 be deemed repealed therewith.

48 S 27. Section 4 of part X2 of chapter 62 of the laws of 2003, amending
49 the public health law relating to allowing for the use of funds of the
50 office of professional medical conduct for activities of the patient
51 health information and quality improvement act of 2000, as amended by
52 chapter 21 of the laws of 2010, is amended to read as follows:

53 S 4. This act shall take effect immediately; provided that the
54 provisions of section one of this act shall be deemed to have been in
55 full force and effect on and after April 1, 2003, and shall expire March

31, [2011] 2013 when upon such date the provisions of such section shall be deemed repealed.

S 28. Paragraph (b) of subdivision 1 of section 76 of chapter 731 of the laws of 1993, amending the public health law and other laws relating to reimbursement, delivery and capital cost of ambulatory health care services and inpatient hospital services, as amended by section 14 of part A of chapter 58 of the laws of 2007, is amended to read as follows:

(b) sections fifteen through nineteen and subdivision 3 of section 2807-e of the public health law as added by section twenty of this act shall expire on [July 1, 2011] JULY 1, 2014, and section seventy-four of this act shall expire on July 1, 2007;

S 29. Section 4 of chapter 505 of the laws of 1995, amending the public health law relating to the operation of department of health facilities, as amended by chapter 609 of the laws of 2007, is amended to read as follows:

S 4. This act shall take effect immediately[; provided, however, that the provisions of paragraph (b) of subdivision 4 of section 409-c of the public health law, as added by section three of this act, shall take effect January 1, 1996 and shall expire and be deemed repealed sixteen years from the effective date thereof].

S 30. Section 3 of chapter 303 of the laws of 1999, amending the New York state medical care facilities finance agency act relating to financing health facilities, as amended by chapter 607 of the laws of 2007, is amended to read as follows:

S 3. This act shall take effect immediately[, provided, however, that subdivision 15-a of section 5 of section 1 of chapter 392 of the laws of 1973, as added by section one of this act, shall expire and be deemed repealed June 30, 2011; and provided further, however, that the expiration and repeal of such subdivision 15-a shall not affect or impair in any manner any health facilities bonds issued, or any lease or purchase of a health facility executed, pursuant to such subdivision 15-a prior to its expiration and repeal and that, with respect to any such bonds issued and outstanding as of June 30, 2011, the provisions of such subdivision 15-a as they existed immediately prior to such expiration and repeal shall continue to apply through the latest maturity date of any such bonds, or their earlier retirement or redemption, for the sole purpose of authorizing the issuance of refunding bonds to refund bonds previously issued pursuant thereto].

S 31. This act shall take effect April 1, 2011, provided, however that:

(a) section one of this act shall take effect July 1, 2011;

(b) sections two through three-n of this act shall take effect January 1, 2012;

(c) section thirteen of this act shall take effect July 1, 2011; and

(d) related to sections eighteen, nineteen, twenty and twenty-one of this act, the commissioner of health is authorized to promulgate, on an emergency basis, any regulations necessary to implement any provision of such sections upon their effective date.

PART B

Section 1. (a) Notwithstanding any inconsistent provision of law, rule or regulation to the contrary, and subject to the availability of federal financial participation, effective for the period April 1, 2011 through March 31, 2012, and each state fiscal year thereafter, the department of health is authorized to make supplemental Medicaid

1 payments for professional services provided by physicians, nurse practi-
2 tioners and physician assistants who are participating in a plan for the
3 management of clinical practice at the State University of New York, in
4 accordance with title 11 of article 5 of the social services law for
5 patients eligible for federal financial participation under title XIX of
6 the federal social security act, in amounts that will increase fees for
7 such professional services to an amount equal to the average commercial
8 rate that would otherwise be received for such services rendered by such
9 physicians, nurse practitioners and physician assistants. The calcu-
10 lation of such supplemental fee payments shall be made in accordance
11 with applicable federal law and regulation and subject to the approval
12 of the division of the budget. Such supplemental Medicaid fee payments
13 may be added to the professional fees paid under the fee schedule or
14 made as aggregate lump sum payments to eligible clinical practice plans
15 authorized to receive professional fees.

16 (b) The affiliated State University of New York health science centers
17 shall be responsible for payment of one hundred percent of the non-fed-
18 eral share of such supplemental Medicaid payments for all services
19 provided by physicians, nurse practitioners and physician assistants who
20 are participating in a plan for the management of clinical practice, in
21 accordance with section 365-a of the social services law, regardless of
22 whether another social services district or the department of health may
23 otherwise be responsible for furnishing medical assistance to the eligi-
24 ble persons receiving such services.

25 S 2. Subdivision 21 of section 2807-c of the public health law is
26 amended by adding a new paragraph (e-1) to read as follows:

27 (E-1) FOR PERIODS ON AND AFTER JANUARY FIRST, TWO THOUSAND ELEVEN, FOR
28 PURPOSES OF CALCULATIONS PURSUANT TO PARAGRAPHS (B) AND (C) OF THIS
29 SUBDIVISION OF MAXIMUM DISPROPORTIONATE SHARE PAYMENT DISTRIBUTIONS FOR
30 A RATE YEAR OR PART THEREOF, COSTS INCURRED OF FURNISHING HOSPITAL
31 SERVICES NET OF MEDICAL ASSISTANCE PAYMENTS, OTHER THAN DISPROPORTIONATE
32 SHARE PAYMENTS, AND PAYMENTS BY UNINSURED PATIENTS SHALL FOR THE TWO
33 THOUSAND ELEVEN CALENDAR YEAR, SHALL BE DETERMINED INITIALLY BASED ON
34 EACH HOSPITAL'S SUBMISSION OF A FULLY COMPLETED TWO THOUSAND EIGHT
35 DISPROPORTIONATE SHARE HOSPITAL DATA COLLECTION TOOL, WHICH IS REQUIRED
36 TO BE SUBMITTED TO THE DEPARTMENT BY MARCH THIRTY-FIRST, TWO THOUSAND
37 ELEVEN, AND SHALL BE SUBSEQUENTLY REVISED TO REFLECT EACH HOSPITAL'S
38 SUBMISSION OF A FULLY COMPLETED TWO THOUSAND NINE DISPROPORTIONATE SHARE
39 HOSPITAL DATA COLLECTION TOOL, WHICH IS REQUIRED TO BE SUBMITTED TO THE
40 DEPARTMENT BY OCTOBER FIRST, TWO THOUSAND ELEVEN.

41 FOR CALENDAR YEARS ON AND AFTER TWO THOUSAND TWELVE, SUCH INITIAL
42 DETERMINATIONS SHALL REFLECT SUBMISSION OF DATA AS REQUIRED BY THE
43 COMMISSIONER ON A SPECIFIED DATE. ALL SUCH INITIAL DETERMINATIONS SHALL
44 SUBSEQUENTLY BE REVISED TO REFLECT ANNUAL RATE PERIOD DATA AND STATIS-
45 TICS. INDIGENT CARE PAYMENTS WILL BE WITHHELD IN INSTANCES WHEN A HOSPI-
46 TAL HAS NOT SUBMITTED REQUIRED INFORMATION BY THE DUE DATES PRESCRIBED
47 IN THIS PARAGRAPH, PROVIDED, HOWEVER, THAT SUCH PAYMENTS SHALL BE MADE
48 UPON SUBMISSION OF SUCH REQUIRED DATA. FOR PURPOSES OF CALCULATIONS
49 PURSUANT TO PARAGRAPH (D) OF THIS SUBDIVISION OF ELIGIBILITY TO RECEIVE
50 DISPROPORTIONATE SHARE PAYMENTS FOR A RATE YEAR OR PART THEREOF, THE
51 HOSPITAL INPATIENT UTILIZATION RATE SHALL BE DETERMINED BASED ON THE
52 BASE YEAR STATISTICS IN ACCORDANCE WITH THE METHODOLOGY ESTABLISHED BY
53 THE COMMISSIONER, AND COSTS INCURRED OF FURNISHING HOSPITAL SERVICES
54 SHALL BE DETERMINED IN ACCORDANCE WITH A METHODOLOGY ESTABLISHED BY THE
55 COMMISSIONER CONSISTENT WITH REQUIREMENTS OF THE SECRETARY OF THE
56 DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR PURPOSES OF FEDERAL FINAN-

1 CIAL PARTICIPATION PURSUANT TO THE TITLE XIX OF THE FEDERAL SOCIAL SECU-
2 RITY ACT IN DISPROPORTIONATE SHARE PAYMENTS.

3 S 3. Subparagraph (i) of paragraph (b) of subdivision 2-b of section
4 2808 of the public health law, as amended by section 1 of part D of
5 chapter 58 of the laws of 2010, is amended to read as follows:

6 (i) Subject to the provisions of subparagraphs (ii) through (xiv) of
7 this paragraph, for periods on and after April first, two thousand nine
8 through June thirtieth, two thousand eleven the operating cost component
9 of rates of payment shall reflect allowable operating costs as reported
10 in each facility's cost report for the two thousand two calendar year,
11 as adjusted for inflation on an annual basis in accordance with the
12 methodology set forth in paragraph (c) of subdivision ten of section
13 twenty-eight hundred seven-c of this article, provided, however, that
14 for those facilities which do not receive a per diem add-on adjustment
15 pursuant to subparagraph (ii) of paragraph (a) of this subdivision,
16 rates shall be further adjusted to include the proportionate benefit, as
17 determined by the commissioner, of the expiration of the opening para-
18 graph and paragraph (a) of subdivision sixteen of this section and of
19 paragraph (a) of subdivision fourteen of this section, and provided
20 further that the operating cost component of rates of payment for those
21 facilities which did not receive a per diem adjustment in accordance
22 with subparagraph (ii) of paragraph (a) of this subdivision shall not be
23 less than the operating component such facilities received in the two
24 thousand eight rate period, as adjusted for inflation on an annual basis
25 in accordance with the methodology set forth in paragraph (c) of subdi-
26 vision ten of section twenty-eight hundred seven-c of this article and
27 further provided, however, that rates for facilities whose operating
28 cost component reflects base year costs subsequent to January first, two
29 thousand two shall have rates computed in accordance with this para-
30 graph, utilizing allowable operating costs as reported in such subse-
31 quent base year period, and trended forward to the rate year in accord-
32 ance with applicable inflation factors, AND PROVIDED FURTHER, HOWEVER,
33 THAT NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SUBDIVISION,
34 RATE ADJUSTMENTS AS DESCRIBED IN THIS SUBPARAGRAPH AND AS EFFECTIVE FOR
35 RATE PERIODS ON AND AFTER APRIL FIRST, TWO THOUSAND NINE THROUGH JUNE
36 THIRTIETH, TWO THOUSAND ELEVEN, SHALL NOT BE IMPLEMENTED AND PAID PRIOR
37 TO JULY FIRST, TWO THOUSAND ELEVEN.

38 S 4. Section 2 of part D of chapter 58 of the laws of 2009, amending
39 the public health law and other laws relating to Medicaid reimbursements
40 to residential health care facilities, as amended by section 3 of Part D
41 of chapter 58 of the laws of 2010, is amended to read as follows:

42 S 2. Notwithstanding paragraph (b) of subdivision 2-b of section 2808
43 of the public health law or any other contrary provision of law, with
44 regard to adjustments to medicaid rates of payment for inpatient
45 services provided by residential health care facilities for the period
46 April 1, 2009 through March 31, 2010, made pursuant to paragraph (b) of
47 subdivision 2-b of section 2808 of the public health law, the commis-
48 sioner of health and the director of the budget shall, upon a determi-
49 nation that such adjustments, including the application of adjustments
50 authorized by the provisions of paragraph (g) of subdivision 2-b of
51 section 2808 of the public health law, shall result in an aggregate
52 increase in total Medicaid rates of payment for such services for such
53 period that is less than or more than two hundred ten million dollars
54 (\$210,000,000), make such proportional adjustments to such rates as are
55 necessary to result in an increase of such aggregate expenditures of two
56 hundred ten million dollars (\$210,000,000), and provided further, howev-

1 er, that notwithstanding section 2808 of the public health law or any
2 other contrary provision of law, with regard to adjustments to inpatient
3 rates of payment made pursuant to section 2808 of the public health law
4 for inpatient services provided by residential health care facilities
5 for the period April 1, 2010 through [June 30, 2011] MARCH 31, 2012, the
6 commissioner of health and the director of the budget shall, upon a
7 determination by such commissioner and such director that such rate
8 adjustments shall, prior to the application of any applicable adjustment
9 for inflation, result in an aggregate increase in total Medicaid rates
10 of payment for such services, including payments made pursuant to
11 subparagraph (i) of paragraph (d) of subdivision 2-c of section 2808 of
12 the public health law, make such proportional adjustments to such rates
13 as are necessary to reduce such total aggregate rate adjustments such
14 that the aggregate total reflects no such increase or decrease, and
15 provided further, however, the case mix adjustments as otherwise author-
16 ized by subparagraph (ii) of paragraph (b) of subdivision 2-b of section
17 2808 of the public health law and as scheduled for January of 2011 shall
18 not be made. Adjustments made pursuant to this section shall not be
19 subject to subsequent correction or reconciliation.

20 S4-a. Subdivision 2-c of section 2808 of the public health law is
21 REPEALED and a new subdivision 2-c is added, to read as follows:

22 2-C. (A) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION OR
23 ANY OTHER CONTRARY PROVISION OF LAW AND SUBJECT TO THE AVAILABILITY OF
24 FEDERAL FINANCIAL PARTICIPATION, THE NON-CAPITAL COMPONENT OF RATES OF
25 PAYMENT BY GOVERNMENTAL AGENCIES FOR INPATIENT SERVICES PROVIDED BY
26 RESIDENTIAL HEALTH CARE FACILITIES ON AND AFTER JULY FIRST, TWO THOUSAND
27 ELEVEN SHALL REFLECT A DIRECT STATEWIDE PRICE COMPONENT, AND INDIRECT
28 STATEWIDE PRICE COMPONENT, AND A FACILITY SPECIFIC NON-COMPARABLE COMPO-
29 NENT, UTILIZING ALLOWABLE OPERATING COSTS FOR A BASE YEAR AS DETERMINED
30 BY THE COMMISSIONER BY REGULATION.

31 (B) THE DIRECT AND INDIRECT STATEWIDE PRICE COMPONENTS SHALL BE
32 ADJUSTED BY A WAGE EQUALIZATION FACTOR AND THE DIRECT STATEWIDE PRICE
33 COMPONENT SHALL BE SUBJECT TO A CASE MIX ADJUSTMENT UTILIZING THE
34 PATIENTS THAT ARE ELIGIBLE FOR MEDICAL ASSISTANCE PURSUANT TO TILE ELEV-
35 EN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW.

36 (C) THE NON-CAPITAL COMPONENT OF THE RATES FOR (I) AIDS FACILITIES OR
37 DISCRETE AIDS UNITS WITHIN FACILITIES, (II) DISCRETE UNITS FOR RESIDENTS
38 RECEIVING CARE IN A LONG-TERM INPATIENT REHABILITATION PROGRAM FOR TRAUM-
39 ATIC BRAIN INJURED PERSONS, (III) DISCRETE UNITS PROVIDING SPECIALIZED
40 PROGRAMS FOR RESIDENTS REQUIRING BEHAVIORAL INTERVENTIONS, (IV) DISCRETE
41 UNITS FOR LONG-TERM VENTILATOR DEPENDENT RESIDENTS, AND (V) FACILITIES
42 OR DISCRETE UNITS WITHIN FACILITIES THAT PROVIDE EXTENSIVE NURSING,
43 MEDICAL, PSYCHOLOGICAL AND COUNSELING SUPPORT SERVICES SOLELY TO CHIL-
44 DREN SHALL BE ESTABLISHED PURSUANT TO REGULATIONS PROMULGATED PURSUANT
45 TO THIS SUBDIVISION.

46 (D) THE COMMISSIONER SHALL PROMULGATE REGULATIONS, AND MAY PROMULGATE
47 EMERGENCY REGULATIONS, TO IMPLEMENT THE PROVISIONS OF THIS SUBDIVISION
48 AND SUCH REGULATIONS MAY ALSO INCLUDE, BUT NOT BE LIMITED TO, PROVISIONS
49 FOR RATE ADJUSTMENTS OR PAYMENT ENHANCEMENTS TO FACILITATE THE TRANSI-
50 TION OF FACILITIES TO THE RATE-SETTING METHODOLOGY ESTABLISHED BY THIS
51 SUBDIVISION AND FOR FACILITATING QUALITY IMPROVEMENTS IN RESIDENTIAL
52 HEALTH CARE FACILITIES.

53 S 5. Notwithstanding any contrary provision of law and subject to the
54 availability of federal financial participation, for periods on and
55 after July 1, 2011, Medicaid rates of payments for inpatient services
56 provided by residential health care facilities which, as of the effec-

1 tive date of this section, operate discrete units for treatment of resi-
2 dents with huntington's disease, shall be increased by a rate add-on
3 amount. The aggregate amount of such rate add-ons for the period July 1,
4 2011 through December 31, 2011 shall be eight hundred fifty thousand
5 dollars (\$850,000), and shall be one million seven hundred thousand
6 dollars (\$1,700,000) for the 2012 calendar year and each year thereafter
7 and such amounts shall be allocated to each eligible residential health
8 care facility proportionally, based on the number of beds in each facil-
9 ity's discrete unit for treatment of huntington's disease relative to
10 the total number of such beds in all such units. Such rate add-ons shall
11 be computed utilizing reported Medicaid days from certified cost reports
12 as submitted to the department of health for the calendar year period
13 two years prior to the applicable rate year and, further, such rate
14 add-ons shall not be subject to subsequent adjustment or reconciliation.

15 S 6. Notwithstanding section 448 of chapter 170 of the laws of 1994
16 and section 4 of chapter 81 of the laws of 1995, as amended, and any
17 other inconsistent provision of law or regulation and subject to the
18 availability of federal financial participation, for the period April 1,
19 2011 through June 30, 2011, medical assistance rates of payment to resi-
20 dential health care facilities and diagnostic treatment centers licensed
21 under article 28 of the public health law for adult day health care
22 services provided to registrants with acquired immunodeficiency syndrome
23 (AIDS) or other human immunodeficiency virus (HIV) related illnesses,
24 shall be increased by an aggregate amount of one million eight hundred
25 sixty-seven thousand dollars (\$1,867,000). Such amount shall be allo-
26 cated proportionally among such providers based on the medical assist-
27 ance visits reported by each provider in the most recently available
28 cost report, as submitted to the department of health by January 1,
29 2011, and shall be included as adjustments to each provider's daily rate
30 of payment for such services. Such adjustments shall not be subject to
31 subsequent adjustment or reconciliation.

32 S 7. Notwithstanding any contrary provision of law or regulation and
33 subject to availability of federal financial participation, for the
34 period April 1, 2011 through June 30, 2011, rates of payment by govern-
35 mental agencies to residential health care facilities and diagnostic and
36 treatment centers licensed under article 28 of the public health law for
37 adult day health care services provided to registrants with acquired
38 immunodeficiency syndrome (AIDS) or other human immunodeficiency virus
39 (HIV) related illnesses, shall reflect an adjustment to such rates of
40 payments in an aggregate amount of two hundred thirty-six thousand
41 dollars (\$236,000) and distributed proportionally as rate add-ons, based
42 on each eligible providers' Medicaid visits as reported in such provid-
43 er's most recently available cost report as submitted to the department
44 of health prior to January 1, 2011, and provided further, however, that
45 such adjustments shall not be subject to subsequent adjustment or recon-
46 ciliation.

47 S 8. Subparagraph (vi) of paragraph (b) of subdivision 2 of section
48 2807-d of the public health law, as amended by section 37 of part C of
49 chapter 58 of the laws of 2007, is amended to read as follows:

50 (vi) Notwithstanding any contrary provision of this paragraph or any
51 other provision of law or regulation to the contrary, for residential
52 health care facilities the assessment shall be six percent of each resi-
53 dential health care facility's gross receipts received from all patient
54 care services and other operating income on a cash basis for the period
55 April first, two thousand two through March thirty-first, two thousand
56 three for hospital or health-related services, including adult day

1 services; provided, however, that residential health care facilities'
2 gross receipts attributable to payments received pursuant to title XVIII
3 of the federal social security act (medicare) shall be excluded from the
4 assessment; provided, however, that for all such gross receipts received
5 on or after April first, two thousand three through March thirty-first,
6 two thousand five, such assessment shall be five percent, and further
7 provided that for all such gross receipts received on or after April
8 first, two thousand five through March thirty-first, two thousand nine,
9 and on or after April first, two thousand nine through March thirty-
10 first, two thousand eleven such assessment shall be six percent, AND
11 FURTHER PROVIDED THAT FOR ALL SUCH GROSS RECEIPTS RECEIVED ON OR AFTER
12 APRIL FIRST, TWO THOUSAND ELEVEN SUCH ASSESSMENT SHALL BE SIX PERCENT.

13 S 9. Intentionally omitted.

14 S 10. Notwithstanding any inconsistent provision of law, rule or regu-
15 lation, for purposes of implementing the provisions of the public health
16 law and the social services law, references to titles XIX and XXI of the
17 federal social security act in the public health law and the social
18 services law shall be deemed to include and also to mean any successor
19 titles thereto under the federal social security act.

20 S 11. Notwithstanding any inconsistent provision of law, rule or regu-
21 lation, the effectiveness of the provisions of sections 2807 and 3614 of
22 the public health law, section 18 of chapter 2 of the laws of 1988, and
23 18 NYCRR 505.14(h), as they relate to time frames for notice, approval
24 or certification of rates of payment, are hereby suspended and without
25 force or effect for purposes of implementing the provisions of this act.

26 S 12. Severability clause. If any clause, sentence, paragraph, subdi-
27 vision, section or part of this act shall be adjudged by any court of
28 competent jurisdiction to be invalid, such judgment shall not affect,
29 impair or invalidate the remainder thereof, but shall be confined in its
30 operation to the clause, sentence, paragraph, subdivision, section or
31 part thereof directly involved in the controversy in which such judg-
32 ment shall have been rendered. It is hereby declared to be the intent of
33 the legislature that this act would have been enacted even if such
34 invalid provisions had not been included herein.

35 S 13. This act shall take effect immediately and shall be deemed to
36 have been in full force and effect on and after April 1, 2011; provided,
37 however, that:

38 (a) any rules or regulations necessary to implement the provisions of
39 this act may be promulgated and any procedures, forms, or instructions
40 necessary for such implementation may be adopted and issued on or after
41 the date this act shall have become a law;

42 (b) this act shall not be construed to alter, change, affect, impair
43 or defeat any rights, obligations, duties or interests accrued, incurred
44 or conferred prior to the effective date of this act;

45 (c) the commissioner of health and the superintendent of insurance and
46 any appropriate council may take any steps necessary to implement this
47 act prior to its effective date;

48 (d) notwithstanding any inconsistent provision of the state adminis-
49 trative procedure act or any other provision of law, rule or regulation,
50 the commissioner of health and the superintendent of insurance and any
51 appropriate council is authorized to adopt or amend or promulgate on an
52 emergency basis any regulation he or she or such council determines
53 necessary to implement any provision of this act on its effective date;
54 and

55 (e) the provisions of this act shall become effective notwithstanding
56 the failure of the commissioner of health or the superintendent of

1 insurance or any council to adopt or amend or promulgate regulations
2 implementing this act.

3 PART C

4 Section 1. Subdivision 5 of section 168 of chapter 639 of the laws of
5 1996, constituting the New York Health Care Reform Act of 1996, as
6 amended by section 1 of part B of chapter 58 of the laws of 2008, is
7 amended to read as follows:

8 5. sections 2807-c, 2807-j, 2807-s and 2807-t of the public health
9 law, as amended or as added by this act, shall expire on December 31,
10 [2011] 2014, and shall be thereafter effective only in respect to any
11 act done on or before such date or action or proceeding arising out of
12 such act including continued collections of funds from assessments and
13 allowances and surcharges established pursuant to sections 2807-c,
14 2807-j, 2807-s and 2807-t of the public health law, and administration
15 and distributions of funds from pools established pursuant to sections
16 2807-c, 2807-j, 2807-k, 2807-l, 2807-m, 2807-s and 2807-t of the public
17 health law related to patient services provided before December 31,
18 [2011] 2014, and continued expenditure of funds authorized for programs
19 and grants until the exhaustion of funds therefor;

20 S 2. Subdivision 1 of section 138 of chapter 1 of the laws of 1999,
21 constituting the New York Health Care Reform Act of 2000, as amended by
22 section 1-a of part B of chapter 58 of the laws of 2008, is amended to
23 read as follows:

24 1. sections 2807-c, 2807-j, 2807-s, and 2807-t of the public health
25 law, as amended by this act, shall expire on December 31, [2011] 2014,
26 and shall be thereafter effective only in respect to any act done before
27 such date or action or proceeding arising out of such act including
28 continued collections of funds from assessments and allowances and
29 surcharges established pursuant to sections 2807-c, 2807-j, 2807-s and
30 2807-t of the public health law, and administration and distributions of
31 funds from pools established pursuant to sections 2807-c, 2807-j,
32 2807-k, 2807-l, 2807-m, 2807-s, 2807-t, 2807-v and 2807-w of the public
33 health law, as amended or added by this act, related to patient services
34 provided before December 31, [2011] 2014, and continued expenditure of
35 funds authorized for programs and grants until the exhaustion of funds
36 therefor;

37 S 3. Paragraph (a) of subdivision 9 of section 2807-j of the public
38 health law, as amended by section 2 of part B of chapter 58 of the laws
39 of 2008, is amended to read as follows:

40 (a) funds shall be deposited and credited to a special revenue-other
41 fund to be established by the comptroller or to the health care reform
42 act (HCRA) resources fund established pursuant to section ninety-two-dd
43 of the state finance law, whichever is applicable. To the extent of
44 funds appropriated therefore, the commissioner shall make payments to
45 general hospitals related to bad debt and charity care pursuant to
46 section twenty-eight hundred seven-k of this article. Funds shall be
47 deposited in the following amounts:

48 (i) fifty-seven and thirty-three-hundredths percent of the funds accu-
49 mulated for the period January first, nineteen hundred ninety-seven
50 through December thirty-first, nineteen hundred ninety-seven,

51 (ii) fifty-seven and one-hundredths percent of the funds accumulated
52 for the period January first, nineteen hundred ninety-eight through
53 December thirty-first, nineteen hundred ninety-eight,

1 (iii) fifty-five and thirty-two-hundredths percent of the funds accu-
2 mulated for the period January first, nineteen hundred ninety-nine
3 through December thirty-first, nineteen hundred ninety-nine, and

4 (iv) seven hundred sixty-five million dollars annually of the funds
5 accumulated for the periods January first, two thousand through December
6 thirty-first, two thousand [ten] THIRTEEN, and

7 (v) one hundred ninety-one million two hundred fifty thousand dollars
8 of the funds accumulated for the period January first, two thousand
9 [eleven] FOURTEEN through March thirty-first, two thousand [eleven]
10 FOURTEEN.

11 S 4. Section 34 of part A3 of chapter 62 of the laws of 2003, amending
12 the general business law and other laws relating to enacting major
13 components necessary to implement the state fiscal plan for the 2003-04
14 state fiscal year, as amended by section 3 of part B of chapter 58 of
15 the laws of 2008, is amended to read as follows:

16 S 34. (1) Notwithstanding any inconsistent provision of law, rule or
17 regulation and effective April 1, 2008 through March 31, [2011] 2014,
18 the commissioner of health is authorized to transfer and the state comp-
19 troller is authorized and directed to receive for deposit to the credit
20 of the department of health's special revenue fund - other, health care
21 reform act (HCRA) resources fund - 061, provider collection monitoring
22 account, within amounts appropriated each year, those funds collected
23 and accumulated pursuant to section 2807-v of the public health law,
24 including income from invested funds, for the purpose of payment for
25 administrative costs of the department of health related to adminis-
26 tration of statutory duties for the collections and distributions
27 authorized by section 2807-v of the public health law.

28 (2) Notwithstanding any inconsistent provision of law, rule or regu-
29 lation and effective April 1, 2008 through March 31, [2011] 2014, the
30 commissioner of health is authorized to transfer and the state comp-
31 troller is authorized and directed to receive for deposit to the credit
32 of the department of health's special revenue fund - other, health care
33 reform act (HCRA) resources fund - 061, provider collection monitoring
34 account, within amounts appropriated each year, those funds collected
35 and accumulated and interest earned through surcharges on payments for
36 health care services pursuant to section 2807-s of the public health law
37 and from assessments pursuant to section 2807-t of the public health law
38 for the purpose of payment for administrative costs of the department of
39 health related to administration of statutory duties for the collections
40 and distributions authorized by sections 2807-s, 2807-t, and 2807-m of
41 the public health law.

42 (3) Notwithstanding any inconsistent provision of law, rule or regu-
43 lation and effective April 1, 2008 through March 31, [2011] 2014, the
44 commissioner of health is authorized to transfer and the comptroller is
45 authorized to deposit, within amounts appropriated each year, those
46 funds authorized for distribution in accordance with the provisions of
47 paragraph (a) of subdivision 1 of section 2807-l of the public health
48 law for the purposes of payment for administrative costs of the depart-
49 ment of health related to the child health insurance plan program
50 authorized pursuant to title 1-A of article 25 of the public health law
51 into the special revenue funds - other, health care reform act (HCRA)
52 resources fund - 061, child health insurance account, established within
53 the department of health.

54 (4) Notwithstanding any inconsistent provision of law, rule or regu-
55 lation and effective April 1, 2008 through March 31, [2011] 2014, the
56 commissioner of health is authorized to transfer and the comptroller is

1 authorized to deposit, within amounts appropriated each year, those
2 funds authorized for distribution in accordance with the provisions of
3 paragraph (e) of subdivision 1 of section 2807-l of the public health
4 law for the purpose of payment for administrative costs of the depart-
5 ment of health related to the health occupation development and work-
6 place demonstration program established pursuant to section 2807-h and
7 the health workforce retraining program established pursuant to section
8 2807-g of the public health law into the special revenue funds - other,
9 health care reform act (HCRA) resources fund - 061, health occupation
10 development and workplace demonstration program account, established
11 within the department of health.

12 (5) Notwithstanding any inconsistent provision of law, rule or regu-
13 lation and effective April 1, 2008 through March 31, [2011] 2014, the
14 commissioner of health is authorized to transfer and the comptroller is
15 authorized to deposit, within amounts appropriated each year, those
16 funds allocated pursuant to paragraph (j) of subdivision 1 of section
17 2807-v of the public health law for the purpose of payment for adminis-
18 trative costs of the department of health related to administration of
19 the state's tobacco control programs and cancer services provided pursu-
20 ant to sections 2807-r and 1399-ii of the public health law into such
21 accounts established within the department of health for such purposes.

22 (6) Notwithstanding any inconsistent provision of law, rule or regu-
23 lation and effective April 1, 2008 through March 31, [2011] 2014, the
24 commissioner of health is authorized to transfer and the comptroller is
25 authorized to deposit, within amounts appropriated each year, the funds
26 authorized for distribution in accordance with the provisions of section
27 2807-l of the public health law for the purposes of payment for adminis-
28 trative costs of the department of health related to the programs funded
29 pursuant to section 2807-l of the public health law into the special
30 revenue funds - other, health care reform act (HCRA) resources fund -
31 061, pilot health insurance account, established within the department
32 of health.

33 (7) Notwithstanding any inconsistent provision of law, rule or regu-
34 lation and effective April 1, 2008 through March 31, [2011] 2014, the
35 commissioner of health is authorized to transfer and the comptroller is
36 authorized to deposit, within amounts appropriated each year, those
37 funds authorized for distribution in accordance with the provisions of
38 subparagraph (ii) of paragraph (f) of subdivision 19 of section 2807-c
39 of the public health law from monies accumulated and interest earned in
40 the bad debt and charity care and capital statewide pools through an
41 assessment charged to general hospitals pursuant to the provisions of
42 subdivision 18 of section 2807-c of the public health law and those
43 funds authorized for distribution in accordance with the provisions of
44 section 2807-l of the public health law for the purposes of payment for
45 administrative costs of the department of health related to programs
46 funded under section 2807-l of the public health law into the special
47 revenue funds - other, health care reform act (HCRA) resources fund -
48 061, primary care initiatives account, established within the department
49 of health.

50 (8) Notwithstanding any inconsistent provision of law, rule or regu-
51 lation and effective April 1, 2008 through March 31, [2011] 2014, the
52 commissioner of health is authorized to transfer and the comptroller is
53 authorized to deposit, within amounts appropriated each year, those
54 funds authorized for distribution in accordance with section 2807-l of
55 the public health law for the purposes of payment for administrative
56 costs of the department of health related to programs funded under

1 section 2807-1 of the public health law into the special revenue funds -
2 other, health care reform act (HCRA) resources fund - 061, health care
3 delivery administration account, established within the department of
4 health.

5 (9) Notwithstanding any inconsistent provision of law, rule or regu-
6 lation and effective April 1, 2008 through March 31, [2011] 2014, the
7 commissioner of health is authorized to transfer and the comptroller is
8 authorized to deposit, within amounts appropriated each year, those
9 funds authorized pursuant to sections 2807-d, 3614-a and 3614-b of the
10 public health law and section 367-i of the social services law and for
11 distribution in accordance with the provisions of subdivision 9 of
12 section 2807-j of the public health law for the purpose of payment for
13 administration of statutory duties for the collections and distributions
14 authorized by sections 2807-c, 2807-d, 2807-j, 2807-k, 2807-l, 3614-a
15 and 3614-b of the public health law and section 367-i of the social
16 services law into the special revenue funds - other, health care reform
17 act (HCRA) resources fund - 061, provider collection monitoring account,
18 established within the department of health.

19 S 5. Subparagraphs (xiv) and (xv) of paragraph (a) of subdivision 6 of
20 section 2807-s of the public health law, as amended by section 4 of part
21 I of chapter 2 of the laws of 2009, are amended to read as follows:

22 (xiv) A gross annual statewide amount for the period January first,
23 two thousand nine through December thirty-first, two thousand [ten]
24 THIRTEEN, shall be nine hundred [thirty-nine] FORTY-FOUR million
25 dollars.

26 (xv) A gross statewide amount for the period January first, two thou-
27 sand [eleven] FOURTEEN through March thirty-first, two thousand [eleven]
28 FOURTEEN, shall be two hundred [thirty-four] THIRTY-SIX million [seven
29 hundred fifty thousand] dollars.

30 S 5-a. Subparagraphs (iv) and (v) of paragraph (c) of subdivision 6 of
31 section 2807-s of the public health law, as amended by section 12 of
32 part B of chapter 58 of the laws of 2008, are amended to read as
33 follows:

34 (iv) A further gross annual statewide amount for two thousand, two
35 thousand one, two thousand two, two thousand three, two thousand four,
36 two thousand five, two thousand six, two thousand seven, two thousand
37 eight, two thousand nine [and], two thousand ten, TWO THOUSAND ELEVEN,
38 TWO THOUSAND TWELVE AND TWO THOUSAND THIRTEEN shall be eighty-nine
39 million dollars.

40 (v) A further gross statewide amount for the period January first, two
41 thousand [eleven] FOURTEEN through March thirty-first, two thousand
42 [eleven] FOURTEEN, shall be twenty-two million two hundred fifty thou-
43 sand dollars.

44 S 5-b. Subparagraphs (i) and (ii) of paragraph (e) of subdivision 6 of
45 section 2807-s of the public health law, as amended by section 13 of
46 part B of chapter 58 of the laws of 2008, are amended to read as
47 follows:

48 (i) A further gross annual statewide amount shall be twelve million
49 dollars for each period prior to January first, two thousand [eleven]
50 FOURTEEN.

51 (ii) A further gross statewide amount for the period January first,
52 two thousand [eleven] FOURTEEN through March thirty-first, two thousand
53 [eleven] FOURTEEN shall be three million dollars.

54 S 6. Intentionally omitted.

55 S 7. Section 2807-1 of the public health law, as amended by section 4
56 of part B of chapter 58 of the laws of 2008, clause (A) of subparagraph

(i) of paragraph (b) of subdivision 1 as amended by section 51 of part B and paragraph (n) of subdivision 1 as amended by section 9 of part C of chapter 58 of the laws of 2009, subparagraph (iv) of paragraph (c) of subdivision 1 as amended by section 13 of part B of chapter 109 of the laws of 2010, is amended to read as follows:

S 2807-1. Health care initiatives pool distributions. 1. Funds accumulated in the health care initiatives pools pursuant to paragraph (b) of subdivision nine of section twenty-eight hundred seven-j of this article, or the health care reform act (HCRA) resources fund established pursuant to section ninety-two-dd of the state finance law, whichever is applicable, including income from invested funds, shall be distributed or retained by the commissioner or by the state comptroller, as applicable, in accordance with the following.

(a) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of distributions to programs to provide health care coverage for uninsured or underinsured children pursuant to sections twenty-five hundred ten and twenty-five hundred eleven of this chapter from the respective health care initiatives pools established for the following periods in the following amounts:

(i) from the pool for the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-seven, up to one hundred twenty million six hundred thousand dollars;

(ii) from the pool for the period January first, nineteen hundred ninety-eight through December thirty-first, nineteen hundred ninety-eight, up to one hundred sixty-four million five hundred thousand dollars;

(iii) from the pool for the period January first, nineteen hundred ninety-nine through December thirty-first, nineteen hundred ninety-nine, up to one hundred eighty-one million dollars;

(iv) from the pool for the period January first, two thousand through December thirty-first, two thousand, two hundred seven million dollars;

(v) from the pool for the period January first, two thousand one through December thirty-first, two thousand one, two hundred thirty-five million dollars;

(vi) from the pool for the period January first, two thousand two through December thirty-first, two thousand two, three hundred twenty-four million dollars;

(vii) from the pool for the period January first, two thousand three through December thirty-first, two thousand three, up to four hundred fifty million three hundred thousand dollars;

(viii) from the pool for the period January first, two thousand four through December thirty-first, two thousand four, up to four hundred sixty million nine hundred thousand dollars;

(ix) from the pool or the health care reform act (HCRA) resources fund, whichever is applicable, for the period January first, two thousand five through December thirty-first, two thousand five, up to one hundred fifty-three million eight hundred thousand dollars;

(x) from the health care reform act (HCRA) resources fund for the period January first, two thousand six through December thirty-first, two thousand six, up to three hundred twenty-five million four hundred thousand dollars;

(xi) from the health care reform act (HCRA) resources fund for the period January first, two thousand seven through December thirty-first, two thousand seven, up to four hundred twenty-eight million fifty-nine thousand dollars;

(xii) from the health care reform act (HCRA) resources fund for the period January first, two thousand eight through December thirty-first, two thousand ten, up to four hundred fifty-three million six hundred seventy-four thousand dollars annually; [and]

(xiii) from the health care reform act (HCRA) resources fund for the period January first, two thousand eleven, through March thirty-first, two thousand eleven, up to one hundred thirteen million four hundred eighteen thousand dollars[.];

(XIV) FROM THE HEALTH CARE REFORM ACT (HCRA) RESOURCES FUND FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN, THROUGH MARCH THIRTY-FIRST, TWO THOUSAND TWELVE, UP TO THREE HUNDRED TWENTY-FOUR MILLION SEVEN HUNDRED FORTY-FOUR THOUSAND DOLLARS;

(XV) FROM THE HEALTH CARE REFORM ACT (HCRA) RESOURCES FUND FOR THE PERIOD APRIL FIRST, TWO THOUSAND TWELVE, THROUGH MARCH THIRTY-FIRST, TWO THOUSAND THIRTEEN, UP TO THREE HUNDRED FORTY-SIX MILLION FOUR HUNDRED FORTY-FOUR THOUSAND DOLLARS; AND

(XVI) FROM THE HEALTH CARE REFORM ACT (HCRA) RESOURCES FUND FOR THE PERIOD APRIL FIRST, TWO THOUSAND THIRTEEN, THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN, UP TO THREE HUNDRED SEVENTY MILLION SIX HUNDRED NINETY-FIVE THOUSAND DOLLARS.

(b) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of distributions for health insurance programs under the individual subsidy programs established pursuant to the expanded health care coverage act of nineteen hundred eighty-eight as amended, and for evaluation of such programs from the respective health care initiatives pools or the health care reform act (HCRA) resources fund, whichever is applicable, established for the following periods in the following amounts:

(i) (A) an amount not to exceed six million dollars on an annualized basis for the periods January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-nine; up to six million dollars for the period January first, two thousand through December thirty-first, two thousand; up to five million dollars for the period January first, two thousand one through December thirty-first, two thousand one; up to four million dollars for the period January first, two thousand two through December thirty-first, two thousand two; up to two million six hundred thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three; up to one million three hundred thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four; up to six hundred seventy thousand dollars for the period January first, two thousand five through June thirtieth, two thousand five; up to one million three hundred thousand dollars for the period April first, two thousand six through March thirty-first, two thousand seven; and up to one million three hundred thousand dollars annually for the period April first, two thousand seven through March thirty-first, two thousand nine, shall be allocated to individual subsidy programs; and

(B) an amount not to exceed seven million dollars on an annualized basis for the periods during the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-nine and four million dollars annually for the periods January first, two thousand through December thirty-first, two thousand two, and three million dollars for the period January first, two thousand three through December thirty-first, two thousand three, and two million dollars for the period January first, two thousand four through December thirty-

1 first, two thousand four, and two million dollars for the period January
2 first, two thousand five through June thirtieth, two thousand five shall
3 be allocated to the catastrophic health care expense program.

4 (ii) Notwithstanding any law to the contrary, the characterizations of
5 the New York state small business health insurance partnership program
6 as in effect prior to June thirtieth, two thousand three, voucher
7 program as in effect prior to December thirty-first, two thousand one,
8 individual subsidy program as in effect prior to June thirtieth, two
9 thousand five, and catastrophic health care expense program, as in
10 effect prior to June thirtieth, two thousand five, may, for the purposes
11 of identifying matching funds for the community health care conversion
12 demonstration project described in a waiver of the provisions of title
13 XIX of the federal social security act granted to the state of New York
14 and dated July fifteenth, nineteen hundred ninety-seven, may continue to
15 be used to characterize the insurance programs in sections four thousand
16 three hundred twenty-one-a, four thousand three hundred twenty-two-a,
17 four thousand three hundred twenty-six and four thousand three hundred
18 twenty-seven of the insurance law, which are successor programs to these
19 programs.

20 (c) Up to seventy-eight million dollars shall be reserved and accumu-
21 lated from year to year from the pool for the period January first,
22 nineteen hundred ninety-seven through December thirty-first, nineteen
23 hundred ninety-seven, for purposes of public health programs, up to
24 seventy-six million dollars shall be reserved and accumulated from year
25 to year from the pools for the periods January first, nineteen hundred
26 ninety-eight through December thirty-first, nineteen hundred ninety-
27 eight and January first, nineteen hundred ninety-nine through December
28 thirty-first, nineteen hundred ninety-nine, up to eighty-four million
29 dollars shall be reserved and accumulated from year to year from the
30 pools for the period January first, two thousand through December thir-
31 ty-first, two thousand, up to eighty-five million dollars shall be
32 reserved and accumulated from year to year from the pools for the period
33 January first, two thousand one through December thirty-first, two thou-
34 sand one, up to eighty-six million dollars shall be reserved and accumu-
35 lated from year to year from the pools for the period January first, two
36 thousand two through December thirty-first, two thousand two, up to
37 eighty-six million one hundred fifty thousand dollars shall be reserved
38 and accumulated from year to year from the pools for the period January
39 first, two thousand three through December thirty-first, two thousand
40 three, up to fifty-eight million seven hundred eighty thousand dollars
41 shall be reserved and accumulated from year to year from the pools for
42 the period January first, two thousand four through December thirty-
43 first, two thousand four, up to sixty-eight million seven hundred thirty
44 thousand dollars shall be reserved and accumulated from year to year
45 from the pools or the health care reform act (HCRA) resources fund,
46 whichever is applicable, for the period January first, two thousand five
47 through December thirty-first, two thousand five, up to ninety-four
48 million three hundred fifty thousand dollars shall be reserved and accu-
49 mulated from year to year from the health care reform act (HCRA)
50 resources fund for the period January first, two thousand six through
51 December thirty-first, two thousand six, up to seventy million nine
52 hundred thirty-nine thousand dollars shall be reserved and accumulated
53 from year to year from the health care reform act (HCRA) resources fund
54 for the period January first, two thousand seven through December thir-
55 ty-first, two thousand seven, up to fifty-five million six hundred
56 eighty-nine thousand dollars annually shall be reserved and accumulated

1 from year to year from the health care reform act (HCRA) resources fund
2 for the period January first, two thousand eight through December thir-
3 ty-first, two thousand ten, [and] up to thirteen million nine hundred
4 twenty-two thousand dollars shall be reserved and accumulated from year
5 to year from the health care reform act (HCRA) resources fund for the
6 period January first, two thousand eleven through March thirty-first,
7 two thousand eleven, AND FOR PERIODS ON AND AFTER APRIL FIRST, TWO THOU-
8 SAND ELEVEN, UP TO FUNDING AMOUNTS SPECIFIED BELOW and shall be avail-
9 able, including income from invested funds, for:

10 (i) deposit by the commissioner, within amounts appropriated, and the
11 state comptroller is hereby authorized and directed to receive for
12 deposit to, to the credit of the department of health's special revenue
13 fund - other, hospital based grants program account or the health care
14 reform act (HCRA) resources fund, whichever is applicable, for purposes
15 of services and expenses related to general hospital based grant
16 programs, up to twenty-two million dollars annually from the nineteen
17 hundred ninety-seven pool, nineteen hundred ninety-eight pool, nineteen
18 hundred ninety-nine pool, two thousand pool, two thousand one pool and
19 two thousand two pool, respectively, up to twenty-two million dollars
20 from the two thousand three pool, up to ten million dollars for the
21 period January first, two thousand four through December thirty-first,
22 two thousand four, up to eleven million dollars for the period January
23 first, two thousand five through December thirty-first, two thousand
24 five, up to twenty-two million dollars for the period January first, two
25 thousand six through December thirty-first, two thousand six, up to
26 twenty-two million ninety-seven thousand dollars annually for the period
27 January first, two thousand seven through December thirty-first, two
28 thousand ten, [and] up to five million five hundred twenty-four thousand
29 dollars for the period January first, two thousand eleven through March
30 thirty-first, two thousand eleven, UP TO THIRTEEN MILLION FOUR HUNDRED
31 FORTY-FIVE THOUSAND DOLLARS FOR THE PERIOD APRIL FIRST, TWO THOUSAND
32 ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND TWELVE, AND UP TO THIR-
33 TEEN MILLION THREE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS EACH STATE
34 FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND TWELVE THROUGH
35 MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN;

36 (ii) deposit by the commissioner, within amounts appropriated, and the
37 state comptroller is hereby authorized and directed to receive for
38 deposit to, to the credit of the emergency medical services training
39 account established in section ninety-seven-q of the state finance law
40 or the health care reform act (HCRA) resources fund, whichever is appli-
41 cable, up to sixteen million dollars on an annualized basis for the
42 periods January first, nineteen hundred ninety-seven through December
43 thirty-first, nineteen hundred ninety-nine, up to twenty million dollars
44 for the period January first, two thousand through December thirty-
45 first, two thousand, up to twenty-one million dollars for the period
46 January first, two thousand one through December thirty-first, two thou-
47 sand one, up to twenty-two million dollars for the period January first,
48 two thousand two through December thirty-first, two thousand two, up to
49 twenty-two million five hundred fifty thousand dollars for the period
50 January first, two thousand three through December thirty-first, two
51 thousand three, up to nine million six hundred eighty thousand dollars
52 for the period January first, two thousand four through December thir-
53 ty-first, two thousand four, up to twelve million one hundred thirty
54 thousand dollars for the period January first, two thousand five through
55 December thirty-first, two thousand five, up to twenty-four million two
56 hundred fifty thousand dollars for the period January first, two thou-

1 sand six through December thirty-first, two thousand six, up to twenty
2 million four hundred ninety-two thousand dollars annually for the period
3 January first, two thousand seven through December thirty-first, two
4 thousand ten, [and] up to five million one hundred twenty-three thousand
5 dollars for the period January first, two thousand eleven through March
6 thirty-first, two thousand eleven, UP TO EIGHTEEN MILLION THREE HUNDRED
7 FIFTY THOUSAND DOLLARS FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN
8 THROUGH MARCH THIRTY-FIRST, TWO THOUSAND TWELVE, UP TO EIGHTEEN MILLION
9 NINE HUNDRED FIFTY THOUSAND DOLLARS FOR THE PERIOD APRIL FIRST, TWO
10 THOUSAND TWELVE THROUGH MARCH THIRTY-FIRST, TWO THOUSAND THIRTEEN, AND
11 UP TO NINETEEN MILLION FOUR HUNDRED NINETEEN THOUSAND DOLLARS FOR THE
12 PERIOD APRIL FIRST, TWO THOUSAND THIRTEEN THROUGH MARCH THIRTY-FIRST,
13 TWO THOUSAND FOURTEEN;

14 (iii) priority distributions by the commissioner up to thirty-two
15 million dollars on an annualized basis for the period January first, two
16 thousand through December thirty-first, two thousand four, up to thir-
17 ty-eight million dollars on an annualized basis for the period January
18 first, two thousand five through December thirty-first, two thousand
19 six, up to eighteen million two hundred fifty thousand dollars for the
20 period January first, two thousand seven through December thirty-first,
21 two thousand seven, up to three million dollars annually for the period
22 January first, two thousand eight through December thirty-first, two
23 thousand ten, [and] up to seven hundred fifty thousand dollars for the
24 period January first, two thousand eleven through March thirty-first,
25 two thousand eleven, AND UP TO TWO MILLION NINE HUNDRED THOUSAND DOLLARS
26 EACH STATE FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN
27 THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN to be allocated (A)
28 for the purposes established pursuant to subparagraph (ii) of paragraph
29 (f) of subdivision nineteen of section twenty-eight hundred seven-c of
30 this article as in effect on December thirty-first, nineteen hundred
31 ninety-six and as may thereafter be amended, up to fifteen million
32 dollars annually for the periods January first, two thousand through
33 December thirty-first, two thousand four, up to twenty-one million
34 dollars annually for the period January first, two thousand five through
35 December thirty-first, two thousand six, and up to seven million five
36 hundred thousand dollars for the period January first, two thousand
37 seven through March thirty-first, two thousand seven;

38 (B) pursuant to a memorandum of understanding entered into by the
39 commissioner, the majority leader of the senate and the speaker of the
40 assembly, for the purposes outlined in such memorandum upon the recom-
41 mendation of the majority leader of the senate, up to eight million
42 five hundred thousand dollars annually for the period January first, two
43 thousand through December thirty-first, two thousand six, and up to four
44 million two hundred fifty thousand dollars for the period January first,
45 two thousand seven through June thirtieth, two thousand seven, and for
46 the purposes outlined in such memorandum upon the recommendation of the
47 speaker of the assembly, up to eight million five hundred thousand
48 dollars annually for the periods January first, two thousand through
49 December thirty-first, two thousand six, and up to four million two
50 hundred fifty thousand dollars for the period January first, two thou-
51 sand seven through June thirtieth, two thousand seven; and

52 (C) for services and expenses, including grants, related to emergency
53 assistance distributions as designated by the commissioner. Notwith-
54 standing section one hundred twelve or one hundred sixty-three of the
55 state finance law or any other contrary provision of law, such distrib-
56 utions shall be limited to providers or programs where, as determined by

1 the commissioner, emergency assistance is vital to protect the life or
2 safety of patients, to ensure the retention of facility caregivers or
3 other staff, or in instances where health facility operations are jeop-
4 ardized, or where the public health is jeopardized or other emergency
5 situations exist, up to three million dollars annually for the period
6 April first, two thousand seven through March thirty-first, two thousand
7 eleven, AND UP TO TWO MILLION NINE HUNDRED THOUSAND DOLLARS EACH STATE
8 FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH
9 MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN. Upon any distribution of
10 such funds, the commissioner shall immediately notify the chair and
11 ranking minority member of the senate finance committee, the assembly
12 ways and means committee, the senate committee on health, and the assem-
13 bly committee on health;

14 (iv) distributions by the commissioner related to poison control
15 centers pursuant to subdivision seven of section twenty-five hundred-d
16 of this chapter, up to five million dollars for the period January
17 first, nineteen hundred ninety-seven through December thirty-first,
18 nineteen hundred ninety-seven, up to three million dollars on an annual-
19 ized basis for the periods during the period January first, nineteen
20 hundred ninety-eight through December thirty-first, nineteen hundred
21 ninety-nine, up to five million dollars annually for the periods January
22 first, two thousand through December thirty-first, two thousand two, up
23 to four million six hundred thousand dollars annually for the periods
24 January first, two thousand three through December thirty-first, two
25 thousand four, up to five million one hundred thousand dollars for the
26 period January first, two thousand five through December thirty-first,
27 two thousand six annually, up to five million one hundred thousand
28 dollars annually for the period January first, two thousand seven
29 through December thirty-first, two thousand nine, up to three million
30 six hundred thousand dollars for the period January first, two thousand
31 ten through December thirty-first, two thousand ten, [and] up to seven
32 hundred seventy-five thousand dollars for the period January first, two
33 thousand eleven through March thirty-first, two thousand eleven, AND UP
34 TO TWO MILLION FIVE HUNDRED THOUSAND DOLLARS EACH STATE FISCAL YEAR FOR
35 THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST,
36 TWO THOUSAND FOURTEEN; and

37 (v) deposit by the commissioner, within amounts appropriated, and the
38 state comptroller is hereby authorized and directed to receive for
39 deposit to, to the credit of the department of health's special revenue
40 fund - other, miscellaneous special revenue fund - 339 maternal and
41 child HIV services account or the health care reform act (HCRA)
42 resources fund, whichever is applicable, for purposes of a special
43 program for HIV services for [infants and pregnant] women AND CHILDREN,
44 INCLUDING ADOLESCENTS pursuant to section [seventy-one of chapter seven
45 hundred thirty-one of the laws of nineteen hundred ninety-three, amend-
46 ing] TWENTY-FIVE HUNDRED-F-ONE OF the public health law [and other laws
47 relating to reimbursement, delivery and capital costs of ambulatory
48 health care services and inpatient hospital services], up to five
49 million dollars annually for the periods January first, two thousand
50 through December thirty-first, two thousand two, up to five million
51 dollars for the period January first, two thousand three through Decem-
52 ber thirty-first, two thousand three, up to two million five hundred
53 thousand dollars for the period January first, two thousand four through
54 December thirty-first, two thousand four, up to two million five hundred
55 thousand dollars for the period January first, two thousand five through
56 December thirty-first, two thousand five, up to five million dollars for

1 the period January first, two thousand six through December thirty-
2 first, two thousand six, up to five million dollars annually for the
3 period January first, two thousand seven through December thirty-first,
4 two thousand ten, [and] up to one million two hundred fifty thousand
5 dollars for the period January first, two thousand eleven through March
6 thirty-first, two thousand eleven, AND UP TO FIVE MILLION DOLLARS EACH
7 STATE FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN
8 THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN;

9 (d) (i) An amount of up to twenty million dollars annually for the
10 period January first, two thousand through December thirty-first, two
11 thousand six, up to ten million dollars for the period January first,
12 two thousand seven through June thirtieth, two thousand seven, up to
13 twenty million dollars annually for the period January first, two thou-
14 sand eight through December thirty-first, two thousand ten, [and] up to
15 five million dollars for the period January first, two thousand eleven
16 through March thirty-first, two thousand eleven, AND UP TO NINETEEN
17 MILLION SIX HUNDRED THOUSAND DOLLARS EACH STATE FISCAL YEAR FOR THE
18 PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO
19 THOUSAND FOURTEEN, shall be transferred to the health facility restruc-
20 turing pool established pursuant to section twenty-eight hundred fifteen
21 of this article;

22 (ii) provided, however, amounts transferred pursuant to subparagraph
23 (i) of this paragraph may be reduced in an amount to be approved by the
24 director of the budget to reflect the amount received from the federal
25 government under the state's 1115 waiver which is directed under its
26 terms and conditions to the health facility restructuring program.

27 (e) Funds shall be reserved and accumulated from year to year and
28 shall be available, including income from invested funds, for purposes
29 of distributions to organizations to support the health workforce
30 retraining program established pursuant to section twenty-eight hundred
31 seven-g of this article from the respective health care initiatives
32 pools established for the following periods in the following amounts
33 from the pools or the health care reform act (HCRA) resources fund,
34 whichever is applicable, during the period January first, nineteen
35 hundred ninety-seven through December thirty-first, nineteen hundred
36 ninety-nine, up to fifty million dollars on an annualized basis, up to
37 thirty million dollars for the period January first, two thousand
38 through December thirty-first, two thousand, up to forty million dollars
39 for the period January first, two thousand one through December thirty-
40 first, two thousand one, up to fifty million dollars for the period
41 January first, two thousand two through December thirty-first, two thou-
42 sand two, up to forty-one million one hundred fifty thousand dollars for
43 the period January first, two thousand three through December thirty-
44 first, two thousand three, up to forty-one million one hundred fifty
45 thousand dollars for the period January first, two thousand four through
46 December thirty-first, two thousand four, up to fifty-eight million
47 three hundred sixty thousand dollars for the period January first, two
48 thousand five through December thirty-first, two thousand five, up to
49 fifty-two million three hundred sixty thousand dollars for the period
50 January first, two thousand six through December thirty-first, two thou-
51 sand six, up to thirty-five million four hundred thousand dollars annu-
52 ally for the period January first, two thousand seven through December
53 thirty-first, two thousand ten [and], up to eight million eight hundred
54 fifty thousand dollars for the period January first, two thousand eleven
55 through March thirty-first, two thousand eleven, AND UP TO TWENTY-EIGHT
56 MILLION FOUR HUNDRED THOUSAND DOLLARS EACH STATE FISCAL YEAR FOR THE

1 PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO
2 THOUSAND FOURTEEN, less the amount of funds available for allocations
3 for rate adjustments for workforce training programs for payments by
4 state governmental agencies for inpatient hospital services.

5 (f) Funds shall be accumulated and transferred from as follows:

6 (i) from the pool for the period January first, nineteen hundred nine-
7 ty-seven through December thirty-first, nineteen hundred ninety-seven,
8 (A) thirty-four million six hundred thousand dollars shall be trans-
9 ferred to funds reserved and accumulated pursuant to paragraph (b) of
10 subdivision nineteen of section twenty-eight hundred seven-c of this
11 article, and (B) eighty-two million dollars shall be transferred and
12 deposited and credited to the credit of the state general fund medical
13 assistance local assistance account;

14 (ii) from the pool for the period January first, nineteen hundred
15 ninety-eight through December thirty-first, nineteen hundred ninety-
16 eight, eighty-two million dollars shall be transferred and deposited and
17 credited to the credit of the state general fund medical assistance
18 local assistance account;

19 (iii) from the pool for the period January first, nineteen hundred
20 ninety-nine through December thirty-first, nineteen hundred ninety-nine,
21 eighty-two million dollars shall be transferred and deposited and cred-
22 ited to the credit of the state general fund medical assistance local
23 assistance account;

24 (iv) from the pool or the health care reform act (HCRA) resources
25 fund, whichever is applicable, for the period January first, two thou-
26 sand through December thirty-first, two thousand four, eighty-two
27 million dollars annually, and for the period January first, two thousand
28 five through December thirty-first, two thousand five, eighty-two
29 million dollars, and for the period January first, two thousand six
30 through December thirty-first, two thousand six, eighty-two million
31 dollars, and for the period January first, two thousand seven through
32 December thirty-first, two thousand seven, eighty-two million dollars,
33 and for the period January first, two thousand eight through December
34 thirty-first, two thousand eight, ninety million seven hundred thousand
35 dollars shall be deposited by the commissioner, and the state comp-
36 troller is hereby authorized and directed to receive for deposit to the
37 credit of the state special revenue fund - other, HCRA transfer fund,
38 medical assistance account;

39 (v) from the health care reform act (HCRA) resources fund for the
40 period January first, two thousand nine through December thirty-first,
41 two thousand nine, one hundred eight million nine hundred seventy-five
42 thousand dollars, and for the period January first, two thousand ten
43 through December thirty-first, two thousand ten, one hundred twenty-six
44 million one hundred thousand dollars, [and] for the period January
45 first, two thousand eleven through March thirty-first, two thousand
46 eleven, twenty million five hundred thousand dollars, AND FOR EACH STATE
47 FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH
48 MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN, ONE HUNDRED FORTY-SIX MILLION
49 FOUR HUNDRED THOUSAND DOLLARS, shall be deposited by the commissioner,
50 and the state comptroller is hereby authorized and directed to receive
51 for deposit, to the credit of the state special revenue fund - other,
52 HCRA transfer fund, medical assistance account.

53 (g) Funds shall be transferred to primary health care services pools
54 created by the commissioner, and shall be available, including income
55 from invested funds, for distributions in accordance with former section
56 twenty-eight hundred seven-bb of this article from the respective health

care initiatives pools for the following periods in the following percentage amounts of funds remaining after allocations in accordance with paragraphs (a) through (f) of this subdivision:

(i) from the pool for the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-seven, fifteen and eighty-seven-hundredths percent;

(ii) from the pool for the period January first, nineteen hundred ninety-eight through December thirty-first, nineteen hundred ninety-eight, fifteen and eighty-seven-hundredths percent; and

(iii) from the pool for the period January first, nineteen hundred ninety-nine through December thirty-first, nineteen hundred ninety-nine, sixteen and thirteen-hundredths percent.

(h) Funds shall be reserved and accumulated from year to year by the commissioner and shall be available, including income from invested funds, for purposes of primary care education and training pursuant to article nine of this chapter from the respective health care initiatives pools established for the following periods in the following percentage amounts of funds remaining after allocations in accordance with paragraphs (a) through (f) of this subdivision and shall be available for distributions as follows:

(i) funds shall be reserved and accumulated:

(A) from the pool for the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-seven, six and thirty-five-hundredths percent;

(B) from the pool for the period January first, nineteen hundred ninety-eight through December thirty-first, nineteen hundred ninety-eight, six and thirty-five-hundredths percent; and

(C) from the pool for the period January first, nineteen hundred ninety-nine through December thirty-first, nineteen hundred ninety-nine, six and forty-five-hundredths percent;

(ii) funds shall be available for distributions including income from invested funds as follows:

(A) for purposes of the primary care physician loan repayment program in accordance with section nine hundred three of this chapter, up to five million dollars on an annualized basis;

(B) for purposes of the primary care practitioner scholarship program in accordance with section nine hundred four of this chapter, up to two million dollars on an annualized basis;

(C) for purposes of minority participation in medical education grants in accordance with section nine hundred six of this chapter, up to one million dollars on an annualized basis; and

(D) provided, however, that the commissioner may reallocate any funds remaining or unallocated for distributions for the primary care practitioner scholarship program in accordance with section nine hundred four of this chapter.

(i) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for distributions in accordance with section twenty-nine hundred fifty-two and section twenty-nine hundred fifty-eight of this chapter for rural health care delivery development and rural health care access development, respectively, from the respective health care initiatives pools or the health care reform act (HCRA) resources fund, whichever is applicable, for the following periods in the following percentage amounts of funds remaining after allocations in accordance with paragraphs (a) through (f) of this subdivision, and for periods on and after January first, two thousand, in the following amounts:

1 (i) from the pool for the period January first, nineteen hundred nine-
2 ty-seven through December thirty-first, nineteen hundred ninety-seven,
3 thirteen and forty-nine-hundredths percent;

4 (ii) from the pool for the period January first, nineteen hundred
5 ninety-eight through December thirty-first, nineteen hundred ninety-
6 eight, thirteen and forty-nine-hundredths percent;

7 (iii) from the pool for the period January first, nineteen hundred
8 ninety-nine through December thirty-first, nineteen hundred ninety-nine,
9 thirteen and seventy-one-hundredths percent;

10 (iv) from the pool for the periods January first, two thousand through
11 December thirty-first, two thousand two, seventeen million dollars annu-
12 ally, and for the period January first, two thousand three through
13 December thirty-first, two thousand three, up to fifteen million eight
14 hundred fifty thousand dollars;

15 (v) from the pool or the health care reform act (HCRA) resources fund,
16 whichever is applicable, for the period January first, two thousand four
17 through December thirty-first, two thousand four, up to fifteen million
18 eight hundred fifty thousand dollars, and for the period January first,
19 two thousand five through December thirty-first, two thousand five, up
20 to nineteen million two hundred thousand dollars, and for the period
21 January first, two thousand six through December thirty-first, two thou-
22 sand six, up to nineteen million two hundred thousand dollars, for the
23 period January first, two thousand seven through December thirty-first,
24 two thousand ten, up to eighteen million one hundred fifty thousand
25 dollars annually, [and] for the period January first, two thousand elev-
26 en through March thirty-first, two thousand eleven, up to four million
27 five hundred thirty-eight thousand dollars, AND FOR EACH STATE FISCAL
28 YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIR-
29 TY-FIRST, TWO THOUSAND FOURTEEN, UP TO SIXTEEN MILLION TWO HUNDRED THOU-
30 SAND DOLLARS.

31 (j) Funds shall be reserved and accumulated from year to year and
32 shall be available, including income from invested funds, for purposes
33 of distributions related to health information and health care quality
34 improvement pursuant to former section twenty-eight hundred seven-n of
35 this article from the respective health care initiatives pools estab-
36 lished for the following periods in the following percentage amounts of
37 funds remaining after allocations in accordance with paragraphs (a)
38 through (f) of this subdivision:

39 (i) from the pool for the period January first, nineteen hundred nine-
40 ty-seven through December thirty-first, nineteen hundred ninety-seven,
41 six and thirty-five-hundredths percent;

42 (ii) from the pool for the period January first, nineteen hundred
43 ninety-eight through December thirty-first, nineteen hundred ninety-
44 eight, six and thirty-five-hundredths percent; and

45 (iii) from the pool for the period January first, nineteen hundred
46 ninety-nine through December thirty-first, nineteen hundred ninety-nine,
47 six and forty-five-hundredths percent.

48 (k) Funds shall be reserved and accumulated from year to year and
49 shall be available, including income from invested funds, for allo-
50 cations and distributions in accordance with section twenty-eight
51 hundred seven-p of this article for diagnostic and treatment center
52 uncompensated care from the respective health care initiatives pools or
53 the health care reform act (HCRA) resources fund, whichever is applica-
54 ble, for the following periods in the following percentage amounts of
55 funds remaining after allocations in accordance with paragraphs (a)

1 through (f) of this subdivision, and for periods on and after January
2 first, two thousand, in the following amounts:

3 (i) from the pool for the period January first, nineteen hundred nine-
4 ty-seven through December thirty-first, nineteen hundred ninety-seven,
5 thirty-eight and one-tenth percent;

6 (ii) from the pool for the period January first, nineteen hundred
7 ninety-eight through December thirty-first, nineteen hundred ninety-
8 eight, thirty-eight and one-tenth percent;

9 (iii) from the pool for the period January first, nineteen hundred
10 ninety-nine through December thirty-first, nineteen hundred ninety-nine,
11 thirty-eight and seventy-one-hundredths percent;

12 (iv) from the pool for the periods January first, two thousand through
13 December thirty-first, two thousand two, forty-eight million dollars
14 annually, and for the period January first, two thousand three through
15 June thirtieth, two thousand three, twenty-four million dollars;

16 (v) (A) from the pool or the health care reform act (HCRA) resources
17 fund, whichever is applicable, for the period July first, two thousand
18 three through December thirty-first, two thousand three, up to six
19 million dollars, for the period January first, two thousand four through
20 December thirty-first, two thousand six, up to twelve million dollars
21 annually, for the period January first, two thousand seven through
22 December thirty-first, two thousand [ten] THIRTEEN, up to forty-eight
23 million dollars annually, and for the period January first, two thousand
24 [eleven] FOURTEEN through March thirty-first, two thousand [eleven]
25 FOURTEEN, up to twelve million dollars;

26 (B) from the health care reform act (HCRA) resources fund for the
27 period January first, two thousand six through December thirty-first,
28 two thousand six, an additional seven million five hundred thousand
29 dollars, for the period January first, two thousand seven through Decem-
30 ber thirty-first, two thousand [ten] THIRTEEN, an additional seven
31 million five hundred thousand dollars annually, and for the period Janu-
32 ary first, two thousand [eleven] FOURTEEN through March thirty-first,
33 two thousand [eleven] FOURTEEN, an additional one million eight hundred
34 seventy-five thousand dollars, for voluntary non-profit diagnostic and
35 treatment center uncompensated care in accordance with subdivision
36 four-c of section twenty-eight hundred seven-p of this article; and

37 (vi) funds reserved and accumulated pursuant to this paragraph for
38 periods on and after July first, two thousand three, shall be deposited
39 by the commissioner, within amounts appropriated, and the state comp-
40 troller is hereby authorized and directed to receive for deposit to the
41 credit of the state special revenue funds - other, HCRA transfer fund,
42 medical assistance account, for purposes of funding the state share of
43 rate adjustments made pursuant to section twenty-eight hundred seven-p
44 of this article, provided, however, that in the event federal financial
45 participation is not available for rate adjustments made pursuant to
46 paragraph (b) of subdivision one of section twenty-eight hundred seven-p
47 of this article, funds shall be distributed pursuant to paragraph (a) of
48 subdivision one of section twenty-eight hundred seven-p of this article
49 from the respective health care initiatives pools or the health care
50 reform act (HCRA) resources fund, whichever is applicable.

51 (1) Funds shall be reserved and accumulated from year to year by the
52 commissioner and shall be available, including income from invested
53 funds, for transfer to and allocation for services and expenses for the
54 payment of benefits to recipients of drugs under the AIDS drug assist-
55 ance program (ADAP) - HIV uninsured care program as administered by
56 Health Research Incorporated from the respective health care initi-

atives pools or the health care reform act (HCRA) resources fund, which-
ever is applicable, established for the following periods in the follow-
ing percentage amounts of funds remaining after allocations in
accordance with paragraphs (a) through (f) of this subdivision, and for
periods on and after January first, two thousand, in the following
amounts:

(i) from the pool for the period January first, nineteen hundred nine-
ty-seven through December thirty-first, nineteen hundred ninety-seven,
nine and fifty-two-hundredths percent;

(ii) from the pool for the period January first, nineteen hundred
ninety-eight through December thirty-first, nineteen hundred ninety-
eight, nine and fifty-two-hundredths percent;

(iii) from the pool for the period January first, nineteen hundred
ninety-nine and December thirty-first, nineteen hundred ninety-nine,
nine and sixty-eight-hundredths percent;

(iv) from the pool for the periods January first, two thousand through
December thirty-first, two thousand two, up to twelve million dollars
annually, and for the period January first, two thousand three through
December thirty-first, two thousand three, up to forty million dollars;
and

(v) from the pool or the health care reform act (HCRA) resources fund,
whichever is applicable, for the periods January first, two thousand
four through December thirty-first, two thousand four, up to fifty-six
million dollars, for the period January first, two thousand five through
December thirty-first, two thousand six, up to sixty million dollars
annually, for the period January first, two thousand seven through
December thirty-first, two thousand ten, up to sixty million dollars
annually, [and] for the period January first, two thousand eleven
through March thirty-first, two thousand eleven, up to fifteen million
dollars, AND EACH STATE FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO
THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN, UP TO
FORTY-TWO MILLION THREE HUNDRED THOUSAND DOLLARS.

(m) Funds shall be reserved and accumulated from year to year and
shall be available, including income from invested funds, for purposes
of distributions pursuant to section twenty-eight hundred seven-r of
this article for cancer related services from the respective health care
initiatives pools or the health care reform act (HCRA) resources fund,
whichever is applicable, established for the following periods in the
following percentage amounts of funds remaining after allocations in
accordance with paragraphs (a) through (f) of this subdivision, and for
periods on and after January first, two thousand, in the following
amounts:

(i) from the pool for the period January first, nineteen hundred nine-
ty-seven through December thirty-first, nineteen hundred ninety-seven,
seven and ninety-four-hundredths percent;

(ii) from the pool for the period January first, nineteen hundred
ninety-eight through December thirty-first, nineteen hundred ninety-
eight, seven and ninety-four-hundredths percent;

(iii) from the pool for the period January first, nineteen hundred
ninety-nine and December thirty-first, nineteen hundred ninety-nine, six
and forty-five-hundredths percent;

(iv) from the pool for the period January first, two thousand through
December thirty-first, two thousand two, up to ten million dollars on an
annual basis;

1 (v) from the pool for the period January first, two thousand three
2 through December thirty-first, two thousand four, up to eight million
3 nine hundred fifty thousand dollars on an annual basis;

4 (vi) from the pool or the health care reform act (HCRA) resources
5 fund, whichever is applicable, for the period January first, two thou-
6 sand five through December thirty-first, two thousand six, up to ten
7 million fifty thousand dollars on an annual basis, for the period Janu-
8 ary first, two thousand seven through December thirty-first, two thou-
9 sand ten, up to nineteen million dollars annually, and for the period
10 January first, two thousand eleven through March thirty-first, two thou-
11 sand eleven, up to four million seven hundred fifty thousand dollars.

12 (n) Funds shall be accumulated and transferred from the health care
13 reform act (HCRA) resources fund as follows: for the period April first,
14 two thousand seven through March thirty-first, two thousand eight, and
15 on an annual basis for the periods April first, two thousand eight
16 through November thirtieth, two thousand nine, funds within amounts
17 appropriated shall be transferred and deposited and credited to the
18 credit of the state special revenue funds - other, HCRA transfer fund,
19 medical assistance account, for purposes of funding the state share of
20 rate adjustments made to public and voluntary hospitals in accordance
21 with paragraphs (i) and (j) of subdivision one of section twenty-eight
22 hundred seven-c of this article.

23 2. Notwithstanding any inconsistent provision of law, rule or regu-
24 lation, any funds accumulated in the health care initiatives pools
25 pursuant to paragraph (b) of subdivision nine of section twenty-eight
26 hundred seven-j of this article, as a result of surcharges, assessments
27 or other obligations during the periods January first, nineteen hundred
28 ninety-seven through December thirty-first, nineteen hundred ninety-
29 nine, which are unused or uncommitted for distributions pursuant to this
30 section shall be reserved and accumulated from year to year by the
31 commissioner and, within amounts appropriated, transferred and deposited
32 into the special revenue funds - other, miscellaneous special revenue
33 fund - 339, child health insurance account or any successor fund or
34 account, for purposes of distributions to implement the child health
35 insurance program established pursuant to sections twenty-five hundred
36 ten and twenty-five hundred eleven of this chapter for periods on and
37 after January first, two thousand one; provided, however, funds reserved
38 and accumulated for priority distributions pursuant to subparagraph
39 (iii) of paragraph (c) of subdivision one of this section shall not be
40 transferred and deposited into such account pursuant to this subdivi-
41 sion; and provided further, however, that any unused or uncommitted pool
42 funds accumulated and allocated pursuant to paragraph (j) of subdivision
43 one of this section shall be distributed for purposes of the health
44 information and quality improvement act of 2000.

45 3. Revenue from distributions pursuant to this section shall not be
46 included in gross revenue received for purposes of the assessments
47 pursuant to subdivision eighteen of section twenty-eight hundred seven-c
48 of this article, subject to the provisions of paragraph (e) of subdivi-
49 sion eighteen of section twenty-eight hundred seven-c of this article,
50 and shall not be included in gross revenue received for purposes of the
51 assessments pursuant to section twenty-eight hundred seven-d of this
52 article, subject to the provisions of subdivision twelve of section
53 twenty-eight hundred seven-d of this article.

54 S 8. Subdivision 1 of section 2807-v of the public health law, as
55 amended by section 5 of part B of chapter 58 of the laws of 2008, para-
56 graphs (g), (h), (i) and (i-1) as amended by section 5 of part I of

chapter 2 of the laws of 2009, subparagraphs (xi) and (xii) of paragraph (j) as amended by section 12, paragraph (jj) as amended by section 10, subparagraph (vii) of paragraph (qq) as amended by section 11 and subparagraph (vii) of paragraph (uu) as amended by section 9 of part B of chapter 109 of the laws of 2010, paragraph (s) as amended by section 8, paragraphs (x) and (y) as amended by section 6, paragraph (kk) as amended by section 124, subparagraph (vi) of paragraph (uu) as amended by section 120, paragraph (xx) as amended by section 10 and paragraphs (ggg) and (hhh) as amended by section 7 of part C of chapter 58 of the laws of 2009, is amended to read as follows:

1. Funds accumulated in the tobacco control and insurance initiatives pool or in the health care reform act (HCRA) resources fund established pursuant to section ninety-two-dd of the state finance law, whichever is applicable, including income from invested funds, shall be distributed or retained by the commissioner or by the state comptroller, as applicable, in accordance with the following:

(a) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medicaid fraud hotline and medicaid administration account, or any successor fund or account, for purposes of services and expenses related to the toll-free medicaid fraud hotline established pursuant to section one hundred eight of chapter one of the laws of nineteen hundred ninety-nine from the tobacco control and insurance initiatives pool established for the following periods in the following amounts: four hundred thousand dollars annually for the periods January first, two thousand through December thirty-first, two thousand two, up to four hundred thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three, up to four hundred thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four, up to four hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five, up to four hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six, up to four hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven, up to four hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, up to four hundred thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine, up to four hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten, [and] up to one hundred thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven AND WITHIN AMOUNTS APPROPRIATED ON AND AFTER APRIL FIRST, TWO THOUSAND ELEVEN.

(b) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of payment of audits or audit contracts necessary to determine payor and provider compliance with requirements set forth in sections twenty-eight hundred seven-j, twenty-eight hundred seven-s and twenty-eight hundred seven-t of this article [and hospital compliance with paragraph six of subdivision (a) of section 405.4 of title 10 of the official compilation of codes, rules and regulations of the state of New York in accordance with subdivision nine of section twenty-eight hundred three of this article] from the tobacco control and insurance initiatives pool estab-

lished for the following periods in the following amounts: five million six hundred thousand dollars annually for the periods January first, two thousand through December thirty-first, two thousand two, up to five million dollars for the period January first, two thousand three through December thirty-first, two thousand three, up to five million dollars for the period January first, two thousand four through December thirty-first, two thousand four, up to five million dollars for the period January first, two thousand five through December thirty first, two thousand five, up to five million dollars for the period January first, two thousand six through December thirty-first, two thousand six, up to seven million eight hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven, and up to eight million three hundred twenty-five thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, up to eight million five hundred thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine, up to eight million five hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten, [and] up to two million one hundred twenty-five thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, AND UP TO FOURTEEN MILLION SEVEN HUNDRED THOUSAND DOLLARS EACH STATE FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN.

(c) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, enhanced community services account, or any successor fund or account, for mental health services programs for case management services for adults and children; supported housing; home and community based waiver services; family based treatment; family support services; mobile mental health teams; transitional housing; and community oversight, established pursuant to articles seven and forty-one of the mental hygiene law and subdivision nine of section three hundred sixty-six of the social services law; and for comprehensive care centers for eating disorders pursuant to THE FORMER section twenty-seven hundred ninety-nine-1 of this chapter, provided however that, for such centers, funds in the amount of five hundred thousand dollars on an annualized basis shall be transferred from the enhanced community services account, or any successor fund or account, and deposited into the fund established by section ninety-five-e of the state finance law; from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) forty-eight million dollars to be reserved, to be retained or for distribution pursuant to a chapter of the laws of two thousand, for the period January first, two thousand through December thirty-first, two thousand;

(ii) eighty-seven million dollars to be reserved, to be retained or for distribution pursuant to a chapter of the laws of two thousand one, for the period January first, two thousand one through December thirty-first, two thousand one;

(iii) eighty-seven million dollars to be reserved, to be retained or for distribution pursuant to a chapter of the laws of two thousand two, for the period January first, two thousand two through December thirty-first, two thousand two;

1 (iv) eighty-eight million dollars to be reserved, to be retained or
2 for distribution pursuant to a chapter of the laws of two thousand
3 three, for the period January first, two thousand three through December
4 thirty-first, two thousand three;

5 (v) eighty-eight million dollars, plus five hundred thousand dollars,
6 to be reserved, to be retained or for distribution pursuant to a chapter
7 of the laws of two thousand four, and pursuant to THE FORMER section
8 twenty-seven hundred ninety-nine-1 of this chapter, for the period Janu-
9 ary first, two thousand four through December thirty-first, two thousand
10 four;

11 (vi) eighty-eight million dollars, plus five hundred thousand dollars,
12 to be reserved, to be retained or for distribution pursuant to a chapter
13 of the laws of two thousand five, and pursuant to THE FORMER section
14 twenty-seven hundred ninety-nine-1 of this chapter, for the period Janu-
15 ary first, two thousand five through December thirty-first, two thousand
16 five;

17 (vii) eighty-eight million dollars, plus five hundred thousand
18 dollars, to be reserved, to be retained or for distribution pursuant to
19 a chapter of the laws of two thousand six, and pursuant to section twen-
20 ty-seven hundred ninety-nine-1 of this chapter, for the period January
21 first, two thousand six through December thirty-first, two thousand six;

22 (viii) eighty-six million four hundred thousand dollars, plus five
23 hundred thousand dollars, to be reserved, to be retained or for distrib-
24 ution pursuant to a chapter of the laws of two thousand seven and pursu-
25 ant to THE FORMER section twenty-seven hundred ninety-nine-1 of this
26 chapter, for the period January first, two thousand seven through Decem-
27 ber thirty-first, two thousand seven; and

28 (ix) twenty-two million nine hundred thirteen thousand dollars, plus
29 one hundred twenty-five thousand dollars, to be reserved, to be retained
30 or for distribution pursuant to a chapter of the laws of two thousand
31 eight and pursuant to THE FORMER section twenty-seven hundred ninety-
32 nine-1 of this chapter, for the period January first, two thousand eight
33 through March thirty-first, two thousand eight.

34 (d) Funds shall be deposited by the commissioner, within amounts
35 appropriated, and the state comptroller is hereby authorized and
36 directed to receive for deposit to the credit of the state special
37 revenue funds - other, HCRA transfer fund, medical assistance account,
38 or any successor fund or account, for purposes of funding the state
39 share of services and expenses related to the family health plus program
40 including up to two and one-half million dollars annually for the period
41 January first, two thousand through December thirty-first, two thousand
42 two, for administration and marketing costs associated with such program
43 established pursuant to clause (A) of subparagraph (v) of paragraph (a)
44 of subdivision two of section three hundred sixty-nine-ee of the social
45 services law from the tobacco control and insurance initiatives pool
46 established for the following periods in the following amounts:

47 (i) three million five hundred thousand dollars for the period January
48 first, two thousand through December thirty-first, two thousand;

49 (ii) twenty-seven million dollars for the period January first, two
50 thousand one through December thirty-first, two thousand one; and

51 (iii) fifty-seven million dollars for the period January first, two
52 thousand two through December thirty-first, two thousand two.

53 (e) Funds shall be deposited by the commissioner, within amounts
54 appropriated, and the state comptroller is hereby authorized and
55 directed to receive for deposit to the credit of the state special
56 revenue funds - other, HCRA transfer fund, medical assistance account,

1 or any successor fund or account, for purposes of funding the state
2 share of services and expenses related to the family health plus program
3 including up to two and one-half million dollars annually for the period
4 January first, two thousand through December thirty-first, two thousand
5 two for administration and marketing costs associated with such program
6 established pursuant to clause (B) of subparagraph (v) of paragraph (a)
7 of subdivision two of section three hundred sixty-nine-ee of the social
8 services law from the tobacco control and insurance initiatives pool
9 established for the following periods in the following amounts:

10 (i) two million five hundred thousand dollars for the period January
11 first, two thousand through December thirty-first, two thousand;

12 (ii) thirty million five hundred thousand dollars for the period Janu-
13 ary first, two thousand one through December thirty-first, two thousand
14 one; and

15 (iii) sixty-six million dollars for the period January first, two
16 thousand two through December thirty-first, two thousand two.

17 (f) Funds shall be deposited by the commissioner, within amounts
18 appropriated, and the state comptroller is hereby authorized and
19 directed to receive for deposit to the credit of the state special
20 revenue funds - other, HCRA transfer fund, medicaid fraud hotline and
21 medicaid administration account, or any successor fund or account, for
22 purposes of payment of administrative expenses of the department related
23 to the family health plus program established pursuant to section three
24 hundred sixty-nine-ee of the social services law from the tobacco
25 control and insurance initiatives pool established for the following
26 periods in the following amounts: five hundred thousand dollars on an
27 annual basis for the periods January first, two thousand through Decem-
28 ber thirty-first, two thousand six, five hundred thousand dollars for
29 the period January first, two thousand seven through December thirty-
30 first, two thousand seven, and five hundred thousand dollars for the
31 period January first, two thousand eight through December thirty-first,
32 two thousand eight, five hundred thousand dollars for the period January
33 first, two thousand nine through December thirty-first, two thousand
34 nine, five hundred thousand dollars for the period January first, two
35 thousand ten through December thirty-first, two thousand ten, [and] one
36 hundred twenty-five thousand dollars for the period January first, two
37 thousand eleven through March thirty-first, two thousand eleven AND
38 WITHIN AMOUNTS APPROPRIATED ON AND AFTER APRIL FIRST, TWO THOUSAND ELEV-
39 EN.

40 (g) Funds shall be reserved and accumulated from year to year and
41 shall be available, including income from invested funds, for purposes
42 of services and expenses related to the health maintenance organization
43 direct pay market program established pursuant to sections forty-three
44 hundred twenty-one-a and forty-three hundred twenty-two-a of the insur-
45 ance law from the tobacco control and insurance initiatives pool estab-
46 lished for the following periods in the following amounts:

47 (i) up to thirty-five million dollars for the period January first,
48 two thousand through December thirty-first, two thousand of which fifty
49 percentum shall be allocated to the program pursuant to section four
50 thousand three hundred twenty-one-a of the insurance law and fifty
51 percentum to the program pursuant to section four thousand three hundred
52 twenty-two-a of the insurance law;

53 (ii) up to thirty-six million dollars for the period January first,
54 two thousand one through December thirty-first, two thousand one of
55 which fifty percentum shall be allocated to the program pursuant to
56 section four thousand three hundred twenty-one-a of the insurance law

1 and fifty percentum to the program pursuant to section four thousand
2 three hundred twenty-two-a of the insurance law;

3 (iii) up to thirty-nine million dollars for the period January first,
4 two thousand two through December thirty-first, two thousand two of
5 which fifty percentum shall be allocated to the program pursuant to
6 section four thousand three hundred twenty-one-a of the insurance law
7 and fifty percentum to the program pursuant to section four thousand
8 three hundred twenty-two-a of the insurance law;

9 (iv) up to forty million dollars for the period January first, two
10 thousand three through December thirty-first, two thousand three of
11 which fifty percentum shall be allocated to the program pursuant to
12 section four thousand three hundred twenty-one-a of the insurance law
13 and fifty percentum to the program pursuant to section four thousand
14 three hundred twenty-two-a of the insurance law;

15 (v) up to forty million dollars for the period January first, two
16 thousand four through December thirty-first, two thousand four of which
17 fifty percentum shall be allocated to the program pursuant to section
18 four thousand three hundred twenty-one-a of the insurance law and fifty
19 percentum to the program pursuant to section four thousand three hundred
20 twenty-two-a of the insurance law;

21 (vi) up to forty million dollars for the period January first, two
22 thousand five through December thirty-first, two thousand five of which
23 fifty percentum shall be allocated to the program pursuant to section
24 four thousand three hundred twenty-one-a of the insurance law and fifty
25 percentum to the program pursuant to section four thousand three hundred
26 twenty-two-a of the insurance law;

27 (vii) up to forty million dollars for the period January first, two
28 thousand six through December thirty-first, two thousand six of which
29 fifty percentum shall be allocated to the program pursuant to section
30 four thousand three hundred twenty-one-a of the insurance law and fifty
31 percentum shall be allocated to the program pursuant to section four
32 thousand three hundred twenty-two-a of the insurance law;

33 (viii) up to forty million dollars for the period January first, two
34 thousand seven through December thirty-first, two thousand seven of
35 which fifty percentum shall be allocated to the program pursuant to
36 section four thousand three hundred twenty-one-a of the insurance law
37 and fifty percentum shall be allocated to the program pursuant to
38 section four thousand three hundred twenty-two-a of the insurance law;
39 and

40 (ix) up to forty million dollars for the period January first, two
41 thousand eight through December thirty-first, two thousand eight of
42 which fifty per centum shall be allocated to the program pursuant to
43 section four thousand three hundred twenty-one-a of the insurance law
44 and fifty per centum shall be allocated to the program pursuant to
45 section four thousand three hundred twenty-two-a of the insurance law.

46 (h) Funds shall be reserved and accumulated from year to year and
47 shall be available, including income from invested funds, for purposes
48 of services and expenses related to the healthy New York individual
49 program established pursuant to sections four thousand three hundred
50 twenty-six and four thousand three hundred twenty-seven of the insurance
51 law from the tobacco control and insurance initiatives pool established
52 for the following periods in the following amounts:

53 (i) up to six million dollars for the period January first, two thou-
54 sand one through December thirty-first, two thousand one;

55 (ii) up to twenty-nine million dollars for the period January first,
56 two thousand two through December thirty-first, two thousand two;

1 (iii) up to five million one hundred thousand dollars for the period
2 January first, two thousand three through December thirty-first, two
3 thousand three;
4 (iv) up to twenty-four million six hundred thousand dollars for the
5 period January first, two thousand four through December thirty-first,
6 two thousand four;
7 (v) up to thirty-four million six hundred thousand dollars for the
8 period January first, two thousand five through December thirty-first,
9 two thousand five;
10 (vi) up to fifty-four million eight hundred thousand dollars for the
11 period January first, two thousand six through December thirty-first,
12 two thousand six;
13 (vii) up to sixty-one million seven hundred thousand dollars for the
14 period January first, two thousand seven through December thirty-first,
15 two thousand seven; and
16 (viii) up to one hundred three million seven hundred fifty thousand
17 dollars for the period January first, two thousand eight through Decem-
18 ber thirty-first, two thousand eight.
19 (i) Funds shall be reserved and accumulated from year to year and
20 shall be available, including income from invested funds, for purposes
21 of services and expenses related to the healthy New York group program
22 established pursuant to sections four thousand three hundred twenty-six
23 and four thousand three hundred twenty-seven of the insurance law from
24 the tobacco control and insurance initiatives pool established for the
25 following periods in the following amounts:
26 (i) up to thirty-four million dollars for the period January first,
27 two thousand one through December thirty-first, two thousand one;
28 (ii) up to seventy-seven million dollars for the period January first,
29 two thousand two through December thirty-first, two thousand two;
30 (iii) up to ten million five hundred thousand dollars for the period
31 January first, two thousand three through December thirty-first, two
32 thousand three;
33 (iv) up to twenty-four million six hundred thousand dollars for the
34 period January first, two thousand four through December thirty-first,
35 two thousand four;
36 (v) up to thirty-four million six hundred thousand dollars for the
37 period January first, two thousand five through December thirty-first,
38 two thousand five;
39 (vi) up to fifty-four million eight hundred thousand dollars for the
40 period January first, two thousand six through December thirty-first,
41 two thousand six;
42 (vii) up to sixty-one million seven hundred thousand dollars for the
43 period January first, two thousand seven through December thirty-first,
44 two thousand seven; and
45 (viii) up to one hundred three million seven hundred fifty thousand
46 dollars for the period January first, two thousand eight through Decem-
47 ber thirty-first, two thousand eight.
48 (i-1) Notwithstanding the provisions of paragraphs (h) and (i) of this
49 subdivision, the commissioner shall reserve and accumulate up to two
50 million five hundred thousand dollars annually for the periods January
51 first, two thousand four through December thirty-first, two thousand
52 six, one million four hundred thousand dollars for the period January
53 first, two thousand seven through December thirty-first, two thousand
54 seven, two million dollars for the period January first, two thousand
55 eight through December thirty-first, two thousand eight, from funds
56 otherwise available for distribution under such paragraphs for the

1 services and expenses related to the pilot program for entertainment
2 industry employees included in subsection (b) of section one thousand
3 one hundred twenty-two of the insurance law, and an additional seven
4 hundred thousand dollars annually for the periods January first, two
5 thousand four through December thirty-first, two thousand six, an addi-
6 tional three hundred thousand dollars for the period January first, two
7 thousand seven through June thirtieth, two thousand seven for services
8 and expenses related to the pilot program for displaced workers included
9 in subsection (c) of section one thousand one hundred twenty-two of the
10 insurance law.

11 (j) Funds shall be reserved and accumulated from year to year and
12 shall be available, including income from invested funds, for purposes
13 of services and expenses related to the tobacco use prevention and
14 control program established pursuant to sections thirteen hundred nine-
15 ty-nine-ii and thirteen hundred ninety-nine-jj of this chapter, from the
16 tobacco control and insurance initiatives pool established for the
17 following periods in the following amounts:

18 (i) up to thirty million dollars for the period January first, two
19 thousand through December thirty-first, two thousand;

20 (ii) up to forty million dollars for the period January first, two
21 thousand one through December thirty-first, two thousand one;

22 (iii) up to forty million dollars for the period January first, two
23 thousand two through December thirty-first, two thousand two;

24 (iv) up to thirty-six million nine hundred fifty thousand dollars for
25 the period January first, two thousand three through December thirty-
26 first, two thousand three;

27 (v) up to thirty-six million nine hundred fifty thousand dollars for
28 the period January first, two thousand four through December thirty-
29 first, two thousand four;

30 (vi) up to forty million six hundred thousand dollars for the period
31 January first, two thousand five through December thirty-first, two
32 thousand five;

33 (vii) up to eighty-one million nine hundred thousand dollars for the
34 period January first, two thousand six through December thirty-first,
35 two thousand six, provided, however, that within amounts appropriated, a
36 portion of such funds may be transferred to the Roswell Park Cancer
37 Institute Corporation to support costs associated with cancer research;

38 (viii) up to ninety-four million one hundred fifty thousand dollars
39 for the period January first, two thousand seven through December thir-
40 ty-first, two thousand seven, provided, however, that within amounts
41 appropriated, a portion of such funds may be transferred to the Roswell
42 Park Cancer Institute Corporation to support costs associated with
43 cancer research;

44 (ix) up to ninety-four million one hundred fifty thousand dollars for
45 the period January first, two thousand eight through December thirty-
46 first, two thousand eight;

47 (x) up to ninety-four million one hundred fifty thousand dollars for
48 the period January first, two thousand nine through December thirty-
49 first, two thousand nine;

50 (xi) up to eighty-seven million seven hundred seventy-five thousand
51 dollars for the period January first, two thousand ten through December
52 thirty-first, two thousand ten; [and]

53 (xii) up to twenty-one million four hundred twelve thousand dollars
54 for the period January first, two thousand eleven through March thirty-
55 first, two thousand eleven[.]; AND

(XIII) UP TO FIFTY-TWO MILLION ONE HUNDRED THOUSAND DOLLARS EACH STATE FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN.

(k) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue fund - other, HCRA transfer fund, health care services account, or any successor fund or account, for purposes of services and expenses related to public health programs, including comprehensive care centers for eating disorders pursuant to THE FORMER section twenty-seven hundred ninety-nine-1 of this chapter, provided however that, for such centers, funds in the amount of five hundred thousand dollars on an annualized basis shall be transferred from the health care services account, or any successor fund or account, and deposited into the fund established by section ninety-five-e of the state finance law FOR PERIODS PRIOR TO MARCH THIRTY-FIRST, TWO THOUSAND ELEVEN, from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) up to thirty-one million dollars for the period January first, two thousand through December thirty-first, two thousand;

(ii) up to forty-one million dollars for the period January first, two thousand one through December thirty-first, two thousand one;

(iii) up to eighty-one million dollars for the period January first, two thousand two through December thirty-first, two thousand two;

(iv) one hundred twenty-two million five hundred thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(v) one hundred eight million five hundred seventy-five thousand dollars, plus an additional five hundred thousand dollars, for the period January first, two thousand four through December thirty-first, two thousand four;

(vi) ninety-one million eight hundred thousand dollars, plus an additional five hundred thousand dollars, for the period January first, two thousand five through December thirty-first, two thousand five;

(vii) one hundred fifty-six million six hundred thousand dollars, plus an additional five hundred thousand dollars, for the period January first, two thousand six through December thirty-first, two thousand six;

(viii) one hundred fifty-one million four hundred thousand dollars, plus an additional five hundred thousand dollars, for the period January first, two thousand seven through December thirty-first, two thousand seven;

(ix) one hundred sixteen million nine hundred forty-nine thousand dollars, plus an additional five hundred thousand dollars, for the period January first, two thousand eight through December thirty-first, two thousand eight;

(x) one hundred sixteen million nine hundred forty-nine thousand dollars, plus an additional five hundred thousand dollars, for the period January first, two thousand nine through December thirty-first, two thousand nine;

(xi) one hundred sixteen million nine hundred forty-nine thousand dollars, plus an additional five hundred thousand dollars, for the period January first, two thousand ten through December thirty-first, two thousand ten; [and]

(xii) twenty-nine million two hundred thirty-seven thousand two hundred fifty dollars, plus an additional one hundred twenty-five thou-

1 sand dollars, for the period January first, two thousand eleven through
2 March thirty-first, two thousand eleven[.];

3 (XIII) ONE HUNDRED TWENTY MILLION THIRTY-EIGHT THOUSAND DOLLARS FOR
4 THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST,
5 TWO THOUSAND TWELVE; AND

6 (XIV) ONE HUNDRED NINETEEN MILLION FOUR HUNDRED SEVEN THOUSAND DOLLARS
7 EACH STATE FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND TWELVE
8 THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN.

9 (l) Funds shall be deposited by the commissioner, within amounts
10 appropriated, and the state comptroller is hereby authorized and
11 directed to receive for deposit to the credit of the state special
12 revenue funds - other, HCRA transfer fund, medical assistance account,
13 or any successor fund or account, for purposes of funding the state
14 share of the personal care and certified home health agency rate or fee
15 increases established pursuant to subdivision three of section three
16 hundred sixty-seven-o of the social services law from the tobacco
17 control and insurance initiatives pool established for the following
18 periods in the following amounts:

19 (i) twenty-three million two hundred thousand dollars for the period
20 January first, two thousand through December thirty-first, two thousand;

21 (ii) twenty-three million two hundred thousand dollars for the period
22 January first, two thousand one through December thirty-first, two thou-
23 sand one;

24 (iii) twenty-three million two hundred thousand dollars for the period
25 January first, two thousand two through December thirty-first, two thou-
26 sand two;

27 (iv) up to sixty-five million two hundred thousand dollars for the
28 period January first, two thousand three through December thirty-first,
29 two thousand three;

30 (v) up to sixty-five million two hundred thousand dollars for the
31 period January first, two thousand four through December thirty-first,
32 two thousand four;

33 (vi) up to sixty-five million two hundred thousand dollars for the
34 period January first, two thousand five through December thirty-first,
35 two thousand five;

36 (vii) up to sixty-five million two hundred thousand dollars for the
37 period January first, two thousand six through December thirty-first,
38 two thousand six;

39 (viii) up to sixty-five million two hundred thousand dollars for the
40 period January first, two thousand seven through December thirty-first,
41 two thousand seven; and

42 (ix) up to sixteen million three hundred thousand dollars for the
43 period January first, two thousand eight through March thirty-first, two
44 thousand eight.

45 (m) Funds shall be deposited by the commissioner, within amounts
46 appropriated, and the state comptroller is hereby authorized and
47 directed to receive for deposit to the credit of the state special
48 revenue funds - other, HCRA transfer fund, medical assistance account,
49 or any successor fund or account, for purposes of funding the state
50 share of services and expenses related to home care workers insurance
51 pilot demonstration programs established pursuant to subdivision two of
52 section three hundred sixty-seven-o of the social services law from the
53 tobacco control and insurance initiatives pool established for the
54 following periods in the following amounts:

55 (i) three million eight hundred thousand dollars for the period Janu-
56 ary first, two thousand through December thirty-first, two thousand;

1 (ii) three million eight hundred thousand dollars for the period Janu-
2 ary first, two thousand one through December thirty-first, two thousand
3 one;
4 (iii) three million eight hundred thousand dollars for the period
5 January first, two thousand two through December thirty-first, two thou-
6 sand two;
7 (iv) up to three million eight hundred thousand dollars for the period
8 January first, two thousand three through December thirty-first, two
9 thousand three;
10 (v) up to three million eight hundred thousand dollars for the period
11 January first, two thousand four through December thirty-first, two
12 thousand four;
13 (vi) up to three million eight hundred thousand dollars for the period
14 January first, two thousand five through December thirty-first, two
15 thousand five;
16 (vii) up to three million eight hundred thousand dollars for the peri-
17 od January first, two thousand six through December thirty-first, two
18 thousand six;
19 (viii) up to three million eight hundred thousand dollars for the
20 period January first, two thousand seven through December thirty-first,
21 two thousand seven; and
22 (ix) up to nine hundred fifty thousand dollars for the period January
23 first, two thousand eight through March thirty-first, two thousand
24 eight.
25 (n) Funds shall be transferred by the commissioner and shall be depos-
26 ited to the credit of the special revenue funds - other, miscellaneous
27 special revenue fund - 339, elderly pharmaceutical insurance coverage
28 program premium account authorized pursuant to the provisions of title
29 three of article two of the elder law, or any successor fund or account,
30 for funding state expenses relating to the program from the tobacco
31 control and insurance initiatives pool established for the following
32 periods in the following amounts:
33 (i) one hundred seven million dollars for the period January first,
34 two thousand through December thirty-first, two thousand;
35 (ii) one hundred sixty-four million dollars for the period January
36 first, two thousand one through December thirty-first, two thousand one;
37 (iii) three hundred twenty-two million seven hundred thousand dollars
38 for the period January first, two thousand two through December thirty-
39 first, two thousand two;
40 (iv) four hundred thirty-three million three hundred thousand dollars
41 for the period January first, two thousand three through December thir-
42 ty-first, two thousand three;
43 (v) five hundred four million one hundred fifty thousand dollars for
44 the period January first, two thousand four through December thirty-
45 first, two thousand four;
46 (vi) five hundred sixty-six million eight hundred thousand dollars for
47 the period January first, two thousand five through December thirty-
48 first, two thousand five;
49 (vii) six hundred three million one hundred fifty thousand dollars for
50 the period January first, two thousand six through December thirty-
51 first, two thousand six;
52 (viii) six hundred sixty million eight hundred thousand dollars for
53 the period January first, two thousand seven through December thirty-
54 first, two thousand seven;

1 (ix) three hundred sixty-seven million four hundred sixty-three thou-
2 sand dollars for the period January first, two thousand eight through
3 December thirty-first, two thousand eight;
4 (x) three hundred thirty-four million eight hundred twenty-five thou-
5 sand dollars for the period January first, two thousand nine through
6 December thirty-first, two thousand nine;
7 (xi) three hundred forty-four million nine hundred thousand dollars
8 for the period January first, two thousand ten through December thirty-
9 first, two thousand ten; [and]
10 (xii) eighty-seven million seven hundred eighty-eight thousand dollars
11 for the period January first, two thousand eleven through March thirty-
12 first, two thousand eleven[.];
13 (XIII) ONE HUNDRED FORTY-THREE MILLION ONE HUNDRED FIFTY THOUSAND
14 DOLLARS FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH
15 THIRTY-FIRST, TWO THOUSAND TWELVE;
16 (XIV) ONE HUNDRED TWENTY MILLION NINE HUNDRED FIFTY THOUSAND DOLLARS
17 FOR THE PERIOD APRIL FIRST, TWO THOUSAND TWELVE THROUGH MARCH
18 THIRTY-FIRST, TWO THOUSAND THIRTEEN; AND
19 (XV) ONE HUNDRED TWENTY-EIGHT MILLION EIGHT HUNDRED FIFTY THOUSAND
20 DOLLARS FOR THE PERIOD APRIL FIRST, TWO THOUSAND THIRTEEN THROUGH MARCH
21 THIRTY-FIRST, TWO THOUSAND FOURTEEN.
22 (o) Funds shall be reserved and accumulated and shall be transferred
23 to the Roswell Park Cancer Institute Corporation, from the tobacco
24 control and insurance initiatives pool established for the following
25 periods in the following amounts:
26 (i) up to ninety million dollars for the period January first, two
27 thousand through December thirty-first, two thousand;
28 (ii) up to sixty million dollars for the period January first, two
29 thousand one through December thirty-first, two thousand one;
30 (iii) up to eighty-five million dollars for the period January first,
31 two thousand two through December thirty-first, two thousand two;
32 (iv) eighty-five million two hundred fifty thousand dollars for the
33 period January first, two thousand three through December thirty-first,
34 two thousand three;
35 (v) seventy-eight million dollars for the period January first, two
36 thousand four through December thirty-first, two thousand four;
37 (vi) seventy-eight million dollars for the period January first, two
38 thousand five through December thirty-first, two thousand five;
39 (vii) ninety-one million dollars for the period January first, two
40 thousand six through December thirty-first, two thousand six;
41 (viii) seventy-eight million dollars for the period January first, two
42 thousand seven through December thirty-first, two thousand seven;
43 (ix) seventy-eight million dollars for the period January first, two
44 thousand eight through December thirty-first, two thousand eight;
45 (x) seventy-eight million dollars for the period January first, two
46 thousand nine through December thirty-first, two thousand nine;
47 (xi) seventy-eight million dollars for the period January first, two
48 thousand ten through December thirty-first, two thousand ten; [and]
49 (xii) nineteen million five hundred thousand dollars for the period
50 January first, two thousand eleven through March thirty-first, two thou-
51 sand eleven[.]; AND
52 (XIII) SIXTY-NINE MILLION EIGHT HUNDRED FORTY THOUSAND DOLLARS EACH
53 STATE FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN
54 THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN.
55 (p) Funds shall be deposited by the commissioner, within amounts
56 appropriated, and the state comptroller is hereby authorized and

1 directed to receive for deposit to the credit of the state special
2 revenue funds - other, indigent care fund - 068, indigent care account,
3 or any successor fund or account, for purposes of providing a medicaid
4 disproportionate share payment from the high need indigent care adjust-
5 ment pool established pursuant to section twenty-eight hundred seven-w
6 of this article, from the tobacco control and insurance initiatives pool
7 established for the following periods in the following amounts:

8 (i) eighty-two million dollars annually for the periods January first,
9 two thousand through December thirty-first, two thousand two;

10 (ii) up to eighty-two million dollars for the period January first,
11 two thousand three through December thirty-first, two thousand three;

12 (iii) up to eighty-two million dollars for the period January first,
13 two thousand four through December thirty-first, two thousand four;

14 (iv) up to eighty-two million dollars for the period January first,
15 two thousand five through December thirty-first, two thousand five;

16 (v) up to eighty-two million dollars for the period January first, two
17 thousand six through December thirty-first, two thousand six;

18 (vi) up to eighty-two million dollars for the period January first,
19 two thousand seven through December thirty-first, two thousand seven;

20 (vii) up to eighty-two million dollars for the period January first,
21 two thousand eight through December thirty-first, two thousand eight;

22 (viii) up to eighty-two million dollars for the period January first,
23 two thousand nine through December thirty-first, two thousand nine;

24 (ix) up to eighty-two million dollars for the period January first,
25 two thousand ten through December thirty-first, two thousand ten; [and]

26 (x) up to twenty million five hundred thousand dollars for the period
27 January first, two thousand eleven through March thirty-first, two thou-
28 sand eleven; AND

29 (XI) UP TO EIGHTY-TWO MILLION DOLLARS EACH STATE FISCAL YEAR FOR THE
30 PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO
31 THOUSAND FOURTEEN.

32 (q) Funds shall be reserved and accumulated from year to year and
33 shall be available, including income from invested funds, for purposes
34 of providing distributions to eligible school based health centers
35 established pursuant to section eighty-eight of chapter one of the laws
36 of nineteen hundred ninety-nine, from the tobacco control and insurance
37 initiatives pool established for the following periods in the following
38 amounts:

39 (i) seven million dollars annually for the period January first, two
40 thousand through December thirty-first, two thousand two;

41 (ii) up to seven million dollars for the period January first, two
42 thousand three through December thirty-first, two thousand three;

43 (iii) up to seven million dollars for the period January first, two
44 thousand four through December thirty-first, two thousand four;

45 (iv) up to seven million dollars for the period January first, two
46 thousand five through December thirty-first, two thousand five;

47 (v) up to seven million dollars for the period January first, two
48 thousand six through December thirty-first, two thousand six;

49 (vi) up to seven million dollars for the period January first, two
50 thousand seven through December thirty-first, two thousand seven;

51 (vii) up to seven million dollars for the period January first, two
52 thousand eight through December thirty-first, two thousand eight;

53 (viii) up to seven million dollars for the period January first, two
54 thousand nine through December thirty-first, two thousand nine;

55 (ix) up to seven million dollars for the period January first, two
56 thousand ten through December thirty-first, two thousand ten; [and]

1 (x) up to one million seven hundred fifty thousand dollars for the
2 period January first, two thousand eleven through March thirty-first,
3 two thousand eleven; AND

4 (XI) UP TO FIVE MILLION SIX HUNDRED THOUSAND DOLLARS EACH STATE FISCAL
5 YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIR-
6 TY-FIRST, TWO THOUSAND FOURTEEN.

7 (r) Funds shall be deposited by the commissioner within amounts appro-
8 priated, and the state comptroller is hereby authorized and directed to
9 receive for deposit to the credit of the state special revenue funds -
10 other, HCRA transfer fund, medical assistance account, or any successor
11 fund or account, for purposes of providing distributions for supplemen-
12 tary medical insurance for Medicare part B premiums, physicians
13 services, outpatient services, medical equipment, supplies and other
14 health services, from the tobacco control and insurance initiatives pool
15 established for the following periods in the following amounts:

16 (i) forty-three million dollars for the period January first, two
17 thousand through December thirty-first, two thousand;

18 (ii) sixty-one million dollars for the period January first, two thou-
19 sand one through December thirty-first, two thousand one;

20 (iii) sixty-five million dollars for the period January first, two
21 thousand two through December thirty-first, two thousand two;

22 (iv) sixty-seven million five hundred thousand dollars for the period
23 January first, two thousand three through December thirty-first, two
24 thousand three;

25 (v) sixty-eight million dollars for the period January first, two
26 thousand four through December thirty-first, two thousand four;

27 (vi) sixty-eight million dollars for the period January first, two
28 thousand five through December thirty-first, two thousand five;

29 (vii) sixty-eight million dollars for the period January first, two
30 thousand six through December thirty-first, two thousand six;

31 (viii) seventeen million five hundred thousand dollars for the period
32 January first, two thousand seven through December thirty-first, two
33 thousand seven;

34 (ix) sixty-eight million dollars for the period January first, two
35 thousand eight through December thirty-first, two thousand eight;

36 (x) sixty-eight million dollars for the period January first, two
37 thousand nine through December thirty-first, two thousand nine;

38 (xi) sixty-eight million dollars for the period January first, two
39 thousand ten through December thirty-first, two thousand ten; [and]

40 (xii) seventeen million dollars for the period January first, two
41 thousand eleven through March thirty-first, two thousand eleven[.]; AND

42 (XIII) SIXTY-EIGHT MILLION DOLLARS EACH STATE FISCAL YEAR FOR THE
43 PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO
44 THOUSAND FOURTEEN.

45 (s) Funds shall be deposited by the commissioner within amounts appro-
46 priated, and the state comptroller is hereby authorized and directed to
47 receive for deposit to the credit of the state special revenue funds -
48 other, HCRA transfer fund, medical assistance account, or any successor
49 fund or account, for purposes of providing distributions pursuant to
50 paragraphs (s-5), (s-6), (s-7) and (s-8) of subdivision eleven of
51 section twenty-eight hundred seven-c of this article from the tobacco
52 control and insurance initiatives pool established for the following
53 periods in the following amounts:

54 (i) eighteen million dollars for the period January first, two thou-
55 sand through December thirty-first, two thousand;

1 (ii) twenty-four million dollars annually for the periods January
2 first, two thousand one through December thirty-first, two thousand two;
3 (iii) up to twenty-four million dollars for the period January first,
4 two thousand three through December thirty-first, two thousand three;
5 (iv) up to twenty-four million dollars for the period January first,
6 two thousand four through December thirty-first, two thousand four;
7 (v) up to twenty-four million dollars for the period January first,
8 two thousand five through December thirty-first, two thousand five;
9 (vi) up to twenty-four million dollars for the period January first,
10 two thousand six through December thirty-first, two thousand six;
11 (vii) up to twenty-four million dollars for the period January first,
12 two thousand seven through December thirty-first, two thousand seven;
13 (viii) up to twenty-four million dollars for the period January first,
14 two thousand eight through December thirty-first, two thousand eight;
15 and
16 (ix) up to twenty-two million dollars for the period January first,
17 two thousand nine through November thirtieth, two thousand nine.
18 (t) Funds shall be reserved and accumulated from year to year by the
19 commissioner and shall be made available, including income from invested
20 funds:
21 (i) For the purpose of making grants to a state owned and operated
22 medical school which does not have a state owned and operated hospital
23 on site and available for teaching purposes. Notwithstanding sections
24 one hundred twelve and one hundred sixty-three of the state finance law,
25 such grants shall be made in the amount of up to five hundred thousand
26 dollars for the period January first, two thousand through December
27 thirty-first, two thousand;
28 (ii) For the purpose of making grants to medical schools pursuant to
29 section eighty-six-a of chapter one of the laws of nineteen hundred
30 ninety-nine in the sum of up to four million dollars for the period
31 January first, two thousand through December thirty-first, two thousand;
32 and
33 (iii) The funds disbursed pursuant to subparagraphs (i) and (ii) of
34 this paragraph from the tobacco control and insurance initiatives pool
35 are contingent upon meeting all funding amounts established pursuant to
36 paragraphs (a), (b), (c), (d), (e), (f), (l), (m), (n), (p), (q), (r)
37 and (s) of this subdivision, paragraph (a) of subdivision nine of
38 section twenty-eight hundred seven-j of this article, and paragraphs
39 (a), (i) and (k) of subdivision one of section twenty-eight hundred
40 seven-l of this article.
41 (u) Funds shall be deposited by the commissioner, within amounts
42 appropriated, and the state comptroller is hereby authorized and
43 directed to receive for deposit to the credit of the state special
44 revenue funds - other, HCRA transfer fund, medical assistance account,
45 or any successor fund or account, for purposes of funding the state
46 share of services and expenses related to the nursing home quality
47 improvement demonstration program established pursuant to section twen-
48 ty-eight hundred eight-d of this article from the tobacco control and
49 insurance initiatives pool established for the following periods in the
50 following amounts:
51 (i) up to twenty-five million dollars for the period beginning April
52 first, two thousand two and ending December thirty-first, two thousand
53 two, and on an annualized basis, for each annual period thereafter
54 beginning January first, two thousand three and ending December thirty-
55 first, two thousand four;

1 (ii) up to eighteen million seven hundred fifty thousand dollars for
2 the period January first, two thousand five through December thirty-
3 first, two thousand five; and

4 (iii) up to fifty-six million five hundred thousand dollars for the
5 period January first, two thousand six through December thirty-first,
6 two thousand six.

7 (v) Funds shall be transferred by the commissioner and shall be depos-
8 ited to the credit of the hospital excess liability pool created pursu-
9 ant to section eighteen of chapter two hundred sixty-six of the laws of
10 nineteen hundred eighty-six, or any successor fund or account, for
11 purposes of expenses related to the purchase of excess medical malprac-
12 tice insurance and the cost of administering the pool, including costs
13 associated with the risk management program established pursuant to
14 section forty-two of part A of chapter one of the laws of two thousand
15 two required by paragraph (a) of subdivision one of section eighteen of
16 chapter two hundred sixty-six of the laws of nineteen hundred eighty-six
17 as may be amended from time to time, from the tobacco control and insur-
18 ance initiatives pool established for the following periods in the
19 following amounts:

20 (i) up to fifty million dollars or so much as is needed for the period
21 January first, two thousand two through December thirty-first, two thou-
22 sand two;

23 (ii) up to seventy-six million seven hundred thousand dollars for the
24 period January first, two thousand three through December thirty-first,
25 two thousand three;

26 (iii) up to sixty-five million dollars for the period January first,
27 two thousand four through December thirty-first, two thousand four;

28 (iv) up to sixty-five million dollars for the period January first,
29 two thousand five through December thirty-first, two thousand five;

30 (v) up to one hundred thirteen million eight hundred thousand dollars
31 for the period January first, two thousand six through December thirty-
32 first, two thousand six;

33 (vi) up to one hundred thirty million dollars for the period January
34 first, two thousand seven through December thirty-first, two thousand
35 seven;

36 (vii) up to one hundred thirty million dollars for the period January
37 first, two thousand eight through December thirty-first, two thousand
38 eight;

39 (viii) up to one hundred thirty million dollars for the period January
40 first, two thousand nine through December thirty-first, two thousand
41 nine;

42 (ix) up to one hundred thirty million dollars for the period January
43 first, two thousand ten through December thirty-first, two thousand ten;
44 [and]

45 (x) up to thirty-two million five hundred thousand dollars for the
46 period January first, two thousand eleven through March thirty-first,
47 two thousand eleven[.]; AND

48 (XI) UP TO ONE HUNDRED TWENTY-SEVEN MILLION FOUR HUNDRED THOUSAND
49 DOLLARS EACH STATE FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND
50 ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN.

51 (w) Funds shall be deposited by the commissioner, within amounts
52 appropriated, and the state comptroller is hereby authorized and
53 directed to receive for deposit to the credit of the state special
54 revenue funds - other, HCRA transfer fund, medical assistance account,
55 or any successor fund or account, for purposes of funding the state
56 share of the treatment of breast and cervical cancer pursuant to para-

graph (v) of subdivision four of section three hundred sixty-six of the social services law, from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) up to four hundred fifty thousand dollars for the period January first, two thousand two through December thirty-first, two thousand two;

(ii) up to two million one hundred thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) up to two million one hundred thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) up to two million one hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) up to two million one hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) up to two million one hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) up to two million one hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(viii) up to two million one hundred thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(ix) up to two million one hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten; [and]

(x) up to five hundred twenty-five thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven[.]; AND

(XI) UP TO TWO MILLION ONE HUNDRED THOUSAND DOLLARS EACH STATE FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN.

(x) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of the non-public general hospital rates increases for recruitment and retention of health care workers from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) twenty-seven million one hundred thousand dollars on an annualized basis for the period January first, two thousand two through December thirty-first, two thousand two;

(ii) fifty million eight hundred thousand dollars on an annualized basis for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) sixty-nine million three hundred thousand dollars on an annualized basis for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) sixty-nine million three hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

1 (v) sixty-nine million three hundred thousand dollars for the period
2 January first, two thousand six through December thirty-first, two thou-
3 sand six;

4 (vi) sixty-five million three hundred thousand dollars for the period
5 January first, two thousand seven through December thirty-first, two
6 thousand seven;

7 (vii) sixty-one million one hundred fifty thousand dollars for the
8 period January first, two thousand eight through December thirty-first,
9 two thousand eight; and

10 (viii) forty-eight million seven hundred twenty-one thousand dollars
11 for the period January first, two thousand nine through November thirti-
12 eth, two thousand nine.

13 (y) Funds shall be reserved and accumulated from year to year and
14 shall be available, including income from invested funds, for purposes
15 of grants to public general hospitals for recruitment and retention of
16 health care workers pursuant to paragraph (b) of subdivision thirty of
17 section twenty-eight hundred seven-c of this article from the tobacco
18 control and insurance initiatives pool established for the following
19 periods in the following amounts:

20 (i) eighteen million five hundred thousand dollars on an annualized
21 basis for the period January first, two thousand two through December
22 thirty-first, two thousand two;

23 (ii) thirty-seven million four hundred thousand dollars on an annual-
24 ized basis for the period January first, two thousand three through
25 December thirty-first, two thousand three;

26 (iii) fifty-two million two hundred thousand dollars on an annualized
27 basis for the period January first, two thousand four through December
28 thirty-first, two thousand four;

29 (iv) fifty-two million two hundred thousand dollars for the period
30 January first, two thousand five through December thirty-first, two
31 thousand five;

32 (v) fifty-two million two hundred thousand dollars for the period
33 January first, two thousand six through December thirty-first, two thou-
34 sand six;

35 (vi) forty-nine million dollars for the period January first, two
36 thousand seven through December thirty-first, two thousand seven;

37 (vii) forty-nine million dollars for the period January first, two
38 thousand eight through December thirty-first, two thousand eight; and

39 (viii) twelve million two hundred fifty thousand dollars for the peri-
40 od January first, two thousand nine through March thirty-first, two
41 thousand nine.

42 Provided, however, amounts pursuant to this paragraph may be reduced
43 in an amount to be approved by the director of the budget to reflect
44 amounts received from the federal government under the state's 1115
45 waiver which are directed under its terms and conditions to the health
46 workforce recruitment and retention program.

47 (z) Funds shall be deposited by the commissioner, within amounts
48 appropriated, and the state comptroller is hereby authorized and
49 directed to receive for deposit to the credit of the state special
50 revenue funds - other, HCRA transfer fund, medical assistance account,
51 or any successor fund or account, for purposes of funding the state
52 share of the non-public residential health care facility rate increases
53 for recruitment and retention of health care workers pursuant to para-
54 graph (a) of subdivision eighteen of section twenty-eight hundred eight
55 of this article from the tobacco control and insurance initiatives pool
56 established for the following periods in the following amounts:

1 (i) twenty-one million five hundred thousand dollars on an annualized
2 basis for the period January first, two thousand two through December
3 thirty-first, two thousand two;

4 (ii) thirty-three million three hundred thousand dollars on an annual-
5 ized basis for the period January first, two thousand three through
6 December thirty-first, two thousand three;

7 (iii) forty-six million three hundred thousand dollars on an annual-
8 ized basis for the period January first, two thousand four through
9 December thirty-first, two thousand four;

10 (iv) forty-six million three hundred thousand dollars for the period
11 January first, two thousand five through December thirty-first, two
12 thousand five;

13 (v) forty-six million three hundred thousand dollars for the period
14 January first, two thousand six through December thirty-first, two thou-
15 sand six;

16 (vi) thirty million nine hundred thousand dollars for the period Janu-
17 ary first, two thousand seven through December thirty-first, two thou-
18 sand seven;

19 (vii) twenty-four million seven hundred thousand dollars for the peri-
20 od January first, two thousand eight through December thirty-first, two
21 thousand eight;

22 (viii) twelve million three hundred seventy-five thousand dollars for
23 the period January first, two thousand nine through December thirty-
24 first, two thousand nine;

25 (ix) nine million three hundred thousand dollars for the period Janu-
26 ary first, two thousand ten through December thirty-first, two thousand
27 ten; and

28 (x) two million three hundred twenty-five thousand dollars for the
29 period January first, two thousand eleven through March thirty-first,
30 two thousand eleven.

31 (aa) Funds shall be reserved and accumulated from year to year and
32 shall be available, including income from invested funds, for purposes
33 of grants to public residential health care facilities for recruitment
34 and retention of health care workers pursuant to paragraph (b) of subdi-
35 vision eighteen of section twenty-eight hundred eight of this article
36 from the tobacco control and insurance initiatives pool established for
37 the following periods in the following amounts:

38 (i) seven million five hundred thousand dollars on an annualized basis
39 for the period January first, two thousand two through December thirty-
40 first, two thousand two;

41 (ii) eleven million seven hundred thousand dollars on an annualized
42 basis for the period January first, two thousand three through December
43 thirty-first, two thousand three;

44 (iii) sixteen million two hundred thousand dollars on an annualized
45 basis for the period January first, two thousand four through December
46 thirty-first, two thousand four;

47 (iv) sixteen million two hundred thousand dollars for the period Janu-
48 ary first, two thousand five through December thirty-first, two thousand
49 five;

50 (v) sixteen million two hundred thousand dollars for the period Janu-
51 ary first, two thousand six through December thirty-first, two thousand
52 six;

53 (vi) ten million eight hundred thousand dollars for the period January
54 first, two thousand seven through December thirty-first, two thousand
55 seven;

1 (vii) six million seven hundred fifty thousand dollars for the period
2 January first, two thousand eight through December thirty-first, two
3 thousand eight; and

4 (viii) one million three hundred fifty thousand dollars for the period
5 January first, two thousand nine through December thirty-first, two
6 thousand nine.

7 (bb)(i) Funds shall be deposited by the commissioner, within amounts
8 appropriated, and subject to the availability of federal financial
9 participation, and the state comptroller is hereby authorized and
10 directed to receive for deposit to the credit of the state special
11 revenue funds - other, HCRA transfer fund, medical assistance account,
12 or any successor fund or account, for the purpose of supporting the
13 state share of adjustments to Medicaid rates of payment for personal
14 care services provided pursuant to paragraph (e) of subdivision two of
15 section three hundred sixty-five-a of the social services law, for local
16 social service districts which include a city with a population of over
17 one million persons and computed and distributed in accordance with
18 memorandums of understanding to be entered into between the state of New
19 York and such local social service districts for the purpose of support-
20 ing the recruitment and retention of personal care service workers or
21 any worker with direct patient care responsibility, from the tobacco
22 control and insurance initiatives pool established for the following
23 periods and the following amounts:

24 (A) forty-four million dollars, on an annualized basis, for the period
25 April first, two thousand two through December thirty-first, two thou-
26 sand two;

27 (B) seventy-four million dollars, on an annualized basis, for the
28 period January first, two thousand three through December thirty-first,
29 two thousand three;

30 (C) one hundred four million dollars, on an annualized basis, for the
31 period January first, two thousand four through December thirty-first,
32 two thousand four;

33 (D) one hundred thirty-six million dollars, on an annualized basis,
34 for the period January first, two thousand five through December thir-
35 ty-first, two thousand five;

36 (E) one hundred thirty-six million dollars, on an annualized basis,
37 for the period January first, two thousand six through December thirty-
38 first, two thousand six;

39 (F) one hundred thirty-six million dollars for the period January
40 first, two thousand seven through December thirty-first, two thousand
41 seven;

42 (G) one hundred thirty-six million dollars for the period January
43 first, two thousand eight through December thirty-first, two thousand
44 eight;

45 (H) one hundred thirty-six million dollars for the period January
46 first, two thousand nine through December thirty-first, two thousand
47 nine;

48 (I) one hundred thirty-six million dollars for the period January
49 first, two thousand ten through December thirty-first, two thousand ten;
50 [and]

51 (J) thirty-four million dollars for the period January first, two
52 thousand eleven through March thirty-first, two thousand eleven[.]; AND

53 (K) ONE HUNDRED THIRTY-SIX MILLION DOLLARS EACH STATE FISCAL YEAR FOR
54 THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST,
55 TWO THOUSAND FOURTEEN.

(ii) Adjustments to Medicaid rates made pursuant to this paragraph shall not, in aggregate, exceed the following amounts for the following periods:

(A) for the period April first, two thousand two through December thirty-first, two thousand two, one hundred ten million dollars;

(B) for the period January first, two thousand three through December thirty-first, two thousand three, one hundred eighty-five million dollars;

(C) for the period January first, two thousand four through December thirty-first, two thousand four, two hundred sixty million dollars;

(D) for the period January first, two thousand five through December thirty-first, two thousand five, three hundred forty million dollars;

(E) for the period January first, two thousand six through December thirty-first, two thousand six, three hundred forty million dollars;

(F) for the period January first, two thousand seven through December thirty-first, two thousand seven, three hundred forty million dollars;

(G) for the period January first, two thousand eight through December thirty-first, two thousand eight, three hundred forty million dollars;

(H) for the period January first, two thousand nine through December thirty-first, two thousand nine, three hundred forty million dollars;

(I) for the period January first, two thousand ten through December thirty-first, two thousand ten, three hundred forty million dollars;

[and]

(J) for the period January first, two thousand eleven through March thirty-first, two thousand eleven, eighty-five million dollars[.]; AND

(K) FOR EACH STATE FISCAL YEAR WITHIN THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN, THREE HUNDRED FORTY MILLION DOLLARS.

(iii) Personal care service providers which have their rates adjusted pursuant to this paragraph shall use such funds for the purpose of recruitment and retention of non-supervisory personal care services workers or any worker with direct patient care responsibility only and are prohibited from using such funds for any other purpose. Each such personal care services provider shall submit, at a time and in a manner to be determined by the commissioner, a written certification attesting that such funds will be used solely for the purpose of recruitment and retention of non-supervisory personal care services workers or any worker with direct patient care responsibility. The commissioner is authorized to audit each such provider to ensure compliance with the written certification required by this subdivision and shall recoup any funds determined to have been used for purposes other than recruitment and retention of non-supervisory personal care services workers or any worker with direct patient care responsibility. Such recoupment shall be in addition to any other penalties provided by law.

(cc) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for the purpose of supporting the state share of adjustments to Medicaid rates of payment for personal care services provided pursuant to paragraph (e) of subdivision two of section three hundred sixty-five-a of the social services law, for local social service districts which shall not include a city with a population of over one million persons for the purpose of supporting the personal care services worker recruitment and retention program as established pursuant to section three hundred sixty-seven-q of the

1 social services law, from the tobacco control and insurance initiatives
2 pool established for the following periods and the following amounts:
3 (i) two million eight hundred thousand dollars for the period April
4 first, two thousand two through December thirty-first, two thousand two;
5 (ii) five million six hundred thousand dollars, on an annualized
6 basis, for the period January first, two thousand three through December
7 thirty-first, two thousand three;
8 (iii) eight million four hundred thousand dollars, on an annualized
9 basis, for the period January first, two thousand four through December
10 thirty-first, two thousand four;
11 (iv) ten million eight hundred thousand dollars, on an annualized
12 basis, for the period January first, two thousand five through December
13 thirty-first, two thousand five;
14 (v) ten million eight hundred thousand dollars, on an annualized
15 basis, for the period January first, two thousand six through December
16 thirty-first, two thousand six;
17 (vi) eleven million two hundred thousand dollars for the period Janu-
18 ary first, two thousand seven through December thirty-first, two thou-
19 sand seven;
20 (vii) eleven million two hundred thousand dollars for the period Janu-
21 ary first, two thousand eight through December thirty-first, two thou-
22 sand eight;
23 (viii) eleven million two hundred thousand dollars for the period
24 January first, two thousand nine through December thirty-first, two
25 thousand nine;
26 (ix) eleven million two hundred thousand dollars for the period Janu-
27 ary first, two thousand ten through December thirty-first, two thousand
28 ten; [and]
29 (x) two million eight hundred thousand dollars for the period January
30 first, two thousand eleven through March thirty-first, two thousand
31 eleven[.]; AND
32 (XI) ELEVEN MILLION TWO HUNDRED THOUSAND DOLLARS EACH STATE FISCAL
33 YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIR-
34 TY-FIRST, TWO THOUSAND FOURTEEN.
35 (dd) Funds shall be deposited by the commissioner, within amounts
36 appropriated, and the state comptroller is hereby authorized and
37 directed to receive for deposit to the credit of the state special
38 revenue fund - other, HCRA transfer fund, medical assistance account, or
39 any successor fund or account, for purposes of funding the state share
40 of Medicaid expenditures for physician services from the tobacco control
41 and insurance initiatives pool established for the following periods in
42 the following amounts:
43 (i) up to fifty-two million dollars for the period January first, two
44 thousand two through December thirty-first, two thousand two;
45 (ii) eighty-one million two hundred thousand dollars for the period
46 January first, two thousand three through December thirty-first, two
47 thousand three;
48 (iii) eighty-five million two hundred thousand dollars for the period
49 January first, two thousand four through December thirty-first, two
50 thousand four;
51 (iv) eighty-five million two hundred thousand dollars for the period
52 January first, two thousand five through December thirty-first, two
53 thousand five;
54 (v) eighty-five million two hundred thousand dollars for the period
55 January first, two thousand six through December thirty-first, two thou-
56 sand six;

1 (vi) [eight-five] EIGHTY-FIVE million two hundred thousand dollars for
2 the period January first, two thousand seven through December thirty-
3 first, two thousand seven;

4 (vii) eighty-five million two hundred thousand dollars for the period
5 January first, two thousand eight through December thirty-first, two
6 thousand eight;

7 (viii) eighty-five million two hundred thousand dollars for the period
8 January first, two thousand nine through December thirty-first, two
9 thousand nine;

10 (ix) eighty-five million two hundred thousand dollars for the period
11 January first, two thousand ten through December thirty-first, two thou-
12 sand ten; [and]

13 (x) twenty-one million three hundred thousand dollars for the period
14 January first, two thousand eleven through March thirty-first, two thou-
15 sand eleven[.]; AND

16 (XI) EIGHTY-FIVE MILLION TWO HUNDRED THOUSAND DOLLARS EACH STATE
17 FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH
18 MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN.

19 (ee) Funds shall be deposited by the commissioner, within amounts
20 appropriated, and the state comptroller is hereby authorized and
21 directed to receive for deposit to the credit of the state special
22 revenue fund - other, HCRA transfer fund, medical assistance account, or
23 any successor fund or account, for purposes of funding the state share
24 of the free-standing diagnostic and treatment center rate increases for
25 recruitment and retention of health care workers pursuant to subdivision
26 seventeen of section twenty-eight hundred seven of this article from the
27 tobacco control and insurance initiatives pool established for the
28 following periods in the following amounts:

29 (i) three million two hundred fifty thousand dollars for the period
30 April first, two thousand two through December thirty-first, two thou-
31 sand two;

32 (ii) three million two hundred fifty thousand dollars on an annualized
33 basis for the period January first, two thousand three through December
34 thirty-first, two thousand three;

35 (iii) three million two hundred fifty thousand dollars on an annual-
36 ized basis for the period January first, two thousand four through
37 December thirty-first, two thousand four;

38 (iv) three million two hundred fifty thousand dollars for the period
39 January first, two thousand five through December thirty-first, two
40 thousand five;

41 (v) three million two hundred fifty thousand dollars for the period
42 January first, two thousand six through December thirty-first, two thou-
43 sand six;

44 (vi) three million two hundred fifty thousand dollars for the period
45 January first, two thousand seven through December thirty-first, two
46 thousand seven;

47 (vii) three million four hundred thirty-eight thousand dollars for the
48 period January first, two thousand eight through December thirty-first,
49 two thousand eight;

50 (viii) two million four hundred fifty thousand dollars for the period
51 January first, two thousand nine through December thirty-first, two
52 thousand nine;

53 (ix) one million five hundred thousand dollars for the period January
54 first, two thousand ten through December thirty-first, two thousand ten;
55 and

1 (x) three hundred twenty-five thousand dollars for the period January
2 first, two thousand eleven through March thirty-first, two thousand
3 eleven.

4 (ff) Funds shall be deposited by the commissioner, within amounts
5 appropriated, and the state comptroller is hereby authorized and
6 directed to receive for deposit to the credit of the state special
7 revenue fund - other, HCRA transfer fund, medical assistance account, or
8 any successor fund or account, for purposes of funding the state share
9 of Medicaid expenditures for disabled persons as authorized pursuant to
10 subparagraphs twelve and thirteen of paragraph (a) of subdivision one of
11 section three hundred sixty-six of the social services law from the
12 tobacco control and insurance initiatives pool established for the
13 following periods in the following amounts:

14 (i) one million eight hundred thousand dollars for the period April
15 first, two thousand two through December thirty-first, two thousand two;

16 (ii) sixteen million four hundred thousand dollars on an annualized
17 basis for the period January first, two thousand three through December
18 thirty-first, two thousand three;

19 (iii) eighteen million seven hundred thousand dollars on an annualized
20 basis for the period January first, two thousand four through December
21 thirty-first, two thousand four;

22 (iv) thirty million six hundred thousand dollars for the period Janu-
23 ary first, two thousand five through December thirty-first, two thousand
24 five;

25 (v) thirty million six hundred thousand dollars for the period January
26 first, two thousand six through December thirty-first, two thousand six;

27 (vi) thirty million six hundred thousand dollars for the period Janu-
28 ary first, two thousand seven through December thirty-first, two thou-
29 sand seven;

30 (vii) fifteen million dollars for the period January first, two thou-
31 sand eight through December thirty-first, two thousand eight;

32 (viii) fifteen million dollars for the period January first, two thou-
33 sand nine through December thirty-first, two thousand nine;

34 (ix) fifteen million dollars for the period January first, two thou-
35 sand ten through December thirty-first, two thousand ten; [and]

36 (x) three million seven hundred fifty thousand dollars for the period
37 January first, two thousand eleven through March thirty-first, two thou-
38 sand eleven[.]; AND

39 (XI) FIFTEEN MILLION DOLLARS EACH STATE FISCAL YEAR FOR THE PERIOD
40 APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOU-
41 SAND FOURTEEN.

42 (gg) Funds shall be reserved and accumulated from year to year and
43 shall be available, including income from invested funds, for purposes
44 of grants to non-public general hospitals pursuant to paragraph (c) of
45 subdivision thirty of section twenty-eight hundred seven-c of this arti-
46 cle from the tobacco control and insurance initiatives pool established
47 for the following periods in the following amounts:

48 (i) up to one million three hundred thousand dollars on an annualized
49 basis for the period January first, two thousand two through December
50 thirty-first, two thousand two;

51 (ii) up to three million two hundred thousand dollars on an annualized
52 basis for the period January first, two thousand three through December
53 thirty-first, two thousand three;

54 (iii) up to five million six hundred thousand dollars on an annualized
55 basis for the period January first, two thousand four through December
56 thirty-first, two thousand four;

1 (iv) up to eight million six hundred thousand dollars for the period
2 January first, two thousand five through December thirty-first, two
3 thousand five;
4 (v) up to eight million six hundred thousand dollars on an annualized
5 basis for the period January first, two thousand six through December
6 thirty-first, two thousand six;
7 (vi) up to two million six hundred thousand dollars for the period
8 January first, two thousand seven through December thirty-first, two
9 thousand seven;
10 (vii) up to two million six hundred thousand dollars for the period
11 January first, two thousand eight through December thirty-first, two
12 thousand eight;
13 (viii) up to two million six hundred thousand dollars for the period
14 January first, two thousand nine through December thirty-first, two
15 thousand nine;
16 (ix) up to two million six hundred thousand dollars for the period
17 January first, two thousand ten through December thirty-first, two thou-
18 sand ten; and
19 (x) up to six hundred fifty thousand dollars for the period January
20 first, two thousand eleven through March thirty-first, two thousand
21 eleven.
22 (hh) Funds shall be deposited by the commissioner, within amounts
23 appropriated, and the state comptroller is hereby authorized and
24 directed to receive for deposit to the credit of the special revenue
25 fund - other, HCRA transfer fund, medical assistance account for
26 purposes of providing financial assistance to residential health care
27 facilities pursuant to subdivisions nineteen and twenty-one of section
28 twenty-eight hundred eight of this article, from the tobacco control and
29 insurance initiatives pool established for the following periods in the
30 following amounts:
31 (i) for the period April first, two thousand two through December
32 thirty-first, two thousand two, ten million dollars;
33 (ii) for the period January first, two thousand three through December
34 thirty-first, two thousand three, nine million four hundred fifty thou-
35 sand dollars;
36 (iii) for the period January first, two thousand four through December
37 thirty-first, two thousand four, nine million three hundred fifty thou-
38 sand dollars;
39 (iv) up to fifteen million dollars for the period January first, two
40 thousand five through December thirty-first, two thousand five;
41 (v) up to fifteen million dollars for the period January first, two
42 thousand six through December thirty-first, two thousand six;
43 (vi) up to fifteen million dollars for the period January first, two
44 thousand seven through December thirty-first, two thousand seven;
45 (vii) up to fifteen million dollars for the period January first, two
46 thousand eight through December thirty-first, two thousand eight;
47 (viii) up to fifteen million dollars for the period January first, two
48 thousand nine through December thirty-first, two thousand nine;
49 (ix) up to fifteen million dollars for the period January first, two
50 thousand ten through December thirty-first, two thousand ten; [and]
51 (x) up to three million seven hundred fifty thousand dollars for the
52 period January first, two thousand eleven through March thirty-first,
53 two thousand eleven[.]; AND
54 (XI) FIFTEEN MILLION DOLLARS EACH STATE FISCAL YEAR FOR THE PERIOD
55 APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOU-
56 SAND FOURTEEN.

(ii) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for the purpose of supporting the state share of Medicaid expenditures for disabled persons as authorized by sections 1619 (a) and (b) of the federal social security act pursuant to the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) six million four hundred thousand dollars for the period April first, two thousand two through December thirty-first, two thousand two;

(ii) eight million five hundred thousand dollars, for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) eight million five hundred thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) eight million five hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) eight million five hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) eight million six hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) eight million five hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(viii) eight million five hundred thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(ix) eight million five hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten; [and]

(x) two million one hundred twenty-five thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven; AND

(XI) EIGHT MILLION FIVE HUNDRED THOUSAND DOLLARS EACH STATE FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN.

(jj) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for the purposes of a grant program to improve access to infertility services, treatments and procedures, from the tobacco control and insurance initiatives pool established for the period January first, two thousand two through December thirty-first, two thousand two in the amount of nine million one hundred seventy-five thousand dollars, for the period April first, two thousand six through March thirty-first, two thousand seven in the amount of five million dollars, for the period April first, two thousand seven through March thirty-first, two thousand eight in the amount of five million dollars, for the period April first, two thousand eight through March thirty-first, two thousand nine in the amount of five million dollars, and for the period April first, two thousand nine through March thirty-first, two thousand ten in the amount of five million dollars, [and] for the period April first, two thousand ten through March thirty-first, two thousand eleven in the amount of two

1 million two hundred thousand dollars, AND FOR THE PERIOD APRIL FIRST,
2 TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND TWELVE UP
3 TO ONE MILLION ONE HUNDRED THOUSAND DOLLARS.

4 (kk) Funds shall be deposited by the commissioner, within amounts
5 appropriated, and the state comptroller is hereby authorized and
6 directed to receive for deposit to the credit of the state special
7 revenue funds -- other, HCRA transfer fund, medical assistance account,
8 or any successor fund or account, for purposes of funding the state
9 share of Medical Assistance Program expenditures from the tobacco
10 control and insurance initiatives pool established for the following
11 periods in the following amounts:

12 (i) thirty-eight million eight hundred thousand dollars for the period
13 January first, two thousand two through December thirty-first, two thou-
14 sand two;

15 (ii) up to two hundred ninety-five million dollars for the period
16 January first, two thousand three through December thirty-first, two
17 thousand three;

18 (iii) up to four hundred seventy-two million dollars for the period
19 January first, two thousand four through December thirty-first, two
20 thousand four;

21 (iv) up to nine hundred million dollars for the period January first,
22 two thousand five through December thirty-first, two thousand five;

23 (v) up to eight hundred sixty-six million three hundred thousand
24 dollars for the period January first, two thousand six through December
25 thirty-first, two thousand six;

26 (vi) up to six hundred sixteen million seven hundred thousand dollars
27 for the period January first, two thousand seven through December thir-
28 ty-first, two thousand seven;

29 (vii) up to five hundred seventy-eight million nine hundred twenty-
30 five thousand dollars for the period January first, two thousand eight
31 through December thirty-first, two thousand eight; and

32 (viii) within amounts appropriated on and after January first, two
33 thousand nine.

34 (ll) Funds shall be deposited by the commissioner, within amounts
35 appropriated, and the state comptroller is hereby authorized and
36 directed to receive for deposit to the credit of the state special
37 revenue funds -- other, HCRA transfer fund, medical assistance account,
38 or any successor fund or account, for purposes of funding the state
39 share of Medicaid expenditures related to the city of New York from the
40 tobacco control and insurance initiatives pool established for the
41 following periods in the following amounts:

42 (i) eighty-two million seven hundred thousand dollars for the period
43 January first, two thousand two through December thirty-first, two thou-
44 sand two;

45 (ii) one hundred twenty-four million six hundred thousand dollars for
46 the period January first, two thousand three through December thirty-
47 first, two thousand three;

48 (iii) one hundred twenty-four million seven hundred thousand dollars
49 for the period January first, two thousand four through December thir-
50 ty-first, two thousand four;

51 (iv) one hundred twenty-four million seven hundred thousand dollars
52 for the period January first, two thousand five through December thir-
53 ty-first, two thousand five;

54 (v) one hundred twenty-four million seven hundred thousand dollars for
55 the period January first, two thousand six through December thirty-
56 first, two thousand six;

1 (vi) one hundred twenty-four million seven hundred thousand dollars
2 for the period January first, two thousand seven through December thir-
3 ty-first, two thousand seven;
4 (vii) one hundred twenty-four million seven hundred thousand dollars
5 for the period January first, two thousand eight through December thir-
6 ty-first, two thousand eight;
7 (viii) one hundred twenty-four million seven hundred thousand dollars
8 for the period January first, two thousand nine through December thir-
9 ty-first, two thousand nine;
10 (ix) one hundred twenty-four million seven hundred thousand dollars
11 for the period January first, two thousand ten through December thirty-
12 first, two thousand ten; [and]
13 (x) thirty-one million one hundred seventy-five thousand dollars for
14 the period January first, two thousand eleven through March thirty-
15 first, two thousand eleven[.]; AND
16 (XI) ONE HUNDRED TWENTY-FOUR MILLION SEVEN HUNDRED THOUSAND DOLLARS
17 EACH STATE FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN
18 THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN.
19 (mm) Funds shall be deposited by the commissioner, within amounts
20 appropriated, and the state comptroller is hereby authorized and
21 directed to receive for deposit to the credit of the state special
22 revenue funds - other, HCRA transfer fund, medical assistance account,
23 or any successor fund or account, for purposes of funding specified
24 percentages of the state share of services and expenses related to the
25 family health plus program in accordance with the following schedule:
26 (i) (A) for the period January first, two thousand three through
27 December thirty-first, two thousand four, one hundred percent of the
28 state share;
29 (B) for the period January first, two thousand five through December
30 thirty-first, two thousand five, seventy-five percent of the state
31 share; and,
32 (C) for periods beginning on and after January first, two thousand
33 six, fifty percent of the state share.
34 (ii) Funding for the family health plus program will include up to
35 five million dollars annually for the period January first, two thousand
36 three through December thirty-first, two thousand six, up to five
37 million dollars for the period January first, two thousand seven through
38 December thirty-first, two thousand seven, up to seven million two
39 hundred thousand dollars for the period January first, two thousand
40 eight through December thirty-first, two thousand eight, up to seven
41 million two hundred thousand dollars for the period January first, two
42 thousand nine through December thirty-first, two thousand nine, up to
43 seven million two hundred thousand dollars for the period January first,
44 two thousand ten through December thirty-first, two thousand ten, [and]
45 up to one million eight hundred thousand dollars for the period January
46 first, two thousand eleven through March thirty-first, two thousand
47 eleven, UP TO SIX MILLION FORTY-NINE THOUSAND DOLLARS FOR THE PERIOD
48 APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOU-
49 SAND TWELVE, UP TO SIX MILLION TWO HUNDRED EIGHTY-NINE THOUSAND DOLLARS
50 FOR THE PERIOD APRIL FIRST, TWO THOUSAND TWELVE THROUGH MARCH
51 THIRTY-FIRST, TWO THOUSAND THIRTEEN, AND UP TO SIX MILLION FOUR HUNDRED
52 SIXTY-ONE THOUSAND DOLLARS FOR THE PERIOD APRIL FIRST, TWO THOUSAND
53 THIRTEEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN, for adminis-
54 tration and marketing costs associated with such program established
55 pursuant to clauses (A) and (B) of subparagraph (v) of paragraph (a) of
56 subdivision two of section three hundred sixty-nine-ee of the social

1 services law from the tobacco control and insurance initiatives pool
2 established for the following periods in the following amounts:

3 (A) one hundred ninety million six hundred thousand dollars for the
4 period January first, two thousand three through December thirty-first,
5 two thousand three;

6 (B) three hundred seventy-four million dollars for the period January
7 first, two thousand four through December thirty-first, two thousand
8 four;

9 (C) five hundred thirty-eight million four hundred thousand dollars
10 for the period January first, two thousand five through December thir-
11 ty-first, two thousand five;

12 (D) three hundred eighteen million seven hundred seventy-five thousand
13 dollars for the period January first, two thousand six through December
14 thirty-first, two thousand six;

15 (E) four hundred eighty-two million eight hundred thousand dollars for
16 the period January first, two thousand seven through December thirty-
17 first, two thousand seven;

18 (F) five hundred seventy million twenty-five thousand dollars for the
19 period January first, two thousand eight through December thirty-first,
20 two thousand eight;

21 (G) six hundred ten million seven hundred twenty-five thousand dollars
22 for the period January first, two thousand nine through December thir-
23 ty-first, two thousand nine;

24 (H) six hundred twenty-seven million two hundred seventy-five thousand
25 dollars for the period January first, two thousand ten through December
26 thirty-first, two thousand ten; [and]

27 (I) one hundred fifty-seven million eight hundred seventy-five thou-
28 sand dollars for the period January first, two thousand eleven through
29 March thirty-first, two thousand eleven[.];

30 (J) SIX HUNDRED TWENTY-EIGHT MILLION FOUR HUNDRED THOUSAND DOLLARS FOR
31 THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST,
32 TWO THOUSAND TWELVE;

33 (K) SIX HUNDRED FIFTY MILLION FOUR HUNDRED THOUSAND DOLLARS FOR THE
34 PERIOD APRIL FIRST, TWO THOUSAND TWELVE THROUGH MARCH THIRTY-FIRST, TWO
35 THOUSAND THIRTEEN; AND

36 (L) SIX HUNDRED FIFTY MILLION FOUR HUNDRED THOUSAND DOLLARS FOR THE
37 PERIOD APRIL FIRST, TWO THOUSAND THIRTEEN THROUGH MARCH THIRTY-FIRST,
38 TWO THOUSAND FOURTEEN.

39 (nn) Funds shall be deposited by the commissioner, within amounts
40 appropriated, and the state comptroller is hereby authorized and
41 directed to receive for deposit to the credit of the state special
42 revenue fund - other, HCRA transfer fund, health care services account,
43 or any successor fund or account, for purposes related to adult home
44 initiatives for medicaid eligible residents of residential facilities
45 licensed pursuant to section four hundred sixty-b of the social services
46 law from the tobacco control and insurance initiatives pool established
47 for the following periods in the following amounts:

48 (i) up to four million dollars for the period January first, two thou-
49 sand three through December thirty-first, two thousand three;

50 (ii) up to six million dollars for the period January first, two thou-
51 sand four through December thirty-first, two thousand four;

52 (iii) up to eight million dollars for the period January first, two
53 thousand five through December thirty-first, two thousand five,
54 provided, however, that up to five million two hundred fifty thousand
55 dollars of such funds shall be received by the comptroller and deposited
56 to the credit of the special revenue fund - other / aid to localities,

1 HCRA transfer fund - 061, enhanced community services account - 05, or
2 any successor fund or account, for the purposes set forth in this para-
3 graph;

4 (iv) up to eight million dollars for the period January first, two
5 thousand six through December thirty-first, two thousand six, provided,
6 however, that up to five million two hundred fifty thousand dollars of
7 such funds shall be received by the comptroller and deposited to the
8 credit of the special revenue fund - other / aid to localities, HCRA
9 transfer fund - 061, enhanced community services account - 05, or any
10 successor fund or account, for the purposes set forth in this paragraph;

11 (v) up to eight million dollars for the period January first, two
12 thousand seven through December thirty-first, two thousand seven,
13 provided, however, that up to five million two hundred fifty thousand
14 dollars of such funds shall be received by the comptroller and deposited
15 to the credit of the special revenue fund - other / aid to localities,
16 HCRA transfer fund - 061, enhanced community services account - 05, or
17 any successor fund or account, for the purposes set forth in this para-
18 graph;

19 (vi) up to two million seven hundred fifty thousand dollars for the
20 period January first, two thousand eight through December thirty-first,
21 two thousand eight;

22 (vii) up to two million seven hundred fifty thousand dollars for the
23 period January first, two thousand nine through December thirty-first,
24 two thousand nine;

25 (viii) up to two million seven hundred fifty thousand dollars for the
26 period January first, two thousand ten through December thirty-first,
27 two thousand ten; and

28 (ix) up to six hundred eighty-eight thousand dollars for the period
29 January first, two thousand eleven through March thirty-first, two thou-
30 sand eleven.

31 (oo) Funds shall be reserved and accumulated from year to year and
32 shall be available, including income from invested funds, for purposes
33 of grants to non-public general hospitals pursuant to paragraph (e) of
34 subdivision twenty-five of section twenty-eight hundred seven-c of this
35 article from the tobacco control and insurance initiatives pool estab-
36 lished for the following periods in the following amounts:

37 (i) up to five million dollars on an annualized basis for the period
38 January first, two thousand four through December thirty-first, two
39 thousand four;

40 (ii) up to five million dollars for the period January first, two
41 thousand five through December thirty-first, two thousand five;

42 (iii) up to five million dollars for the period January first, two
43 thousand six through December thirty-first, two thousand six;

44 (iv) up to five million dollars for the period January first, two
45 thousand seven through December thirty-first, two thousand seven; and

46 (v) up to five million dollars for the period January first, two thou-
47 sand eight through December thirty-first, two thousand eight;

48 (vi) up to five million dollars for the period January first, two
49 thousand nine through December thirty-first, two thousand nine;

50 (vii) up to five million dollars for the period January first, two
51 thousand ten through December thirty-first, two thousand ten; and

52 (viii) up to one million two hundred fifty thousand dollars for the
53 period January first, two thousand eleven through March thirty-first,
54 two thousand eleven.

55 (pp) Funds shall be reserved and accumulated from year to year and
56 shall be available, including income from invested funds, for the

1 purpose of supporting the provision of tax credits for long term care
2 insurance pursuant to subdivision one of section one hundred ninety of
3 the tax law, paragraph (a) of subdivision twenty-five-a of section two
4 hundred ten of such law, subsection (aa) of section six hundred six of
5 such law, paragraph one of subsection (k) of section fourteen hundred
6 fifty-six of such law and paragraph one of subdivision (m) of section
7 fifteen hundred eleven of such law, in the following amounts:

8 (i) ten million dollars for the period January first, two thousand
9 four through December thirty-first, two thousand four;

10 (ii) ten million dollars for the period January first, two thousand
11 five through December thirty-first, two thousand five;

12 (iii) ten million dollars for the period January first, two thousand
13 six through December thirty-first, two thousand six; and

14 (iv) five million dollars for the period January first, two thousand
15 seven through June thirtieth, two thousand seven.

16 (qq) Funds shall be reserved and accumulated from year to year and
17 shall be available, including income from invested funds, for the
18 purpose of supporting the long-term care insurance education and
19 outreach program established pursuant to section two hundred seventeen-a
20 of the elder law for the following periods in the following amounts:

21 (i) up to five million dollars for the period January first, two thou-
22 sand four through December thirty-first, two thousand four; of such
23 funds one million nine hundred fifty thousand dollars shall be made
24 available to the department for the purpose of developing, implementing
25 and administering the long-term care insurance education and outreach
26 program and three million fifty thousand dollars shall be deposited by
27 the commissioner, within amounts appropriated, and the comptroller is
28 hereby authorized and directed to receive for deposit to the credit of
29 the special revenue funds - other, HCRA transfer fund, long term care
30 insurance resource center account of the state office for the aging or
31 any future account designated for the purpose of implementing the long
32 term care insurance education and outreach program and providing the
33 long term care insurance resource centers with the necessary resources
34 to carry out their operations;

35 (ii) up to five million dollars for the period January first, two
36 thousand five through December thirty-first, two thousand five; of such
37 funds one million nine hundred fifty thousand dollars shall be made
38 available to the department for the purpose of developing, implementing
39 and administering the long-term care insurance education and outreach
40 program and three million fifty thousand dollars shall be deposited by
41 the commissioner, within amounts appropriated, and the comptroller is
42 hereby authorized and directed to receive for deposit to the credit of
43 the special revenue funds - other, HCRA transfer fund, long term care
44 insurance resource center account of the state office for the aging or
45 any future account designated for the purpose of implementing the long
46 term care insurance education and outreach program and providing the
47 long term care insurance resource centers with the necessary resources
48 to carry out their operations;

49 (iii) up to five million dollars for the period January first, two
50 thousand six through December thirty-first, two thousand six; of such
51 funds one million nine hundred fifty thousand dollars shall be made
52 available to the department for the purpose of developing, implementing
53 and administering the long-term care insurance education and outreach
54 program and three million fifty thousand dollars shall be made available
55 to the office for the aging for the purpose of providing the long term

1 care insurance resource centers with the necessary resources to carry
2 out their operations;

3 (iv) up to five million dollars for the period January first, two
4 thousand seven through December thirty-first, two thousand seven; of
5 such funds one million nine hundred fifty thousand dollars shall be made
6 available to the department for the purpose of developing, implementing
7 and administering the long-term care insurance education and outreach
8 program and three million fifty thousand dollars shall be made available
9 to the office for the aging for the purpose of providing the long term
10 care insurance resource centers with the necessary resources to carry
11 out their operations;

12 (v) up to five million dollars for the period January first, two thou-
13 sand eight through December thirty-first, two thousand eight; of such
14 funds one million nine hundred fifty thousand dollars shall be made
15 available to the department for the purpose of developing, implementing
16 and administering the long term care insurance education and outreach
17 program and three million fifty thousand dollars shall be made available
18 to the office for the aging for the purpose of providing the long term
19 care insurance resource centers with the necessary resources to carry
20 out their operations;

21 (vi) up to five million dollars for the period January first, two
22 thousand nine through December thirty-first, two thousand nine; of such
23 funds one million nine hundred fifty thousand dollars shall be made
24 available to the department for the purpose of developing, implementing
25 and administering the long-term care insurance education and outreach
26 program and three million fifty thousand dollars shall be made available
27 to the office for the aging for the purpose of providing the long-term
28 care insurance resource centers with the necessary resources to carry
29 out their operations;

30 (vii) up to four hundred eighty-eight thousand dollars for the period
31 January first, two thousand ten through March thirty-first, two thousand
32 ten; of such funds four hundred eighty-eight thousand dollars shall be
33 made available to the department for the purpose of developing, imple-
34 menting and administering the long-term care insurance education and
35 outreach program.

36 (rr) Funds shall be reserved and accumulated from the tobacco control
37 and insurance initiatives pool and shall be available, including income
38 from invested funds, for the purpose of supporting expenses related to
39 implementation of the provisions of title III of article twenty-nine-D
40 of this chapter, for the following periods and in the following amounts:

41 (i) up to ten million dollars for the period January first, two thou-
42 sand six through December thirty-first, two thousand six;

43 (ii) up to ten million dollars for the period January first, two thou-
44 sand seven through December thirty-first, two thousand seven;

45 (iii) up to ten million dollars for the period January first, two
46 thousand eight through December thirty-first, two thousand eight;

47 (iv) up to ten million dollars for the period January first, two thou-
48 sand nine through December thirty-first, two thousand nine;

49 (v) up to ten million dollars for the period January first, two thou-
50 sand ten through December thirty-first, two thousand ten; and

51 (vi) up to two million five hundred thousand dollars for the period
52 January first, two thousand eleven through March thirty-first, two thou-
53 sand eleven.

54 (ss) Funds shall be reserved and accumulated from the tobacco control
55 and insurance initiatives pool and used for a health care stabilization
56 program established by the commissioner for the purposes of stabilizing

critical health care providers and health care programs whose ability to continue to provide appropriate services are threatened by financial or other challenges, in the amount of up to twenty-eight million dollars for the period July first, two thousand four through June thirtieth, two thousand five. Notwithstanding the provisions of section one hundred twelve of the state finance law or any other inconsistent provision of the state finance law or any other law, funds available for distribution pursuant to this paragraph may be allocated and distributed by the commissioner, or the state comptroller as applicable without a competitive bid or request for proposal process. Considerations relied upon by the commissioner in determining the allocation and distribution of these funds shall include, but not be limited to, the following: (i) the importance of the provider or program in meeting critical health care needs in the community in which it operates; (ii) the provider or program provision of care to under-served populations; (iii) the quality of the care or services the provider or program delivers; (iv) the ability of the provider or program to continue to deliver an appropriate level of care or services if additional funding is made available; (v) the ability of the provider or program to access, in a timely manner, alternative sources of funding, including other sources of government funding; (vi) the ability of other providers or programs in the community to meet the community health care needs; (vii) whether the provider or program has an appropriate plan to improve its financial condition; and (viii) whether additional funding would permit the provider or program to consolidate, relocate, or close programs or services where such actions would result in greater stability and efficiency in the delivery of needed health care services or programs.

(tt) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of providing grants for two long term care demonstration projects designed to test new models for the delivery of long term care services established pursuant to section twenty-eight hundred seven-x of this chapter, for the following periods and in the following amounts:

(i) up to five hundred thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(ii) up to five hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(iii) up to five hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(iv) up to one million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven; and

(v) up to two hundred fifty thousand dollars for the period January first, two thousand eight through March thirty-first, two thousand eight.

(uu) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for the purpose of supporting disease management and telemedicine demonstration programs authorized pursuant to [sections] SECTION twenty-one hundred eleven [and thirty-six hundred twenty-one] of this chapter[, respectively,] for the following periods in the following amounts:

(i) five million dollars for the period January first, two thousand four through December thirty-first, two thousand four, of which three million dollars shall be available for disease management demonstration programs and two million dollars shall be available for telemedicine demonstration programs;

1 (ii) five million dollars for the period January first, two thousand
2 five through December thirty-first, two thousand five, of which three
3 million dollars shall be available for disease management demonstration
4 programs and two million dollars shall be available for telemedicine
5 demonstration programs;

6 (iii) nine million five hundred thousand dollars for the period Janu-
7 ary first, two thousand six through December thirty-first, two thousand
8 six, of which seven million five hundred thousand dollars shall be
9 available for disease management demonstration programs and two million
10 dollars shall be available for telemedicine demonstration programs;

11 (iv) nine million five hundred thousand dollars for the period January
12 first, two thousand seven through December thirty-first, two thousand
13 seven, of which seven million five hundred thousand dollars shall be
14 available for disease management demonstration programs and one million
15 dollars shall be available for telemedicine demonstration programs;

16 (v) nine million five hundred thousand dollars for the period January
17 first, two thousand eight through December thirty-first, two thousand
18 eight, of which seven million five hundred thousand dollars shall be
19 available for disease management demonstration programs and two million
20 dollars shall be available for telemedicine demonstration programs;

21 (vi) seven million eight hundred thirty-three thousand three hundred
22 thirty-three dollars for the period January first, two thousand nine
23 through December thirty-first, two thousand nine, of which seven million
24 five hundred thousand dollars shall be available for disease management
25 demonstration programs and three hundred thirty-three thousand three
26 hundred thirty-three dollars shall be available for telemedicine demon-
27 stration programs for the period January first, two thousand nine
28 through March first, two thousand nine;

29 (vii) one million eight hundred seventy-five thousand dollars for the
30 period January first, two thousand ten through March thirty-first, two
31 thousand ten shall be available for disease management demonstration
32 programs.

33 (ww) Funds shall be deposited by the commissioner, within amounts
34 appropriated, and the state comptroller is hereby authorized and
35 directed to receive for the deposit to the credit of the state special
36 revenue funds - other, HCRA transfer fund, medical assistance account,
37 or any successor fund or account, for purposes of funding the state
38 share of the general hospital rates increases for recruitment and
39 retention of health care workers pursuant to paragraph (e) of subdivi-
40 sion thirty of section twenty-eight hundred seven-c of this article from
41 the tobacco control and insurance initiatives pool established for the
42 following periods in the following amounts:

43 (i) sixty million five hundred thousand dollars for the period January
44 first, two thousand five through December thirty-first, two thousand
45 five; and

46 (ii) sixty million five hundred thousand dollars for the period Janu-
47 ary first, two thousand six through December thirty-first, two thousand
48 six.

49 (xx) Funds shall be deposited by the commissioner, within amounts
50 appropriated, and the state comptroller is hereby authorized and
51 directed to receive for the deposit to the credit of the state special
52 revenue funds - other, HCRA transfer fund, medical assistance account,
53 or any successor fund or account, for purposes of funding the state
54 share of the general hospital rates increases for rural hospitals pursu-
55 ant to subdivision thirty-two of section twenty-eight hundred seven-c of

1 this article from the tobacco control and insurance initiatives pool
2 established for the following periods in the following amounts:

3 (i) three million five hundred thousand dollars for the period January
4 first, two thousand five through December thirty-first, two thousand
5 five;

6 (ii) three million five hundred thousand dollars for the period Janu-
7 ary first, two thousand six through December thirty-first, two thousand
8 six;

9 (iii) three million five hundred thousand dollars for the period Janu-
10 ary first, two thousand seven through December thirty-first, two thou-
11 sand seven;

12 (iv) three million five hundred thousand dollars for the period Janu-
13 ary first, two thousand eight through December thirty-first, two thou-
14 sand eight; and

15 (v) three million two hundred eight thousand dollars for the period
16 January first, two thousand nine through November thirtieth, two thou-
17 sand nine.

18 (yy) Funds shall be reserved and accumulated from year to year and
19 shall be available, within amounts appropriated and notwithstanding
20 section one hundred twelve of the state finance law and any other
21 contrary provision of law, for the purpose of supporting grants not to
22 exceed five million dollars to be made by the commissioner without a
23 competitive bid or request for proposal process, in support of the
24 delivery of critically needed health care services, to health care
25 providers located in the counties of Erie and Niagara which executed a
26 memorandum of closing and conducted a merger closing in escrow on Novem-
27 ber twenty-fourth, nineteen hundred ninety-seven and which entered into
28 a settlement dated December thirtieth, two thousand four for a loss on
29 disposal of assets under the provisions of title XVIII of the federal
30 social security act applicable to mergers occurring prior to December
31 first, nineteen hundred ninety-seven.

32 (zz) Funds shall be reserved and accumulated from year to year and
33 shall be available, within amounts appropriated, for the purpose of
34 supporting expenditures authorized pursuant to section twenty-eight
35 hundred eighteen of this article from the tobacco control and insurance
36 initiatives pool established for the following periods in the following
37 amounts:

38 (i) six million five hundred thousand dollars for the period January
39 first, two thousand five through December thirty-first, two thousand
40 five;

41 (ii) one hundred eight million three hundred thousand dollars for the
42 period January first, two thousand six through December thirty-first,
43 two thousand six, provided, however, that within amounts appropriated in
44 the two thousand six through two thousand seven state fiscal year, a
45 portion of such funds may be transferred to the Roswell Park Cancer
46 Institute Corporation to fund capital costs;

47 (iii) one hundred seventy-one million dollars for the period January
48 first, two thousand seven through December thirty-first, two thousand
49 seven, provided, however, that within amounts appropriated in the two
50 thousand six through two thousand seven state fiscal year, a portion of
51 such funds may be transferred to the Roswell Park Cancer Institute
52 Corporation to fund capital costs;

53 (iv) one hundred seventy-one million five hundred thousand dollars for
54 the period January first, two thousand eight through December thirty-
55 first, two thousand eight;

1 (v) one hundred twenty-eight million seven hundred fifty thousand
2 dollars for the period January first, two thousand nine through December
3 thirty-first, two thousand nine;

4 (vi) one hundred thirty-one million three hundred seventy-five thou-
5 sand dollars for the period January first, two thousand ten through
6 December thirty-first, two thousand ten; [and]

7 (vii) thirty-four million two hundred fifty thousand dollars for the
8 period January first, two thousand eleven through March thirty-first,
9 two thousand eleven[.];

10 (VIII) FOUR HUNDRED THIRTY-THREE MILLION THREE HUNDRED SIXTY-SIX THOU-
11 SAND DOLLARS FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH
12 MARCH THIRTY-FIRST, TWO THOUSAND TWELVE;

13 (IX) ONE HUNDRED FIFTY MILLION EIGHT HUNDRED SIX THOUSAND DOLLARS FOR
14 THE PERIOD APRIL FIRST, TWO THOUSAND TWELVE THROUGH MARCH THIRTY-FIRST,
15 TWO THOUSAND THIRTEEN; AND

16 (X) SEVENTY-EIGHT MILLION SEVENTY-ONE THOUSAND DOLLARS FOR THE PERIOD
17 APRIL FIRST, TWO THOUSAND THIRTEEN THROUGH MARCH THIRTY-FIRST, TWO THOU-
18 SAND FOURTEEN.

19 (aaa) Funds shall be reserved and accumulated from year to year and
20 shall be available, including income from invested funds, for services
21 and expenses related to school based health centers, in an amount up to
22 three million five hundred thousand dollars for the period April first,
23 two thousand six through March thirty-first, two thousand seven, up to
24 three million five hundred thousand dollars for the period April first,
25 two thousand seven through March thirty-first, two thousand eight, up to
26 three million five hundred thousand dollars for the period April first,
27 two thousand eight through March thirty-first, two thousand nine, up to
28 three million five hundred thousand dollars for the period April first,
29 two thousand nine through March thirty-first, two thousand ten, [and] up
30 to three million five hundred thousand dollars for the period April
31 first, two thousand ten through March thirty-first, two thousand eleven,
32 AND UP TO TWO MILLION EIGHT HUNDRED THOUSAND DOLLARS EACH STATE FISCAL
33 YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIR-
34 TY-FIRST, TWO THOUSAND FOURTEEN. The total amount of funds provided
35 herein shall be distributed as grants based on the ratio of each provid-
36 er's total enrollment for all sites to the total enrollment of all
37 providers. This formula shall be applied to the total amount provided
38 herein.

39 (bbb) Funds shall be reserved and accumulated from year to year and
40 shall be available, including income from invested funds, for purposes
41 of awarding grants to operators of adult homes, enriched housing
42 programs and residences through the enhancing abilities and life experi-
43 ence (EnAbLe) program to provide for the installation, operation and
44 maintenance of air conditioning in resident rooms, consistent with this
45 paragraph, in an amount up to two million dollars for the period April
46 first, two thousand six through March thirty-first, two thousand seven,
47 up to three million eight hundred thousand dollars for the period April
48 first, two thousand seven through March thirty-first, two thousand
49 eight, up to three million eight hundred thousand dollars for the period
50 April first, two thousand eight through March thirty-first, two thousand
51 nine, up to three million eight hundred thousand dollars for the period
52 April first, two thousand nine through March thirty-first, two thousand
53 ten, and up to three million eight hundred thousand dollars for the
54 period April first, two thousand ten through March thirty-first, two
55 thousand eleven. Residents shall not be charged utility cost for the use
56 of air conditioners supplied under the EnAbLe program. All such air

1 conditioners must be operated in occupied resident rooms consistent with
2 requirements applicable to common areas.

3 (ccc) Funds shall be deposited by the commissioner, within amounts
4 appropriated, and the state comptroller is hereby authorized and
5 directed to receive for the deposit to the credit of the state special
6 revenue funds - other, HCRA transfer fund, medical assistance account,
7 or any successor fund or account, for purposes of funding the state
8 share of increases in the rates for certified home health agencies, long
9 term home health care programs, AIDS home care programs, hospice
10 programs and managed long term care plans and approved managed long term
11 care operating demonstrations as defined in section forty-four hundred
12 three-f of this chapter for recruitment and retention of health care
13 workers pursuant to subdivisions nine and ten of section thirty-six
14 hundred fourteen of this chapter from the tobacco control and insurance
15 initiatives pool established for the following periods in the following
16 amounts:

17 (i) twenty-five million dollars for the period June first, two thou-
18 sand six through December thirty-first, two thousand six;

19 (ii) fifty million dollars for the period January first, two thousand
20 seven through December thirty-first, two thousand seven;

21 (iii) fifty million dollars for the period January first, two thousand
22 eight through December thirty-first, two thousand eight;

23 (iv) fifty million dollars for the period January first, two thousand
24 nine through December thirty-first, two thousand nine;

25 (v) fifty million dollars for the period January first, two thousand
26 ten through December thirty-first, two thousand ten; [and]

27 (vi) twelve million five hundred thousand dollars for the period Janu-
28 ary first, two thousand eleven through March thirty-first, two thousand
29 eleven[.]; AND

30 (VII) FIFTY MILLION DOLLARS EACH STATE FISCAL YEAR FOR THE PERIOD
31 APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOU-
32 SAND FOURTEEN.

33 (ddd) Funds shall be deposited by the commissioner, within amounts
34 appropriated, and the state comptroller is hereby authorized and
35 directed to receive for the deposit to the credit of the state special
36 revenue funds - other, HCRA transfer fund, medical assistance account,
37 or any successor fund or account, for purposes of funding the state
38 share of increases in the medical assistance rates for providers for
39 purposes of enhancing the provision, quality and/or efficiency of home
40 care services pursuant to subdivision eleven of section thirty-six
41 hundred fourteen of this chapter from the tobacco control and insurance
42 initiatives pool established for the following period in the amount of
43 eight million dollars for the period April first, two thousand six
44 through December thirty-first, two thousand six.

45 (eee) Funds shall be reserved and accumulated from year to year and
46 shall be available, including income from invested funds, to the Center
47 for Functional Genomics at the State University of New York at Albany,
48 for the purposes of the Adirondack network for cancer education and
49 research in rural communities grant program to improve access to health
50 care and shall be made available from the tobacco control and insurance
51 initiatives pool established for the following period in the amount of
52 up to five million dollars for the period January first, two thousand
53 six through December thirty-first, two thousand six.

54 (fff) Funds shall be made available to the empire state stem cell fund
55 established by section ninety-nine-p of the state finance law from the
56 public asset as defined in section four thousand three hundred one of

1 the insurance law and accumulated from the conversion of one or more
2 article forty-three corporations and its or their not-for-profit subsid-
3 iaries occurring on or after January first, two thousand seven. Such
4 funds shall be made available within amounts appropriated up to fifty
5 million dollars annually and shall not exceed five hundred million
6 dollars in total.

7 (ggg) Funds shall be deposited by the commissioner, within amounts
8 appropriated, and the state comptroller is hereby authorized and
9 directed to receive for deposit to the credit of the state special
10 revenue fund - other, HCRA transfer fund, medical assistance account, or
11 any successor fund or account, for the purpose of supporting the state
12 share of Medicaid expenditures for hospital translation services as
13 authorized pursuant to paragraph (k) of subdivision one of section twen-
14 ty-eight hundred seven-c of this article from the tobacco control and
15 initiatives pool established for the following periods in the following
16 amounts:

17 (i) sixteen million dollars for the period July first, two thousand
18 eight through December thirty-first, two thousand eight; and

19 (ii) fourteen million seven hundred thousand dollars for the period
20 January first, two thousand nine through November thirtieth, two thou-
21 sand nine.

22 (hhh) Funds shall be deposited by the commissioner, within amounts
23 appropriated, and the state comptroller is hereby authorized and
24 directed to receive for deposit to the credit of the state special
25 revenue fund - other, HCRA transfer fund, medical assistance account, or
26 any successor fund or account, for the purpose of supporting the state
27 share of Medicaid expenditures for adjustments to inpatient rates of
28 payment for general hospitals located in the counties of Nassau and
29 Suffolk as authorized pursuant to paragraph (l) of subdivision one of
30 section twenty-eight hundred seven-c of this article from the tobacco
31 control and initiatives pool established for the following periods in
32 the following amounts:

33 (i) two million five hundred thousand dollars for the period April
34 first, two thousand eight through December thirty-first, two thousand
35 eight; and

36 (ii) two million two hundred ninety-two thousand dollars for the peri-
37 od January first, two thousand nine through November thirtieth, two
38 thousand nine.

39 S 9. Subdivision 3 of section 1680-j of the public authorities law, as
40 amended by section 34 of part C of chapter 58 of the laws of 2009, is
41 amended to read as follows:

42 3. Notwithstanding any law to the contrary, and in accordance with
43 section four of the state finance law, the comptroller is hereby author-
44 ized and directed to transfer from the health care reform act (HCRA)
45 resources fund (061) to the general fund, upon the request of the direc-
46 tor of the budget, up to \$6,500,000 on or before March 31, 2006, and the
47 comptroller is further hereby authorized and directed to transfer from
48 the healthcare reform act (HCRA); Resources fund (061) to the Capital
49 Projects Fund, upon the request of the director of budget, up to
50 \$139,000,000 for the period April 1, 2006 through March 31, 2007, up to
51 \$171,100,000 for the period April 1, 2007 through March 31, 2008, up to
52 \$208,100,000 for the period April 1, 2008 through March 31, 2009, up to
53 \$151,600,000 for the period April 1, 2009 through March 31, 2010, [and]
54 up to [\$238,000,000] \$215,743,000 for the period April 1, 2010 through
55 March 31, 2011, UP TO \$433,366,000 FOR THE PERIOD APRIL 1, 2011 THROUGH
56 MARCH 31, 2012, UP TO \$150,806,000 FOR THE PERIOD APRIL 1, 2012 THROUGH

1 MARCH 31, 2013, UP TO \$78,071,000 FOR THE PERIOD APRIL 1, 2013 THROUGH
2 MARCH 31, 2014, AND UP TO \$86,005,000 FOR THE PERIOD APRIL 1, 2014
3 THROUGH MARCH 31, 2015.

4 S 10. Paragraph (a) of subdivision 12 of section 367-b of the social
5 services law, as amended by section 8 of part B of chapter 58 of the
6 laws of 2008, is amended to read as follows:

7 (a) For the purpose of regulating cash flow for general hospitals, the
8 department shall develop and implement a payment methodology to provide
9 for timely payments for inpatient hospital services eligible for case
10 based payments per discharge based on diagnosis-related groups provided
11 during the period January first, nineteen hundred eighty-eight through
12 March thirty-first two thousand [eleven] FOURTEEN, by such hospitals
13 which elect to participate in the system.

14 S 11. Section 2 of chapter 600 of the laws of 1986, amending the
15 public health law relating to the development of pilot reimbursement
16 programs for ambulatory care services, as amended by section 9 of part B
17 of chapter 58 of the laws of 2008, is amended to read as follows:

18 S 2. This act shall take effect immediately, except that this act
19 shall expire and be of no further force and effect on and after April 1,
20 [2011] 2014; provided, however, that the commissioner of health shall
21 submit a report to the governor and the legislature detailing the objec-
22 tive, impact, design and computation of any pilot reimbursement program
23 established pursuant to this act, on or before March 31, 1994 and annu-
24 ally thereafter. Such report shall include an assessment of the finan-
25 cial impact of such payment system on providers, as well as the impact
26 of such system on access to care.

27 S 12. Paragraph (i) of subdivision (b) of section 1 of chapter 520 of
28 the laws of 1978, relating to providing for a comprehensive survey of
29 health care financing, education and illness prevention and creating
30 councils for the conduct thereof, as amended by section 11 of part B of
31 chapter 58 of the laws of 2008, is amended to read as follows:

32 (i) oversight and evaluation of the inpatient financing system in
33 place for 1988 through March 31, [2011] 2014, and the appropriateness
34 and effectiveness of the bad debt and charity care financing provisions;

35 S 13. The opening paragraph of section 2952 of the public health law,
36 as amended by section 21 of part B of chapter 58 of the laws of 2008, is
37 amended to read as follows:

38 To the extent of funds available therefor, the sum of seven million
39 dollars shall annually be available for periods prior to January first,
40 two thousand three, and up to six million five hundred thirty thousand
41 dollars annually for the period January first, two thousand three
42 through December thirty-first, two thousand four, up to seven million
43 sixty-two thousand dollars for the period January first, two thousand
44 five through December thirty-first, two thousand six annually, up to
45 seven million sixty-two thousand dollars annually for the period January
46 first, two thousand seven through December thirty-first, two thousand
47 ten, [and] up to one million seven hundred sixty-six thousand dollars
48 for the period January first, two thousand eleven through March thirty-
49 first, two thousand eleven, AND WITHIN AMOUNTS APPROPRIATED FOR EACH
50 STATE FISCAL YEAR ON AND AFTER APRIL FIRST, TWO THOUSAND ELEVEN, shall
51 be available to the commissioner from funds made available pursuant to
52 section twenty-eight hundred seven-1 of this chapter for grants pursuant
53 to this section.

54 S 14. Subdivision 1 of section 2958 of the public health law, as
55 amended by section 22 of part B of chapter 58 of the laws of 2008, is
56 amended to read as follows:

1 1. To the extent of funds available therefor, the sum of ten million
2 dollars shall annually be made available for periods prior to January
3 first, two thousand three, and up to nine million three hundred twenty
4 thousand dollars for the period January first, two thousand three
5 through December thirty-first, two thousand three, up to nine million
6 three hundred twenty thousand dollars for the period January first, two
7 thousand four through December thirty-first, two thousand four, up to
8 twelve million eighty-eight thousand dollars for the period January
9 first, two thousand five through December thirty-first, two thousand
10 five, up to twelve million eighty-eight thousand dollars for the period
11 January first, two thousand six through December thirty-first, two thou-
12 sand six, up to eleven million eighty-eight thousand dollars annually
13 for the period January first, two thousand seven through December thir-
14 ty-first, two thousand ten, [and] up to two million seven hundred seven-
15 ty-two thousand dollars for the period January first, two thousand elev-
16 en through March thirty-first, two thousand eleven, AND WITHIN AMOUNTS
17 APPROPRIATED FOR EACH STATE FISCAL YEAR ON AND AFTER APRIL FIRST, TWO
18 THOUSAND ELEVEN, shall be available to the commissioner from funds
19 pursuant to section twenty-eight hundred seven-1 of this chapter to
20 provide assistance to general hospitals classified as a rural hospital
21 for purposes of determining payment for inpatient services provided to
22 beneficiaries of title XVIII of the federal social security act (Medi-
23 care) or under state regulations, in recognition of the unique costs
24 incurred by these facilities to provide hospital services in remote or
25 sparsely populated areas pursuant to subdivision two of this section.

26 S 15. Paragraph (a) of subdivision 1 of section 18 of chapter 266 of
27 the laws of 1986, amending the civil practice law and rules and other
28 laws relating to malpractice and professional medical conduct, as
29 amended by section 23 of part B of chapter 58 of the laws of 2008, is
30 amended to read as follows:

31 (a) The superintendent of insurance and the commissioner of health or
32 their designee shall, from funds available in the hospital excess
33 liability pool created pursuant to subdivision [(5)] 5 of this section,
34 purchase a policy or policies for excess insurance coverage, as author-
35 ized by paragraph [(1)] 1 of subsection (e) of section 5502 of the
36 insurance law; or from an insurer, other than an insurer described in
37 section 5502 of the insurance law, duly authorized to write such cover-
38 age and actually writing medical malpractice insurance in this state; or
39 shall purchase equivalent excess coverage in a form previously approved
40 by the superintendent of insurance for purposes of providing equivalent
41 excess coverage in accordance with section 19 of chapter 294 of the laws
42 of 1985, for medical or dental malpractice occurrences between July 1,
43 1986 and June 30, 1987, between July 1, 1987 and June 30, 1988, between
44 July 1, 1988 and June 30, 1989, between July 1, 1989 and June 30, 1990,
45 between July 1, 1990 and June 30, 1991, between July 1, 1991 and June
46 30, 1992, between July 1, 1992 and June 30, 1993, between July 1, 1993
47 and June 30, 1994, between July 1, 1994 and June 30, 1995, between July
48 1, 1995 and June 30, 1996, between July 1, 1996 and June 30, 1997,
49 between July 1, 1997 and June 30, 1998, between July 1, 1998 and June
50 30, 1999, between July 1, 1999 and June 30, 2000, between July 1, 2000
51 and June 30, 2001, between July 1, 2001 and June 30, 2002, between July
52 1, 2002 and June 30, 2003, between July 1, 2003 and June 30, 2004,
53 between July 1, 2004 and June 30, 2005, between July 1, 2005 and June
54 30, 2006, between July 1, 2006 and June 30, 2007, between July 1, 2007
55 and June 30, 2008, between July 1, 2008 and June 30, 2009, between July
56 1, 2009 and June 30, 2010, [and] between July 1, 2010 and June 30, 2011,

1 BETWEEN JULY 1, 2011 AND JUNE 30, 2012, BETWEEN JULY 1, 2012 AND JUNE
2 30, 2013 AND BETWEEN JULY 1, 2013 AND JUNE 30, 2014 or reimburse the
3 hospital where the hospital purchases equivalent excess coverage as
4 defined in subparagraph (i) of paragraph (a) of subdivision [(1-a)] 1-A
5 of this section for medical or dental malpractice occurrences between
6 July 1, 1987 and June 30, 1988, between July 1, 1988 and June 30, 1989,
7 between July 1, 1989 and June 30, 1990, between July 1, 1990 and June
8 30, 1991, between July 1, 1991 and June 30, 1992, between July 1, 1992
9 and June 30, 1993, between July 1, 1993 and June 30, 1994, between July
10 1, 1994 and June 30, 1995, between July 1, 1995 and June 30, 1996,
11 between July 1, 1996 and June 30, 1997, between July 1, 1997 and June
12 30, 1998, between July 1, 1998 and June 30, 1999, between July 1, 1999
13 and June 30, 2000, between July 1, 2000 and June 30, 2001, between July
14 1, 2001 and June 30, 2002, between July 1, 2002 and June 30, 2003,
15 between July 1, 2003 and June 30, 2004, between July 1, 2004 and June
16 30, 2005, between July 1, 2005 and June 30, 2006, between July 1, 2006
17 and June 30, 2007, between July 1, 2007 and June 30, 2008, between July
18 1, 2008 and June 30, 2009, between July 1, 2009 and June 30, 2010, [and]
19 between July 1, 2010 and June 30, 2011, BETWEEN JULY 1, 2011 AND JUNE
20 30, 2012, BETWEEN JULY 1, 2012 AND JUNE 30, 2013 AND BETWEEN JULY 1,
21 2013 AND JUNE 30, 2014 for physicians or dentists certified as eligible
22 for each such period or periods pursuant to subdivision [(2)] 2 of this
23 section by a general hospital licensed pursuant to article 28 of the
24 public health law; provided that no single insurer shall write more than
25 fifty percent of the total excess premium for a given policy year; and
26 provided, however, that such eligible physicians or dentists must have
27 in force an individual policy, from an insurer licensed in this state of
28 primary malpractice insurance coverage in amounts of no less than one
29 million three hundred thousand dollars for each claimant and three
30 million nine hundred thousand dollars for all claimants under that poli-
31 cy during the period of such excess coverage for such occurrences or be
32 endorsed as additional insureds under a hospital professional liability
33 policy which is offered through a voluntary attending physician ("chan-
34 neling") program previously permitted by the superintendent of insurance
35 during the period of such excess coverage for such occurrences. During
36 such period, such policy for excess coverage or such equivalent excess
37 coverage shall, when combined with the physician's or dentist's primary
38 malpractice insurance coverage or coverage provided through a voluntary
39 attending physician ("channeling") program, total an aggregate level of
40 two million three hundred thousand dollars for each claimant and six
41 million nine hundred thousand dollars for all claimants from all such
42 policies with respect to occurrences in each of such years provided,
43 however, if the cost of primary malpractice insurance coverage in excess
44 of one million dollars, but below the excess medical malpractice insur-
45 ance coverage provided pursuant to this act, exceeds the rate of nine
46 percent per annum, then the required level of primary malpractice insur-
47 ance coverage in excess of one million dollars for each claimant shall
48 be in an amount of not less than the dollar amount of such coverage
49 available at nine percent per annum; the required level of such coverage
50 for all claimants under that policy shall be in an amount not less than
51 three times the dollar amount of coverage for each claimant; and excess
52 coverage, when combined with such primary malpractice insurance cover-
53 age, shall increase the aggregate level for each claimant by one million
54 dollars and three million dollars for all claimants; and provided
55 further, that, with respect to policies of primary medical malpractice
56 coverage that include occurrences between April 1, 2002 and June 30,

1 2002, such requirement that coverage be in amounts no less than one
2 million three hundred thousand dollars for each claimant and three
3 million nine hundred thousand dollars for all claimants for such occur-
4 rences shall be effective April 1, 2002.

5 S 16. Subdivision 3 of section 18 of chapter 266 of the laws of 1986,
6 amending the civil practice law and rules and other laws relating to
7 malpractice and professional medical conduct, as amended by section 24
8 of part B of chapter 58 of the laws of 2008, is amended to read as
9 follows:

10 (3)(a) The superintendent of insurance shall determine and certify to
11 each general hospital and to the commissioner of health the cost of
12 excess malpractice insurance for medical or dental malpractice occur-
13 rences between July 1, 1986 and June 30, 1987, between July 1, 1988 and
14 June 30, 1989, between July 1, 1989 and June 30, 1990, between July 1,
15 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992, between
16 July 1, 1992 and June 30, 1993, between July 1, 1993 and June 30, 1994,
17 between July 1, 1994 and June 30, 1995, between July 1, 1995 and June
18 30, 1996, between July 1, 1996 and June 30, 1997, between July 1, 1997
19 and June 30, 1998, between July 1, 1998 and June 30, 1999, between July
20 1, 1999 and June 30, 2000, between July 1, 2000 and June 30, 2001,
21 between July 1, 2001 and June 30, 2002, between July 1, 2002 and June
22 30, 2003, between July 1, 2003 and June 30, 2004, between July 1, 2004
23 and June 30, 2005, between July 1, 2005 and June 30, 2006, between July
24 1, 2006 and June 30, 2007, between July 1, 2007 and June 30, 2008,
25 between July 1, 2008 and June 30, 2009, between July 1, 2009 and June
26 30, 2010, [and] between July 1, 2010 and June 30, 2011, BETWEEN JULY 1,
27 2011 AND JUNE 30, 2012, BETWEEN JULY 1, 2012 AND JUNE 30, 2013, AND
28 BETWEEN JULY 1, 2013 AND JUNE 30, 2014 allocable to each general hospi-
29 tal for physicians or dentists certified as eligible for purchase of a
30 policy for excess insurance coverage by such general hospital in accord-
31 ance with subdivision [(2)] 2 of this section, and may amend such deter-
32 mination and certification as necessary.

33 (b) The superintendent of insurance shall determine and certify to
34 each general hospital and to the commissioner of health the cost of
35 excess malpractice insurance or equivalent excess coverage for medical
36 or dental malpractice occurrences between July 1, 1987 and June 30,
37 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989 and
38 June 30, 1990, between July 1, 1990 and June 30, 1991, between July 1,
39 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993, between
40 July 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995,
41 between July 1, 1995 and June 30, 1996, between July 1, 1996 and June
42 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998
43 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July
44 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002,
45 between July 1, 2002 and June 30, 2003, between July 1, 2003 and June
46 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005
47 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July
48 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009,
49 between July 1, 2009 and June 30, 2010, [and] between July 1, 2010 and
50 June 30, 2011, BETWEEN JULY 1, 2011 AND JUNE 30, 2012, BETWEEN JULY 1,
51 2012 AND JUNE 30, 2013, AND BETWEEN JULY 1, 2013 AND JUNE 30, 2014 allo-
52 cable to each general hospital for physicians or dentists certified as
53 eligible for purchase of a policy for excess insurance coverage or
54 equivalent excess coverage by such general hospital in accordance with
55 subdivision [(2)] 2 of this section, and may amend such determination
56 and certification as necessary. The superintendent of insurance shall

1 determine and certify to each general hospital and to the commissioner
2 of health the ratable share of such cost allocable to the period July 1,
3 1987 to December 31, 1987, to the period January 1, 1988 to June 30,
4 1988, to the period July 1, 1988 to December 31, 1988, to the period
5 January 1, 1989 to June 30, 1989, to the period July 1, 1989 to December
6 31, 1989, to the period January 1, 1990 to June 30, 1990, to the period
7 July 1, 1990 to December 31, 1990, to the period January 1, 1991 to June
8 30, 1991, to the period July 1, 1991 to December 31, 1991, to the period
9 January 1, 1992 to June 30, 1992, to the period July 1, 1992 to December
10 31, 1992, to the period January 1, 1993 to June 30, 1993, to the period
11 July 1, 1993 to December 31, 1993, to the period January 1, 1994 to June
12 30, 1994, to the period July 1, 1994 to December 31, 1994, to the period
13 January 1, 1995 to June 30, 1995, to the period July 1, 1995 to December
14 31, 1995, to the period January 1, 1996 to June 30, 1996, to the period
15 July 1, 1996 to December 31, 1996, to the period January 1, 1997 to June
16 30, 1997, to the period July 1, 1997 to December 31, 1997, to the period
17 January 1, 1998 to June 30, 1998, to the period July 1, 1998 to December
18 31, 1998, to the period January 1, 1999 to June 30, 1999, to the period
19 July 1, 1999 to December 31, 1999, to the period January 1, 2000 to June
20 30, 2000, to the period July 1, 2000 to December 31, 2000, to the period
21 January 1, 2001 to June 30, 2001, to the period July 1, 2001 to June 30,
22 2002, to the period July 1, 2002 to June 30, 2003, to the period July 1,
23 2003 to June 30, 2004, to the period July 1, 2004 to June 30, 2005, to
24 the period July 1, 2005 and June 30, 2006, to the period July 1, 2006
25 and June 30, 2007, to the period July 1, 2007 and June 30, 2008, to the
26 period July 1, 2008 and June 30, 2009, to the period July 1, 2009 and
27 June 30, 2010, [and] to the period July 1, 2010 and June 30, 2011, TO
28 THE PERIOD JULY 1, 2011 AND JUNE 30, 2012, TO THE PERIOD JULY 1, 2012
29 AND JUNE 30, 2013, AND TO THE PERIOD JULY 1, 2013 AND JUNE 30, 2014.

30 S 17. Paragraphs (a), (b), (c), (d) and (e) of subdivision 8 of
31 section 18 of chapter 266 of the laws of 1986, amending the civil prac-
32 tice law and rules and other laws relating to malpractice and profes-
33 sional medical conduct, as amended by section 25 of part B of chapter 58
34 of the laws of 2008, are amended to read as follows:

35 (a) To the extent funds available to the hospital excess liability
36 pool pursuant to subdivision [(5)] 5 of this section as amended, and
37 pursuant to section 6 of part J of chapter 63 of the laws of 2001, as
38 may from time to time be amended, which amended this subdivision, are
39 insufficient to meet the costs of excess insurance coverage or equiv-
40 alent excess coverage for coverage periods during the period July 1,
41 1992 to June 30, 1993, during the period July 1, 1993 to June 30, 1994,
42 during the period July 1, 1994 to June 30, 1995, during the period July
43 1, 1995 to June 30, 1996, during the period July 1, 1996 to June 30,
44 1997, during the period July 1, 1997 to June 30, 1998, during the period
45 July 1, 1998 to June 30, 1999, during the period July 1, 1999 to June
46 30, 2000, during the period July 1, 2000 to June 30, 2001, during the
47 period July 1, 2001 to October 29, 2001, during the period April 1, 2002
48 to June 30, 2002, during the period July 1, 2002 to June 30, 2003,
49 during the period July 1, 2003 to June 30, 2004, during the period July
50 1, 2004 to June 30, 2005, during the period July 1, 2005 to June 30,
51 2006, during the period July 1, 2006 to June 30, 2007, during the period
52 July 1, 2007 to June 30, 2008, during the period July 1, 2008 to June
53 30, 2009, during the period July 1, 2009 to June 30, 2010 [and], during
54 the period July 1, 2010 to June 30, 2011, DURING THE PERIOD JULY 1, 2011
55 TO JUNE 30, 2012, DURING THE PERIOD JULY 1, 2012 TO JUNE 30, 2013, AND
56 DURING THE PERIOD JULY 1, 2013 TO JUNE 30, 2014 allocated or reallocated

1 in accordance with paragraph (a) of subdivision [(4-a)] 4-A of this
2 section to rates of payment applicable to state governmental agencies,
3 each physician or dentist for whom a policy for excess insurance cover-
4 age or equivalent excess coverage is purchased for such period shall be
5 responsible for payment to the provider of excess insurance coverage or
6 equivalent excess coverage of an allocable share of such insufficiency,
7 based on the ratio of the total cost of such coverage for such physician
8 to the sum of the total cost of such coverage for all physicians applied
9 to such insufficiency.

10 (b) Each provider of excess insurance coverage or equivalent excess
11 coverage covering the period July 1, 1992 to June 30, 1993, or covering
12 the period July 1, 1993 to June 30, 1994, or covering the period July 1,
13 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30,
14 1996, or covering the period July 1, 1996 to June 30, 1997, or covering
15 the period July 1, 1997 to June 30, 1998, or covering the period July 1,
16 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30,
17 2000, or covering the period July 1, 2000 to June 30, 2001, or covering
18 the period July 1, 2001 to October 29, 2001, or covering the period
19 April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to
20 June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or
21 covering the period July 1, 2004 to June 30, 2005, or covering the peri-
22 od July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to
23 June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or
24 covering the period July 1, 2008 to June 30, 2009, or covering the peri-
25 od July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to
26 June 30, 2011, OR COVERING THE PERIOD JULY 1, 2011 TO JUNE 30, 2012, OR
27 COVERING THE PERIOD JULY 1, 2012 TO JUNE 30, 2013, OR COVERING THE PERI-
28 OD JULY 1, 2013 TO JUNE 30, 2014 shall notify a covered physician or
29 dentist by mail, mailed to the address shown on the last application for
30 excess insurance coverage or equivalent excess coverage, of the amount
31 due to such provider from such physician or dentist for such coverage
32 period determined in accordance with paragraph (a) of this subdivision.
33 Such amount shall be due from such physician or dentist to such provider
34 of excess insurance coverage or equivalent excess coverage in a time and
35 manner determined by the superintendent of insurance.

36 (c) If a physician or dentist liable for payment of a portion of the
37 costs of excess insurance coverage or equivalent excess coverage cover-
38 ing the period July 1, 1992 to June 30, 1993, or covering the period
39 July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to
40 June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or
41 covering the period July 1, 1996 to June 30, 1997, or covering the peri-
42 od July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to
43 June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or
44 covering the period July 1, 2000 to June 30, 2001, or covering the peri-
45 od July 1, 2001 to October 29, 2001, or covering the period April 1,
46 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30,
47 2003, or covering the period July 1, 2003 to June 30, 2004, or covering
48 the period July 1, 2004 to June 30, 2005, or covering the period July 1,
49 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30,
50 2007, or covering the period July 1, 2007 to June 30, 2008, or covering
51 the period July 1, 2008 to June 30, 2009, or covering the period July 1,
52 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30,
53 2011, OR COVERING THE PERIOD JULY 1, 2011 TO JUNE 30, 2012, OR COVERING
54 THE PERIOD JULY 1, 2012 TO JUNE 30, 2013, OR COVERING THE PERIOD JULY 1,
55 2013 TO JUNE 30, 2014 determined in accordance with paragraph (a) of
56 this subdivision fails, refuses or neglects to make payment to the

1 provider of excess insurance coverage or equivalent excess coverage in
2 such time and manner as determined by the superintendent of insurance
3 pursuant to paragraph (b) of this subdivision, excess insurance coverage
4 or equivalent excess coverage purchased for such physician or dentist in
5 accordance with this section for such coverage period shall be cancelled
6 and shall be null and void as of the first day on or after the commence-
7 ment of a policy period where the liability for payment pursuant to this
8 subdivision has not been met.

9 (d) Each provider of excess insurance coverage or equivalent excess
10 coverage shall notify the superintendent of insurance and the commis-
11 sioner of health or their designee of each physician and dentist eligi-
12 ble for purchase of a policy for excess insurance coverage or equivalent
13 excess coverage covering the period July 1, 1992 to June 30, 1993, or
14 covering the period July 1, 1993 to June 30, 1994, or covering the peri-
15 od July 1, 1994 to June 30, 1995, or covering the period July 1, 1995 to
16 June 30, 1996, or covering the period July 1, 1996 to June 30, 1997, or
17 covering the period July 1, 1997 to June 30, 1998, or covering the peri-
18 od July 1, 1998 to June 30, 1999, or covering the period July 1, 1999 to
19 June 30, 2000, or covering the period July 1, 2000 to June 30, 2001, or
20 covering the period July 1, 2001 to October 29, 2001, or covering the
21 period April 1, 2002 to June 30, 2002, or covering the period July 1,
22 2002 to June 30, 2003, or covering the period July 1, 2003 to June 30,
23 2004, or covering the period July 1, 2004 to June 30, 2005, or covering
24 the period July 1, 2005 to June 30, 2006, or covering the period July 1,
25 2006 to June 30, 2007, or covering the period July 1, 2007 to June 30,
26 2008, or covering the period July 1, 2008 to June 30, 2009, or covering
27 the period July 1, 2009 to June 30, 2010, or covering the period July 1,
28 2010 to June 30, 2011, OR COVERING THE PERIOD JULY 1, 2011 TO JUNE 30,
29 2012, OR COVERING THE PERIOD JULY 1, 2012 TO JUNE 30, 2013, OR COVERING
30 THE PERIOD JULY 1, 2013 TO JUNE 30, 2014 that has made payment to such
31 provider of excess insurance coverage or equivalent excess coverage in
32 accordance with paragraph (b) of this subdivision and of each physician
33 and dentist who has failed, refused or neglected to make such payment.

34 (e) A provider of excess insurance coverage or equivalent excess
35 coverage shall refund to the hospital excess liability pool any amount
36 allocable to the period July 1, 1992 to June 30, 1993, and to the period
37 July 1, 1993 to June 30, 1994, and to the period July 1, 1994 to June
38 30, 1995, and to the period July 1, 1995 to June 30, 1996, and to the
39 period July 1, 1996 to June 30, 1997, and to the period July 1, 1997 to
40 June 30, 1998, and to the period July 1, 1998 to June 30, 1999, and to
41 the period July 1, 1999 to June 30, 2000, and to the period July 1, 2000
42 to June 30, 2001, and to the period July 1, 2001 to October 29, 2001,
43 and to the period April 1, 2002 to June 30, 2002, and to the period July
44 1, 2002 to June 30, 2003, and to the period July 1, 2003 to June 30,
45 2004, and to the period July 1, 2004 to June 30, 2005, and to the period
46 July 1, 2005 to June 30, 2006, and to the period July 1, 2006 to June
47 30, 2007, and to the period July 1, 2007 to June 30, 2008, and to the
48 period July 1, 2008 to June 30, 2009, and to the period July 1, 2009 to
49 June 30, 2010, and to the period July 1, 2010 to June 30, 2011, AND TO
50 THE PERIOD JULY 1, 2011 TO JUNE 30, 2012, AND TO THE PERIOD JULY 1, 2012
51 TO JUNE 30, 2013, AND TO THE PERIOD JULY 1, 2013 TO JUNE 30, 2014
52 received from the hospital excess liability pool for purchase of excess
53 insurance coverage or equivalent excess coverage covering the period
54 July 1, 1992 to June 30, 1993, and covering the period July 1, 1993 to
55 June 30, 1994, and covering the period July 1, 1994 to June 30, 1995,
56 and covering the period July 1, 1995 to June 30, 1996, and covering the

1 period July 1, 1996 to June 30, 1997, and covering the period July 1,
2 1997 to June 30, 1998, and covering the period July 1, 1998 to June 30,
3 1999, and covering the period July 1, 1999 to June 30, 2000, and cover-
4 ing the period July 1, 2000 to June 30, 2001, and covering the period
5 July 1, 2001 to October 29, 2001, and covering the period April 1, 2002
6 to June 30, 2002, and covering the period July 1, 2002 to June 30, 2003,
7 and covering the period July 1, 2003 to June 30, 2004, and covering the
8 period July 1, 2004 to June 30, 2005, and covering the period July 1,
9 2005 to June 30, 2006, and covering the period July 1, 2006 to June 30,
10 2007, and covering the period July 1, 2007 to June 30, 2008, and cover-
11 ing the period July 1, 2008 to June 30, 2009, and covering the period
12 July 1, 2009 to June 30, 2010, and covering the period July 1, 2010 to
13 June 30, 2011, AND COVERING THE PERIOD JULY 1, 2011 TO JUNE 30, 2012,
14 AND COVERING THE PERIOD JULY 1, 2012 TO JUNE 30, 2013, AND COVERING THE
15 PERIOD JULY 1, 2013 TO JUNE 30, 2014 for a physician or dentist where
16 such excess insurance coverage or equivalent excess coverage is
17 cancelled in accordance with paragraph (c) of this subdivision.

18 S 18. Section 40 of chapter 266 of the laws of 1986, amending the
19 civil practice law and rules and other laws relating to malpractice and
20 professional medical conduct, as amended by chapter 216 of the laws of
21 2009, is amended to read as follows:

22 S 40. The superintendent of insurance shall establish rates for poli-
23 cies providing coverage for physicians and surgeons medical malpractice
24 for the periods commencing July 1, 1985 and ending June 30, [2011] 2014;
25 provided, however, that notwithstanding any other provision of law, the
26 superintendent shall not establish or approve any increase in rates for
27 the period commencing July 1, 2009 and ending June 30, 2010. The super-
28 intendent shall direct insurers to establish segregated accounts for
29 premiums, payments, reserves and investment income attributable to such
30 premium periods and shall require periodic reports by the insurers
31 regarding claims and expenses attributable to such periods to monitor
32 whether such accounts will be sufficient to meet incurred claims and
33 expenses. On or after July 1, 1989, the superintendent shall impose a
34 surcharge on premiums to satisfy a projected deficiency that is attrib-
35 utable to the premium levels established pursuant to this section for
36 such periods; provided, however, that such annual surcharge shall not
37 exceed eight percent of the established rate until July 1, [2011] 2014,
38 at which time and thereafter such surcharge shall not exceed twenty-five
39 percent of the approved adequate rate, and that such annual surcharges
40 shall continue for such period of time as shall be sufficient to satisfy
41 such deficiency. The superintendent shall not impose such surcharge
42 during the period commencing July 1, 2009 and ending June 30, 2010. On
43 and after July 1, 1989, the surcharge prescribed by this section shall
44 be retained by insurers to the extent that they insured physicians and
45 surgeons during the July 1, 1985 through June 30, [2011] 2014 policy
46 periods; in the event and to the extent physicians and surgeons were
47 insured by another insurer during such periods, all or a pro rata share
48 of the surcharge, as the case may be, shall be remitted to such other
49 insurer in accordance with rules and regulations to be promulgated by
50 the superintendent. Surcharges collected from physicians and surgeons
51 who were not insured during such policy periods shall be apportioned
52 among all insurers in proportion to the premium written by each insurer
53 during such policy periods; if a physician or surgeon was insured by an
54 insurer subject to rates established by the superintendent during such
55 policy periods, and at any time thereafter a hospital, health mainte-
56 nance organization, employer or institution is responsible for respond-

1 ing in damages for liability arising out of such physician's or
2 surgeon's practice of medicine, such responsible entity shall also remit
3 to such prior insurer the equivalent amount that would then be collected
4 as a surcharge if the physician or surgeon had continued to remain
5 insured by such prior insurer. In the event any insurer that provided
6 coverage during such policy periods is in liquidation, the
7 property/casualty insurance security fund shall receive the portion of
8 surcharges to which the insurer in liquidation would have been entitled.
9 The surcharges authorized herein shall be deemed to be income earned for
10 the purposes of section 2303 of the insurance law. The superintendent,
11 in establishing adequate rates and in determining any projected defi-
12 ciency pursuant to the requirements of this section and the insurance
13 law, shall give substantial weight, determined in his discretion and
14 judgment, to the prospective anticipated effect of any regulations
15 promulgated and laws enacted and the public benefit of stabilizing
16 malpractice rates and minimizing rate level fluctuation during the peri-
17 od of time necessary for the development of more reliable statistical
18 experience as to the efficacy of such laws and regulations affecting
19 medical, dental or podiatric malpractice enacted or promulgated in 1985,
20 1986, by this act and at any other time. Notwithstanding any provision
21 of the insurance law, rates already established and to be established by
22 the superintendent pursuant to this section are deemed adequate if such
23 rates would be adequate when taken together with the maximum authorized
24 annual surcharges to be imposed for a reasonable period of time whether
25 or not any such annual surcharge has been actually imposed as of the
26 establishment of such rates.

27 S 19. Subsection (c) of section 2343 of the insurance law, as amended
28 by section 27 of part B of chapter 58 of the laws of 2008, is amended to
29 read as follows:

30 (c) Notwithstanding any other provision of this chapter, no applica-
31 tion for an order of rehabilitation or liquidation of a domestic insurer
32 whose primary liability arises from the business of medical malpractice
33 insurance, as that term is defined in subsection (b) of section five
34 thousand five hundred one of this chapter, shall be made on the grounds
35 specified in subsection (a) or (c) of section seven thousand four
36 hundred two of this chapter at any time prior to June thirtieth, two
37 thousand [eleven] FOURTEEN.

38 S 20. Section 5 and subdivisions (a) and (e) of section 6 of part J of
39 chapter 63 of the laws of 2001, amending chapter 20 of the laws of 2001
40 amending the military law and other laws relating to making appropri-
41 ations for the support of government, as amended by section 28 of part B
42 of chapter 58 of the laws of 2008, are amended to read as follows:

43 S 5. The superintendent of insurance and the commissioner of health
44 shall determine, no later than June 15, 2002, June 15, 2003, June 15,
45 2004, June 15, 2005, June 15, 2006, June 15, 2007, June 15, 2008, June
46 15, 2009, June 15, 2010, [and] June 15, 2011, JUNE 15, 2012, JUNE 15,
47 2013, AND JUNE 15, 2014, the amount of funds available in the hospital
48 excess liability pool, created pursuant to section 18 of chapter 266 of
49 the laws of 1986, and whether such funds are sufficient for purposes of
50 purchasing excess insurance coverage for eligible participating physi-
51 cians and dentists during the period July 1, 2001 to June 30, 2002, or
52 July 1, 2002 to June 30, 2003, or July 1, 2003 to June 30, 2004, or July
53 1, 2004 to June 30, 2005, or July 1, 2005 to June 30, 2006, or July 1,
54 2006 to June 30, 2007, or July 1, 2007 to June 30, 2008, or July 1, 2008
55 to June 30, 2009, or July 1, 2009 to June 30, 2010, or July 1, 2010 to

1 June 30, 2011, OR JULY 1, 2011 TO JUNE 30, 2012, OR JULY 1, 2012 TO JUNE
2 30, 2013, OR JULY 1, 2013 TO JUNE 30, 2014, as applicable.

3 (a) This section shall be effective only upon a determination, pursu-
4 ant to section five of this act, by the superintendent of insurance and
5 the commissioner of health, and a certification of such determination to
6 the state director of the budget, the chair of the senate committee on
7 finance and the chair of the assembly committee on ways and means, that
8 the amount of funds in the hospital excess liability pool, created
9 pursuant to section 18 of chapter 266 of the laws of 1986, is insuffi-
10 cient for purposes of purchasing excess insurance coverage for eligible
11 participating physicians and dentists during the period July 1, 2001 to
12 June 30, 2002, or July 1, 2002 to June 30, 2003, or July 1, 2003 to June
13 30, 2004, or July 1, 2004 to June 30, 2005, or July 1, 2005 to June 30,
14 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007 to June 30,
15 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to June 30,
16 2010, or July 1, 2010 to June 30, 2011, OR JULY 1, 2011 TO JUNE 30,
17 2012, OR JULY 1, 2012 TO JUNE 30, 2013, OR JULY 1, 2013 TO JUNE 30,
18 2014, as applicable.

19 (e) The commissioner of health shall transfer for deposit to the
20 hospital excess liability pool created pursuant to section 18 of chapter
21 266 of the laws of 1986 such amounts as directed by the superintendent
22 of insurance for the purchase of excess liability insurance coverage for
23 eligible participating physicians and dentists for the policy year July
24 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July 1,
25 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1, 2005
26 to June 30, 2006, or July 1, 2006 to June 30, 2007, as applicable, and
27 the cost of administering the hospital excess liability pool for such
28 applicable policy year, pursuant to the program established in chapter
29 266 of the laws of 1986, as amended, no later than June 15, 2002, June
30 15, 2003, June 15, 2004, June 15, 2005, June 15, 2006, June 15, 2007,
31 June 15, 2008, June 15, 2009, June 15, 2010, [and] June 15, 2011, JUNE
32 15, 2012, JUNE 15, 2013, AND JUNE 15, 2014, as applicable.

33 S 21. Section 18 of chapter 904 of the laws of 1984, amending the
34 public health law and the social services law relating to encouraging
35 comprehensive health services, as amended by section 64 of part C of
36 chapter 58 of the laws of 2008, is amended to read as follows:

37 S 18. This act shall take effect immediately, except that sections
38 six, nine, ten and eleven of this act shall take effect on the sixtieth
39 day after it shall have become a law, sections two, three, four and nine
40 of this act shall expire and be of no further force or effect on or
41 after March 31, [2012] 2014, section two of this act shall take effect
42 on April 1, 1985 or seventy-five days following the submission of the
43 report required by section one of this act, whichever is later, and
44 sections eleven and thirteen of this act shall expire and be of no
45 further force or effect on or after March 31, 1988.

46 S 22. Paragraphs (i) and (j) of subdivision 1 of section 367-q of the
47 social services law, as added by section 22-d of part B of chapter 58 of
48 the laws of 2008, are amended and three new paragraphs (k), (l) and (m)
49 are added to read as follows:

50 (i) for the period April first, two thousand nine through March thir-
51 ty-first, two thousand ten, twenty-eight million five hundred thousand
52 dollars; [and]

53 (j) for the period April first, two thousand ten through March thir-
54 ty-first, two thousand eleven, twenty-eight million five hundred thou-
55 sand dollars[.];

1 (K) FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH
2 THIRTY-FIRST, TWO THOUSAND TWELVE, TWENTY-EIGHT MILLION FIVE HUNDRED
3 THOUSAND DOLLARS;

4 (L) FOR THE PERIOD APRIL FIRST, TWO THOUSAND TWELVE THROUGH MARCH
5 THIRTY-FIRST, TWO THOUSAND THIRTEEN, TWENTY-EIGHT MILLION FIVE HUNDRED
6 THOUSAND DOLLARS; AND

7 (M) FOR THE PERIOD APRIL FIRST, TWO THOUSAND THIRTEEN THROUGH MARCH
8 THIRTY-FIRST, TWO THOUSAND FOURTEEN, TWENTY-EIGHT MILLION FIVE HUNDRED
9 THOUSAND DOLLARS.

10 S 23. Paragraph (f) of subdivision 9 of section 3614 of the public
11 health law, as added by section 22-e of part B of chapter 58 of the laws
12 of 2008, is amended and three new paragraphs (g), (h) and (i) are added
13 to read as follows:

14 (f) for the period April first, two thousand ten through March thir-
15 ty-first, two thousand eleven, up to one hundred million dollars[.];

16 (G) FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH
17 THIRTY-FIRST, TWO THOUSAND TWELVE, UP TO ONE HUNDRED MILLION DOLLARS;

18 (H) FOR THE PERIOD APRIL FIRST, TWO THOUSAND TWELVE THROUGH MARCH
19 THIRTY-FIRST, TWO THOUSAND THIRTEEN, UP TO ONE HUNDRED MILLION DOLLARS;

20 (I) FOR THE PERIOD APRIL FIRST, TWO THOUSAND THIRTEEN THROUGH MARCH
21 THIRTY-FIRST, TWO THOUSAND FOURTEEN, UP TO ONE HUNDRED MILLION DOLLARS.

22 S 24. Paragraph (a) of subdivision 10 of section 3614 of the public
23 health law, as amended by section 5 of part C of chapter 109 of the laws
24 of 2006, is amended to read as follows:

25 (a) Such adjustments to rates of payments shall be allocated propor-
26 tionally based on each certified home health agency's, long term home
27 health care program, AIDS home care and hospice program's home health
28 aide or other direct care services total annual hours of service
29 provided to medicaid patients, as reported in each such agency's most
30 [recent] RECENTLY AVAILABLE cost report as submitted to the department
31 [prior to November first, two thousand five] or for the purpose of the
32 managed long term care program a suitable proxy developed by the depart-
33 ment in consultation with the interested parties. Payments made pursuant
34 to this section shall not be subject to subsequent adjustment or recon-
35 ciliation.

36 S 25. Section 4 of chapter 495 of the laws of 2004, amending the
37 insurance law and the public health law relating to the New York state
38 health insurance continuation assistance demonstration project, as
39 amended by section 29 of part B of chapter 58 of the laws of 2008, is
40 amended to read as follows:

41 S 4. This act shall take effect on the sixtieth day after it shall
42 have become a law; provided, however, that this act shall remain in
43 effect until July 1, [2011] 2014 when upon such date the provisions of
44 this act shall expire and be deemed repealed; provided, further, that a
45 displaced worker shall be eligible for continuation assistance retroac-
46 tive to July 1, 2004.

47 S 26. The opening paragraph of paragraph (b) and paragraphs (c), (d),
48 (e), (f) and (g) of subdivision 5-a of section 2807-m of the public
49 health law, the opening paragraph of paragraph (b) as amended by section
50 4 of part B of chapter 109 of the laws of 2010, paragraphs (c), (f) and
51 (g) and the opening paragraphs of paragraphs (d) and (e) as amended by
52 section 98 of part C of chapter 58 of the laws of 2009 and paragraphs
53 (d) and (e) as added by section 75-c of part C of chapter 58 of the laws
54 of 2008, are amended to read as follows:

55 Nine million one hundred twenty thousand dollars annually for the
56 period January first, two thousand nine through December thirty-first,

1 two thousand ten, and two million two hundred eighty thousand dollars
2 for the period January first, two thousand eleven, AND NINE MILLION ONE
3 HUNDRED TWENTY THOUSAND DOLLARS EACH STATE FISCAL YEAR FOR THE PERIOD
4 APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOU-
5 SAND FOURTEEN, through March thirty-first, two thousand eleven, shall be
6 set aside and reserved by the commissioner from the regional pools
7 established pursuant to subdivision two of this section to be allocated
8 regionally with two-thirds of the available funding going to New York
9 city and one-third of the available funding going to the rest of the
10 state and shall be available for distribution as follows:

11 (c) Ambulatory care training. Four million nine hundred thousand
12 dollars for the period January first, two thousand eight through Decem-
13 ber thirty-first, two thousand eight, four million nine hundred thousand
14 dollars for the period January first, two thousand nine through December
15 thirty-first, two thousand nine, four million nine hundred thousand
16 dollars for the period January first, two thousand ten through December
17 thirty-first, two thousand ten, [and] one million two hundred twenty-
18 five thousand dollars for the period January first, two thousand eleven
19 through March thirty-first, two thousand eleven, AND FOUR MILLION THREE
20 HUNDRED THOUSAND DOLLARS EACH STATE FISCAL YEAR FOR THE PERIOD APRIL
21 FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND
22 FOURTEEN, shall be set aside and reserved by the commissioner from the
23 regional pools established pursuant to subdivision two of this section
24 and shall be available for distributions to sponsoring institutions to
25 be directed to support clinical training of medical students and resi-
26 dents in free-standing ambulatory care settings, including community
27 health centers and private practices. Such funding shall be allocated
28 regionally with two-thirds of the available funding going to New York
29 city and one-third of the available funding going to the rest of the
30 state and shall be distributed to sponsoring institutions in each region
31 pursuant to a request for application or request for proposal process
32 with preference being given to sponsoring institutions which provide
33 training in sites located in underserved rural or inner-city areas and
34 those that include medical students in such training.

35 (d) Physician loan repayment program. One million nine hundred sixty
36 thousand dollars for the period January first, two thousand eight
37 through December thirty-first, two thousand eight, one million nine
38 hundred sixty thousand dollars for the period January first, two thou-
39 sand nine through December thirty-first, two thousand nine, one million
40 nine hundred sixty thousand dollars for the period January first, two
41 thousand ten through December thirty-first, two thousand ten, [and] four
42 hundred ninety thousand dollars for the period January first, two thou-
43 sand eleven through March thirty-first, two thousand eleven, AND ONE
44 MILLION SEVEN HUNDRED THOUSAND DOLLARS EACH STATE FISCAL YEAR FOR THE
45 PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO
46 THOUSAND FOURTEEN, shall be set aside and reserved by the commissioner
47 from the regional pools established pursuant to subdivision two of this
48 section and shall be available for purposes of physician loan repayment
49 in accordance with subdivision ten of this section. Such funding shall
50 be allocated regionally with one-third of available funds going to New
51 York city and two-thirds of available funds going to the rest of the
52 state and shall be distributed in a manner to be determined by the
53 commissioner as follows:

54 (i) Funding shall first be awarded to repay loans of up to twenty-five
55 physicians who train in primary care or specialty tracks in teaching

1 general hospitals, and who enter and remain in primary care or specialty
2 practices in underserved communities, as determined by the commissioner.

3 (ii) After distributions in accordance with subparagraph (i) of this
4 paragraph, all remaining funds shall be awarded to repay loans of physi-
5 cians who enter and remain in primary care or specialty practices in
6 underserved communities, as determined by the commissioner, including
7 but not limited to physicians working in general hospitals, or other
8 health care facilities.

9 (iii) In no case shall less than fifty percent of the funds available
10 pursuant to this paragraph be distributed in accordance with subpara-
11 graphs (i) and (ii) of this paragraph to physicians identified by gener-
12 al hospitals.

13 (e) Physician practice support. Four million nine hundred thousand
14 dollars for the period January first, two thousand eight through Decem-
15 ber thirty-first, two thousand eight, four million nine hundred thousand
16 dollars annually for the period January first, two thousand nine through
17 December thirty-first, two thousand ten, [and] one million two hundred
18 twenty-five thousand dollars for the period January first, two thousand
19 eleven through March thirty-first, two thousand eleven, AND FOUR MILLION
20 THREE HUNDRED THOUSAND DOLLARS EACH STATE FISCAL YEAR FOR THE PERIOD
21 APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOU-
22 SAND FOURTEEN, shall be set aside and reserved by the commissioner from
23 the regional pools established pursuant to subdivision two of this
24 section and shall be available for purposes of physician practice
25 support. Such funding shall be allocated regionally with one-third of
26 available funds going to New York city and two-thirds of available funds
27 going to the rest of the state and shall be distributed in a manner to
28 be determined by the commissioner as follows:

29 (i) Preference in funding shall first be accorded to teaching general
30 hospitals for up to twenty-five awards, to support costs incurred by
31 physicians trained in primary or specialty tracks who thereafter estab-
32 lish or join practices in underserved communities, as determined by the
33 commissioner.

34 (ii) After distributions in accordance with subparagraph (i) of this
35 paragraph, all remaining funds shall be awarded to physicians to support
36 the cost of establishing or joining practices in underserved communi-
37 ties, as determined by the commissioner, and to hospitals and other
38 health care providers to recruit new physicians to provide services in
39 underserved communities, as determined by the commissioner.

40 (iii) In no case shall less than fifty percent of the funds available
41 pursuant to this paragraph be distributed to general hospitals in
42 accordance with subparagraphs (i) and (ii) of this paragraph.

43 (f) Study on physician workforce. Five hundred ninety thousand dollars
44 annually for the period January first, two thousand eight through Decem-
45 ber thirty-first, two thousand ten, [and] one hundred forty-eight thou-
46 sand dollars for the period January first, two thousand eleven through
47 March thirty-first, two thousand eleven, AND FIVE HUNDRED SIXTEEN THOU-
48 SAND DOLLARS EACH STATE FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO
49 THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN, shall
50 be set aside and reserved by the commissioner from the regional pools
51 established pursuant to subdivision two of this section and shall be
52 available to fund a study of physician workforce needs and solutions
53 including, but not limited to, an analysis of residency programs and
54 projected physician workforce and community needs. The commissioner
55 shall enter into agreements with one or more organizations to conduct
56 such study based on a request for proposal process.

1 (g) Diversity in medicine/post-baccalaureate program. Notwithstanding
2 any inconsistent provision of section one hundred twelve or one hundred
3 sixty-three of the state finance law or any other law, one million nine
4 hundred sixty thousand dollars annually for the period January first,
5 two thousand eight through December thirty-first, two thousand ten,
6 [and] four hundred ninety thousand dollars for the period January first,
7 two thousand eleven through March thirty-first, two thousand eleven, AND
8 ONE MILLION SEVEN HUNDRED THOUSAND DOLLARS EACH STATE FISCAL YEAR FOR
9 THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST,
10 TWO THOUSAND FOURTEEN, shall be set aside and reserved by the commis-
11 sioner from the regional pools established pursuant to subdivision two
12 of this section and shall be available for distributions to the Associ-
13 ated Medical Schools of New York to fund its diversity program including
14 existing and new post-baccalaureate programs for minority and econom-
15 ically disadvantaged students and encourage participation from all
16 medical schools in New York. The associated medical schools of New York
17 shall report to the commissioner on an annual basis regarding the use of
18 funds for such purpose in such form and manner as specified by the
19 commissioner.

20 S 26-a. Subdivision 7 of section 2807-m of the public health law, as
21 amended by section 99 of part C of chapter 58 of the laws of 2009, is
22 amended to read as follows:

23 7. Notwithstanding any inconsistent provision of section one hundred
24 twelve or one hundred sixty-three of the state finance law or any other
25 law, up to one million dollars for the period January first, two thou-
26 sand through December thirty-first, two thousand, one million six
27 hundred thousand dollars annually for the periods January first, two
28 thousand one through December thirty-first, two thousand eight, one
29 million five hundred thousand dollars annually for the periods January
30 first, two thousand nine through December thirty-first, two thousand
31 ten, [and] three hundred seventy-five thousand dollars for the period
32 January first, two thousand eleven through March thirty-first, two thou-
33 sand eleven, AND ONE MILLION THREE HUNDRED TWENTY THOUSAND DOLLARS EACH
34 STATE FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN
35 THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN, shall be set aside
36 and reserved by the commissioner from the regional pools established
37 pursuant to subdivision two of this section and shall be available for
38 distributions to the New York state area health education center program
39 for the purpose of expanding community-based training of medical
40 students. In addition, one million dollars annually for the period Janu-
41 ary first, two thousand eight through December thirty-first, two thou-
42 sand ten, [and] two hundred fifty thousand dollars for the period Janu-
43 ary first, two thousand eleven through March thirty-first, two thousand
44 eleven, AND EIGHT HUNDRED EIGHTY THOUSAND DOLLARS EACH STATE FISCAL YEAR
45 FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH
46 THIRTY-FIRST, TWO THOUSAND FOURTEEN, shall be set aside and reserved by
47 the commissioner from the regional pools established pursuant to subdi-
48 vision two of this section and shall be available for distributions to
49 the New York state area health education center program for the purpose
50 of post-secondary training of health care professionals who will achieve
51 specific program outcomes within the New York state area health educa-
52 tion center program. The New York state area health education center
53 program shall report to the commissioner on an annual basis regarding
54 the use of funds for each purpose in such form and manner as specified
55 by the commissioner.

1 S 27. Subdivision 4-c of section 2807-p of the public health law, as
2 amended by section 13-c of Part C of chapter 58 of the laws of 2009, is
3 amended to read as follows:

4 4-c. Notwithstanding any provision of law to the contrary, the commis-
5 sioner shall make additional payments for uncompensated care to volun-
6 tary non-profit diagnostic and treatment centers that are eligible for
7 distributions under subdivision four of this section in the following
8 amounts: for the period June first, two thousand six through December
9 thirty-first, two thousand six, in the amount of seven million five
10 hundred thousand dollars, for the period January first, two thousand
11 seven through December thirty-first, two thousand seven, seven million
12 five hundred thousand dollars, for the period January first, two thou-
13 sand eight through December thirty-first, two thousand eight, seven
14 million five hundred thousand dollars, for the period January first, two
15 thousand nine through December thirty-first, two thousand nine, fifteen
16 million five hundred thousand dollars, for the period January first, two
17 thousand ten through December thirty-first, two thousand ten, seven
18 million five hundred thousand dollars, FOR THE PERIOD JANUARY FIRST, TWO
19 THOUSAND ELEVEN THOUGH DECEMBER THIRTY-FIRST, TWO THOUSAND ELEVEN, SEVEN
20 MILLION FIVE HUNDRED THOUSAND DOLLARS, FOR THE PERIOD JANUARY FIRST, TWO
21 THOUSAND TWELVE THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND TWELVE,
22 SEVEN MILLION FIVE HUNDRED THOUSAND DOLLARS, FOR THE PERIOD JANUARY
23 FIRST, TWO THOUSAND THIRTEEN THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND
24 THIRTEEN, SEVEN MILLION FIVE HUNDRED THOUSAND DOLLARS, and for the peri-
25 od January first, two thousand [eleven] FOURTEEN through March thirty-
26 first, two thousand [eleven] FOURTEEN, in the amount of one million
27 eight hundred seventy-five thousand dollars, provided, however, that for
28 periods on and after January first, two thousand eight, such additional
29 payments shall be distributed to voluntary, non-profit diagnostic and
30 treatment centers and to public diagnostic and treatment centers in
31 accordance with paragraph (g) of subdivision four of this section. In
32 the event that federal financial participation is available for rate
33 adjustments pursuant to this section, the commissioner shall make such
34 payments as additional adjustments to rates of payment for voluntary
35 non-profit diagnostic and treatment centers that are eligible for
36 distributions under subdivision four-a of this section in the following
37 amounts: for the period June first, two thousand six through December
38 thirty-first, two thousand six, fifteen million dollars in the aggre-
39 gate, and for the period January first, two thousand seven through June
40 thirtieth, two thousand seven, seven million five hundred thousand
41 dollars in the aggregate. The amounts allocated pursuant to this para-
42 graph shall be aggregated with and distributed pursuant to the same
43 methodology applicable to the amounts allocated to such diagnostic and
44 treatment centers for such periods pursuant to subdivision four of this
45 section if federal financial participation is not available, or pursuant
46 to subdivision four-a of this section if federal financial participation
47 is available. Notwithstanding section three hundred sixty-eight-a of
48 the social services law, there shall be no local share in a medical
49 assistance payment adjustment under this subdivision.

50 S 28. Subdivision 3 and paragraph (a) of subdivision 4 of section
51 2807-k of the public health law, as amended by section 15 of part C of
52 chapter 58 of the laws of 2010, are amended to read as follows:

53 3. Each major public general hospital shall be allocated for distrib-
54 ution from the pools established pursuant to this section for each year
55 through December thirty-first, two thousand [eleven] FOURTEEN, an amount
56 equal to the amount allocated to such major public general hospital from

1 the regional pool established pursuant to subdivision seventeen of
2 section twenty-eight hundred seven-c of this article for the period
3 January first, nineteen hundred ninety-six through December thirty-
4 first, nineteen hundred ninety-six, provided, however, that payments on
5 and after January first, two thousand nine shall be subject to the
6 provisions of subdivision five-a of this section.

7 (a) From funds in the pool for each year, thirty-six million dollars
8 shall be reserved on an annual basis through December thirty-first, two
9 thousand [eleven] FOURTEEN, for distribution as high need adjustments in
10 accordance with subdivision six of this section, provided, however, that
11 payments on and after January first, two thousand nine shall be subject
12 to the provisions of subdivision five-a of this section.

13 S 29. The opening paragraph, paragraph (a) of subdivision 1 and subdi-
14 vision 2 of section 2807-w of the public health law, as amended by
15 section 14 of part C of chapter 58 of the laws of 2010, are amended to
16 read as follows:

17 Funds allocated pursuant to paragraph (p) of subdivision one of
18 section twenty-eight hundred seven-v of this article, shall be deposited
19 as authorized and used for the purpose of making medicaid dispropor-
20 tionate share payments of up to eighty-two million dollars on an annual-
21 ized basis pursuant to subdivision twenty-one of section twenty-eight
22 hundred seven-c of this article, for the period January first, two thou-
23 sand through March thirty-first, two thousand [eleven] FOURTEEN, in
24 accordance with the following:

25 (a) Each eligible rural hospital shall receive one hundred forty thou-
26 sand dollars on an annualized basis for the periods January first, two
27 thousand through December thirty-first, two thousand [eleven] FOURTEEN,
28 provided as a disproportionate share payment; provided, however, that if
29 such payment pursuant to this paragraph exceeds a hospital's applicable
30 disproportionate share limit, then the total amount in excess of such
31 limit shall be provided as a nondisproportionate share payment in the
32 form of a grant directly from this pool without allocation to the
33 special revenue funds - other, indigent care fund - 068, or any succes-
34 sor fund or account, and provided further that payments for periods on
35 and after January first, two thousand nine shall be subject to the
36 provisions of subdivision five-a of section twenty-eight hundred seven-k
37 of this article;

38 2. From the funds in the pool each year, thirty-six million dollars on
39 an annualized basis for the periods January first, two thousand through
40 December thirty-first, two thousand [eleven] FOURTEEN, of the funds not
41 distributed in accordance with subdivision one of this section, shall be
42 distributed in accordance with the formula set forth in subdivision six
43 of section twenty-eight hundred seven-k of this article, provided,
44 however, that payments for periods on and after January first, two thou-
45 sand nine shall be subject to the provisions of subdivision five-a of
46 section twenty-eight hundred seven-k of this article.

47 S 30. Subparagraph (v) of paragraph (a) of subdivision 3 of section
48 2807-j of the public health law, as added by chapter 639 of the laws of
49 1996, is amended to read as follows:

50 (v) revenue received from physician practice or faculty practice plan
51 discrete billings for [private practicing] physician services;

52 S 31. Clause (D) of subparagraph (ii) of paragraph (b) of subdivision
53 3 of section 2807-j of the public health law, as added by chapter 639 of
54 the laws of 1996, is amended to read as follows:

55 (D) revenue received from physician practice or faculty practice plan
56 discrete billings for [private practicing] physician services;

1 S 32. Notwithstanding any inconsistent provision of law, rule or regu-
2 lation, for purposes of implementing the provisions of the public health
3 law and the social services law, references to titles XIX and XXI of the
4 federal social security act in the public health law and the social
5 services law shall be deemed to include and also to mean any successor
6 titles thereto under the federal social security act.

7 S 33. Notwithstanding any inconsistent provision of law, rule or regu-
8 lation, the effectiveness of the provisions of sections 2807 and 3614 of
9 the public health law, section 18 of chapter 2 of the laws of 1988, and
10 18 NYCRR 505.14(h), as they relate to time frames for notice, approval
11 or certification of rates of payment, are hereby suspended and without
12 force or effect for purposes of implementing the provisions of this act.

13 S 34. Severability clause. If any clause, sentence, paragraph, subdi-
14 vision, section or part of this act shall be adjudged by any court of
15 competent jurisdiction to be invalid, such judgement shall not affect,
16 impair or invalidate the remainder thereof, but shall be confined in its
17 operation to the clause, sentence, paragraph, subdivision, section or
18 part thereof directly involved in the controversy in which such judge-
19 ment shall have been rendered. It is hereby declared to be the intent of
20 the legislature that this act would have been enacted even if such
21 invalid provisions had not been included herein.

22 S 35. This act shall take effect immediately and shall be deemed to
23 have been in full force and effect on and after April 1, 2011, provided
24 that:

25 (a) any rules or regulations necessary to implement the provisions of
26 this act may be promulgated and any procedures, forms, or instructions
27 necessary for such implementation may be adopted and issued on or after
28 the date this act shall have become a law;

29 (b) this act shall not be construed to alter, change, affect, impair
30 or defeat any rights, obligations, duties or interests accrued, incurred
31 or conferred prior to the effective date of this act;

32 (c) the commissioner of health and the superintendent of insurance and
33 any appropriate council may take any steps necessary to implement this
34 act prior to its effective date;

35 (d) notwithstanding any inconsistent provision of the state adminis-
36 trative procedure act or any other provision of law, rule or regulation,
37 the commissioner of health and the superintendent of insurance and any
38 appropriate council is authorized to adopt or amend or promulgate on an
39 emergency basis any regulation he or she or such council determines
40 necessary to implement any provision of this act on its effective date;

41 (e) the provisions of this act shall become effective notwithstanding
42 the failure of the commissioner of health or the superintendent of
43 insurance or any council to adopt or amend or promulgate regulations
44 implementing this act;

45 (f) the amendments to sections 2807-j and 2807-s of the public health
46 law made by sections three, five, five-a, five-b, six, thirty and thir-
47 ty-one, respectively, of this act shall not affect the expiration of
48 such sections and shall expire therewith; and

49 (g) the amendments to paragraph (i-1) of subdivision 1 of section
50 2807-v of the public health law made by section eight of this act shall
51 not affect the repeal of such paragraph and shall be deemed repealed
52 therewith.

1 Section 1. Paragraph (e-1) of subdivision 12 of section 2808 of the
2 public health law, as separately amended by section 11 of part B and
3 section 21 of part D of chapter 58 of the laws of 2009, is amended to
4 read as follows:

5 (e-1) Notwithstanding any inconsistent provision of law or regulation,
6 the commissioner shall provide, in addition to payments established
7 pursuant to this article prior to application of this section, addi-
8 tional payments under the medical assistance program pursuant to title
9 eleven of article five of the social services law for non-state operated
10 public residential health care facilities, including public residential
11 health care facilities located in the county of Nassau, the county of
12 Westchester and the county of Erie, but excluding public residential
13 health care facilities operated by a town or city within a county, in
14 aggregate annual amounts of up to one hundred fifty million dollars in
15 additional payments for the state fiscal year beginning April first, two
16 thousand six and for the state fiscal year beginning April first, two
17 thousand seven and for the state fiscal year beginning April first, two
18 thousand eight and of up to three hundred million dollars in such aggre-
19 gate annual additional payments for the state fiscal year beginning
20 April first, two thousand nine, and for the state fiscal year beginning
21 April first, two thousand ten and for the state fiscal year beginning
22 April first, two thousand eleven, AND EACH STATE FISCAL YEAR THEREAFTER.
23 The amount allocated to each eligible public residential health care
24 facility for this period shall be computed in accordance with the
25 provisions of paragraph (f) of this subdivision, provided, however, that
26 patient days shall be utilized for such computation reflecting actual
27 reported data for two thousand three and each representative succeeding
28 year as applicable.

29 S 2. Paragraph (a) of subdivision 1 of section 212 of chapter 474 of
30 the laws of 1996, amending the education law and other laws relating to
31 rates for residential healthcare facilities, as amended by section 2 of
32 part B of chapter 58 of the laws of 2010, is amended to read as follows:

33 (a) Notwithstanding any inconsistent provision of law or regulation to
34 the contrary, effective beginning August 1, 1996, for the period April
35 1, 1997 through March 31, 1998, April 1, 1998 for the period April 1,
36 1998 through March 31, 1999, August 1, 1999, for the period April 1,
37 1999 through March 31, 2000, April 1, 2000, for the period April 1, 2000
38 through March 31, 2001, April 1, 2001, for the period April 1, 2001
39 through March 31, 2002, April 1, 2002, for the period April 1, 2002
40 through March 31, 2003, and for the state fiscal year beginning April 1,
41 2005 through March 31, 2006, and for the state fiscal year beginning
42 April 1, 2006 through March 31, 2007, and for the state fiscal year
43 beginning April 1, 2007 through March 31, 2008, and for the state fiscal
44 year beginning April 1, 2008 through March 31, 2009, and for the state
45 fiscal year beginning April 1, 2009 through March 31, 2010, and for the
46 state fiscal year beginning April 1, 2010 through March 31, 2011, AND
47 FOR EACH STATE FISCAL YEAR THEREAFTER, the department of health is
48 authorized to pay public general hospitals, as defined in subdivision 10
49 of section 2801 of the public health law, operated by the state of New
50 York or by the state university of New York or by a county, which shall
51 not include a city with a population of over one million, of the state
52 of New York, and those public general hospitals located in the county of
53 Westchester, the county of Erie or the county of Nassau, additional
54 payments for inpatient hospital services as medical assistance payments
55 pursuant to title 11 of article 5 of the social services law for
56 patients eligible for federal financial participation under title XIX of

1 the federal social security act in medical assistance pursuant to the
2 federal laws and regulations governing disproportionate share payments
3 to hospitals up to one hundred percent of each such public general
4 hospital's medical assistance and uninsured patient losses after all
5 other medical assistance, including disproportionate share payments to
6 such public general hospital for 1996, 1997, 1998, and 1999, based
7 initially for 1996 on reported 1994 reconciled data as further recon-
8 ciled to actual reported 1996 reconciled data, and for 1997 based
9 initially on reported 1995 reconciled data as further reconciled to
10 actual reported 1997 reconciled data, for 1998 based initially on
11 reported 1995 reconciled data as further reconciled to actual reported
12 1998 reconciled data, for 1999 based initially on reported 1995 recon-
13 ciled data as further reconciled to actual reported 1999 reconciled
14 data, for 2000 based initially on reported 1995 reconciled data as
15 further reconciled to actual reported 2000 data, for 2001 based initial-
16 ly on reported 1995 reconciled data as further reconciled to actual
17 reported 2001 data, for 2002 based initially on reported 2000 reconciled
18 data as further reconciled to actual reported 2002 data, and for state
19 fiscal years beginning on April 1, 2005, based initially on reported
20 2000 reconciled data as further reconciled to actual reported data for
21 2005, and for state fiscal years beginning on April 1, 2006, based
22 initially on reported 2000 reconciled data as further reconciled to
23 actual reported data for 2006, for state fiscal years beginning on and
24 after April 1, 2007 through March 31, 2009, based initially on reported
25 2000 reconciled data as further reconciled to actual reported data for
26 2007 and 2008, respectively, for state fiscal years beginning on and
27 after April 1, 2009, based initially on reported 2007 reconciled data,
28 adjusted for authorized Medicaid rate changes applicable to the state
29 fiscal year, and as further reconciled to actual reported data for 2009,
30 for state fiscal years beginning on and after April 1, 2010, based
31 initially on reported reconciled data from the base year two years prior
32 to the payment year, adjusted for authorized Medicaid rate changes
33 applicable to the state fiscal year, and further reconciled to actual
34 reported data from such payment year, and to actual reported data for
35 each respective succeeding year. The payments may be added to rates of
36 payment or made as aggregate payments to an eligible public general
37 hospital.

38 S 3. Section 11 of chapter 884 of the laws of 1990, amending the
39 public health law relating to authorizing bad debt and charity care
40 allowances for certified home health agencies, as amended by section 14
41 of part B of chapter 58 of the laws of 2009, is amended to read as
42 follows:

43 S 11. This act shall take effect immediately and:

44 (a) sections one and three shall expire on December 31, 1996,

45 (b) sections four through ten shall expire on June 30, [2011] 2013,
46 and

47 (c) provided that the amendment to section 2807-b of the public health
48 law by section two of this act shall not affect the expiration of such
49 section 2807-b as otherwise provided by law and shall be deemed to
50 expire therewith.

51 S 4. Subdivision 2 of section 246 of chapter 81 of the laws of 1995,
52 amending the public health law and other laws relating to medical
53 reimbursement and welfare reform, as amended by section 15 of part B of
54 chapter 58 of the laws of 2009, is amended to read as follows:

55 2. Sections five, seven through nine, twelve through fourteen, and
56 eighteen of this act shall be deemed to have been in full force and

1 effect on and after April 1, 1995 through March 31, 1999 and on and
2 after July 1, 1999 through March 31, 2000 and on and after April 1, 2000
3 through March 31, 2003 and on and after April 1, 2003 through March 31,
4 2006 and on and after April 1, 2006 through March 31, 2007 and on and
5 after April 1, 2007 through March 31, 2009 and on and after April 1,
6 2009 through March 31, 2011 AND SECTIONS TWELVE, THIRTEEN AND FOURTEEN
7 OF THIS ACT SHALL BE DEEMED TO BE IN FULL FORCE AND EFFECT ON AND AFTER
8 APRIL 1, 2011;

9 S 5. Intentionally omitted.

10 S 6. Intentionally omitted.

11 S 7. Paragraphs (a) and (e) of subdivision 8 of section 2807-c of the
12 public health law, paragraph (a) as amended by chapter 731 of the laws
13 of 1993 and paragraph (e) as added by chapter 81 of the laws of 1995,
14 are amended to read as follows:

15 (a) Capital related inpatient expenses including but not limited to
16 straight line depreciation on buildings and non-movable equipment,
17 accelerated depreciation on major movable equipment if requested by the
18 hospital, rentals and interest on capital debt (or for hospitals
19 financed pursuant to article twenty-eight-B of this chapter, such
20 expenses, including amortization in lieu of depreciation, as determined
21 pursuant to the reimbursement regulations promulgated pursuant to such
22 article and article twenty-eight of this chapter), [and excluding costs
23 related to services provided to beneficiaries of title XVIII of the
24 federal social security act (medicare),] shall be included in rates of
25 payment determined pursuant to this section based on a budget for capi-
26 tal related inpatient expenses and subsequently reconciled to actual
27 expenses and statistics through appropriate audit procedures. General
28 hospitals shall submit to the commissioner, at least one hundred twenty
29 days prior to the commencement of each year, a schedule of capital
30 related inpatient expenses for the forthcoming year. Any capital expend-
31 iture which requires or required approval pursuant to this article must
32 have received such approval for any capital related expense generated by
33 such capital expenditure to be included in rates of payment. The basis
34 for determining capital related inpatient expenses shall be the lesser
35 of actual cost or the final amount specifically approved for the
36 construction of the capital asset. The submitted budget may include the
37 capital related inpatient expenses for all existing capital assets as
38 well as estimates of capital related inpatient expenses for capital
39 assets to be acquired or placed in use prior to the commencement of the
40 rate year or during the rate year provided all required approvals have
41 been obtained.

42 The council shall adopt, with the approval of the commissioner, regu-
43 lations to:

44 (i) identify by type the eligible capital related inpatient expenses;

45 (ii) safeguard the future financial viability of voluntary, non-profit
46 general hospitals by requiring funding of inpatient depreciation on
47 building and fixed and movable equipment;

48 (iii) provide authorization to adjust inpatient rates by advancing
49 payment of depreciation as needed, in instances of capital debt related
50 financial distress of voluntary, non-profit general hospitals; and

51 (iv) provide a methodology for the reimbursement treatment of sales.

52 (e) Notwithstanding any inconsistent provision of this subdivision,
53 commencing April first, nineteen hundred ninety-five, when a factor for
54 reconciliation of budgeted capital related inpatient expenses to actual
55 capital related inpatient expenses [excluding costs related to services
56 provided to beneficiaries of title XVIII of the federal social security

1 act (medicare)] for a prior year is included in the capital related
2 inpatient expenses component of rates of payment, such capital related
3 inpatient expenses component of rates of payment shall be reduced by the
4 commissioner by the difference between the reconciled capital related
5 inpatient expenses included in rates of payment determined in accordance
6 with paragraphs (a), (b) and (c) of this subdivision for such prior year
7 and capital related inpatient expenses for such prior year calculated
8 [based on a determination of costs related to services provided to bene-
9 ficiaries of title XVIII of the federal social security act (medicare)]
10 based on the hospital's average capital related inpatient expenses
11 computed on a per diem basis.

12 S 8. Paragraph (d) of subdivision 8 of section 2807-c of the public
13 health law is REPEALED.

14 S 9. Section 194 of chapter 474 of the laws of 1996, amending the
15 education law and other laws relating to rates for residential health
16 care facilities, as amended by section 24 of part B of chapter 58 of the
17 laws of 2009, is amended to read as follows:

18 S 194. 1. Notwithstanding any inconsistent provision of law or regu-
19 lation, the trend factors used to project reimbursable operating costs
20 to the rate period for purposes of determining rates of payment pursuant
21 to article 28 of the public health law for residential health care
22 facilities for reimbursement of inpatient services provided to patients
23 eligible for payments made by state governmental agencies on and after
24 April 1, 1996 through March 31, 1999 and for payments made on and after
25 July 1, 1999 through March 31, 2000 and on and after April 1, 2000
26 through March 31, 2003 and on and after April 1, 2003 through March 31,
27 2007 and on and after April 1, 2007 through March 31, 2009 and on and
28 after April 1, 2009 through March 31, 2011 AND ON AND AFTER APRIL 1,
29 2011 shall reflect no trend factor projections or adjustments for the
30 period April 1, 1996, through March 31, 1997.

31 2. The commissioner of health shall adjust such rates of payment to
32 reflect the exclusion pursuant to this section of such specified trend
33 factor projections or adjustments.

34 S 10. Subdivision 1 of section 89-a of part C of chapter 58 of the
35 laws of 2007, amending the social services law and other laws relating
36 to enacting the major components of legislation necessary to implement
37 the health and mental hygiene budget for the 2007-2008 state fiscal
38 year, as amended by section 25 of part B of chapter 58 of the laws of
39 2009, is amended to read as follows:

40 1. Notwithstanding paragraph (c) of subdivision 10 of section 2807-c
41 of the public health law and section 21 of chapter 1 of the laws of
42 1999, as amended, and any other inconsistent provision of law or regu-
43 lation to the contrary, in determining rates of payments by state
44 governmental agencies effective for services provided beginning April 1,
45 2006, through March 31, 2009, and on and after April 1, 2009 through
46 March 31, 2011, AND ON AND AFTER APRIL 1, 2011 for inpatient and outpa-
47 tient services provided by general hospitals and for inpatient services
48 and outpatient adult day health care services provided by residential
49 health care facilities pursuant to article 28 of the public health law,
50 the commissioner of health shall apply a trend factor projection of two
51 and twenty-five hundredths percent attributable to the period January 1,
52 2006 through December 31, 2006, and on and after January 1, 2007,
53 provided, however, that on reconciliation of such trend factor for the
54 period January 1, 2006 through December 31, 2006 pursuant to paragraph
55 (c) of subdivision 10 of section 2807-c of the public health law, such
56 trend factor shall be the final US Consumer Price Index (CPI) for all

1 urban consumers, as published by the US Department of Labor, Bureau of
2 Labor Statistics less twenty-five hundredths of a percentage point.

3 S 11. Paragraph (f) of subdivision 1 of section 64 of chapter 81 of
4 the laws of 1995, amending the public health law and other laws relating
5 to medical reimbursement and welfare reform, as amended by section 26 of
6 part B of chapter 58 of the laws of 2009, is amended to read as follows:

7 (f) Prior to February 1, 2001, February 1, 2002, February 1, 2003,
8 February 1, 2004, February 1, 2005, February 1, 2006, February 1, 2007,
9 February 1, 2008, February 1, 2009, February 1, 2010, [and] February 1,
10 2011, FEBRUARY 1, 2012, AND FEBRUARY 1, 2013 the commissioner of health
11 shall calculate the result of the statewide total of residential health
12 care facility days of care provided to beneficiaries of title XVIII of
13 the federal social security act (medicare), divided by the sum of such
14 days of care plus days of care provided to residents eligible for
15 payments pursuant to title 11 of article 5 of the social services law
16 minus the number of days provided to residents receiving hospice care,
17 expressed as a percentage, for the period commencing January 1, through
18 November 30, of the prior year respectively, based on such data for such
19 period. This value shall be called the 2000, 2001, 2002, 2003, 2004,
20 2005, 2006, 2007, 2008, 2009, 2010 [and], 2011, 2012, AND 2013 statewide
21 target percentage respectively.

22 S 12. Subparagraph (ii) of paragraph (b) of subdivision 3 of section
23 64 of chapter 81 of the laws of 1995, amending the public health law and
24 other laws relating to medical reimbursement and welfare reform, as
25 amended by section 27 of part B of chapter 58 of the laws of 2009, is
26 amended to read as follows:

27 (ii) If the 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006,
28 2007, 2008, 2009, 2010 [and], 2011, 2012, AND 2013 statewide target
29 percentages are not for each year at least three percentage points high-
30 er than the statewide base percentage, the commissioner of health shall
31 determine the percentage by which the statewide target percentage for
32 each year is not at least three percentage points higher than the state-
33 wide base percentage. The percentage calculated pursuant to this para-
34 graph shall be called the 1997, 1998, 2000, 2001, 2002, 2003, 2004,
35 2005, 2006, 2007, 2008, 2009, 2010 [and], 2011, 2012, AND 2013 statewide
36 reduction percentage respectively. If the 1997, 1998, 2000, 2001, 2002,
37 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010 [and], 2011, 2012, AND
38 2013 statewide target percentage for the respective year is at least
39 three percentage points higher than the statewide base percentage, the
40 statewide reduction percentage for the respective year shall be zero.

41 S 13. Subparagraph (iii) of paragraph (b) of subdivision 4 of section
42 64 of chapter 81 of the laws of 1995, amending the public health law and
43 other laws relating to medical reimbursement and welfare reform, as
44 amended by section 28 of part B of chapter 58 of the laws of 2009, is
45 amended to read as follows:

46 (iii) The 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008,
47 2009, 2010 [and], 2011, 2012, AND 2013 statewide reduction percentage
48 shall be multiplied by one hundred two million dollars respectively to
49 determine the 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007,
50 2008, 2009, 2010 [and], 2011, 2012, AND 2013 statewide aggregate
51 reduction amount. If the 1998 and the 2000, 2001, 2002, 2003, 2004,
52 2005, 2006, 2007, 2008, 2009, 2010 [and], 2011, 2012, AND 2013 statewide
53 reduction percentage shall be zero respectively, there shall be no 1998,
54 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010 [and],
55 2011, 2012, AND 2013 reduction amount.

1 S 14. Paragraph (b) of subdivision 5 of section 64 of chapter 81 of
2 the laws of 1995, amending the public health law and other laws relating
3 to medical reimbursement and welfare reform, as amended by section 29 of
4 part B of chapter 58 of the laws of 2009, is amended to read as follows:

5 (b) The 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005,
6 2006, 2007, 2008, 2009, 2010 [and], 2011, 2012, AND 2013 statewide
7 aggregate reduction amounts shall for each year be allocated by the
8 commissioner of health among residential health care facilities that are
9 eligible to provide services to beneficiaries of title XVIII of the
10 federal social security act (medicare) and residents eligible for
11 payments pursuant to title 11 of article 5 of the social services law on
12 the basis of the extent of each facility's failure to achieve a two
13 percentage points increase in the 1996 target percentage, a three
14 percentage point increase in the 1997, 1998, 2000, 2001, 2002, 2003,
15 2004, 2005, 2006, 2007, 2008, 2009, 2010 [and], 2011, 2012, AND 2013
16 target percentage and a two and one-quarter percentage point increase in
17 the 1999 target percentage for each year, compared to the base percent-
18 age, calculated on a facility specific basis for this purpose, compared
19 to the statewide total of the extent of each facility's failure to
20 achieve a two percentage points increase in the 1996 and a three
21 percentage point increase in the 1997 and a three percentage point
22 increase in the 1998 and a two and one-quarter percentage point increase
23 in the 1999 target percentage and a three percentage point increase in
24 the 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010
25 [and], 2011, 2012, AND 2013 target percentage compared to the base
26 percentage. These amounts shall be called the 1996, 1997, 1998, 1999,
27 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010 [and],
28 2011, 2012, AND 2013 facility specific reduction amounts respectively.

29 S 14-a. Section 228 of chapter 474 of the laws of 1996, amending the
30 education law and other laws relating to rates for residential health
31 care facilities, as amended by section 30 of part B of chapter 58 of the
32 laws of 2009, is amended to read as follows:

33 S 228. 1. Definitions. (a) Regions, for purposes of this section,
34 shall mean a downstate region to consist of Kings, New York, Richmond,
35 Queens, Bronx, Nassau and Suffolk counties and an upstate region to
36 consist of all other New York state counties. A certified home health
37 agency or long term home health care program shall be located in the
38 same county utilized by the commissioner of health for the establishment
39 of rates pursuant to article 36 of the public health law.

40 (b) Certified home health agency (CHHA) shall mean such term as
41 defined in section 3602 of the public health law.

42 (c) Long term home health care program (LTHHCP) shall mean such term
43 as defined in subdivision 8 of section 3602 of the public health law.

44 (d) Regional group shall mean all those CHHAs and LTHHCPs, respective-
45 ly, located within a region.

46 (e) Medicaid revenue percentage, for purposes of this section, shall
47 mean CHHA and LTHHCP revenues attributable to services provided to
48 persons eligible for payments pursuant to title 11 of article 5 of the
49 social services law divided by such revenues plus CHHA and LTHHCP reven-
50 ues attributable to services provided to beneficiaries of Title XVIII of
51 the federal social security act (medicare).

52 (f) Base period, for purposes of this section, shall mean calendar
53 year 1995.

54 (g) Target period. For purposes of this section, the 1996 target peri-
55 od shall mean August 1, 1996 through March 31, 1997, the 1997 target
56 period shall mean January 1, 1997 through November 30, 1997, the 1998

1 target period shall mean January 1, 1998 through November 30, 1998, the
2 1999 target period shall mean January 1, 1999 through November 30, 1999,
3 the 2000 target period shall mean January 1, 2000 through November 30,
4 2000, the 2001 target period shall mean January 1, 2001 through November
5 30, 2001, the 2002 target period shall mean January 1, 2002 through
6 November 30, 2002, the 2003 target period shall mean January 1, 2003
7 through November 30, 2003, the 2004 target period shall mean January 1,
8 2004 through November 30, 2004, and the 2005 target period shall mean
9 January 1, 2005 through November 30, 2005, the 2006 target period shall
10 mean January 1, 2006 through November 30, 2006, and the 2007 target
11 period shall mean January 1, 2007 through November 30, 2007 and the 2008
12 target period shall mean January 1, 2008 through November 30, 2008, and
13 the 2009 target period shall mean January 1, 2009 through November 30,
14 2009 and the 2010 target period shall mean January 1, 2010 through
15 November 30, 2010 and the 2011 target period shall mean January 1, 2011
16 through November 30, 2011 AND THE 2012 TARGET PERIOD SHALL MEAN JANUARY
17 1, 2012 THROUGH NOVEMBER 30, 2012 AND THE 2013 TARGET PERIOD SHALL MEAN
18 JANUARY 1, 2013 THROUGH NOVEMBER 30, 2013.

19 2. (a) Prior to February 1, 1997, for each regional group the commis-
20 sioner of health shall calculate the 1996 medicaid revenue percentages
21 for the period commencing August 1, 1996 to the last date for which such
22 data is available and reasonably accurate.

23 (b) Prior to February 1, 1998, prior to February 1, 1999, prior to
24 February 1, 2000, prior to February 1, 2001, prior to February 1, 2002,
25 prior to February 1, 2003, prior to February 1, 2004, prior to February
26 1, 2005, prior to February 1, 2006, prior to February 1, 2007, prior to
27 February 1, 2008, prior to February 1, 2009, prior to February 1, 2010
28 [and], prior to February 1, 2011, PRIOR TO FEBRUARY 1, 2012 AND PRIOR TO
29 FEBRUARY 1, 2013 for each regional group the commissioner of health
30 shall calculate the prior year's medicaid revenue percentages for the
31 period commencing January 1 through November 30 of such prior year.

32 3. By September 15, 1996, for each regional group the commissioner of
33 health shall calculate the base period medicaid revenue percentage.

34 4. (a) For each regional group, the 1996 target medicaid revenue
35 percentage shall be calculated by subtracting the 1996 medicaid revenue
36 reduction percentages from the base period medicaid revenue percentages.
37 The 1996 medicaid revenue reduction percentage, taking into account
38 regional and program differences in utilization of medicaid and medicare
39 services, for the following regional groups shall be equal to:

40 (i) one and one-tenth percentage points for CHHAs located within the
41 downstate region;

42 (ii) six-tenths of one percentage point for CHHAs located within the
43 upstate region;

44 (iii) one and eight-tenths percentage points for LTHHCPs located with-
45 in the downstate region; and

46 (iv) one and seven-tenths percentage points for LTHHCPs located within
47 the upstate region.

48 (b) For 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007,
49 2008, 2009, 2010 [and], 2011, 2012, AND 2013 for each regional group,
50 the target medicaid revenue percentage for the respective year shall be
51 calculated by subtracting the respective year's medicaid revenue
52 reduction percentage from the base period medicaid revenue percentage.
53 The medicaid revenue reduction percentages for 1997, 1998, 2000, 2001,
54 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010 [and], 2011, 2012,
55 AND 2013 taking into account regional and program differences in utili-

zation of medicaid and medicare services, for the following regional groups shall be equal to for each such year:

(i) one and one-tenth percentage points for CHHAs located within the downstate region;

(ii) six-tenths of one percentage point for CHHAs located within the upstate region;

(iii) one and eight-tenths percentage points for LTHHCPS located within the downstate region; and

(iv) one and seven-tenths percentage points for LTHHCPS located within the upstate region.

(c) For each regional group, the 1999 target medicaid revenue percentage shall be calculated by subtracting the 1999 medicaid revenue reduction percentage from the base period medicaid revenue percentage. The 1999 medicaid revenue reduction percentages, taking into account regional and program differences in utilization of medicaid and medicare services, for the following regional groups shall be equal to:

(i) eight hundred twenty-five thousandths (.825) of one percentage point for CHHAs located within the downstate region;

(ii) forty-five hundredths (.45) of one percentage point for CHHAs located within the upstate region;

(iii) one and thirty-five hundredths percentage points (1.35) for LTHHCPS located within the downstate region; and

(iv) one and two hundred seventy-five thousandths percentage points (1.275) for LTHHCPS located within the upstate region.

5. (a) For each regional group, if the 1996 medicaid revenue percentage is not equal to or less than the 1996 target medicaid revenue percentage, the commissioner of health shall compare the 1996 medicaid revenue percentage to the 1996 target medicaid revenue percentage to determine the amount of the shortfall which, when divided by the 1996 medicaid revenue reduction percentage, shall be called the 1996 reduction factor. These amounts, expressed as a percentage, shall not exceed one hundred percent. If the 1996 medicaid revenue percentage is equal to or less than the 1996 target medicaid revenue percentage, the 1996 reduction factor shall be zero.

(b) For 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010 [and], 2011, 2012, AND 2013 for each regional group, if the medicaid revenue percentage for the respective year is not equal to or less than the target medicaid revenue percentage for such respective year, the commissioner of health shall compare such respective year's medicaid revenue percentage to such respective year's target medicaid revenue percentage to determine the amount of the shortfall which, when divided by the respective year's medicaid revenue reduction percentage, shall be called the reduction factor for such respective year. These amounts, expressed as a percentage, shall not exceed one hundred percent. If the medicaid revenue percentage for a particular year is equal to or less than the target medicaid revenue percentage for that year, the reduction factor for that year shall be zero.

6. (a) For each regional group, the 1996 reduction factor shall be multiplied by the following amounts to determine each regional group's applicable 1996 state share reduction amount:

(i) two million three hundred ninety thousand dollars (\$2,390,000) for CHHAs located within the downstate region;

(ii) seven hundred fifty thousand dollars (\$750,000) for CHHAs located within the upstate region;

(iii) one million two hundred seventy thousand dollars (\$1,270,000) for LTHHCPS located within the downstate region; and

(iv) five hundred ninety thousand dollars (\$590,000) for LTHHCPs located within the upstate region.

For each regional group reduction, if the 1996 reduction factor shall be zero, there shall be no 1996 state share reduction amount.

(b) For 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010 [and], 2011, 2012, AND 2013 for each regional group, the reduction factor for the respective year shall be multiplied by the following amounts to determine each regional group's applicable state share reduction amount for such respective year:

(i) two million three hundred ninety thousand dollars (\$2,390,000) for CHHAs located within the downstate region;

(ii) seven hundred fifty thousand dollars (\$750,000) for CHHAs located within the upstate region;

(iii) one million two hundred seventy thousand dollars (\$1,270,000) for LTHHCPs located within the downstate region; and

(iv) five hundred ninety thousand dollars (\$590,000) for LTHHCPs located within the upstate region.

For each regional group reduction, if the reduction factor for a particular year shall be zero, there shall be no state share reduction amount for such year.

(c) For each regional group, the 1999 reduction factor shall be multiplied by the following amounts to determine each regional group's applicable 1999 state share reduction amount:

(i) one million seven hundred ninety-two thousand five hundred dollars (\$1,792,500) for CHHAs located within the downstate region;

(ii) five hundred sixty-two thousand five hundred dollars (\$562,500) for CHHAs located within the upstate region;

(iii) nine hundred fifty-two thousand five hundred dollars (\$952,500) for LTHHCPs located within the downstate region; and

(iv) four hundred forty-two thousand five hundred dollars (\$442,500) for LTHHCPs located within the upstate region.

For each regional group reduction, if the 1999 reduction factor shall be zero, there shall be no 1999 state share reduction amount.

7. (a) For each regional group, the 1996 state share reduction amount shall be allocated by the commissioner of health among CHHAs and LTHHCPs on the basis of the extent of each CHHA's and LTHHCP's failure to achieve the 1996 target medicaid revenue percentage, calculated on a provider specific basis utilizing revenues for this purpose, expressed as a proportion of the total of each CHHA's and LTHHCP's failure to achieve the 1996 target medicaid revenue percentage within the applicable regional group. This proportion shall be multiplied by the applicable 1996 state share reduction amount calculation pursuant to paragraph (a) of subdivision 6 of this section. This amount shall be called the 1996 provider specific state share reduction amount.

(b) For 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010 [and], 2011, 2012, AND 2013 for each regional group, the state share reduction amount for the respective year shall be allocated by the commissioner of health among CHHAs and LTHHCPs on the basis of the extent of each CHHA's and LTHHCP's failure to achieve the target medicaid revenue percentage for the applicable year, calculated on a provider specific basis utilizing revenues for this purpose, expressed as a proportion of the total of each CHHA's and LTHHCP's failure to achieve the target medicaid revenue percentage for the applicable year within the applicable regional group. This proportion shall be multiplied by the applicable year's state share reduction amount calculation pursuant to paragraph (b) or (c) of subdivision 6 of this

1 section. This amount shall be called the provider specific state share
2 reduction amount for the applicable year.

3 8. (a) The 1996 provider specific state share reduction amount shall
4 be due to the state from each CHHA and LTHHCP and may be recouped by the
5 state by March 31, 1997 in a lump sum amount or amounts from payments
6 due to the CHHA and LTHHCP pursuant to title 11 of article 5 of the
7 social services law.

8 (b) The provider specific state share reduction amount for 1997, 1998,
9 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010
10 [and], 2011, 2012, AND 2013 respectively, shall be due to the state from
11 each CHHA and LTHHCP and each year the amount due for such year may be
12 recouped by the state by March 31 of the following year in a lump sum
13 amount or amounts from payments due to the CHHA and LTHHCP pursuant to
14 title 11 of article 5 of the social services law.

15 9. CHHAs and LTHHCPs shall submit such data and information at such
16 times as the commissioner of health may require for purposes of this
17 section. The commissioner of health may use data available from third-
18 party payors.

19 10. On or about June 1, 1997, for each regional group the commissioner
20 of health shall calculate for the period August 1, 1996 through March
21 31, 1997 a medicaid revenue percentage, a reduction factor, a state
22 share reduction amount, and a provider specific state share reduction
23 amount in accordance with the methodology provided in paragraph (a) of
24 subdivision 2, paragraph (a) of subdivision 5, paragraph (a) of subdivi-
25 sion 6 and paragraph (a) of subdivision 7 of this section. The provider
26 specific state share reduction amount calculated in accordance with this
27 subdivision shall be compared to the 1996 provider specific state share
28 reduction amount calculated in accordance with paragraph (a) of subdivi-
29 sion 7 of this section. Any amount in excess of the amount determined in
30 accordance with paragraph (a) of subdivision 7 of this section shall be
31 due to the state from each CHHA and LTHHCP and may be recouped in
32 accordance with paragraph (a) of subdivision 8 of this section. If the
33 amount is less than the amount determined in accordance with paragraph
34 (a) of subdivision 7 of this section, the difference shall be refunded
35 to the CHHA and LTHHCP by the state no later than July 15, 1997. CHHAs
36 and LTHHCPs shall submit data for the period August 1, 1996 through
37 March 31, 1997 to the commissioner of health by April 15, 1997.

38 11. If a CHHA or LTHHCP fails to submit data and information as
39 required for purposes of this section:

40 (a) such CHHA or LTHHCP shall be presumed to have no decrease in medi-
41 caid revenue percentage between the applicable base period and the
42 applicable target period for purposes of the calculations pursuant to
43 this section; and

44 (b) the commissioner of health shall reduce the current rate paid to
45 such CHHA and such LTHHCP by state governmental agencies pursuant to
46 article 36 of the public health law by one percent for a period begin-
47 ning on the first day of the calendar month following the applicable due
48 date as established by the commissioner of health and continuing until
49 the last day of the calendar month in which the required data and infor-
50 mation are submitted.

51 12. The commissioner of health shall inform in writing the director of
52 the budget and the chair of the senate finance committee and the chair
53 of the assembly ways and means committee of the results of the calcu-
54 lations pursuant to this section.

55 S 15. Subdivision 5-a of section 246 of chapter 81 of the laws of
56 1995, amending the public health law and other laws relating to medical

1 reimbursement and welfare reform, as amended by section 32 of part B of
2 chapter 58 of the laws of 2009, is amended to read as follows:

3 5-a. Section sixty-four-a of this act shall be deemed to have been in
4 full force and effect on and after April 1, 1995 through March 31, 1999
5 and on and after July 1, 1999 through March 31, 2000 and on and after
6 April 1, 2000 through March 31, 2003 and on and after April 1, 2003
7 through March 31, 2007, and on and after April 1, 2007 through March 31,
8 2009, and on and after April 1, 2009 through March 31, 2011, AND ON AND
9 AFTER APRIL 1, 2011;

10 S 16. Section 64-b of chapter 81 of the laws of 1995, amending the
11 public health law and other laws relating to medical reimbursement and
12 welfare reform, as amended by section 33 of part B of chapter 58 of the
13 laws of 2009, is amended to read as follows:

14 S 64-b. Notwithstanding any inconsistent provision of law, the
15 provisions of subdivision 7 of section 3614 of the public health law, as
16 amended, shall remain and be in full force and effect on April 1, 1995
17 through March 31, 1999 and on July 1, 1999 through March 31, 2000 and on
18 and after April 1, 2000 through March 31, 2003 and on and after April 1,
19 2003 through March 31, 2007, and on and after April 1, 2007 through
20 March 31, 2009, and on and after April 1, 2009 through March 31, 2011,
21 AND ON AND AFTER APRIL 1, 2011.

22 S 17. Subdivision 1 of section 20 of chapter 451 of the laws of 2007,
23 amending the public health law, the social services law and the insur-
24 ance law, relating to providing enhanced consumer and provider
25 protections, as amended by section 38 of part B of chapter 58 of the
26 laws of 2009, is amended to read as follows:

27 1. sections four, eleven and thirteen of this act shall take effect
28 immediately and shall expire and be deemed repealed June 30, [2011]
29 2013;

30 S 18. The opening paragraph of subdivision 7-a of section 3614 of the
31 public health law, as amended by section 46 of part B of chapter 58 of
32 the laws of 2009, is amended to read as follows:

33 Notwithstanding any inconsistent provision of law or regulation, for
34 the purposes of establishing rates of payment by governmental agencies
35 for long term home health care programs for the period April first, two
36 thousand five, through December thirty-first, two thousand five, and for
37 the period January first, two thousand six through March thirty-first,
38 two thousand seven, and on and after April first, two thousand seven
39 through March thirty-first, two thousand nine, and on and after April
40 first, two thousand nine through March thirty-first, two thousand elev-
41 en, AND ON AND AFTER APRIL FIRST, TWO THOUSAND ELEVEN, the reimbursable
42 base year administrative and general costs of a provider of services
43 shall not exceed the statewide average of total reimbursable base year
44 administrative and general costs of such providers of services.

45 S 19. Subdivisions 3, 4 and 5 of section 47 of chapter 2 of the laws
46 of 1998, amending the public health law and other laws relating to
47 expanding the child health insurance plan, as amended by section 24 of
48 part A of chapter 58 of the laws of 2007, are amended to read as
49 follows:

50 3. section six of this act shall take effect January 1, 1999;
51 [provided, however, that subparagraph (iii) of paragraph (c) of subdivi-
52 sion 9 of section 2510 of the public health law, as added by this act,
53 shall expire on July 1, 2011;]

54 4. sections two, three, four, seven, eight, nine, fourteen, fifteen,
55 sixteen, eighteen, eighteen-a, twenty-three, twenty-four, and twenty-
56 nine of this act shall take effect January 1, 1999 [and shall expire on

July 1, 2011]; section twenty-five of this act shall take effect on January 1, 1999 and shall expire on April 1, 2005;

5. section twelve of this act shall take effect January 1, 1999; [provided, however, paragraphs (g) and (h) of subdivision 2 of section 2511 of the public health law, as added by such section, shall expire on July 1, 2011;]

S 20. Section 10 of chapter 649 of the laws of 1996, amending the public health law, the mental hygiene law and the social services law relating to authorizing the establishment of special needs plans, as amended by section 63 of part C of chapter 58 of the laws of 2008, is amended to read as follows:

S 10. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after July 1, 1996; [provided, however, that sections one, two and three of this act shall expire and be deemed repealed on March 31, 2012] provided, however that the amendments to section 364-j of the social services law made by section four of this act shall not affect the expiration of such section and shall be deemed to expire therewith and provided, further, that the provisions of subdivisions 8, 9 and 10 of section 4401 of the public health law, as added by section one of this act; section 4403-d of the public health law as added by section two of this act and the provisions of section seven of this act, except for the provisions relating to the establishment of no more than twelve comprehensive HIV special needs plans, shall expire and be deemed repealed on July 1, 2000.

S 21. Subdivision (i-1) of section 79 of part C of chapter 58 of the laws of 2008, amending the social services law and the public health law relating to adjustments of rates, is amended to read as follows:

(i-1) section thirty-one-a of this act shall be deemed repealed July 1, [2011] 2014;

S 22. Section 2 of chapter 535 of the laws of 1983, amending the social services law relating to eligibility of certain enrollees for medical assistance, as amended by section 69 of part C of chapter 58 of the laws of 2008, is amended to read as follows:

S 2. This act shall take effect immediately [and shall remain in full force and effect through March 31, 2012].

S 23. Subdivision 12 of section 246 of chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, as amended by section 56 of part C of chapter 58 of the laws of 2008, is amended to read as follows:

12. Sections one hundred five-b through one hundred five-f of this act shall expire March 31, [2011] 2013.

S 24. Intentionally omitted.

S 25. Section 11 of chapter 710 of the laws of 1988, amending the social services law and the education law relating to medical assistance eligibility of certain persons and providing for managed medical care demonstration programs, as amended by section 66 of part C of chapter 58 of the laws of 2008, is amended to read as follows:

S 11. This act shall take effect immediately; except that the provisions of sections one, two, three, four, eight and ten of this act shall take effect on the ninetieth day after it shall have become a law; and except that the provisions of sections five, six and seven of this act shall take effect January 1, 1989; and except that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date; provided, however, that [the provisions of section 364-j

1 of the social services law, as added by section one of this act shall
2 expire and be deemed repealed on and after March 31, 2012,] the
3 provisions of section 364-k of the social services law, as added by
4 section two of this act, except subdivision 10 of such section, shall
5 expire and be deemed repealed on and after January 1, 1994, and the
6 provisions of subdivision 10 of section 364-k of the social services
7 law, as added by section two of this act, shall expire and be deemed
8 repealed on January 1, 1995.

9 S 26. Subdivision (c) of section 62 of chapter 165 of the laws of
10 1991, amending the public health law and other laws relating to estab-
11 lishing payments for medical assistance, as amended by section 67 of
12 part C of chapter 58 of the laws of 2008, is amended to read as follows:

13 (c) [section 364-j of the social services law, as amended by section
14 eight of this act and subdivision 6 of section 367-a of the social
15 services law as added by section twelve of this act shall expire and be
16 deemed repealed on March 31, 2012 and provided further, that] the amend-
17 ments to the provisions of section 364-j of the social services law MADE
18 BY SECTION EIGHT OF THIS ACT shall only apply to managed care programs
19 approved on or after the effective date of this act;

20 S 26-a. Subdivision (x) of section 165 of chapter 41 of the laws of
21 1992, amending the public health law and other laws relating to health
22 care providers, is REPEALED.

23 S 27. Notwithstanding any inconsistent provision of law, rule or regu-
24 lation, for purposes of implementing the provisions of the public health
25 law and the social services law, references to titles XIX and XXI of the
26 federal social security act in the public health law and the social
27 services law shall be deemed to include and also to mean any successor
28 titles thereto under the federal social security act.

29 S 28. Notwithstanding any inconsistent provision of law, rule or regu-
30 lation, the effectiveness of the provisions of sections 2807 and 3614 of
31 the public health law, section 18 of chapter 2 of the laws of 1988, and
32 18 NYCRR 505.14(h), as they relate to time frames for notice, approval
33 or certification of rates of payment, are hereby suspended and without
34 force or effect for purposes of implementing the provisions of this act.

35 S 29. Severability clause. If any clause, sentence, paragraph, subdi-
36 vision, section or part of this act shall be adjudged by any court of
37 competent jurisdiction to be invalid, such judgment shall not affect,
38 impair or invalidate the remainder thereof, but shall be confined in its
39 operation to the clause, sentence, paragraph, subdivision, section or
40 part thereof directly involved in the controversy in which such judge-
41 ment shall have been rendered. It is hereby declared to be the intent of
42 the legislature that this act would have been enacted even if such
43 invalid provisions had not been included herein.

44 S 30. This act shall take effect immediately and shall be deemed to
45 have been in full force and effect on and after April 1, 2011.

46 PART E

47 Section 1. Section 366 of the social services law is amended by adding
48 a new subdivision 1-b to read as follows:

49 1-B. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN THE EVENT THAT A
50 PERSON WHO IS AN INPATIENT IN AN INSTITUTION FOR MENTAL DISEASES, AS
51 DEFINED BY FEDERAL LAW AND REGULATIONS, AND WHO WAS IN RECEIPT OF
52 MEDICAL ASSISTANCE PURSUANT TO THIS TITLE IMMEDIATELY PRIOR TO BEING
53 ADMITTED TO SUCH FACILITY, OR WHO WAS DIRECTLY ADMITTED TO SUCH FACILITY
54 AFTER BEING AN INPATIENT IN ANOTHER INSTITUTION FOR MENTAL DISEASES AND

1 WHO WAS IN RECEIPT OF MEDICAL ASSISTANCE PRIOR TO ADMISSION TO SUCH
2 TRANSFERRING INSTITUTION, SUCH PERSON SHALL REMAIN ELIGIBLE FOR MEDICAL
3 ASSISTANCE WHILE AN INPATIENT IN SUCH FACILITY; PROVIDED, HOWEVER, THAT
4 NO MEDICAL ASSISTANCE SHALL BE FURNISHED PURSUANT TO THIS TITLE FOR ANY
5 CARE, SERVICES, OR SUPPLIES PROVIDED DURING THE TIME THAT SUCH PERSON IS
6 AN INPATIENT, EXCEPT TO THE EXTENT THAT FEDERAL FINANCIAL PARTICIPATION
7 IS AVAILABLE FOR THE COSTS OF SUCH CARE, SERVICES, OR SUPPLIES. UPON
8 RELEASE FROM SUCH FACILITY, SUCH PERSON SHALL CONTINUE TO BE ELIGIBLE
9 FOR RECEIPT OF MEDICAL ASSISTANCE FURNISHED PURSUANT TO THIS TITLE UNTIL
10 SUCH TIME AS THE PERSON IS DETERMINED TO NO LONGER BE ELIGIBLE FOR
11 RECEIPT OF SUCH ASSISTANCE. TO THE EXTENT PERMITTED BY FEDERAL LAW, THE
12 TIME DURING WHICH SUCH PERSON IS AN INPATIENT IN AN INSTITUTION FOR
13 MENTAL DISEASES SHALL NOT BE INCLUDED IN ANY CALCULATION OF WHEN THE
14 PERSON MUST RECERTIFY HIS OR HER ELIGIBILITY FOR MEDICAL ASSISTANCE IN
15 ACCORDANCE WITH THIS ARTICLE.

16 S 2. Paragraph (c) of subdivision 1 of section 366 of the social
17 services law, as amended by chapter 355 of the laws of 2007, is amended
18 to read as follows:

19 (c) except as provided in subparagraph six of paragraph (a) of this
20 subdivision or subdivision one-a OR SUBDIVISION ONE-B of this section,
21 is not an inmate or patient in an institution or facility wherein
22 medical assistance for needy persons may not be provided in accordance
23 with applicable federal or state requirements; and

24 S 3. This act shall take effect April 1, 2011; provided that all
25 actions necessary for the timely implementation of this act, including
26 revisions to information, eligibility and benefit computer systems
27 utilized by social services districts and administered by the department
28 of health of the state of New York, shall be taken prior to such effec-
29 tive date so that the provisions of this act may be implemented on such
30 date.

31 PART F

32 Section 1. Subdivisions 3-b and 3-c of section 1 of part C of chapter
33 57 of the laws of 2006, relating to establishing a cost of living
34 adjustment for designated human services programs, as amended by section
35 1 of part F of chapter 111 of the laws of 2010, are amended to read as
36 follows:

37 3-b. Notwithstanding any inconsistent provision of law, beginning
38 April 1, 2009 and ending March 31, [2011] 2012, the commissioners shall
39 not include a COLA for the purpose of establishing rates of payments,
40 contracts or any other form of reimbursement.

41 3-c. Notwithstanding any inconsistent provision of law, beginning
42 April 1, [2011] 2012 and ending March 31, [2014] 2015, the commissioners
43 shall develop the COLA under this section using the actual U.S. consumer
44 price index for all urban consumers (CPI-U) published by the United
45 States department of labor, bureau of labor statistics for the twelve
46 month period ending in July of the budget year prior to such state
47 fiscal year, for the purpose of establishing rates of payments,
48 contracts or any other form of reimbursement.

49 S 2. Section 4 of part C of chapter 57 of the laws of 2006, relating
50 to establishing a cost of living adjustment for designated human
51 services programs, as amended by section 2 of part F of chapter 111 of
52 the laws of 2010, is amended to read as follows:

53 S 4. This act shall take effect immediately and shall be deemed to
54 have been in full force and effect on and after April 1, 2006; provided

1 section one of this act shall expire and be deemed repealed April 1,
2 [2014] 2015; provided, further, that sections two and three of this act
3 shall expire and be deemed repealed December 31, 2009.

4 S 3. This act shall take effect immediately and shall be deemed to
5 have been in full force and effect on and after April 1, 2011; provided,
6 however, that the amendments to section 1 of part C of chapter 57 of the
7 laws of 2006 made by section one of this act shall not affect the repeal
8 of such section and shall be deemed repealed therewith.

9 PART G

10 Section 1. Subdivision (b) of section 7.17 of the mental hygiene law,
11 as amended by section 1 of part J of chapter 58 of the laws of 2005, is
12 amended to read as follows:

13 (b) There shall be in the office the hospitals named below for the
14 care, treatment and rehabilitation of [the mentally disabled] PERSONS
15 WITH MENTAL ILLNESS and for research and teaching in the science and
16 skills required for the care, treatment and rehabilitation of such
17 [mentally disabled] PERSONS WITH MENTAL ILLNESS.

18 Greater Binghamton Health Center
19 Bronx Psychiatric Center
20 Buffalo Psychiatric Center
21 Capital District Psychiatric Center
22 Central New York Psychiatric Center
23 Creedmoor Psychiatric Center
24 Elmira Psychiatric Center
25 Hudson River Psychiatric Center
26 Kingsboro Psychiatric Center
27 Kirby Forensic Psychiatric Center
28 Manhattan Psychiatric Center
29 Mid-Hudson Forensic Psychiatric Center
30 Mohawk Valley Psychiatric Center
31 Nathan S. Kline Institute for Psychiatric Research
32 New York State Psychiatric Institute
33 Pilgrim Psychiatric Center
34 Richard H. Hutchings Psychiatric Center
35 Rochester Psychiatric Center
36 Rockland Psychiatric Center
37 St. Lawrence Psychiatric Center
38 South Beach Psychiatric Center
39 Bronx Children's Psychiatric Center
40 Brooklyn Children's [Psychiatric] Center
41 Queens Children's Psychiatric Center
42 Rockland Children's Psychiatric Center
43 Sagamore Children's Psychiatric Center
44 Western New York Children's Psychiatric Center

45 The New York State Psychiatric Institute and The Nathan S. Kline
46 Institute for Psychiatric Research are designated as institutes for the
47 conduct of medical research and other scientific investigation directed
48 towards furthering knowledge of the etiology, diagnosis, treatment and
49 prevention of mental illness. THE BROOKLYN CHILDREN'S CENTER IS A
50 FACILITY OPERATED BY THE OFFICE TO PROVIDE COMMUNITY-BASED MENTAL HEALTH
51 SERVICES FOR CHILDREN WITH SERIOUS EMOTIONAL DISTURBANCES.

52 S 2. Subdivision (e) of section 7.17 of the mental hygiene law is
53 REPEALED and subdivision (f) is relettered subdivision (e).

1 S 3. (a) Notwithstanding the provisions of subdivision (b) of section
2 7.17 of the mental hygiene law, section 41.55 of the mental hygiene law,
3 or any other law to the contrary, the office of mental health is author-
4 ized in state fiscal year 2011-12 to close, consolidate, reduce, trans-
5 fer or otherwise redesign services of hospitals, other facilities and
6 programs operated by the office of mental health, and to implement
7 significant service reductions and reconfigurations as shall be deter-
8 mined by the commissioner of mental health to be necessary for the cost-
9 effective and efficient operation of such hospitals, other facilities
10 and programs.

11 (b) The office of mental health shall provide notice upon its public
12 website and to the legislature as soon as possible, but no later than
13 two weeks prior to the anticipated closure, consolidation, or transfer
14 of inpatient wards.

15 (c) Any transfers of inpatient capacity or any resulting transfer of
16 functions shall be authorized to be made by the commissioner of mental
17 health and any transfer of personnel upon such transfer of capacity or
18 transfer of functions shall be accomplished in accordance with the
19 provisions of section 70 of the civil service law.

20 S 4. Severability clause. If any clause, sentence, paragraph, subdivi-
21 sion, section or part of this act shall be adjudged by any court of
22 competent jurisdiction to be invalid, such judgment shall not affect,
23 impair, or invalidate the remainder thereof, but shall be confined in
24 its operation to the clause, sentence, paragraph, subdivision, section
25 or part thereof directly involved in the controversy in which such judg-
26 ment shall have been rendered. It is hereby declared to be the intent of
27 the legislature that this act would have been enacted even if such
28 invalid provisions had not been included herein.

29 S 5. This act shall take effect April 1, 2011; provided that the
30 amendments to subdivision (f) of section 7.17 of the mental hygiene law
31 made by section two of this act shall not affect the repeal of such
32 subdivision and shall be deemed repealed therewith.

33 PART H

34 Section 1. Subparagraph 1 of paragraph (c) of subdivision 10 of
35 section 2807-c of the public health law, as amended by chapter 419 of
36 the laws of 2000, is amended to read as follows:

37 (1) For rate periods on and after April first, two thousand THROUGH
38 MARCH THIRTY-FIRST, TWO THOUSAND ELEVEN, the commissioner shall estab-
39 lish trend factors for rates of payment for state governmental agencies
40 to project for the effects of inflation except that such trend factors
41 shall not be applied to services for which rates of payment are estab-
42 lished by the commissioners of the department of mental hygiene. The
43 factors shall be applied to the appropriate portion of reimbursable
44 costs.

45 S 2. Section 21 of chapter 1 of the laws of 1999 amending the public
46 health law and other laws relating to enacting the New York Health Care
47 Reform Act of 2000, as amended by section 18 of part D of chapter 58 of
48 the laws of 2009, is amended to read as follows:

49 S 21. Notwithstanding any inconsistent provision of law, effective FOR
50 RATE PERIODS April 1, 2000 THROUGH MARCH 31, 2011, in determining rates
51 of payment for residential health care facilities pursuant to section
52 2808 of the public health law, hospital outpatient services and diagnos-
53 tic and treatment centers pursuant to section 2807 of the public health
54 law, unless otherwise subject to the limits set forth in section 4 of

1 chapter 81 of the laws of 1995, as amended by this act, certified home
2 health agencies and long term home health care programs pursuant to
3 section 3614-a of the public health law and personal care services
4 pursuant to section 367-i of the social services law, and for periods on
5 and after April 1, 2009, adult day health care services provided to
6 patients diagnosed with AIDS as defined by applicable regulations, the
7 commissioner of health shall apply trend factors using the methodology
8 described in paragraph (c) of subdivision 10 of section 2807-c of the
9 public health law, except that such trend factors shall not be applied
10 to services for which rates of payment are established by the commis-
11 sioners of the department of mental hygiene. Nothing in this section is
12 intended to reduce a change in any existing provision of law establish-
13 ing maximum reimbursement rates.

14 S 2-a. Notwithstanding any contrary provision of law, rule or regu-
15 lation, for Medicaid rates of payment for services provided on and after
16 April 1, 2011 the commissioner of health is authorized to promulgate
17 regulations, including emergency regulations, with regard to trend
18 factor adjustments for inflation which may be applied to such rates of
19 payment with regard to hospice services provided pursuant to article 40
20 of the public health law, assisted living program services provided
21 pursuant to section 461-1 of the social services law, foster care
22 services provided pursuant to article 6 of the social services law,
23 adult day health care services provided pursuant to article 28 of the
24 public health law or personal care services provided in those local
25 social services districts, including New York city, whose rates of
26 payment for such services is established by such social services
27 districts pursuant to a rate-setting exemption issued by the commission-
28 er of health to such local social services districts in accordance with
29 applicable regulations.

30 S 3. Section 3614 of the public health law is amended by adding a new
31 subdivision 12 to read as follows:

32 12. (A) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW OR REGU-
33 LATION AND SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTIC-
34 IPATION, EFFECTIVE ON AND AFTER APRIL FIRST, TWO THOUSAND ELEVEN THROUGH
35 MARCH THIRTY-FIRST, TWO THOUSAND TWELVE, RATES OF PAYMENT BY GOVERNMENT
36 AGENCIES FOR SERVICES PROVIDED BY CERTIFIED HOME HEALTH AGENCIES, EXCEPT
37 FOR SUCH SERVICES PROVIDED TO CHILDREN UNDER EIGHTEEN YEARS OF AGE AND
38 OTHER DISCRETE GROUPS AS MAY BE DETERMINED BY THE COMMISSIONER PURSUANT
39 TO REGULATIONS, SHALL REFLECT CEILING LIMITATIONS DETERMINED IN ACCORD-
40 ANCE WITH THIS SUBDIVISION, PROVIDED, HOWEVER, THAT AT THE DISCRETION OF
41 THE COMMISSIONER SUCH CEILINGS MAY, AS AN ALTERNATIVE, BE APPLIED TO
42 PAYMENTS FOR SERVICES PROVIDED ON AND AFTER APRIL FIRST, TWO THOUSAND
43 ELEVEN, EXCEPT FOR SUCH SERVICES PROVIDED TO CHILDREN AND OTHER DISCRETE
44 GROUPS AS MAY BE DETERMINED BY THE COMMISSIONER PURSUANT TO REGULATIONS.
45 IN DETERMINING SUCH PAYMENTS OR RATES OF PAYMENT, AGENCY CEILINGS SHALL
46 BE ESTABLISHED. SUCH CEILINGS SHALL BE APPLIED TO PAYMENTS OR RATES OF
47 PAYMENT FOR CERTIFIED HOME HEALTH AGENCY SERVICES AS ESTABLISHED PURSU-
48 ANT TO THIS SECTION AND APPLICABLE REGULATIONS. CEILINGS SHALL BE BASED
49 ON A BLEND OF: (I) AN AGENCY'S TWO THOUSAND NINE AVERAGE PER PATIENT
50 MEDICAID CLAIMS, WEIGHTED AT A PERCENTAGE AS DETERMINED BY THE COMMIS-
51 SIONER; AND (II) THE TWO THOUSAND NINE STATEWIDE AVERAGE PER PATIENT
52 MEDICAID CLAIMS ADJUSTED BY A REGIONAL WAGE INDEX FACTOR AND AN AGENCY
53 PATIENT CASE MIX INDEX, WEIGHTED AT A PERCENTAGE AS DETERMINED BY THE
54 COMMISSIONER. SUCH CEILINGS WILL BE EFFECTIVE APRIL FIRST, TWO THOUSAND
55 ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND TWELVE. AN INTERIM
56 PAYMENT OR RATE OF PAYMENT ADJUSTMENT EFFECTIVE APRIL FIRST, TWO THOU-

1 SAND ELEVEN, SHALL BE APPLIED TO AGENCIES WITH PROJECTED AVERAGE PER
2 PATIENT MEDICAID CLAIMS, AS DETERMINED BY THE COMMISSIONER, TO BE OVER
3 THEIR CEILINGS. SUCH AGENCIES SHALL HAVE THEIR PAYMENTS OR RATES OF
4 PAYMENT REDUCED TO REFLECT THE AMOUNT BY WHICH SUCH CLAIMS EXCEED THEIR
5 CEILINGS.

6 (B) CEILING LIMITATIONS DETERMINED PURSUANT TO PARAGRAPH (A) OF THIS
7 SUBDIVISION SHALL BE SUBJECT TO RECONCILIATION. IN DETERMINING PAYMENT
8 OR RATE OF PAYMENT ADJUSTMENTS BASED ON SUCH RECONCILIATION, ADJUSTED
9 AGENCY CEILINGS SHALL BE ESTABLISHED. SUCH ADJUSTED CEILINGS SHALL BE
10 BASED ON A BLEND OF: (I) AN AGENCY'S TWO THOUSAND NINE AVERAGE PER
11 PATIENT MEDICAID CLAIMS ADJUSTED BY THE PERCENTAGE OF INCREASE OR
12 DECREASE IN SUCH AGENCY'S PATIENT CASE MIX FROM THE TWO THOUSAND NINE
13 CALENDAR YEAR TO THE ANNUAL PERIOD APRIL FIRST, TWO THOUSAND ELEVEN
14 THROUGH MARCH THIRTY-FIRST, TWO THOUSAND TWELVE, WEIGHTED AT A PERCENT-
15 AGE AS DETERMINED BY THE COMMISSIONER; AND (II) THE TWO THOUSAND NINE
16 STATEWIDE AVERAGE PER PATIENT MEDICAID CLAIMS ADJUSTED BY A REGIONAL
17 WAGE INDEX FACTOR AND THE AGENCY'S PATIENT CASE MIX INDEX FOR THE ANNUAL
18 PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO
19 THOUSAND TWELVE, WEIGHTED AT A PERCENTAGE AS DETERMINED BY THE COMMIS-
20 SIONER. SUCH ADJUSTED AGENCY CEILING SHALL BE COMPARED TO ACTUAL MEDI-
21 CAID PAID CLAIMS FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH
22 MARCH THIRTY-FIRST, TWO THOUSAND TWELVE. IN THOSE INSTANCES WHEN AN
23 AGENCY'S ACTUAL PER PATIENT MEDICAID CLAIMS ARE DETERMINED TO EXCEED THE
24 AGENCY'S ADJUSTED CEILING, THE AMOUNT OF SUCH EXCESS SHALL BE DUE FROM
25 EACH SUCH AGENCY TO THE STATE AND MAY BE RECOUPED BY THE DEPARTMENT IN A
26 LUMP SUM AMOUNT OR THROUGH REDUCTIONS IN THE MEDICAID PAYMENTS DUE TO
27 THE AGENCY. IN THOSE INSTANCES WHERE AN INTERIM PAYMENT OR RATE OF
28 PAYMENT ADJUSTMENT WAS APPLIED TO AN AGENCY IN ACCORDANCE WITH PARAGRAPH
29 (A) OF THIS SUBDIVISION, AND SUCH AGENCY'S ACTUAL PER PATIENT MEDICAID
30 CLAIMS ARE DETERMINED TO BE LESS THAN THE AGENCY'S ADJUSTED CEILING, THE
31 AMOUNT BY WHICH SUCH MEDICAID CLAIMS ARE LESS THAN THE AGENCY'S ADJUSTED
32 CEILING SHALL BE REMITTED TO EACH SUCH AGENCY BY THE DEPARTMENT IN A
33 LUMP SUM AMOUNT OR THROUGH AN INCREASE IN THE MEDICAID PAYMENTS DUE TO
34 THE AGENCY.

35 (C) INTERIM PAYMENT OR RATE OF PAYMENT ADJUSTMENTS PURSUANT TO THIS
36 SUBDIVISION SHALL BE BASED ON MEDICAID PAID CLAIMS, AS DETERMINED BY THE
37 COMMISSIONER, FOR SERVICES PROVIDED BY AGENCIES IN THE BASE YEAR TWO
38 THOUSAND NINE. AMOUNTS DUE FROM RECONCILING RATE ADJUSTMENTS SHALL BE
39 BASED ON MEDICAID PAID CLAIMS, AS DETERMINED BY THE COMMISSIONER, FOR
40 SERVICES PROVIDED BY AGENCIES IN THE BASE YEAR TWO THOUSAND NINE AND
41 MEDICAID PAID CLAIMS, AS DETERMINED BY THE COMMISSIONER, FOR SERVICES
42 PROVIDED BY AGENCIES IN THE RECONCILIATION PERIOD APRIL FIRST, TWO THOU-
43 SAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND TWELVE. IN DETER-
44 MINING CASE MIX, EACH PATIENT SHALL BE CLASSIFIED USING A SYSTEM BASED
45 ON MEASURES WHICH MAY INCLUDE, BUT NOT BE LIMITED TO, CLINICAL AND FUNC-
46 TIONAL MEASURES, AS REPORTED ON THE FEDERAL OUTCOME AND ASSESSMENT
47 INFORMATION SET (OASIS), AS MAY BE AMENDED.

48 (D) THE COMMISSIONER MAY REQUIRE AGENCIES TO COLLECT AND SUBMIT ANY
49 DATA REQUIRED TO IMPLEMENT THE PROVISIONS OF THIS SUBDIVISION. THE
50 COMMISSIONER MAY PROMULGATE REGULATIONS, INCLUDING EMERGENCY REGU-
51 LATIONS, TO IMPLEMENT THE PROVISIONS OF THIS SUBDIVISION.

52 (E) PAYMENTS OR RATE OF PAYMENT ADJUSTMENTS DETERMINED PURSUANT TO
53 THIS SUBDIVISION SHALL, FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN
54 THROUGH MARCH THIRTY-FIRST, TWO THOUSAND TWELVE, BE RETROACTIVELY RECON-
55 CILED UTILIZING THE METHODOLOGY IN PARAGRAPH (B) OF THIS SUBDIVISION AND
56 UTILIZING ACTUAL PAID CLAIMS FROM SUCH PERIOD.

(F) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SUBDIVISION, PAYMENTS OR RATE OF PAYMENT ADJUSTMENTS MADE PURSUANT TO THIS SUBDIVISION SHALL NOT RESULT IN AN AGGREGATE ANNUAL DECREASE IN MEDICAID PAYMENTS TO PROVIDERS SUBJECT TO THIS SUBDIVISION THAT IS IN EXCESS OF TWO HUNDRED MILLION DOLLARS, AS DETERMINED BY THE COMMISSIONER AND NOT SUBJECT TO SUBSEQUENT ADJUSTMENT, AND THE COMMISSIONER SHALL MAKE SUCH ADJUSTMENTS TO SUCH PAYMENTS OR RATES OF PAYMENT AS ARE NECESSARY TO ENSURE THAT SUCH AGGREGATE LIMITS ON PAYMENT DECREASES ARE NOT EXCEEDED.

S 4. Section 3614 of the public health law is amended by adding a new subdivision 13 to read as follows:

13. (A) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW OR REGULATION AND SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, EFFECTIVE APRIL FIRST, TWO THOUSAND TWELVE, PAYMENTS BY GOVERNMENT AGENCIES FOR SERVICES PROVIDED BY CERTIFIED HOME HEALTH AGENCIES, EXCEPT FOR SUCH SERVICES PROVIDED TO CHILDREN UNDER EIGHTEEN YEARS OF AGE AND OTHER DISCREET GROUPS AS MAY BE DETERMINED BY THE COMMISSIONER PURSUANT TO REGULATIONS, SHALL BE BASED ON EPISODIC PAYMENTS. IN ESTABLISHING SUCH PAYMENTS, A STATEWIDE BASE PRICE SHALL BE ESTABLISHED FOR EACH SIXTY DAY EPISODE OF CARE AND ADJUSTED BY A REGIONAL WAGE INDEX FACTOR AND AN INDIVIDUAL PATIENT CASE MIX INDEX. SUCH EPISODIC PAYMENTS MAY BE FURTHER ADJUSTED FOR LOW UTILIZATION CASES AND TO REFLECT A PERCENTAGE LIMITATION OF THE COST FOR HIGH-UTILIZATION CASES THAT EXCEED OUTLIER THRESHOLDS OF SUCH PAYMENTS.

(B) INITIAL BASE YEAR EPISODIC PAYMENTS SHALL BE BASED ON MEDICAID PAID CLAIMS, AS DETERMINED AND ADJUSTED BY THE COMMISSIONER TO ACHIEVE SAVINGS COMPARABLE TO THE PRIOR STATE FISCAL YEAR, FOR SERVICES PROVIDED BY ALL CERTIFIED HOME HEALTH AGENCIES IN THE BASE YEAR TWO THOUSAND NINE. SUBSEQUENT BASE YEAR EPISODIC PAYMENTS MAY BE BASED ON MEDICAID PAID CLAIMS FOR SERVICES PROVIDED BY ALL CERTIFIED HOME HEALTH AGENCIES IN A BASE YEAR SUBSEQUENT TO TWO THOUSAND NINE, AS DETERMINED BY THE COMMISSIONER, PROVIDED, HOWEVER, THAT SUCH BASE YEAR ADJUSTMENT SHALL BE MADE NOT LESS FREQUENTLY THAN EVERY THREE YEARS. IN DETERMINING CASE MIX, EACH PATIENT SHALL BE CLASSIFIED USING A SYSTEM BASED ON MEASURES WHICH MAY INCLUDE, BUT NOT LIMITED TO, CLINICAL AND FUNCTIONAL MEASURES, AS REPORTED ON THE FEDERAL OUTCOME AND ASSESSMENT INFORMATION SET (OASIS), AS MAY BE AMENDED.

(C) THE COMMISSIONER MAY REQUIRE AGENCIES TO COLLECT AND SUBMIT ANY DATA REQUIRED TO IMPLEMENT THIS SUBDIVISION. THE COMMISSIONER MAY PROMULGATE REGULATIONS, INCLUDING EMERGENCY REGULATIONS, TO IMPLEMENT THE PROVISIONS OF THIS SUBDIVISION.

S 5. Sections 365-i and 369-dd of the social services law are REPEALED.

S 5-a. Subparagraph (v) of paragraph (e) of subdivision 1 and subdivision 2-b of section 369-ee of the social services law, subparagraph (v) of paragraph (e) of subdivision 1 as amended by section 1 of part C and subdivision 2-b as added by section 2 of part C of chapter 58 of the laws of 2008, are amended to read as follows:

(v) prescription drugs [as defined in section two hundred seventy of the public health law, which shall be provided pursuant to subdivision two-b of this section,] and non-prescription smoking cessation products or devices;

2-b. Prescription drug payments. [(a) Subject to paragraph (b) of this subdivision, payment for drugs, except for such drugs provided by medical practitioners, and for which payment is authorized pursuant to paragraph (e) of subdivision one of this section, shall be made pursuant to subdivision nine of section three hundred sixty-seven-a of this arti-

cle and article two-A of the public health law and subdivision four of section three hundred sixty-five-a of this article. Payment for such drugs provided by medical practitioners shall be included in the capitation payment for services or supplies provided to persons eligible for health care services under this title.

(b)] Payment for drugs for which payment is authorized pursuant to paragraph (e) of subdivision one of this section[, and that are provided by an employer partnership for family health plus plan authorized by section three hundred sixty-nine-ff of this title,] shall be included in the capitation payment for services or supplies provided to persons eligible for health care services under [such] A FAMILY HEALTH INSURANCE plan.

S 6. Section 368-d of the social services law is amended by adding three new subdivisions 4, 5 and 6 to read as follows:

4. THE COMMISSIONER OF HEALTH IS AUTHORIZED TO CONTRACT WITH ONE OR MORE ENTITIES TO CONDUCT A STUDY TO DETERMINE ACTUAL DIRECT AND INDIRECT COSTS INCURRED BY PUBLIC SCHOOL DISTRICTS AND STATE OPERATED/STATE SUPPORTED SCHOOLS WHICH OPERATE PURSUANT TO ARTICLE EIGHTY-FIVE, EIGHTY-SEVEN OR EIGHTY-EIGHT OF THE EDUCATION LAW FOR MEDICAL CARE, SERVICES AND SUPPLIES, INCLUDING RELATED SPECIAL EDUCATION SERVICES AND SPECIAL TRANSPORTATION, FURNISHED TO CHILDREN WITH HANDICAPPING CONDITIONS.

5. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SECTIONS ONE HUNDRED TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, OR SECTION ONE HUNDRED FORTY-TWO OF THE ECONOMIC DEVELOPMENT LAW, OR ANY OTHER LAW, THE COMMISSIONER OF HEALTH IS AUTHORIZED TO ENTER INTO A CONTRACT OR CONTRACTS UNDER SUBDIVISION FOUR OF THIS SECTION WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS, PROVIDED, HOWEVER, THAT:

(A) THE DEPARTMENT OF HEALTH SHALL POST ON ITS WEBSITE, FOR A PERIOD OF NO LESS THAN THIRTY DAYS:

(I) A DESCRIPTION OF THE PROPOSED SERVICES TO BE PROVIDED PURSUANT TO THE CONTRACT OR CONTRACTS;

(II) THE CRITERIA FOR SELECTION OF A CONTRACTOR OR CONTRACTORS;

(III) THE PERIOD OF TIME DURING WHICH A PROSPECTIVE CONTRACTOR MAY SEEK SELECTION, WHICH SHALL BE NO LESS THAN THIRTY DAYS AFTER SUCH INFORMATION IS FIRST POSTED ON THE WEBSITE; AND

(IV) THE MANNER BY WHICH A PROSPECTIVE CONTRACTOR MAY SEEK SUCH SELECTION, WHICH MAY INCLUDE SUBMISSION BY ELECTRONIC MEANS;

(B) ALL REASONABLE AND RESPONSIVE SUBMISSIONS THAT ARE RECEIVED FROM PROSPECTIVE CONTRACTORS IN TIMELY FASHION SHALL BE REVIEWED BY THE COMMISSIONER OF HEALTH; AND

(C) THE COMMISSIONER OF HEALTH SHALL SELECT SUCH CONTRACTOR OR CONTRACTORS THAT, IN HIS OR HER DISCRETION, ARE BEST SUITED TO SERVE THE PURPOSES OF THIS SECTION.

6. THE COMMISSIONER SHALL EVALUATE THE RESULTS OF THE STUDY CONDUCTED PURSUANT TO SUBDIVISION FOUR OF THIS SECTION TO DETERMINE, AFTER IDENTIFICATION OF ACTUAL DIRECT AND INDIRECT COSTS INCURRED BY PUBLIC SCHOOL DISTRICTS AND STATE OPERATED/STATE SUPPORTED SCHOOLS, WHETHER IT IS ADVISABLE TO CLAIM FEDERAL REIMBURSEMENT FOR EXPENDITURES UNDER THIS SECTION AS CERTIFIED PUBLIC EXPENDITURES. IN THE EVENT SUCH CLAIMS ARE SUBMITTED, IF FEDERAL REIMBURSEMENT RECEIVED FOR CERTIFIED PUBLIC EXPENDITURES ON BEHALF OF MEDICAL ASSISTANCE RECIPIENTS WHOSE ASSISTANCE AND CARE ARE THE RESPONSIBILITY OF A SOCIAL SERVICES DISTRICT IN A CITY WITH A POPULATION OF OVER TWO MILLION, RESULTS IN A DECREASE IN THE STATE SHARE OF ANNUAL EXPENDITURES PURSUANT TO THIS SECTION FOR SUCH RECIPIENTS, THEN TO THE EXTENT THAT THE AMOUNT OF ANY SUCH DECREASE WHEN COMBINED WITH ANY DECREASE IN THE STATE SHARE OF ANNUAL EXPENDITURES

DESCRIBED IN SUBDIVISION FIVE OF SECTION THREE HUNDRED SIXTY-EIGHT-E OF THIS TITLE EXCEEDS FIFTY MILLION DOLLARS, THE EXCESS AMOUNT SHALL BE TRANSFERRED TO SUCH CITY. ANY SUCH EXCESS AMOUNT TRANSFERRED SHALL NOT BE CONSIDERED A REVENUE RECEIVED BY SUCH SOCIAL SERVICES DISTRICT IN DETERMINING THE DISTRICT'S ACTUAL MEDICAL ASSISTANCE EXPENDITURES FOR PURPOSES OF PARAGRAPH (B) OF SECTION ONE OF PART C OF CHAPTER FIFTY-EIGHT OF THE LAWS OF TWO THOUSAND FIVE.

S 7. Section 368-e of the social services law is amended by adding three new subdivisions 3, 4 and 5 to read as follows:

3. THE COMMISSIONER OF HEALTH IS AUTHORIZED TO CONTRACT WITH ONE OR MORE ENTITIES TO CONDUCT A STUDY TO DETERMINE ACTUAL DIRECT AND INDIRECT COSTS INCURRED BY COUNTIES FOR MEDICAL CARE, SERVICES AND SUPPLIES, INCLUDING RELATED SPECIAL EDUCATION SERVICES AND SPECIAL TRANSPORTATION, FURNISHED TO PRE-SCHOOL CHILDREN WITH HANDICAPPING CONDITIONS.

4. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SECTIONS ONE HUNDRED TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, OR SECTION ONE HUNDRED FORTY-TWO OF THE ECONOMIC DEVELOPMENT LAW, OR ANY OTHER LAW, THE COMMISSIONER OF HEALTH IS AUTHORIZED TO ENTER INTO A CONTRACT OR CONTRACTS UNDER SUBDIVISION THREE OF THIS SECTION WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS, PROVIDED, HOWEVER, THAT:

(A) THE DEPARTMENT OF HEALTH SHALL POST ON ITS WEBSITE, FOR A PERIOD OF NO LESS THAN THIRTY DAYS:

(I) A DESCRIPTION OF THE PROPOSED SERVICES TO BE PROVIDED PURSUANT TO THE CONTRACT OR CONTRACTS;

(II) THE CRITERIA FOR SELECTION OF A CONTRACTOR OR CONTRACTORS;

(III) THE PERIOD OF TIME DURING WHICH A PROSPECTIVE CONTRACTOR MAY SEEK SELECTION, WHICH SHALL BE NO LESS THAN THIRTY DAYS AFTER SUCH INFORMATION IS FIRST POSTED ON THE WEBSITE; AND

(IV) THE MANNER BY WHICH A PROSPECTIVE CONTRACTOR MAY SEEK SUCH SELECTION, WHICH MAY INCLUDE SUBMISSION BY ELECTRONIC MEANS;

(B) ALL REASONABLE AND RESPONSIVE SUBMISSIONS THAT ARE RECEIVED FROM PROSPECTIVE CONTRACTORS IN TIMELY FASHION SHALL BE REVIEWED BY THE COMMISSIONER OF HEALTH; AND

(C) THE COMMISSIONER OF HEALTH SHALL SELECT SUCH CONTRACTOR OR CONTRACTORS THAT, IN HIS OR HER DISCRETION, ARE BEST SUITED TO SERVE THE PURPOSES OF THIS SECTION.

5. THE COMMISSIONER SHALL EVALUATE THE RESULTS OF THE STUDY CONDUCTED PURSUANT TO SUBDIVISION THREE OF THIS SECTION TO DETERMINE, AFTER IDENTIFICATION OF ACTUAL DIRECT AND INDIRECT COSTS INCURRED BY COUNTIES FOR MEDICAL CARE, SERVICES, AND SUPPLIES FURNISHED TO PRE-SCHOOL CHILDREN WITH HANDICAPPING CONDITIONS, WHETHER IT IS ADVISABLE TO CLAIM FEDERAL REIMBURSEMENT FOR EXPENDITURES UNDER THIS SECTION AS CERTIFIED PUBLIC EXPENDITURES. IN THE EVENT SUCH CLAIMS ARE SUBMITTED, IF FEDERAL REIMBURSEMENT RECEIVED FOR CERTIFIED PUBLIC EXPENDITURES ON BEHALF OF MEDICAL ASSISTANCE RECIPIENTS WHOSE ASSISTANCE AND CARE ARE THE RESPONSIBILITY OF A SOCIAL SERVICES DISTRICT IN A CITY WITH A POPULATION OF OVER TWO MILLION, RESULTS IN A DECREASE IN THE STATE SHARE OF ANNUAL EXPENDITURES PURSUANT TO THIS SECTION FOR SUCH RECIPIENTS, THEN TO THE EXTENT THAT THE AMOUNT OF ANY SUCH DECREASE WHEN COMBINED WITH ANY DECREASE IN THE STATE SHARE OF ANNUAL EXPENDITURES DESCRIBED IN SUBDIVISION SIX OF SECTION THREE HUNDRED SIXTY-EIGHT-D OF THIS TITLE EXCEEDS FIFTY MILLION DOLLARS, THE EXCESS AMOUNT SHALL BE TRANSFERRED TO SUCH CITY. ANY SUCH EXCESS AMOUNT TRANSFERRED SHALL NOT BE CONSIDERED A REVENUE RECEIVED BY SUCH SOCIAL SERVICES DISTRICT IN DETERMINING THE DISTRICT'S ACTUAL MEDICAL ASSISTANCE EXPENDITURES FOR PURPOSES OF PARA-

1 GRAPH (B) OF SECTION ONE OF PART C OF CHAPTER FIFTY-EIGHT OF THE LAWS OF
2 TWO THOUSAND FIVE.

3 S 8. Paragraph d of subdivision 20 of section 2808 of the public
4 health law is REPEALED and a new paragraph d is added to read as
5 follows:

6 D. NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW, RULE OR REGULATION,
7 FOR RATE PERIODS ON AND AFTER APRIL FIRST, TWO THOUSAND ELEVEN, THE
8 CAPITAL COST COMPONENT OF MEDICAID RATES OF PAYMENT FOR SERVICES
9 PROVIDED BY RESIDENTIAL HEALTH CARE FACILITIES SHALL NOT INCLUDE ANY
10 PAYMENT FACTOR FOR RETURN ON OR RETURN OF EQUITY.

11 S 9. Paragraph (b) of subdivision 11 of section 272 of the public
12 health law, as added by section 36 of part C of chapter 58 of the laws
13 of 2009, is amended to read as follows:

14 (b) The commissioner may designate a pharmaceutical manufacturer as
15 one with whom the commissioner is negotiating or has negotiated a
16 manufacturer agreement, and all of the drugs it manufactures or markets
17 shall be included in the preferred drug program. The commissioner may
18 negotiate directly with a pharmaceutical manufacturer for rebates relat-
19 ing to any or all of the drugs it manufactures or markets. A manufactur-
20 er agreement shall designate any or all of the drugs manufactured or
21 marketed by the pharmaceutical manufacturer as being preferred or non
22 preferred drugs. When a pharmaceutical manufacturer has been designated
23 by the commissioner under this paragraph but THE COMMISSIONER has not
24 reached a manufacturer agreement with the pharmaceutical manufacturer,
25 then THE COMMISSIONER MAY DESIGNATE SOME OR all of the drugs manufac-
26 tured or marketed by the pharmaceutical manufacturer [shall be] AS non
27 preferred drugs. However, notwithstanding this paragraph, any drug that
28 is selected to be on the preferred drug list under paragraph (b) of
29 subdivision ten of this section on grounds that it is significantly more
30 clinically effective and safer than other drugs in its therapeutic class
31 shall be a preferred drug.

32 S 10. Paragraphs (a), (b), (c), (d), (e) and (f) of subdivision 9 of
33 section 367-a of the social services law are REPEALED, paragraphs (g),
34 (h) and (i) are relettered paragraphs (b), (c) and (d) and the opening
35 paragraph of subdivision 9, as amended by chapter 19 of the laws of
36 1998, is amended to read as follows:

37 (A) Notwithstanding any inconsistent provision of law or regulation to
38 the contrary, for those drugs which may not be dispensed without a
39 prescription as required by section sixty-eight hundred ten of the
40 education law and for which payment is authorized pursuant to paragraph
41 (g) of subdivision two of section three hundred sixty-five-a of this
42 title, payments FOR SUCH DRUGS AND DISPENSING FEES under this title
43 shall be made at [the following] amounts[:] ESTABLISHED BY THE COMMIS-
44 SIONER.

45 S 11. Intentionally Omitted.

46 S 12. Subdivision 22 of section 6802 of the education law, as added by
47 chapter 563 of the laws of 2008, is amended to read as follows:

48 22. "Administer", for the purpose of section sixty-eight hundred one
49 of this article, means the direct application of an immunizing agent to
50 [adults] PERSONS ELEVEN YEARS OF AGE OR OLDER, whether by injection,
51 ingestion or any other means, pursuant to a patient specific order or
52 non-patient specific regimen prescribed or ordered issued by a physician
53 or certified nurse practitioner who has a practice site in the county in
54 which the immunization is administered. However if the county where the
55 immunization is to be administered has a population of seventy-five
56 thousand or less, then the licensed physician or certified nurse practi-

tioners may be in an adjoining county. Such administration shall be limited to immunizing agents [to prevent influenza or pneumococcal disease] RECOMMENDED BY THE FEDERAL CENTERS FOR DISEASE CONTROL AND PREVENTION FOR PERSONS WHO ARE ELEVEN YEARS OF AGE OR OLDER, and medications required for emergency treatment of anaphylaxis.

S 13. Subdivision 1 of section 271 of the public health law, as added by section 10 of part C of chapter 58 of the laws of 2005, is amended to read as follows:

1. There is hereby established in the department a pharmacy and therapeutics committee. The committee shall consist of [seventeen] EIGHTEEN members, who shall be appointed by the commissioner and who shall serve three year terms; except that for the initial appointments to the committee, five members shall serve one year terms, seven shall serve two year terms, and five shall serve three year terms. Committee members may be reappointed upon the completion of their terms. [No] WITH THE EXCEPTION OF THE CHAIRPERSON, NO member of the committee shall be an employee of the state or any subdivision of the state, other than for his or her membership on the committee, except for employees of health care facilities or universities operated by the state, a public benefit corporation, the State University of New York or municipalities.

S 14. Paragraphs (d) and (e) of subdivision 2 of section 271 of the public health law, as added by section 10 of part C of chapter 58 of the laws of 2005, are amended, and a new paragraph (f) is added to read as follows:

(d) one person with expertise in drug utilization review who is either a health care professional licensed under title eight of the education law, is a pharmacologist or has a doctorate in pharmacology; [and]

(e) three persons who shall be consumers or representatives of organizations with a regional or statewide constituency and who have been involved in activities related to health care consumer advocacy, including issues affecting Medicaid or EPIC recipients[.]; AND

(F) A CHAIRPERSON DESIGNATED PURSUANT TO SUBDIVISION FOUR OF THIS SECTION.

S 15. Subdivision 4 of section 271 of the public health law is REPEALED and a new subdivision 4 is added to read as follows:

4. THE COMMISSIONER SHALL DESIGNATE A MEMBER OF THE DEPARTMENT TO SERVE AS CHAIRPERSON OF THE COMMITTEE.

S 16. Subdivision 3 of section 272 of the public health law, as added by section 10 of part C of chapter 58 of the laws of 2005, is amended to read as follows:

3. The commissioner shall establish performance standards for the program that, at a minimum, ensure that the preferred drug program and the clinical drug review program provide sufficient technical support and timely responses to consumers, prescribers and pharmacists. THE COMMISSIONER MAY DESIGNATE A MEMBER OF THE DEPARTMENT TO PERFORM ANY ACTIONS OF THE COMMISSIONER AUTHORIZED OR REQUIRED BY THIS SECTION.

S 17. Subdivision 10 of section 272 of the public health law is amended by adding a new paragraph (d) to read as follows:

(D) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, THE COMMISSIONER MAY DESIGNATE THERAPEUTIC CLASSES OF DRUGS OR INDIVIDUAL DRUGS AS PREFERRED PRIOR TO ANY REVIEW THAT MAY BE CONDUCTED BY THE COMMITTEE PURSUANT TO THIS SECTION.

S 18. Paragraphs (b) and (c) of subdivision 3 of section 273 of the public health law, as added by section 10 of part C of chapter 58 of the laws of 2005, are amended to read as follows:

1 (b) In the event that the patient does not meet the criteria in para-
2 graph (a) of this subdivision, the prescriber may provide additional
3 information to the program to justify the use of a prescription drug
4 that is not on the preferred drug list. The program shall provide a
5 reasonable opportunity for a prescriber to reasonably present his or her
6 justification of prior authorization. [If, after consultation with the
7 program, the prescriber, in his or her reasonable professional judgment,
8 determines that the use of a prescription drug that is not on the
9 preferred drug list is warranted, the prescriber's determination shall
10 be final.]

11 (c) [If a prescriber meets the requirements of paragraph (a) or (b) of
12 this subdivision, the prescriber shall be granted prior authorization
13 under this section] PRIOR AUTHORIZATION FOR THE NON-PREFERRED DRUG SHALL
14 BE DENIED IF THE PRESCRIBER FAILS TO MEET THE REQUIREMENTS OF PARAGRAPH
15 (A) OF THIS SUBDIVISION OR, IF AFTER CONSULTATION WITH THE PROGRAM AS
16 DESCRIBED IN PARAGRAPH (B) OF THIS SUBDIVISION, THE PROGRAM DETERMINES
17 THAT THE USE OF THE PRESCRIBED DRUG THAT IS NOT ON THE PREFERRED DRUG
18 LIST IS NOT WARRANTED.

19 S 19. Intentionally Omitted.

20 S 20. Paragraph (g) of subdivision 4 of section 365-a of the social
21 services law, as amended by section 61 of part C of chapter 58 of the
22 laws of 2007, is amended to read as follows:

23 (g) for eligible persons who are also beneficiaries under part D of
24 title XVIII of the federal social security act, drugs which are denomi-
25 nated as "covered part D drugs" under section 1860D-2(e) of such act[;
26 provided however that, for purposes of this paragraph, "covered part D
27 drugs" shall not mean atypical anti-psychotics, anti-depressants, anti-
28 retrovirals used in the treatment of HIV/AIDS, or anti-rejection drugs
29 used for the treatment of organ and tissue transplants].

30 S 21. Subdivision 12 of section 272 of the public health law is
31 REPEALED.

32 S 22. Intentionally Omitted.

33 S 23. Paragraph (g) of subdivision 2 of section 365-a of the social
34 services law, as amended by section 1 of part F of chapter 497 of the
35 laws of 2008, is amended to read as follows:

36 (g) sickroom supplies, eyeglasses, prosthetic appliances and dental
37 prosthetic appliances furnished in accordance with the regulations of
38 the department[,]; provided FURTHER that: (I) the commissioner of health
39 is authorized to implement a preferred diabetic supply program wherein
40 the department of health will receive enhanced rebates from preferred
41 manufacturers of glucometers and test strips, and may subject non-pre-
42 ferred manufacturers' glucometers and test strips to prior authorization
43 under section two hundred seventy-three of the public health law; (II)
44 ENTERAL FORMULA THERAPY IS LIMITED TO COVERAGE ONLY FOR NASOGASTRIC,
45 JEJUNOSTOMY, OR GASTROSTOMY TUBE FEEDING OR FOR TREATMENT OF AN INBORN
46 ERROR OF METABOLISM; OTHER NUTRITIONAL OR DIETARY SUPPLEMENTS ARE NOT
47 COVERED; (III) PRESCRIPTION FOOTWEAR AND INSERTS ARE LIMITED TO COVERAGE
48 ONLY WHEN USED AS AN INTEGRAL PART OF A LOWER LIMB ORTHOTIC APPLIANCE,
49 AS PART OF A DIABETIC TREATMENT PLAN, OR TO ADDRESS GROWTH AND DEVELOP-
50 MENT PROBLEMS IN CHILDREN; AND (IV) COMPRESSION AND SUPPORT STOCKINGS
51 ARE LIMITED TO COVERAGE ONLY FOR PREGNANCY OR TREATMENT OF VENOUS STASIS
52 ULCERS;

53 (G-1) drugs provided on an in-patient basis, those drugs contained on
54 the list established by regulation of the commissioner of health pursu-
55 ant to subdivision four of this section, and those drugs which may not
56 be dispensed without a prescription as required by section sixty-eight

1 hundred ten of the education law and which the commissioner of health
2 shall determine to be reimbursable based upon such factors as the avail-
3 ability of such drugs or alternatives at low cost if purchased by a
4 medicaid recipient, or the essential nature of such drugs as described
5 by such commissioner in regulations, provided, however, that such drugs,
6 exclusive of long-term maintenance drugs, shall be dispensed in quanti-
7 ties no greater than a thirty day supply or one hundred doses, whichever
8 is greater; provided further that the commissioner of health is author-
9 ized to require prior authorization for any refill of a prescription
10 when less than seventy-five percent of the previously dispensed amount
11 per fill should have been used were the product used as normally indi-
12 cated; PROVIDED FURTHER THAT THE COMMISSIONER OF HEALTH IS AUTHORIZED TO
13 REQUIRE PRIOR AUTHORIZATION OF PRESCRIPTIONS OF OPIOID ANALGESICS IN
14 EXCESS OF FOUR PRESCRIPTIONS IN A THIRTY-DAY PERIOD; medical assistance
15 shall not include any drug provided on other than an in-patient basis
16 for which a recipient is charged or a claim is made in the case of a
17 prescription drug, in excess of the maximum reimbursable amounts to be
18 established by department regulations in accordance with standards
19 established by the secretary of the United States department of health
20 and human services, or, in the case of a drug not requiring a
21 prescription, in excess of the maximum reimbursable amount established
22 by the commissioner of health pursuant to paragraph (a) of subdivision
23 four of this section;

24 S 24. Paragraph (a) of subdivision 3 of section 366 of the social
25 services law, as amended by chapter 110 of the laws of 1971, is amended
26 to read as follows:

27 (a) Medical assistance shall be furnished to applicants in cases
28 where, although such applicant has a responsible relative with suffi-
29 cient income and resources to provide medical assistance as determined
30 by the regulations of the department, the income and resources of the
31 responsible relative are not available to such applicant because of the
32 absence of such relative [or] AND the refusal or failure of such ABSENT
33 relative to provide the necessary care and assistance. In such cases,
34 however, the furnishing of such assistance shall create an implied
35 contract with such relative, and the cost thereof may be recovered from
36 such relative in accordance with title six of article three OF THIS
37 CHAPTER and other applicable provisions of law.

38 S 25. Paragraph (b) of subdivision 17 of section 2808 of the public
39 health law, as added by section 30 of part B of chapter 109 of the laws
40 of 2010, is amended and a new paragraph (c) is added to read as follows:

41 (b) Notwithstanding any inconsistent provision of law or regulation to
42 the contrary, for the state fiscal year beginning April first, two thou-
43 sand ten and ending March thirty-first, two thousand [eleven] FIFTEEN,
44 the commissioner shall not be required to revise certified rates of
45 payment established pursuant to this article for rate periods prior to
46 April first, two thousand [eleven] FIFTEEN, based on consideration of
47 rate appeals filed by residential health care facilities or based upon
48 adjustments to capital cost reimbursement as a result of approval by the
49 commissioner of an application for construction under section twenty-
50 eight hundred two of this article, in excess of an aggregate annual
51 amount of eighty million dollars for EACH such state fiscal year. In
52 revising such rates within such fiscal limit, the commissioner shall, in
53 prioritizing such rate appeals, include consideration of which facili-
54 ties the commissioner determines are facing significant financial hard-
55 ship as well as such other considerations as the commissioner deems
56 appropriate and, further, the commissioner is authorized to enter into

1 agreements with such facilities or any other facility to resolve multi-
2 ple pending rate appeals based upon a negotiated aggregate amount and
3 may offset such negotiated aggregate amounts against any amounts owed by
4 the facility to the department, including, but not limited to, amounts
5 owed pursuant to section twenty-eight hundred seven-d of this article;
6 PROVIDED, HOWEVER, THAT THE COMMISSIONER'S AUTHORITY TO NEGOTIATE SUCH
7 AGREEMENTS RESOLVING MULTIPLE PENDING RATE APPEALS AS HEREINBEFORE
8 DESCRIBED SHALL CONTINUE ON AND AFTER APRIL FIRST, TWO THOUSAND FIFTEEN.
9 Rate adjustments made pursuant to this paragraph remain fully subject to
10 approval by the director of the budget in accordance with the provisions
11 of subdivision two of section twenty-eight hundred seven of this arti-
12 cle.

13 (C) NOTWITHSTANDING ANY OTHER CONTRARY PROVISION OF LAW, RULE OR REGU-
14 LATION, FOR PERIODS ON AND AFTER APRIL FIRST, TWO THOUSAND ELEVEN THE
15 COMMISSIONER SHALL PROMULGATE REGULATIONS, AND MAY PROMULGATE EMERGENCY
16 REGULATIONS, ESTABLISHING PRIORITIES AND TIME FRAMES FOR PROCESSING RATE
17 APPEALS, INCLUDING RATE APPEALS FILED PRIOR TO APRIL FIRST, TWO THOUSAND
18 ELEVEN, WITHIN AVAILABLE ADMINISTRATIVE RESOURCES; PROVIDED, HOWEVER,
19 THAT SUCH REGULATIONS SHALL NOT BE INCONSISTENT WITH THE PROVISIONS OF
20 PARAGRAPH (B) OF THIS SUBDIVISION.

21 S 26. Notwithstanding any provision of law to the contrary and subject
22 to the availability of federal financial participation, for periods on
23 and after April 1, 2011, clinics certified pursuant to articles 16, 31
24 or 32 of the mental hygiene law shall be subject to targeted Medicaid
25 reimbursement rate reductions in accordance with the provisions of this
26 section. Such reductions shall be based on utilization thresholds which
27 may be established either as provider-specific or patient-specific
28 thresholds. Provider-specific thresholds shall be based on average
29 patient utilization for a given provider in comparison to a peer based
30 standard to be determined for each service. When applying a provider-
31 specific threshold, rates will be reduced on a prospective basis based
32 on the amount any provider is over the determined threshold level.
33 Patient-specific thresholds will be based on annual thresholds deter-
34 mined for each service over which the per visit payment for each visit
35 in excess of the standard during a twelve month period shall be reduced
36 by a pre-determined amount. The thresholds, peer based standards and the
37 payment reductions shall be determined by the department of health, with
38 the approval of the division of the budget, and in consultation with the
39 office of mental health, the office for people with developmental disa-
40 bilities and the office of alcoholism and substance abuse services, and
41 any such resulting rates shall be subject to certification by the appro-
42 priate commissioners pursuant to subdivision (a) of section 43.02 of the
43 mental hygiene law. The base period used to establish the thresholds
44 shall be the 2009 calendar year. The total annualized reduction in
45 payments shall be no less than \$10,900,000 for Article 31 clinics, no
46 less than \$2,400,000 for Article 16 clinics, and no less than
47 \$13,250,000 for Article 32 clinics. The commissioner of health may
48 promulgate regulations, including emergency regulations, to implement
49 the provisions of this section.

50 S 27. Paragraph (h) of subdivision 2 of section 365-a of the social
51 services law, as amended by chapter 444 of the laws of 1979 and as
52 relettered by chapter 478 of the laws of 1980, is amended to read as
53 follows:

54 (h) SPEECH THERAPY, AND WHEN PROVIDED AT THE DIRECTION OF A PHYSICIAN
55 OR NURSE PRACTITIONER, physical therapy [and relative] INCLUDING RELATED
56 rehabilitative services [when provided at the direction of a physician]

1 AND OCCUPATIONAL THERAPY; PROVIDED, HOWEVER, THAT SPEECH THERAPY, PHYS-
2 ICAL THERAPY AND OCCUPATIONAL THERAPY EACH SHALL BE LIMITED TO COVERAGE
3 OF TWENTY VISITS PER YEAR; SUCH LIMITATION SHALL NOT APPLY TO PERSONS
4 WITH DEVELOPMENTAL DISABILITIES;

5 S 28. Section 3614 of the public health law is amended by adding a new
6 subdivision 2-a to read as follows:

7 2-A. NOTWITHSTANDING ANY CONTRARY LAW, RULE OR REGULATION, FOR RATE
8 PERIODS ON AND AFTER APRIL FIRST, TWO THOUSAND ELEVEN, MEDICAID RATES OF
9 PAYMENTS FOR SERVICES PROVIDED BY CERTIFIED HOME HEALTH AGENCIES, BY
10 LONG TERM HOME HEALTH CARE PROGRAMS OR BY AN AIDS HOME CARE PROGRAM
11 SHALL NOT REFLECT A SEPARATE PAYMENT FOR HOME CARE NURSING SERVICES
12 PROVIDED TO PATIENTS DIAGNOSED WITH ACQUIRED IMMUNE DEFICIENCY SYNDROME
13 (AIDS).

14 S 29. Paragraph (h) of subdivision 5-a of section 2807-m of the public
15 health law is relettered paragraph (i) and a new paragraph (h) is added
16 to read as follows:

17 (H) PUBLIC HEALTH SERVICES CORPS (PHSC). ONE MILLION DOLLARS FOR THE
18 PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO
19 THOUSAND TWELVE, AND TWO MILLION DOLLARS EACH STATE FISCAL YEAR FOR THE
20 PERIOD APRIL FIRST, TWO THOUSAND TWELVE THROUGH MARCH THIRTY-FIRST, TWO
21 THOUSAND FOURTEEN SHALL BE SET ASIDE AND RESERVED BY THE COMMISSIONER
22 FROM THE REGIONAL POOLS ESTABLISHED PURSUANT TO SUBDIVISION TWO OF THIS
23 SECTION AND SHALL BE AVAILABLE TO FUND AWARDS MADE PURSUANT TO A COMPET-
24 ITIVE REQUEST FOR PROPOSAL OR REQUEST FOR APPLICATION PROCESS TO SUPPORT
25 WELL-TRAINED, HIGHLY QUALIFIED NON-PHYSICIAN HEALTH PROFESSIONALS DEDI-
26 CATED TO DELIVERING PUBLIC HEALTH AND HEALTH CARE SERVICES TO UNDER-
27 SERVED COMMUNITIES OUTSIDE THEIR REGULARLY SCHEDULED EMPLOYMENT IN
28 ACCORDANCE WITH THE FOLLOWING:

29 (I) PHSC MEMBERS SHALL BE NON-PHYSICIAN CLINICAL SERVICE PROVIDERS WHO
30 MAY INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING HEALTH CARE PROFES-
31 SIONALS: MENTAL HEALTH SPECIALISTS, INCLUDING CLINICAL PSYCHOLOGISTS AND
32 CLINICAL SOCIAL WORKERS, DENTISTS AND DENTAL HYGIENISTS, NURSE PRACTI-
33 TIONERS AND PHYSICIAN ASSISTANTS, DIETICIANS, PUBLIC HEALTH NURSES AND
34 OTHER REGISTERED NURSES, BACHELOR OF SCIENCE NURSES, LICENSED PRACTICAL
35 NURSES, EPIDEMIOLOGISTS, PUBLIC HEALTH EDUCATORS AND GRADUATE STUDENTS
36 IN PUBLIC HEALTH WHO WANT TO PROVIDE SERVICE TO STATE AND LOCAL HEALTH
37 DEPARTMENTS VIA AN INTERNSHIP.

38 (II) PHSC MEMBERS GRANTED AWARDS PURSUANT TO THIS PARAGRAPH SHALL
39 RECEIVE UP TO FIFTEEN THOUSAND DOLLARS ANNUALLY ON AN INDIVIDUAL BASIS
40 TO PROVIDE CLINICAL, HEALTH PROMOTION AND DISEASE PREVENTION INVESTI-
41 GATION, ANALYSIS AND SERVICES TO MEDICALLY INDIGENT POPULATIONS AND
42 COMMUNITIES IN NEW YORK STATE AS DETERMINED BY THE COMMISSIONER AND MAY
43 INCLUDE, BUT NOT BE LIMITED TO, ANY NUMBER OF THE FOLLOWING ACTIVITIES:

44 (A) CLINICAL TREATMENT IN UNDERSERVED AREAS INCLUDING VACCINATIONS,
45 PHYSICALS AND DENTAL CHECKUPS;

46 (B) PUBLIC HEALTH EMERGENCY RESPONSE AS DIRECTED BY THE GOVERNOR;

47 (C) PUBLIC HEALTH EDUCATION WORKSHOPS INCLUDING CLASSES ON NUTRITION,
48 FAMILY PLANNING, ALCOHOL AND DRUG ABUSE AND ELDER CARE;

49 (D) COMMUNITY HEALTH EVALUATION STUDIES INCLUDING ASSISTANCE WITH
50 EPIDEMIOLOGIC STUDIES IN A PARTICULAR COMMUNITY;

51 (E) DISEASE OUTBREAK INVESTIGATIONS; AND

52 (F) CAREER DEVELOPMENT INSTRUCTION IN DESIGNATED SCHOOLS.

53 (III) PHSC MEMBERS SHALL: PROVIDE UP TO THREE HUNDRED HOURS OF
54 SERVICES; DELIVER SERVICES IN EXISTING VENUES SUCH AS HOSPITALS,
55 FREE-STANDING CLINICS, COUNTY HEALTH DEPARTMENTS, SCHOOLS, NURSING
56 HOMES, TOWN HALLS AND ANY OTHER VENUE IN A RURAL OR INNER-CITY AREA; AND

1 ATTEND ANNUAL TRAINING PROVIDED IN DESIGNATED LOCATIONS IN NEW YORK
2 STATE WHICH SHALL ADDRESS HEALTH SYSTEM CONCERNS SUCH AS PREVENTABLE
3 EVENTS, PATIENT WITH MULTIPLE DIAGNOSES AND MEDICAL HOME MODELS.

4 (IV) UP TO FIFTEEN PERCENT OF FUNDING AVAILABLE PURSUANT TO THIS PARA-
5 GRAPH SHALL BE USED FOR ADMINISTRATION OF THE PHSC PROGRAM, INCLUDING
6 PHSC MEMBER TRAINING, TRAVEL AND PLACEMENT.

7 S 30. Subparagraphs (x), (xi), (xii), (xiii) and (xiv) of paragraph
8 (a) of subdivision 7 of section 2807-s of the public health law, as
9 amended by section 100 of part C of chapter 58 of the laws of 2009, are
10 amended to read as follows:

11 (x) forty-seven million two hundred ten thousand dollars on an annual
12 basis for the periods January first, two thousand nine through December
13 thirty-first, two thousand ten; [and]

14 (xi) eleven million eight hundred thousand dollars for the period
15 January first, two thousand eleven through March thirty-first, two thou-
16 sand eleven;

17 (xii) TWENTY-FOUR MILLION EIGHT HUNDRED THIRTY-SIX THOUSAND DOLLARS
18 FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH
19 THIRTY-FIRST, TWO THOUSAND TWELVE;

20 (XIII) TWENTY-FIVE MILLION EIGHT HUNDRED THIRTY-SIX THOUSAND DOLLARS
21 EACH STATE FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND TWELVE
22 THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN;

23 (XIV) provided, however, for periods prior to January first, two thou-
24 sand nine, amounts set forth in this paragraph may be reduced by the
25 commissioner in an amount to be approved by the director of the budget
26 to reflect the amount received from the federal government under the
27 state's 1115 waiver which is directed under its terms and conditions to
28 the graduate medical education program established pursuant to section
29 twenty-eight hundred seven-m of this article;

30 [(xiii)] (XV) provided further, however, for periods prior to July
31 first, two thousand nine, amounts set forth in this paragraph shall be
32 reduced by an amount equal to the total actual distribution reductions
33 for all facilities pursuant to paragraph (e) of subdivision three of
34 section twenty-eight hundred seven-m of this article; and

35 [(xiv)] (XVI) provided further, however, for periods prior to July
36 first, two thousand nine, amounts set forth in this paragraph shall be
37 reduced by an amount equal to the actual distribution reductions for all
38 facilities pursuant to paragraph (s) of subdivision one of section twen-
39 ty-eight hundred seven-m of this article.

40 S 31. Paragraph (s) of subdivision 2 of section 365-a of the social
41 services law, as amended by section 46 of part B of chapter 58 of the
42 laws of 2010, is amended to read as follows:

43 (s) smoking cessation counseling services [for pregnant women on any
44 day of pregnancy through the end of the month in which the one hundred
45 eightieth day following the end of the pregnancy occurs, and children
46 and adolescents ten to twenty years of age, during a medical visit when
47 provided by a general hospital outpatient department or a free-standing
48 clinic, or by a physician, registered physician's assistant, registered
49 nurse practitioner or licensed midwife in office-based settings];
50 provided, however, that the provisions of this paragraph [relating to
51 smoking cessation counseling services] shall not take effect unless all
52 necessary approvals under federal law and regulation have been obtained
53 to receive federal financial participation in the costs of such
54 services.

1 S 32. Subparagraph (i) of paragraph (b-1) of subdivision 1 of section
2 2807-c of the public health law, as amended by section 10 of part C of
3 chapter 58 of the laws of 2010, is amended to read as follows:

4 (i) For patients discharged on and after January first, nineteen
5 hundred ninety-seven and prior to January first, two thousand and on and
6 after January first, two thousand, payments to general hospitals for
7 reimbursement of inpatient hospital services provided to patients eligi-
8 ble for payments pursuant to the workers' compensation law, the volun-
9 teer firefighters' benefit law, the volunteer ambulance workers' benefit
10 law, and the comprehensive motor vehicle insurance reparations act shall
11 be at the rates of payment determined pursuant to this section for state
12 governmental agencies, excluding adjustments pursuant to subdivision
13 fourteen-f of this section and subdivision thirty-three of this section
14 [and], excluding such further reductions to such payments as are enacted
15 as part of the state budget for the state fiscal year commencing April
16 first, two thousand ten AND EXCLUDING SUCH FURTHER REDUCTIONS TO SUCH
17 PAYMENTS AS ARE ENACTED AS PART OF THE STATE BUDGET FOR STATE FISCAL
18 YEARS COMMENCING ON AND AFTER APRIL FIRST, TWO THOUSAND ELEVEN.

19 S 33. The public health law is amended by adding a new section 3614-c
20 to read as follows:

21 S 3614-C. HOME CARE WORKER WAGE PARITY. 1. AS USED IN THIS SECTION,
22 THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANING:

23 (A) "LIVING WAGE LAW" MEANS ANY LAW ENACTED BY A MUNICIPAL GOVERNMENT
24 IN THE STATE OF NEW YORK WHICH ESTABLISHES A MINIMUM WAGE FOR SOME OR
25 ALL EMPLOYEES WHO PERFORM WORK ON MUNICIPAL GOVERNMENT CONTRACTS.

26 (B) "SOCIAL SERVICES DISTRICT" MEANS ANY SOCIAL SERVICES DISTRICT
27 RECOGNIZED BY THE DEPARTMENT ON JANUARY FIRST, TWO THOUSAND ELEVEN.

28 (C) "MUNICIPAL GOVERNMENT" MEANS ANY CITY OR COUNTY GOVERNMENT.

29 (D) "TOTAL COMPENSATION" MEANS ALL WAGES AND OTHER DIRECT COMPENSATION
30 PAID TO OR PROVIDED ON BEHALF OF THE EMPLOYEE INCLUDING, BUT NOT LIMITED
31 TO, WAGES, HEALTH, EDUCATION OR PENSION BENEFITS, SUPPLEMENTS IN LIEU OF
32 BENEFITS AND COMPENSATED TIME OFF, EXCEPT THAT IT DOES NOT INCLUDE
33 EMPLOYER TAXES OR EMPLOYER PORTION OF PAYMENTS FOR STATUTORY BENEFITS,
34 INCLUDING BUT NOT LIMITED TO FICA, DISABILITY INSURANCE, UNEMPLOYMENT
35 INSURANCE AND WORKERS' COMPENSATION.

36 (E) "PREVAILING RATE OF TOTAL COMPENSATION" MEANS THE AVERAGE HOURLY
37 AMOUNT OF TOTAL COMPENSATION PAID TO ALL HOME CARE AIDES COVERED BY
38 WHATEVER COLLECTIVELY BARGAINED AGREEMENT COVERS THE GREATEST NUMBER OF
39 HOME CARE AIDES IN A SOCIAL SERVICES DISTRICT. THE PREVAILING RATE SHALL
40 BE CALCULATED SEPARATELY FOR EACH SOCIAL SERVICES DISTRICT, PROVIDED
41 THAT THE SOCIAL SERVICES DISTRICT IS COTERMINOUS WITH THE GEOGRAPHIC
42 BOUNDARIES OF A MUNICIPAL GOVERNMENT WHICH HAS ENACTED A LIVING WAGE
43 LAW. FOR PURPOSES OF THIS DEFINITION, ANY SET OF COLLECTIVELY BARGAINED
44 AGREEMENTS IN A SOCIAL SERVICES DISTRICT WITH SUBSTANTIALLY THE SAME
45 TERMS AND CONDITIONS RELATING TO TOTAL COMPENSATION SHALL BE CONSIDERED
46 AS A SINGLE COLLECTIVELY BARGAINED AGREEMENT.

47 (F) "HOME CARE AIDE" MEANS A HOME HEALTH AIDE, PERSONAL CARE AIDE,
48 HOME ATTENDANT OR OTHER LICENSED OR UNLICENSED PERSON WHOSE PRIMARY
49 RESPONSIBILITY INCLUDES THE PROVISION OF IN-HOME ASSISTANCE WITH ACTIV-
50 ITIES OF DAILY LIVING INSTRUMENTAL ACTIVITIES OF DAILY LIVING OR
51 HEALTH-RELATED TASKS.

52 (G) "MANAGED CARE PLAN" MEANS ANY MANAGED CARE PROGRAM, ORGANIZATION
53 OR DEMONSTRATION COVERING PERSONAL CARE OR HOME HEALTH AIDE SERVICES,
54 AND WHICH RECEIVES PREMIUMS FUNDED, IN WHOLE OR IN PART, BY THE NEW YORK
55 STATE MEDICAL ASSISTANCE PROGRAM, INCLUDING BUT NOT LIMITED TO ALL MEDI-
56 CAID MANAGED CARE, MEDICAID MANAGED LONG TERM CARE, MEDICAID ADVANTAGE,

1 AND MEDICAID ADVANTAGE PLUS PLANS AND ALL PROGRAMS OF ALL-INCLUSIVE CARE
2 FOR THE ELDERLY.

3 (H) "EPISODE OF CARE" MEANS ANY SERVICE UNIT REIMBURSED, IN WHOLE OR
4 IN PART, BY THE NEW YORK STATE MEDICAL ASSISTANCE PROGRAM, WHETHER
5 THROUGH DIRECT REIMBURSEMENT OR COVERED BY A PREMIUM PAYMENT, AND WHICH
6 COVERS, IN WHOLE OR IN PART, ANY SERVICE PROVIDED BY A HOME CARE AIDE,
7 INCLUDING BUT NOT LIMITED TO ALL SERVICE UNITS DEFINED AS VISITS, HOURS,
8 DAYS, MONTHS OR EPISODES.

9 2. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, RULE OR REGU-
10 LATION, EFFECTIVE JANUARY FIRST, TWO THOUSAND TWELVE, NO PAYMENTS BY
11 GOVERNMENT AGENCIES SHALL BE MADE TO CERTIFIED HOME HEALTH AGENCIES,
12 LONG TERM HOME HEALTH CARE PROGRAMS OR MANAGED CARE PLANS FOR ANY
13 EPISODE OF CARE FURNISHED, IN WHOLE OR IN PART, BY ANY HOME CARE AIDE
14 WHO IS COMPENSATED AT AMOUNTS LESS THAN THE APPLICABLE MINIMUM RATE OF
15 HOME CARE AIDE TOTAL COMPENSATION ESTABLISHED PURSUANT TO THIS SECTION,
16 PROVIDED THAT THE EPISODE OF CARE IS PROVIDED IN A SOCIAL SERVICES
17 DISTRICT COTERMINOUS WITH THE GEOGRAPHIC BOUNDARIES OF ANY MUNICIPAL
18 GOVERNMENT WHICH HAS ENACTED A LIVING WAGE LAW.

19 3. THE MINIMUM RATE OF HOME CARE AIDE TOTAL COMPENSATION SHALL BE:

20 (A) FOR THE PERIOD MARCH FIRST, TWO THOUSAND TWELVE THROUGH FEBRUARY
21 TWENTY-EIGHTH, TWO THOUSAND THIRTEEN, NINETY PERCENT OF THE TOTAL
22 COMPENSATION MANDATED BY THE LIVING WAGE LAW OF THE MUNICIPAL GOVERNMENT
23 WHOSE GEOGRAPHIC BOUNDARIES ARE COTERMINOUS WITH THE SOCIAL SERVICES
24 DISTRICT IN WHICH THE EPISODE OF CARE IS PROVIDED;

25 (B) FOR THE PERIOD MARCH FIRST, TWO THOUSAND THIRTEEN THROUGH FEBRUARY
26 TWENTY-EIGHTH, TWO THOUSAND FOURTEEN, NINETY-FIVE PERCENT OF THE TOTAL
27 COMPENSATION MANDATED BY THE LIVING WAGE LAW OF THE MUNICIPAL GOVERNMENT
28 WHOSE GEOGRAPHIC BOUNDARIES ARE COTERMINOUS WITH THE SOCIAL SERVICES
29 DISTRICT IN WHICH THE EPISODE OF CARE IS PROVIDED;

30 (C) FOR ALL PERIODS ON AND AFTER MARCH FIRST, TWO THOUSAND FOURTEEN,
31 NO LESS THAN THE PREVAILING RATE OF TOTAL COMPENSATION AS OF JANUARY
32 FIRST, TWO THOUSAND ELEVEN, OR THE TOTAL COMPENSATION MANDATED BY THE
33 LIVING WAGE LAW OF THE MUNICIPAL GOVERNMENT WHOSE GEOGRAPHIC BOUNDARIES
34 ARE COTERMINOUS WITH THE SOCIAL SERVICES DISTRICT IN WHICH THE EPISODE
35 OF CARE IS PROVIDED, WHICHEVER IS GREATER.

36 4. ANY PORTION OF THE MINIMUM RATE OF HOME CARE AIDE TOTAL COMPEN-
37 SATION ATTRIBUTABLE TO HEALTH BENEFIT COSTS OR PAYMENTS IN LIEU OF
38 HEALTH BENEFITS, AND PAID TIME OFF, AS ESTABLISHED PURSUANT TO SUBDIVI-
39 SION THREE OF THIS SECTION SHALL BE SUPERSEDED BY THE TERMS OF ANY
40 EMPLOYER BONA FIDE COLLECTIVE BARGAINING AGREEMENT IN EFFECT AS OF JANU-
41 ARY FIRST, TWO THOUSAND ELEVEN, OR A SUCCESSOR TO SUCH AGREEMENT, WHICH
42 PROVIDES FOR HOME CARE AIDES' HEALTH BENEFITS THROUGH PAYMENTS TO JOINT-
43 LY ADMINISTERED LABOR-MANAGEMENT FUNDS.

44 5. THE TERMS OF THIS SECTION SHALL APPLY EQUALLY TO SERVICES PROVIDED
45 BY HOME CARE AIDES WHO WORK ON EPISODES OF CARE AS DIRECT EMPLOYEES OF
46 CERTIFIED HOME HEALTH AGENCIES, LONG TERM HOME HEALTH CARE PROGRAMS, OR
47 MANAGED CARE PLANS, OR AS EMPLOYEES OF LICENSED HOME CARE SERVICES AGEN-
48 CIES, LIMITED LICENSED HOME CARE SERVICES AGENCIES, OR UNDER ANY OTHER
49 ARRANGEMENT.

50 6. NO PAYMENTS BY GOVERNMENT AGENCIES SHALL BE MADE TO CERTIFIED HOME
51 HEALTH AGENCIES, LONG TERM HOME HEALTH CARE PROGRAMS, OR MANAGED CARE
52 PLANS FOR ANY EPISODE OF CARE WITHOUT THE CERTIFIED HOME HEALTH AGENCY,
53 LONG TERM HOME HEALTH CARE PROGRAM, OR MANAGED CARE PLAN HAVING DELIV-
54 ERED PRIOR WRITTEN CERTIFICATION TO THE COMMISSIONER, ON FORMS PREPARED
55 BY THE DEPARTMENT IN CONSULTATION WITH THE DEPARTMENT OF LABOR, THAT ALL
56 SERVICES PROVIDED UNDER EACH EPISODE OF CARE ARE IN FULL COMPLIANCE WITH

1 THE TERMS OF THIS SECTION AND ANY REGULATIONS PROMULGATED PURSUANT TO
2 THIS SECTION.

3 7. IF A CERTIFIED HOME HEALTH AGENCY OR LONG TERM HOME HEALTH CARE
4 PROGRAM ELECTS TO PROVIDE HOME CARE AIDE SERVICES THROUGH CONTRACTS WITH
5 LICENSED HOME CARE SERVICES AGENCIES OR THROUGH OTHER THIRD PARTIES,
6 PROVIDED THAT THE EPISODE OF CARE ON WHICH THE HOME CARE AIDE WORKS IS
7 COVERED UNDER THE TERMS OF THIS SECTION, THE CERTIFIED HOME HEALTH AGEN-
8 CY, LONG TERM HOME HEALTH CARE PROGRAM, OR MANAGED CARE PLAN MUST OBTAIN
9 A WRITTEN CERTIFICATION FROM THE LICENSED HOME CARE SERVICES AGENCY OR
10 OTHER THIRD PARTY, ON FORMS PREPARED BY THE DEPARTMENT IN CONSULTATION
11 WITH THE DEPARTMENT OF LABOR, WHICH ATTESTS TO THE LICENSED HOME CARE
12 SERVICES AGENCY'S OR OTHER THIRD PARTY'S COMPLIANCE WITH THE TERMS OF
13 THIS SECTION. SUCH CERTIFICATIONS SHALL ALSO OBLIGATE THE CERTIFIED HOME
14 HEALTH AGENCY, LONG TERM HOME HEALTH CARE PROGRAM, OR MANAGED CARE PLAN
15 TO OBTAIN, ON NO LESS THAN A QUARTERLY BASIS, ALL INFORMATION FROM THE
16 LICENSED HOME CARE SERVICES AGENCY OR OTHER THIRD PARTIES NECESSARY TO
17 VERIFY COMPLIANCE WITH THE TERMS OF THIS SECTION. SUCH CERTIFICATIONS
18 AND THE INFORMATION EXCHANGED PURSUANT TO THEM SHALL BE RETAINED BY ALL
19 CERTIFIED HOME HEALTH AGENCIES, LONG TERM HOME HEALTH CARE PROGRAMS, OR
20 MANAGED CARE PLANS, AND ALL LICENSED HOME CARE SERVICES AGENCIES, OR
21 OTHER THIRD PARTIES FOR A PERIOD OF NO LESS THAN TEN YEARS, AND MADE
22 AVAILABLE TO THE DEPARTMENT UPON REQUEST.

23 8. THE COMMISSIONER SHALL DISTRIBUTE TO ALL CERTIFIED HOME HEALTH
24 AGENCIES, LONG TERM HOME HEALTH CARE PROGRAMS, AND MANAGED CARE PLANS
25 OFFICIAL NOTICE OF THE MINIMUM RATES OF HOME CARE AIDE COMPENSATION AT
26 LEAST ONE HUNDRED TWENTY DAYS PRIOR TO THE EFFECTIVE DATE OF EACH MINI-
27 MUM RATE FOR EACH SOCIAL SERVICES DISTRICT COVERED BY THE TERMS OF THIS
28 SECTION.

29 9. THE COMMISSIONER IS AUTHORIZED TO PROMULGATE REGULATIONS, AND MAY
30 PROMULGATE EMERGENCY REGULATIONS, TO IMPLEMENT THE PROVISIONS OF THIS
31 SECTION.

32 10. NOTHING IN THIS SECTION SHOULD BE CONSTRUED AS APPLICABLE TO ANY
33 SERVICE PROVIDED BY CERTIFIED HOME HEALTH AGENCIES, LONG TERM HOME
34 HEALTH CARE PROGRAMS, OR MANAGED CARE PLANS EXCEPT FOR ALL EPISODES OF
35 CARE REIMBURSED IN WHOLE OR IN PART BY THE NEW YORK MEDICAID PROGRAM.

36 11. NO CERTIFIED HOME HEALTH AGENCY, MANAGED CARE PLAN OR LONG TERM
37 HOME HEALTH CARE PROGRAM SHALL BE LIABLE FOR RECOUPMENT OF PAYMENTS FOR
38 SERVICES PROVIDED THROUGH A LICENSED HOME CARE SERVICES AGENCY OR OTHER
39 THIRD PARTY WITH WHICH THE CERTIFIED HOME HEALTH AGENCY, LONG TERM HOME
40 HEALTH CARE PROGRAM, OR MANAGED CARE PLAN HAS A CONTRACT BECAUSE THE
41 LICENSED AGENCY OR OTHER THIRD PARTY FAILED TO COMPLY WITH THE
42 PROVISIONS OF THIS SECTION IF THE CERTIFIED HOME HEALTH AGENCY, LONG
43 TERM HOME HEALTH CARE PROGRAM, OR MANAGED CARE PLAN HAS REASONABLY AND
44 IN GOOD FAITH COLLECTED CERTIFICATIONS AND ALL INFORMATION REQUIRED
45 PURSUANT TO SUBDIVISIONS SIX AND SEVEN OF THIS SECTION.

46 S 33-a. The social services law is amended by adding a new section
47 364-J-3 to read as follows:

48 S 364-J-3. PROVISION OF HOME CARE SERVICES TO MANAGED CARE ENROLLEES.
49 1. FOR ALL BENEFICIARIES NEWLY ENROLLING IN MANAGED CARE PLANS IN NEW
50 YORK CITY ON OR AFTER APRIL FIRST, TWO THOUSAND TWELVE, AND FOR ALL
51 BENEFICIARIES ENROLLED IN MANAGED CARE PLANS IN NEW YORK CITY ON OR
52 AFTER APRIL FIRST, TWO THOUSAND FOURTEEN, AND FOR ALL BENEFICIARIES
53 MANDATED TO ENROLL IN MANAGED CARE PLANS, MANAGED CARE PLANS SHALL ONLY
54 COVER HOME CARE SERVICES IF DELIVERED UNDER CONTRACT TO PROVIDERS THAT
55 HAVE BEEN EXPRESSLY APPROVED BY THE DEPARTMENT OF HEALTH OR ITS DESIGNEE
56 TO PROVIDE HOME CARE SERVICES TO MANAGED CARE BENEFICIARIES IN THE

1 SOCIAL SERVICES DISTRICT WHERE THE BENEFICIARY RESIDES. THIS REQUIREMENT
2 SHALL APPLY TO ALL BENEFICIARIES WHOSE MANAGED CARE IS FINANCED, IN
3 WHOLE OR IN PART, BY THE MEDICAL ASSISTANCE PROGRAM OF NEW YORK STATE.

4 2. APPROVAL FOR ELIGIBILITY TO PROVIDE HOME CARE SERVICES TO MANAGED
5 CARE BENEFICIARIES SHALL TAKE THE FORM OF A CERTIFIED PROVIDER AGREEMENT
6 ENTERED INTO BETWEEN THE PROVIDER OF HOME CARE SERVICES AND THE DEPART-
7 MENT OF HEALTH OR ITS DESIGNEE, SPECIFYING THE TERMS OF THE PROVIDER'S
8 ELIGIBILITY TO PROVIDE HOME CARE SERVICES TO MANAGED CARE BENEFICIARIES,
9 ITS RIGHTS AND OBLIGATIONS IN RELATION TO THE MANAGED CARE PLAN AUTHOR-
10 IZING SUCH SERVICES, AND ANY CONTINGENCIES NECESSARY TO ENSURE THAT THE
11 PROVIDER OF HOME CARE SERVICES DELIVERS SATISFACTORY PERFORMANCE
12 THROUGHOUT THE DURATION OF THE AGREEMENT. THE DEPARTMENT OF HEALTH OR
13 ITS DESIGNEE SHALL HAVE RESPONSIBILITY FOR OVERSEEING ALL APPROVED AGEN-
14 CIES' COMPLIANCE WITH THE TERMS AND CONDITIONS OF THEIR PROVIDER AGREE-
15 MENTS ON AN ONGOING BASIS.

16 3. NO PROVIDER AGREEMENT SHALL BE VALID FOR PERIODS GREATER THAN THREE
17 YEARS. NO LIMIT SHALL BE PLACED ON THE NUMBER OF TIMES A PROVIDER MAY BE
18 REAPPROVED FOR ELIGIBILITY TO SERVE MANAGED CARE BENEFICIARIES. THE
19 DEPARTMENT OF HEALTH OR ITS DESIGNEE SHALL RESERVE THE RIGHT TO REVOKE
20 ANY APPROVAL TO PROVIDE HOME CARE SERVICES TO MANAGED CARE BENEFICIARIES
21 AT ANY TIME IN INSTANCES WHERE THE APPROVED AGENCY HAS BEEN IN MATERIAL
22 NON-COMPLIANCE WITH THE TERMS OF THE CERTIFIED PROVIDER AGREEMENT.

23 4. NO PROVIDER OF HOME CARE SERVICES SHALL BE APPROVED FOR ELIGIBILITY
24 TO SERVE MANAGED CARE BENEFICIARIES UNLESS THE PROVIDER OF HOME CARE
25 SERVICES MEETS AT LEAST ONE OF THE FOLLOWING MINIMUM CRITERIA:

26 (A) THE PROVIDER, OR AN AFFILIATE OF THE PROVIDER, HAS AN ESTABLISHED
27 RECORD OF PROVIDING HOME CARE SERVICES TO THE MEDICAID PERSONAL CARE
28 PROGRAM AND UNDER CONTRACT WITH THE HUMAN RESOURCES ADMINISTRATION IN
29 NEW YORK CITY;

30 (B) THE PROVIDER IS AFFILIATED WITH A LONG TERM HOME HEALTH CARE
31 PROGRAM OR MANAGED LONG TERM CARE PLAN; OR

32 (C) THE PROVIDER OR ITS AFFILIATE HAS AN EXCEPTIONAL PRIOR RECORD OF
33 INVESTING IN THE QUALITY AND SUSTAINABILITY OF THE LONG TERM CARE WORK-
34 FORCE, INCLUDING, BUT NOT LIMITED TO, THE PROVISION OF TRAINING THROUGH
35 A DEPARTMENT OF HEALTH APPROVED TRAINING PROGRAM AND THE PROVISION OF
36 HEALTH AND EDUCATION BENEFITS TO EMPLOYEES.

37 5. EXCEPT FOR MATERIAL INSTANCES OF NON-COMPLIANCE WITH PROGRAM
38 REQUIREMENTS, ALL PROVIDERS OF HOME CARE SERVICES TO THE MEDICAID
39 PERSONAL CARE PROGRAM UNDER CONTRACT WITH THE HUMAN RESOURCES ADMINIS-
40 TRATION AS OF JANUARY FIRST, TWO THOUSAND ELEVEN, SHALL BE APPROVED FOR
41 ELIGIBILITY TO SUBCONTRACT WITH MANAGED CARE PLANS IN NEW YORK CITY
42 THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FIFTEEN.

43 6. NO PROVIDER SHALL BE APPROVED AS ELIGIBLE TO PROVIDE HOME CARE
44 SERVICES TO MANAGED CARE BENEFICIARIES UNLESS IT COMPENSATES ALL ITS
45 HOME CARE EMPLOYEES IN COMPLIANCE WITH THE PROVISIONS OF SECTION THIR-
46 TY-SIX HUNDRED FOURTEEN-C OF THE PUBLIC HEALTH LAW.

47 7. FOR THE NEW YORK CITY SOCIAL SERVICES DISTRICT, NO PROVIDER SHALL
48 BE APPROVED UNLESS THE TOTAL DOLLAR VALUE OF ALL EMPLOYEE COMPENSATION
49 PAID BY THE PROVIDER TO ITS HOME CARE EMPLOYEES WHO WERE EMPLOYEES IN
50 THE MEDICAID PERSONAL CARE PROGRAM AS OF JANUARY FIRST, TWO THOUSAND
51 ELEVEN, INCLUSIVE OF WAGES, BENEFITS, PAYMENTS IN LIEU OF BENEFITS, AND
52 PAID TIME OFF, CALCULATED ON AN AVERAGE HOURLY BASIS, IS NO LESS THAN
53 THE MOST COMMON PREVAILING LEVEL OF TOTAL COMPENSATION PAID TO EMPLOYEES
54 BY AGENCIES PROVIDING MEDICAID PERSONAL CARE PROGRAM SERVICES UNDER
55 CONTRACT WITH THE HUMAN RESOURCES ADMINISTRATION AS OF JANUARY FIRST,

1 TWO THOUSAND ELEVEN, AS DETERMINED BY THE HUMAN RESOURCES ADMINIS-
2 TRATION.

3 8. PROVIDERS OF HOME CARE SERVICES TO MORE THAN THREE HUNDRED FIFTY
4 MANAGED LONG TERM CARE OR LONG TERM HOME HEALTH CARE BENEFICIARIES AS OF
5 JANUARY FIRST, TWO THOUSAND ELEVEN, MUST BE AFFORDED AN OPPORTUNITY TO
6 APPLY FOR APPROVAL TO PROVIDE HOME CARE SERVICES TO MANAGED LONG TERM
7 CARE BENEFICIARIES FOR PERIODS BEGINNING NO LATER THAN APRIL FIRST, TWO
8 THOUSAND TWELVE, PROVIDED THAT ALL SUCH APPLICANTS SHALL STILL BE
9 CONSIDERED FOR APPROVAL IN ACCORDANCE WITH ALL OTHERWISE APPLICABLE
10 PROVISIONS OF THIS SECTION.

11 9. ALL APPROVED PROVIDERS, AS WELL AS ALL PROVIDERS SEEKING APPROVAL
12 TO PROVIDE HOME CARE SERVICES TO MANAGED CARE BENEFICIARIES SHALL
13 FURNISH TO THE DEPARTMENT OF HEALTH OR ITS DESIGNEE, UPON THEIR REQUEST,
14 ALL INFORMATION NECESSARY TO IMPLEMENT ANY PROVISION OF THIS SECTION.

15 10. FOR PURPOSES OF THIS SECTION:

16 (A) HOME CARE SERVICES SHALL MEAN ALL SERVICES PROVIDED BY HOME HEALTH
17 AIDES, PERSONAL CARE AIDES, HOME ATTENDANTS OR OTHER LICENSED OR UNLI-
18 CENSED PERSONNEL WHOSE PRIMARY RESPONSIBILITIES INCLUDE THE PROVISION OF
19 IN HOME ASSISTANCE WITH ACTIVITIES OF DAILY LIVING, INSTRUMENTAL ACTIV-
20 ITIES OF DAILY LIVING, OR HEALTH RELATED TASKS.

21 (B) PROVIDERS OF HOME CARE SERVICES SHALL MEAN LICENSED HOME CARE
22 SERVICES AGENCIES, CONSUMER DIRECTED PERSONAL ASSISTANCE PROGRAMS OR
23 ENTITIES PROVIDING HOME CARE SERVICES TO THE MEDICAID PERSONAL CARE
24 PROGRAM UNDER CONTRACT WITH THE HUMAN RESOURCES ADMINISTRATION IN NEW
25 YORK CITY AS OF JANUARY FIRST, TWO THOUSAND ELEVEN.

26 (C) THE MEDICAID PERSONAL CARE PROGRAM SHALL INCLUDE ALL SERVICES
27 PROVIDED UNDER NEW YORK STATE'S MEDICAL ASSISTANCE PROGRAM IN NEW YORK
28 CITY, INCLUDING BOTH THE HOME ATTENDANT PROGRAM AND THE CONSUMER
29 DIRECTED PERSONAL ASSISTANCE PROGRAM.

30 (D) "MANAGED CARE PLAN" MEANS ANY MANAGED CARE PROGRAM OR DEMON-
31 STRATION COVERING PERSONAL CARE OR HOME HEALTH AIDE SERVICES, AND WHICH
32 RECEIVES PREMIUMS FUNDED, IN WHOLE OR IN PART, BY THE NEW YORK STATE
33 MEDICAL ASSISTANCE PROGRAM, INCLUDING BUT NOT LIMITED TO ALL MEDICAID
34 MANAGED CARE, MEDICAID MANAGED LONG TERM CARE, MEDICAID ADVANTAGE, AND
35 MEDICAID ADVANTAGE PLUS PLANS, AND ALL PROGRAMS OF ALL INCLUSIVE CARE
36 FOR THE ELDERLY.

37 S 34. The public health law is amended by adding a new section 2806-a
38 to read as follows:

39 S 2806-A. TEMPORARY OPERATOR. 1. FOR THE PURPOSES OF THIS SECTION:

40 (A) THE TERM "ESTABLISHED OPERATOR" SHALL MEAN THE OPERATOR OF A GENERAL
41 HOSPITAL OR A DIAGNOSTIC AND TREATMENT CENTER THAT HAS BEEN ESTABLISHED
42 AND ISSUED AN OPERATING CERTIFICATE AS SUCH PURSUANT TO THIS ARTICLE;
43 AND (B) THE TERM "TEMPORARY OPERATOR" SHALL MEAN ANY PERSON OR ENTITY
44 THAT:

45 (I) AGREES TO OPERATE THE GENERAL HOSPITAL OR A DIAGNOSTIC AND TREAT-
46 MENT CENTER ON A TEMPORARY BASIS IN THE BEST INTERESTS OF THE PATIENTS
47 AND THE COMMUNITY SERVED BY THE GENERAL HOSPITAL OR BY THE DIAGNOSTIC
48 AND TREATMENT CENTER; AND

49 (II) HAS DEMONSTRATED THAT HE OR SHE HAS THE CHARACTER, COMPETENCE AND
50 FINANCIAL ABILITY TO OPERATE THE GENERAL HOSPITAL OR THE DIAGNOSTIC AND
51 TREATMENT CENTER IN COMPLIANCE WITH APPLICABLE STANDARDS.

52 2. (A) WHEN A STATEMENT OF DEFICIENCIES HAS BEEN ISSUED BY THE DEPART-
53 MENT AND UPON A DETERMINATION BY THE COMMISSIONER THAT THERE EXIST
54 SIGNIFICANT MANAGEMENT FAILURES, INCLUDING BUT NOT LIMITED TO ADMINIS-
55 TRATIVE, OPERATIONAL OR CLINICAL DEFICIENCIES OR FINANCIAL INSTABILITY,
56 IN A GENERAL HOSPITAL OR IN A DIAGNOSTIC AND TREATMENT CENTER THAT (I)

SERIOUSLY ENDANGER THE LIFE, HEALTH OR SAFETY OF PATIENTS OR (II) JEOPARDIZE EXISTING OR CONTINUED ACCESS TO NECESSARY SERVICES WITHIN THE COMMUNITY, HE OR SHE SHALL APPOINT A TEMPORARY OPERATOR TO ASSUME SOLE CONTROL OVER AND SOLE RESPONSIBILITY FOR THE OPERATIONS OF THAT GENERAL HOSPITAL OR DIAGNOSTIC AND TREATMENT CENTER. THE APPOINTMENT OF A TEMPORARY OPERATOR SHALL BE IN ADDITION TO ANY OTHER REMEDIES PROVIDED BY LAW.

(B) THE ESTABLISHED OPERATOR OF A GENERAL HOSPITAL OR A DIAGNOSTIC AND TREATMENT CENTER MAY AT ANY TIME REQUEST THE COMMISSIONER TO APPOINT A TEMPORARY OPERATOR. UPON RECEIVING SUCH A REQUEST, THE COMMISSIONER MAY, IF HE OR SHE DETERMINES THAT SUCH AN ACTION IS NECESSARY TO RESTORE OR ENSURE THE PROVISION OF QUALITY CARE TO THE PATIENTS, ENTER INTO AN AGREEMENT WITH THE ESTABLISHED OPERATOR FOR THE APPOINTMENT OF A TEMPORARY OPERATOR TO ASSUME SOLE CONTROL OVER AND SOLE RESPONSIBILITY FOR THE OPERATIONS OF THAT GENERAL HOSPITAL OR DIAGNOSTIC AND TREATMENT CENTER.

3. A TEMPORARY OPERATOR APPOINTED PURSUANT TO THIS SECTION SHALL USE HIS OR HER BEST EFFORTS TO CORRECT OR ELIMINATE ANY DEFICIENCIES, MANAGEMENT FAILURES OR FINANCIAL INSTABILITY IN THE GENERAL HOSPITAL OR DIAGNOSTIC AND TREATMENT CENTER. SUCH CORRECTION OR ELIMINATION OF DEFICIENCIES, MANAGEMENT FAILURES OR FINANCIAL INSTABILITY SHALL NOT INCLUDE MAJOR ALTERATIONS OF THE PHYSICAL STRUCTURE OF THE FACILITY. DURING THE TERM OF HIS OR HER APPOINTMENT, THE TEMPORARY OPERATOR SHALL HAVE THE AUTHORITY TO DIRECT THE MANAGEMENT OF THE GENERAL HOSPITAL OR DIAGNOSTIC AND TREATMENT CENTER IN ALL ASPECTS OF OPERATION AND SHALL BE AFFORDED FULL ACCESS TO THE ACCOUNTS AND RECORDS OF THE FACILITY. THE TEMPORARY OPERATOR SHALL, DURING THIS PERIOD, OPERATE THE GENERAL HOSPITAL OR DIAGNOSTIC AND TREATMENT CENTER IN SUCH A MANNER AS TO ENSURE SAFETY AND THE QUALITY OF HEALTH CARE FOR THE PATIENTS. THE TEMPORARY OPERATOR SHALL HAVE THE POWER TO LET CONTRACTS THEREFOR OR INCUR EXPENSES ON BEHALF OF THE GENERAL HOSPITAL OR DIAGNOSTIC AND TREATMENT CENTER, PROVIDED THAT WHERE INDIVIDUAL ITEMS OF REPAIRS, IMPROVEMENTS OR SUPPLIES EXCEED TEN THOUSAND DOLLARS, THE TEMPORARY OPERATOR SHALL OBTAIN PRICE QUOTATIONS FROM AT LEAST THREE REPUTABLE SOURCES. THE TEMPORARY OPERATOR SHALL NOT BE REQUIRED TO FILE ANY BOND. NO SECURITY INTEREST IN ANY REAL OR PERSONAL PROPERTY COMPRISING THE FACILITY OR CONTAINED WITHIN THE FACILITY, OR IN ANY FIXTURE OF THE FACILITY, SHALL BE IMPAIRED OR DIMINISHED IN PRIORITY BY THE TEMPORARY OPERATOR. NEITHER THE TEMPORARY OPERATOR NOR THE DEPARTMENT SHALL ENGAGE IN ANY ACTIVITY THAT CONSTITUTES A CONFISCATION OF PROPERTY WITHOUT THE PAYMENT OF FAIR COMPENSATION.

4. THE TEMPORARY OPERATOR SHALL BE ENTITLED TO A REASONABLE FEE, AS DETERMINED BY THE COMMISSIONER, AND NECESSARY EXPENSES INCURRED DURING HIS OR HER PERFORMANCE AS TEMPORARY OPERATOR, TO BE PAID FROM THE REVENUE OF THE GENERAL HOSPITAL OR DIAGNOSTIC AND TREATMENT CENTER. THE TEMPORARY OPERATOR SHALL COLLECT INCOMING PAYMENTS FROM ALL SOURCES AND APPLY THEM FIRST TO THE REASONABLE FEE AND TO COSTS INCURRED IN THE PERFORMANCE OF HIS OR HER FUNCTIONS AS TEMPORARY OPERATOR. THE TEMPORARY OPERATOR SHALL BE LIABLE ONLY IN HIS OR HER CAPACITY AS TEMPORARY OPERATOR FOR INJURY TO PERSON AND PROPERTY BY REASON OF CONDITIONS OF THE GENERAL HOSPITAL OR DIAGNOSTIC AND TREATMENT CENTER IN A CASE WHERE AN ESTABLISHED OPERATOR WOULD HAVE BEEN LIABLE; HE OR SHE SHALL NOT HAVE ANY LIABILITY IN HIS OR HER PERSONAL CAPACITY, EXCEPT FOR GROSS NEGLIGENCE AND INTENTIONAL ACTS.

5. THE INITIAL TERM OF THE APPOINTMENT OF THE TEMPORARY OPERATOR SHALL NOT EXCEED ONE HUNDRED TWENTY DAYS. ADDITIONAL APPOINTMENTS OF UP TO

NINETY DAYS MAY BE MADE WHEN THE COMMISSIONER DETERMINES THAT ADDITIONAL TERMS ARE NECESSARY TO CORRECT THE DEFICIENCIES, MANAGEMENT FAILURES OR FINANCIAL INSTABILITY THAT REQUIRED THE APPOINTMENT OF THE TEMPORARY OPERATOR. WITHIN FOURTEEN DAYS PRIOR TO THE TERMINATION OF EACH TERM OF THE APPOINTMENT OF THE TEMPORARY OPERATOR, THE TEMPORARY OPERATOR SHALL SUBMIT TO THE COMMISSIONER A REPORT DESCRIBING THE ACTIONS TAKEN DURING THE APPOINTMENT TO ADDRESS SUCH DEFICIENCIES, MANAGEMENT FAILURES AND/OR FINANCIAL INSTABILITY. THE REPORT SHALL REFLECT BEST EFFORTS TO PRODUCE A FULL AND COMPLETE ACCOUNTING.

6. THE COMMISSIONER SHALL, UPON MAKING A DETERMINATION TO APPOINT A TEMPORARY OPERATOR PURSUANT TO PARAGRAPH (A) OF SUBDIVISION TWO OF THIS SECTION, CAUSE THE ESTABLISHED OPERATOR OF THE GENERAL HOSPITAL OR DIAGNOSTIC AND TREATMENT CENTER TO BE NOTIFIED OF THE DETERMINATION BY REGISTERED OR CERTIFIED MAIL ADDRESSED TO THE PRINCIPAL OFFICE OF THE ESTABLISHED OPERATOR. UPON RECEIPT OF SUCH NOTIFICATION AT THE PRINCIPAL OFFICE OF THE ESTABLISHED OPERATOR AND BEFORE THE EXPIRATION OF TEN DAYS THEREAFTER, THE ESTABLISHED OPERATOR MAY REQUEST AN ADMINISTRATIVE HEARING ON THE DETERMINATION TO BE HELD NO LATER THAN SIXTY DAYS FROM THE DATE OF THE APPOINTMENT OF THE TEMPORARY OPERATOR. ANY SUCH HEARING SHALL BE STRICTLY LIMITED TO THE ISSUE OF WHETHER THE DETERMINATION OF THE COMMISSIONER IS SUPPORTED BY SUBSTANTIAL EVIDENCE.

7. NO PROVISION CONTAINED IN THIS SECTION SHALL BE DEEMED TO RELIEVE THE ESTABLISHED OPERATOR OR ANY OTHER PERSON OF ANY CIVIL OR CRIMINAL LIABILITY INCURRED, OR ANY DUTY IMPOSED BY LAW, BY REASON OF ACTS OR OMISSIONS OF THE ESTABLISHED OPERATOR OR ANY OTHER PERSON PRIOR TO THE APPOINTMENT OF ANY TEMPORARY OPERATOR HEREUNDER; NOR SHALL ANYTHING CONTAINED IN THIS SECTION BE CONSTRUED TO SUSPEND DURING THE TERM OF THE APPOINTMENT OF THE TEMPORARY OPERATOR ANY OBLIGATION OF THE ESTABLISHED OPERATOR OR ANY OTHER PERSON FOR THE PAYMENT OF TAXES OR OTHER OPERATING AND MAINTENANCE EXPENSES OF THE FACILITY NOR OF THE ESTABLISHED OPERATOR OR ANY OTHER PERSON FOR THE PAYMENT OF MORTGAGES OR LIENS.

S 35. The public health law is amended by adding a new article 29-AA to read as follows:

ARTICLE 29-AA

PATIENT CENTERED MEDICAL HOMES

SECTION 2959-A. MULTIPAYOR PATIENT CENTERED MEDICAL HOME PROGRAM.

S 2959-A. MULTIPAYOR PATIENT CENTERED MEDICAL HOME PROGRAM. 1. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, THE COMMISSIONER IS AUTHORIZED TO ESTABLISH A PROGRAM WHEREBY ENHANCED PAYMENTS ARE MADE TO CLINICIANS AND CLINICS STATEWIDE THAT ARE CERTIFIED AS MEDICAL HOMES FOR THE PURPOSE OF IMPROVING HEALTH CARE OUTCOMES AND EFFICIENCY THROUGH PATIENT CARE CONTINUITY AND COORDINATION OF HEALTH SERVICES.

2. MEDICAL HOMES CERTIFIED PURSUANT TO THIS SECTION MAY PROVIDE SERVICES TO: RECIPIENTS ELIGIBLE FOR MEDICAL ASSISTANCE PURSUANT TO TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW ("MEDICAID FEE-FOR-SERVICE"); ENROLLEES ELIGIBLE FOR MEDICAL ASSISTANCE PURSUANT TO SUCH TITLE AND ENROLLED IN APPROVED MANAGED CARE ORGANIZATIONS PURSUANT TO SECTION THREE HUNDRED SIXTY-FOUR-J OF SUCH TITLE ("MEDICAID MANAGED CARE"); ENROLLEES ELIGIBLE FOR FAMILY HEALTH PLUS AND ENROLLED IN APPROVED ORGANIZATIONS PURSUANT TO TITLE ELEVEN-D OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW ("FAMILY HEALTH PLUS"); ENROLLEES ELIGIBLE FOR THE CHILD HEALTH INSURANCE PROGRAM AND ENROLLED IN APPROVED ORGANIZATIONS PURSUANT TO TITLE ONE-A OF ARTICLE TWENTY-FIVE OF THIS CHAPTER ("CHILD HEALTH PLUS PROGRAM"); ENROLLEES AND SUBSCRIBERS OF COMMERCIAL MANAGED CARE PLANS OPERATING IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE FORTY-FOUR OF THIS CHAPTER OR BY HEALTH MAINTENANCE ORGANIZATIONS ORGAN-

1 IZED AND OPERATING IN ACCORDANCE WITH ARTICLE FORTY-THREE OF THE INSUR-
2 ANCE LAW; ENROLLEES AND SUBSCRIBERS OF OTHER COMMERCIAL INSURANCE
3 PRODUCTS; AND EMPLOYEES OF EMPLOYER-SPONSORED SELF-INSURED PLANS.

4 3. (A) IN ORDER TO PROMOTE IMPROVED QUALITY OF, AND ACCESS TO, HEALTH
5 CARE SERVICES AND PROMOTE IMPROVED CLINICAL OUTCOMES, IT IS THE POLICY
6 OF THE STATE TO ENCOURAGE COOPERATIVE, COLLABORATIVE AND INTEGRATIVE
7 ARRANGEMENTS AMONG PAYORS OF HEALTH CARE SERVICES AND HEALTH CARE
8 SERVICES PROVIDERS WHO MIGHT OTHERWISE BE COMPETITORS, UNDER THE ACTIVE
9 SUPERVISION OF THE COMMISSIONER. IT IS THE INTENT OF THE STATE TO
10 SUPPLANT COMPETITION WITH SUCH ARRANGEMENTS ONLY TO THE EXTENT NECESSARY
11 TO ACCOMPLISH THE PURPOSES OF THIS ARTICLE, AND TO PROVIDE STATE ACTION
12 IMMUNITY UNDER THE STATE AND FEDERAL ANTITRUST LAWS TO PAYORS OF HEALTH
13 CARE SERVICES AND HEALTH CARE SERVICES PROVIDERS WITH RESPECT TO THE
14 PLANNING, IMPLEMENTATION AND OPERATION OF THE MULTIPAYOR PATIENT
15 CENTERED MEDICAL HOME PROGRAM.

16 (B) THE COMMISSIONER OR HIS OR HER DULY AUTHORIZED REPRESENTATIVE MAY
17 ENGAGE IN APPROPRIATE STATE SUPERVISION NECESSARY TO PROMOTE STATE
18 ACTION IMMUNITY UNDER THE STATE AND FEDERAL ANTITRUST LAWS, AND MAY
19 INSPECT OR REQUEST ADDITIONAL DOCUMENTATION FROM PAYORS OF HEALTH CARE
20 SERVICES AND HEALTH CARE SERVICES PROVIDERS TO VERIFY THAT MEDICAL HOMES
21 CERTIFIED PURSUANT TO THIS SECTION OPERATE IN ACCORDANCE WITH ITS INTENT
22 AND PURPOSE.

23 4. THE COMMISSIONER IS AUTHORIZED TO PARTICIPATE IN, ACTIVELY SUPER-
24 VISE, FACILITATE AND APPROVE MULTIPLE PRIMARY CARE MEDICAL HOME COLLABO-
25 RATIVES AROUND THE STATE WITH HEALTH CARE SERVICES PROVIDERS, WHICH MAY
26 INCLUDE HOSPITALS, DIAGNOSTIC AND TREATMENT CENTERS, AND PRIVATE PRAC-
27 TICES, AND PAYORS OF HEALTH CARE SERVICES, INCLUDING EMPLOYERS, HEALTH
28 PLANS AND INSURERS, TO ESTABLISH: (A) THE BOUNDARIES OF EACH PROGRAM AND
29 THE PROVIDERS ELIGIBLE TO PARTICIPATE; (B) PRACTICE STANDARDS FOR EACH
30 MEDICAL HOME PROGRAM CONSISTENT WITH EXISTING STANDARDS DEVELOPED BY
31 NATIONAL ACCREDITING AND PROFESSIONAL ORGANIZATIONS, INCLUDING BUT NOT
32 LIMITED TO THE JOINT PRINCIPLES OF THE AMERICAN COLLEGE OF PHYSICIANS
33 ("ACP"), THE AMERICAN ACADEMY OF FAMILY PHYSICIANS ("AAFP"), THE AMERI-
34 CAN ACADEMY OF PEDIATRICS ("AAP"), AND THE AMERICAN OSTEOPATHIC ASSOCI-
35 ATION ("AOA"), AND STANDARDS DEVELOPED BY THE NATIONAL COMMITTEE FOR
36 QUALITY ASSURANCE ("NCQA"); (C) METHODOLOGIES BY WHICH PAYORS WILL
37 PROVIDE ENHANCED RATES OF PAYMENT TO CERTIFIED MEDICAL HOMES; AND (D)
38 METHODOLOGIES TO PAY ADDITIONAL AMOUNTS FOR MEDICAL HOMES THAT MEET
39 SPECIFIC PROCESS OR OUTCOME STANDARDS ESTABLISHED BY EACH MULTIPAYOR
40 PATIENT CENTERED MEDICAL HOME COLLABORATIVE.

41 5. THE COMMISSIONER IS AUTHORIZED TO ESTABLISH AN ADVISORY GROUP OF
42 STATE AGENCIES AND STAKEHOLDERS, SUCH AS PROFESSIONAL ORGANIZATIONS AND
43 ASSOCIATIONS, TO IDENTIFY LEGAL AND/OR ADMINISTRATIVE BARRIERS TO THE
44 SHARING OF CARE MANAGEMENT AND CARE COORDINATION SERVICES AMONG PARTIC-
45 IPATING HEALTH CARE SERVICES PROVIDERS AND TO MAKE RECOMMENDATIONS FOR
46 STATUTORY AND/OR REGULATORY CHANGES TO ADDRESS SUCH BARRIERS.

47 6. PATIENT, PAYOR AND HEALTH CARE SERVICES PROVIDER PARTICIPATION IN
48 THE MULTIPAYOR PATIENT CENTERED MEDICAL HOME PROGRAM SHALL BE ON A
49 VOLUNTARY BASIS.

50 7. CLINICS AND CLINICIANS PARTICIPATING UNDER THE ADIRONDACK MEDICAL
51 HOME MULTIPAYOR DEMONSTRATION PROGRAM ESTABLISHED PURSUANT TO SECTION
52 TWENTY-NINE HUNDRED FIFTY-NINE OF THIS CHAPTER, OR THE STATEWIDE PATIENT
53 CENTERED MEDICAL HOME PROGRAM ESTABLISHED PURSUANT TO SECTION THREE
54 HUNDRED SIXTY-FOUR-M OF THE SOCIAL SERVICES LAW, ARE NOT ELIGIBLE FOR
55 ENHANCED PAYMENTS PURSUANT TO THIS SECTION.

1 8. SUBJECT TO THE AVAILABILITY OF FUNDING AND FEDERAL FINANCIAL
2 PARTICIPATION, THE COMMISSIONER IS AUTHORIZED:

3 (A) TO PAY ENHANCED RATES OF PAYMENT UNDER MEDICAID FEE-FOR-SERVICE,
4 MEDICAID MANAGED CARE, FAMILY HEALTH PLUS AND CHILD HEALTH PLUS TO CLIN-
5 ICS AND CLINICIANS THAT ARE CERTIFIED AS PATIENT CENTERED MEDICAL HOMES
6 UNDER THIS TITLE;

7 (B) TO PAY ADDITIONAL AMOUNTS FOR MEDICAL HOMES THAT MEET SPECIFIC
8 PROCESS OR OUTCOME STANDARDS SPECIFIED BY THE COMMISSIONER IN CONSULTA-
9 TION WITH EACH MULTIPAYOR PATIENT CENTERED MEDICAL HOME COLLABORATIVE;
10 AND

11 (C) TO TEST NEW MODELS OF PAYMENT TO HIGH VOLUME MEDICAID PRIMARY CARE
12 MEDICAL HOME PRACTICES THAT INCORPORATE RISK ADJUSTED GLOBAL PAYMENTS
13 COMBINED WITH CARE MANAGEMENT AND PAY FOR PERFORMANCE ADJUSTMENTS.

14 9. (A) THE COMMISSIONER IS AUTHORIZED TO CONTRACT WITH ONE OR MORE
15 ENTITIES TO ASSIST THE STATE IN IMPLEMENTING THE PROVISIONS OF THIS
16 SECTION. SUCH ENTITY OR ENTITIES SHALL BE THE SAME ENTITY OR ENTITIES
17 CHOSEN TO ASSIST IN THE IMPLEMENTATION OF THE HEALTH HOME PROVISIONS OF
18 SECTION THREE HUNDRED SIXTY-FIVE-L OF THE SOCIAL SERVICES LAW. RESPON-
19 SIBILITIES OF THE CONTRACTOR SHALL INCLUDE BUT NOT BE LIMITED TO: DEVEL-
20 OPING RECOMMENDATIONS WITH RESPECT TO PROGRAM POLICY, REIMBURSEMENT,
21 SYSTEM REQUIREMENTS, REPORTING REQUIREMENTS, EVALUATION PROTOCOLS, AND
22 PROVIDER AND PATIENT ENROLLMENT; PROVIDING TECHNICAL ASSISTANCE TO
23 POTENTIAL MEDICAL HOME AND HEALTH HOME PROVIDERS; DATA COLLECTION; DATA
24 SHARING; PROGRAM EVALUATION, AND PREPARATION OF REPORTS.

25 (B) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SECTIONS ONE HUNDRED
26 TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, OR SECTION
27 ONE HUNDRED FORTY-TWO OF THE ECONOMIC DEVELOPMENT LAW, OR ANY OTHER LAW,
28 THE COMMISSIONER IS AUTHORIZED TO ENTER INTO A CONTRACT OR CONTRACTS
29 UNDER PARAGRAPH (A) OF THIS SUBDIVISION WITHOUT A COMPETITIVE BID OR
30 REQUEST FOR PROPOSAL PROCESS, PROVIDED, HOWEVER, THAT:

31 (I) THE DEPARTMENT SHALL POST ON ITS WEBSITE, FOR A PERIOD OF NO LESS
32 THAN THIRTY DAYS:

33 (1) A DESCRIPTION OF THE PROPOSED SERVICES TO BE PROVIDED PURSUANT TO
34 THE CONTRACT OR CONTRACTS;

35 (2) THE CRITERIA FOR SELECTION OF A CONTRACTOR OR CONTRACTORS;

36 (3) THE PERIOD OF TIME DURING WHICH A PROSPECTIVE CONTRACTOR MAY SEEK
37 SELECTION, WHICH SHALL BE NO LESS THAN THIRTY DAYS AFTER SUCH INFORMA-
38 TION IS FIRST POSTED ON THE WEBSITE; AND

39 (4) THE MANNER BY WHICH A PROSPECTIVE CONTRACTOR MAY SEEK SUCH
40 SELECTION, WHICH MAY INCLUDE SUBMISSION BY ELECTRONIC MEANS;

41 (II) ALL REASONABLE AND RESPONSIVE SUBMISSIONS THAT ARE RECEIVED FROM
42 PROSPECTIVE CONTRACTORS IN TIMELY FASHION SHALL BE REVIEWED BY THE
43 COMMISSIONER; AND

44 (III) THE COMMISSIONER SHALL SELECT SUCH CONTRACTOR OR CONTRACTORS
45 THAT, IN HIS OR HER DISCRETION, ARE BEST SUITED TO SERVE THE PURPOSES OF
46 THIS SECTION.

47 S 36. Subparagraph (xi) of paragraph (b) of subdivision 35 of section
48 2807-c of the public health law, as added by section 2 of part C of
49 chapter 58 of the laws of 2009, is amended and three new subparagraphs
50 (xii), (xiii) and (xiv) are added to read as follows:

51 (xi) Rates for teaching general hospitals shall include reimbursement
52 for direct and indirect graduate medical education as defined and calcu-
53 lated pursuant to such regulations. In addition, such regulations shall
54 specify the reports and information required by the commissioner to
55 assess the cost, quality and health system needs for medical education
56 provided[.];

(XII) SUCH REGULATIONS MAY INCORPORATE QUALITY RELATED MEASURES PERTAINING TO POTENTIALLY PREVENTABLE CONDITIONS AND COMPLICATIONS, INCLUDING, BUT NOT LIMITED TO, DISEASES OR COMPLICATIONS OF CARE ACQUIRED IN THE HOSPITAL AND INJURIES SUSTAINED IN THE HOSPITAL;

(XIII) SUCH REGULATIONS MAY INCORPORATE QUALITY RELATED MEASURES PERTAINING TO THE INAPPROPRIATE USE OF CERTAIN MEDICAL PROCEDURES, INCLUDING, BUT NOT LIMITED TO, CESAREAN DELIVERIES, CORONARY ARTERY BYPASS GRAFTS AND PERCUTANEOUS CORONARY INTERVENTIONS;

(XIV) SUCH REGULATIONS MAY IMPOSE A FEE ON GENERAL HOSPITAL SUFFICIENT TO COVER THE COSTS OF AUDITING THE INSTITUTIONAL COST REPORTS SUBMITTED BY GENERAL HOSPITALS.

S 37. The social services law is amended by adding a new section 365-l to read as follows:

S 365-L. HEALTH HOMES. 1. NOTWITHSTANDING ANY LAW, RULE OR REGULATION TO THE CONTRARY, THE COMMISSIONER OF HEALTH IS AUTHORIZED, IN CONSULTATION WITH THE COMMISSIONERS OF THE OFFICE OF MENTAL HEALTH, OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, AND OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES, TO (A) ESTABLISH, IN ACCORDANCE WITH APPLICABLE FEDERAL LAW AND REGULATIONS, STANDARDS FOR THE PROVISION OF HEALTH HOME SERVICES TO MEDICAID ENROLLEES WITH CHRONIC CONDITIONS, (B) ESTABLISH PAYMENT METHODOLOGIES FOR HEALTH HOME SERVICES BASED ON FACTORS INCLUDING BUT NOT LIMITED TO THE COMPLEXITY OF THE CONDITIONS PROVIDERS WILL BE MANAGING, THE ANTICIPATED AMOUNT OF PATIENT CONTACT NEEDED TO MANAGE SUCH CONDITIONS, AND THE HEALTH CARE COST SAVINGS REALIZED BY PROVISION OF HEALTH HOME SERVICES, (C) ESTABLISH THE CRITERIA UNDER WHICH A MEDICAID ENROLLEE WILL BE DESIGNATED AS BEING AN ELIGIBLE INDIVIDUAL WITH CHRONIC CONDITIONS FOR PURPOSES OF THIS PROGRAM, (D) ASSIGN ANY MEDICAID ENROLLEE DESIGNATED AS AN ELIGIBLE INDIVIDUAL WITH CHRONIC CONDITIONS TO A PROVIDER OF HEALTH HOME SERVICES.

2. IN ADDITION TO PAYMENTS MADE FOR HEALTH HOME SERVICES PURSUANT TO SUBDIVISION ONE OF THIS SECTION, THE COMMISSIONER IS AUTHORIZED TO PAY ADDITIONAL AMOUNTS TO PROVIDERS OF HEALTH HOME SERVICES THAT MEET PROCESS OR OUTCOME STANDARDS SPECIFIED BY THE COMMISSIONER.

3. UNTIL SUCH TIME AS THE COMMISSIONER OBTAINS NECESSARY WAIVERS OF THE FEDERAL SOCIAL SECURITY ACT, MEDICAID ENROLLEES ASSIGNED TO PROVIDERS OF HEALTH HOME SERVICES WILL BE ALLOWED TO OPT OUT OF SUCH SERVICES.

4. PAYMENTS AUTHORIZED PURSUANT TO THIS SECTION WILL BE MADE WITH STATE FUNDS ONLY, TO THE EXTENT THAT SUCH FUNDS ARE APPROPRIATED THEREFORE, UNTIL SUCH TIME AS FEDERAL FINANCIAL PARTICIPATION IN THE COSTS OF SUCH SERVICES IS AVAILABLE.

5. THE COMMISSIONER IS AUTHORIZED TO SUBMIT AMENDMENTS TO THE STATE PLAN FOR MEDICAL ASSISTANCE AND/OR SUBMIT ONE OR MORE APPLICATIONS FOR WAIVERS OF THE FEDERAL SOCIAL SECURITY ACT, TO OBTAIN FEDERAL FINANCIAL PARTICIPATION IN THE COSTS OF HEALTH HOME SERVICES PROVIDED PURSUANT TO THIS SECTION, AND AS PROVIDED IN SUBDIVISION THREE OF THIS SECTION.

6. NOTWITHSTANDING ANY LIMITATIONS IMPOSED BY SECTION THREE HUNDRED SIXTY-FOUR-L OF THIS TITLE ON ENTITIES PARTICIPATING IN DEMONSTRATION PROJECTS ESTABLISHED PURSUANT TO SUCH SECTION, THE COMMISSIONER IS AUTHORIZED TO ALLOW SUCH ENTITIES WHICH MEET THE REQUIREMENTS OF THIS SECTION TO PROVIDE HEALTH HOME SERVICES.

7. NOTWITHSTANDING ANY LAW, RULE, OR REGULATION TO THE CONTRARY, THE COMMISSIONERS OF THE DEPARTMENT OF HEALTH, THE OFFICE OF MENTAL HEALTH, THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES, AND THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES ARE AUTHORIZED TO JOINTLY ESTABLISH A SINGLE SET OF OPERATING AND REPORTING REQUIREMENTS AND A SINGLE SET OF CONSTRUCTION AND SURVEY REQUIREMENTS FOR ENTITIES THAT:

1 (A) CAN DEMONSTRATE EXPERIENCE IN THE DELIVERY OF HEALTH, AND MENTAL
2 HEALTH AND/OR ALCOHOL AND SUBSTANCE ABUSE SERVICES AND/OR SERVICES TO
3 PERSONS WITH DEVELOPMENTAL DISABILITIES, AND THE CAPACITY TO OFFER INTE-
4 GRATED DELIVERY OF SUCH SERVICES IN EACH LOCATION APPROVED BY THE
5 COMMISSIONER; AND

6 (B) MEET THE STANDARDS ESTABLISHED PURSUANT TO SUBDIVISION ONE OF THIS
7 SECTION FOR PROVIDING AND RECEIVING PAYMENT FOR HEALTH HOME SERVICES;
8 PROVIDED, HOWEVER, THAT AN ENTITY MEETING THE STANDARDS ESTABLISHED
9 PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL NOT BE REQUIRED TO BE
10 AN INTEGRATED SERVICE PROVIDER PURSUANT TO THIS SUBDIVISION.

11 IN ESTABLISHING A SINGLE SET OF OPERATING AND REPORTING REQUIREMENTS
12 AND A SINGLE SET OF CONSTRUCTION AND SURVEY REQUIREMENTS FOR ENTITIES
13 DESCRIBED IN THIS SUBDIVISION, THE COMMISSIONERS OF THE DEPARTMENT OF
14 HEALTH, THE OFFICE OF MENTAL HEALTH, THE OFFICE FOR PEOPLE WITH DEVELOP-
15 MENTAL DISABILITIES, AND THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE
16 SERVICES ARE AUTHORIZED TO WAIVE ANY REGULATORY REQUIREMENTS AS ARE
17 NECESSARY TO AVOID DUPLICATION OF REQUIREMENTS AND TO ALLOW THE INTE-
18 GRATED DELIVERY OF SERVICES IN A RATIONAL AND EFFICIENT MANNER.

19 8. (A) THE COMMISSIONER OF HEALTH IS AUTHORIZED TO CONTRACT WITH ONE
20 OR MORE ENTITIES TO ASSIST THE STATE IN IMPLEMENTING THE PROVISIONS OF
21 THIS SECTION. SUCH ENTITY OR ENTITIES SHALL BE THE SAME ENTITY OR ENTI-
22 TIES CHOSEN TO ASSIST IN THE IMPLEMENTATION OF THE MULTIPAYOR PATIENT
23 CENTERED MEDICAL HOME PROGRAM PURSUANT TO SECTION TWENTY-NINE HUNDRED
24 FIFTY-NINE-A OF THE PUBLIC HEALTH LAW. RESPONSIBILITIES OF THE CONTRAC-
25 TOR SHALL INCLUDE BUT NOT BE LIMITED TO: DEVELOPING RECOMMENDATIONS WITH
26 RESPECT TO PROGRAM POLICY, REIMBURSEMENT, SYSTEM REQUIREMENTS, REPORTING
27 REQUIREMENTS, EVALUATION PROTOCOLS, AND PROVIDER AND PATIENT ENROLLMENT;
28 PROVIDING TECHNICAL ASSISTANCE TO POTENTIAL MEDICAL HOME AND HEALTH HOME
29 PROVIDERS; DATA COLLECTION; DATA SHARING; PROGRAM EVALUATION, AND PREPA-
30 RATION OF REPORTS.

31 (B) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SECTIONS ONE HUNDRED
32 TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, OR SECTION
33 ONE HUNDRED FORTY-TWO OF THE ECONOMIC DEVELOPMENT LAW, OR ANY OTHER LAW,
34 THE COMMISSIONER OF HEALTH IS AUTHORIZED TO ENTER INTO A CONTRACT OR
35 CONTRACTS UNDER PARAGRAPH (A) OF THIS SUBDIVISION WITHOUT A COMPETITIVE
36 BID OR REQUEST FOR PROPOSAL PROCESS, PROVIDED, HOWEVER, THAT:

37 (I) THE DEPARTMENT OF HEALTH SHALL POST ON ITS WEBSITE, FOR A PERIOD
38 OF NO LESS THAN THIRTY DAYS:

39 (1) A DESCRIPTION OF THE PROPOSED SERVICES TO BE PROVIDED PURSUANT TO
40 THE CONTRACT OR CONTRACTS;

41 (2) THE CRITERIA FOR SELECTION OF A CONTRACTOR OR CONTRACTORS;

42 (3) THE PERIOD OF TIME DURING WHICH A PROSPECTIVE CONTRACTOR MAY SEEK
43 SELECTION, WHICH SHALL BE NO LESS THAN THIRTY DAYS AFTER SUCH INFORMA-
44 TION IS FIRST POSTED ON THE WEBSITE; AND

45 (4) THE MANNER BY WHICH A PROSPECTIVE CONTRACTOR MAY SEEK SUCH
46 SELECTION, WHICH MAY INCLUDE SUBMISSION BY ELECTRONIC MEANS;

47 (II) ALL REASONABLE AND RESPONSIVE SUBMISSIONS THAT ARE RECEIVED FROM
48 PROSPECTIVE CONTRACTORS IN TIMELY FASHION SHALL BE REVIEWED BY THE
49 COMMISSIONER OF HEALTH; AND

50 (III) THE COMMISSIONER OF HEALTH SHALL SELECT SUCH CONTRACTOR OR
51 CONTRACTORS THAT, IN HIS OR HER DISCRETION, ARE BEST SUITED TO SERVE THE
52 PURPOSES OF THIS SECTION.

53 S 38. Intentionally Omitted.

54 S 39. Intentionally Omitted.

1 S 40. Paragraph (u) of subdivision 2 of section 365-a of the social
2 services law, as amended by section 42 of part B of chapter 58 of the
3 laws of 2010, is amended to read as follows:

4 (u) screening, brief intervention, and referral to treatment [in
5 hospital outpatient and emergency departments and free-standing diagnos-
6 tic and treatment centers] of individuals at risk for substance abuse
7 including referral to the appropriate level of intervention and treat-
8 ment in a community setting; provided, however, that the provisions of
9 this paragraph relating to screening, brief intervention, and referral
10 to treatment services shall not take effect unless all necessary
11 approvals under federal law and regulation have been obtained to receive
12 federal financial participation in such costs.

13 S 41. Paragraphs (d) and (e) of subdivision 1 and paragraphs (c) and
14 (d) of subdivision 2 of section 4403-f of the public health law, para-
15 graph (d) of subdivision 1 as amended by section 6 of part C of chapter
16 58 of the laws of 2007, paragraph (e) of subdivision 1 as amended by
17 section 65-d of part A of chapter 57 of the laws of 2006, paragraph (c)
18 of subdivision 2 as added by chapter 659 of the laws of 1997 and para-
19 graph (d) of subdivision 2 as amended by section 9 of part C of chapter
20 58 of the laws of 2007, and paragraphs (d) and (e) of subdivision 1 as
21 relettered by section 7 of part C of chapter 58 of the laws of 2007, are
22 amended to read as follows:

23 (d) ["Approved managed long term care demonstration" means the sites
24 approved by the commissioner to participate in the "Evaluated Medicaid
25 Long Term Care Capitation Program".

26 (e)] "Health and long term care services" means services including,
27 but not limited to [primary care, acute care,] home and community-based
28 and institution-based long term care and ancillary services (that shall
29 include medical supplies and nutritional supplements) that are necessary
30 to meet the needs of persons whom the plan is authorized to enroll. THE
31 MANAGED LONG TERM CARE PLAN MAY ALSO COVER PRIMARY CARE AND ACUTE CARE
32 IF SO AUTHORIZED.

33 (c) [a description that demonstrates the cost-effectiveness of the
34 program as compared to the cost of services clients would otherwise have
35 received;

36 (d)] adequate documentation of the appropriate licenses, certifi-
37 cations or approvals to provide care as planned, including contracts
38 with such providers as may be necessary to provide the full complement
39 of services required to be provided under this section.

40 S 41-a. Subdivision 3 of section 4403-f of the public health law, as
41 amended by chapter 627 of the laws of 2008, is amended to read as
42 follows:

43 3. Certificate of authority; approval. The commissioner shall not
44 approve an application for a certificate of authority unless the appli-
45 cant demonstrates to the commissioner's satisfaction:

46 (a) [the relative cost effectiveness to the medical assistance program
47 when compared to other managed long term care plans proposing to serve,
48 or serving, comparable populations;

49 (b)] that it will have in place acceptable quality-assurance mech-
50 anisms, grievance procedures, mechanisms to protect the rights of enrol-
51 lees and case management services to ensure continuity, quality, appro-
52 priateness and coordination of care;

53 [(c)] (B) that it will include an enrollment process which shall
54 ensure that enrollment in the plan is informed [and voluntary by enrol-
55 lees or their representatives and a voluntary disenrollment process].
56 The application shall [include the specific grounds that would warrant

1 involuntary disenrollment provided, however,] DESCRIBE THE DISENROLLMENT
2 PROCESS, WHICH SHALL PROVIDE THAT an otherwise eligible enrollee shall
3 not be involuntarily disenrolled on the basis of health status;

4 [(d)] (C) satisfactory evidence of the character and competence of the
5 proposed operators and reasonable assurance that the applicant will
6 provide high quality services to an enrolled population;

7 [(e)] (D) sufficient management systems capacity to meet the require-
8 ments of this section and the ability to efficiently process payment for
9 covered services;

10 [(f)] (E) readiness and capability to [achieve full capitation for
11 services reimbursed pursuant to title XVIII of the federal social secu-
12 rity act or, for an applicant designated as an eligible applicant prior
13 to April first, two thousand seven pursuant to paragraph (d) of subdivi-
14 sion six of this section that has its principal place of business in
15 Bronx county and is unable to achieve such full capitation, readiness
16 and capability to achieve full capitation on a scheduled basis for]
17 MAXIMIZE REIMBURSEMENT OF AND COORDINATE services reimbursed pursuant to
18 title XVIII of the federal social security act [or capability and proto-
19 cols for benefit coordination for services reimbursed pursuant to such
20 title] and all other applicable benefits, with such benefit coordination
21 including, but not limited to, measures to support sound clinical deci-
22 sions, reduce administrative complexity, coordinate access to services,
23 maximize benefits available pursuant to such title and ensure that
24 necessary care is provided;

25 [(g)] (F) readiness and capability to [achieve full capitation for]
26 ARRANGE AND MANAGE COVERED SERVICES AND COORDINATE OTHER services reim-
27 bursed pursuant to title XIX of the federal social security act;

28 [(h)] (G) willingness and capability of taking, or cooperating in, all
29 steps necessary to secure and integrate any potential sources of funding
30 for services provided by the managed long term care plan, including, but
31 not limited to, funding available under titles XVI, XVIII, XIX and XX of
32 the federal social security act, the federal older Americans act of
33 nineteen hundred sixty-five, as amended, or any successor provisions
34 subject to approval of the director of the state office for aging, and
35 through financing options such as those authorized pursuant to section
36 three hundred sixty-seven-f of the social services law;

37 [(i)] (H) that the CONTRACTUAL arrangements for PROVIDERS OF health
38 and long term care services IN THE BENEFIT PACKAGE ARE SUFFICIENT TO
39 ensure the availability and accessibility of such services to the
40 proposed enrolled population CONSISTENT WITH GUIDELINES ESTABLISHED BY
41 THE COMMISSIONER; WITH RESPECT TO INDIVIDUALS IN RECEIPT OF SUCH
42 SERVICES PRIOR TO ENROLLMENT, SUCH GUIDELINES SHALL REQUIRE THE MANAGED
43 LONG TERM CARE PLAN TO CONTRACT WITH AGENCIES CURRENTLY PROVIDING SUCH
44 SERVICES, IN ORDER TO PROMOTE CONTINUITY OF CARE; and

45 [(j)] (I) that the applicant is financially responsible and may be
46 expected to meet its obligations to its enrolled members.

47 S 41-b. Subdivisions 5, 6, 7 and 10 of section 4403-f of the public
48 health law, subdivision 5 as amended by section 15 of part C of chapter
49 58 of the laws of 2007, subdivisions 6 and 7 as added by chapter 659 of
50 the laws of 1997, paragraphs (a), (b) and (c) of subdivision 6 as
51 amended by section 6 of part C of chapter 58 of the laws of 2010, para-
52 graph (d) of subdivision 6 as amended by section 17 of part C of chapter
53 58 of the laws of 2007, paragraphs (c) and (d) of subdivision 7 as
54 amended by section 18 of part C of chapter 58 of the laws of 2007, para-
55 graphs (e) and (g) of subdivision 7 as relettered by section 20 of part
56 C of chapter 58 of the laws of 2007, paragraph (h) of subdivision 7 as

added by section 65-c of part A of chapter 57 of the laws of 2006, paragraph (i) as added by section 65-f of part A of chapter 57 of the laws of 2006, and such paragraphs (h) and (i) as relettered by section 20 of part C of chapter 58 of the laws of 2007, paragraph (f) of subdivision 7 as amended by section 7 of part C of chapter 58 of the laws of 2010, subparagraph (iii) of paragraph (h) of subdivision 7 as amended by section 19 of part C of chapter 58 of the laws of 2007, subdivision 10 as amended by chapter 192 of the laws of 2006 and renumbered by section 22 of part C of chapter 58 of the laws of 2007, are amended to read as follows:

5. Applicability of other laws. A managed long term care plan [or approved managed long term care demonstration] shall be subject to the provisions of the insurance law and regulations applicable to health maintenance organizations, this article and regulations promulgated pursuant thereto. To the extent that the provisions of this section are inconsistent with the provisions of this chapter or the provisions of the insurance law, the provisions of this section shall prevail.

6. Approval authority. (a) An applicant shall be issued a certificate of authority as a managed long term care plan upon a determination by the commissioner that the applicant complies with the operating requirements for a managed long term care plan under this section. The commissioner shall issue no more than [fifty] SEVENTY-FIVE certificates of authority to managed long term care plans pursuant to this section. [For purposes of issuance of no more than fifty certificates of authority, such certificates shall include those certificates issued pursuant to paragraphs (b) and (c) of this subdivision.]

(b) An operating demonstration shall be issued a certificate of authority as a managed long term care plan upon a determination by the commissioner that such demonstration complies with the operating requirements for a managed long term care plan under this section. [Except as otherwise expressly provided in paragraphs (d) and (e) of subdivision seven of this section, nothing] NOTHING in this section shall be construed to affect the continued legal authority of an operating demonstration to operate its previously approved program.

[(c) An approved managed long term care demonstration shall be issued a certificate of authority as a managed long term care plan upon a determination by the commissioner that such demonstration complies with the operating requirements for a managed long term care plan under this section. Notwithstanding any inconsistent provision of law to the contrary, all authority for the operation of approved managed long term care demonstrations which have not been issued a certificate of authority as a managed long term care plan, shall expire one year after the adoption of regulations implementing managed long term care plans.]

(d) The majority leader of the senate and the speaker of the assembly may each designate in writing up to fifteen eligible applicants to apply to be approved managed long term care demonstrations or plans. The commissioner may designate in writing up to eleven eligible applicants to apply to be approved managed long term care demonstrations or plans.]

7. Program oversight and administration. (a)(i) The commissioner shall promulgate regulations to implement this section and to ensure the quality, appropriateness and cost-effectiveness of the services provided by managed long term care plans. The commissioner may waive rules and regulations of the department, including but not limited to, those pertaining to duplicative requirements concerning record keeping, boards of directors, staffing and reporting, when such waiver will promote the efficient delivery of appropriate, quality, cost-effective services and

1 when the health, safety and general welfare of enrollees will not be
2 impaired as a result of such waiver. In order to achieve managed long
3 term care plan system efficiencies and coordination and to promote the
4 objectives of high quality, integrated and cost effective care, the
5 commissioner may establish a single coordinated surveillance process,
6 allow for a comprehensive quality improvement and review process to meet
7 component quality requirements, and require a uniform cost report. The
8 commissioner shall require managed long term care plans to utilize qual-
9 ity improvement measures, based on health outcomes data, for internal
10 quality assessment processes and may utilize such measures as part of
11 the single coordinated surveillance process.

12 (ii) Notwithstanding any inconsistent provision of the social services
13 law to the contrary, the commissioner shall, pursuant to regulation,
14 determine whether and the extent to which the applicable provisions of
15 the social services law or regulations relating to approvals and author-
16 izations of, and utilization limitations on, health and long term care
17 services reimbursed pursuant to title XIX of the federal social security
18 act, including, but not limited to, fiscal assessment requirements, are
19 inconsistent with the flexibility necessary for the efficient adminis-
20 tration of managed long term care plans and such regulations shall
21 provide that such provisions shall not be applicable to enrollees or
22 managed long term care plans, provided that such determinations are
23 consistent with applicable federal law and regulation.

24 (b) The commissioner shall, to the extent necessary, submit the appro-
25 priate waivers, including, but not limited to, those authorized pursuant
26 to sections eleven hundred fifteen and nineteen hundred fifteen of the
27 federal social security act, or successor provisions, and any other
28 waivers necessary to achieve the purposes of high quality, integrated,
29 and cost effective care and integrated financial eligibility policies
30 under the medical assistance program or pursuant to title XVIII of the
31 federal social security act. IN ADDITION, THE COMMISSIONER IS AUTHORIZED
32 TO SUBMIT THE APPROPRIATE WAIVERS, INCLUDING BUT NOT LIMITED TO THOSE
33 AUTHORIZED PURSUANT TO SECTIONS ELEVEN HUNDRED FIFTEEN AND NINETEEN
34 HUNDRED FIFTEEN OF THE FEDERAL SOCIAL SECURITY ACT OR SUCCESSOR
35 PROVISIONS, AND ANY OTHER WAIVERS NECESSARY TO REQUIRE MEDICAL ASSIST-
36 ANCE RECIPIENTS WHO ARE TWENTY-ONE YEARS OF AGE OR OLDER AND WHO REQUIRE
37 COMMUNITY-BASED LONG TERM CARE SERVICES, AS SPECIFIED BY THE COMMISSION-
38 ER, FOR MORE THAN ONE HUNDRED AND TWENTY DAYS, TO RECEIVE SUCH SERVICES
39 THROUGH AN AVAILABLE PLAN CERTIFIED PURSUANT TO THIS SECTION OR OTHER
40 CARE COORDINATION PROGRAM SPECIFIED BY THE COMMISSIONER. Copies of such
41 original waiver applications shall be provided to the chairman of the
42 senate finance committee and the chairman of the assembly ways and means
43 committee simultaneously with their submission to the federal govern-
44 ment. THE COMMISSIONER SHALL DEVELOP A WORKGROUP TO FURTHER EVALUATE
45 AND PROMOTE THE TRANSITION OF PERSONS IN RECEIPT OF HOME AND COMMUNITY-
46 BASED LONG TERM CARE SERVICES INTO MANAGED LONG TERM CARE PLANS AND
47 OTHER CARE COORDINATION MODELS.

48 (c)(i) A managed long term care plan shall not use deceptive or coer-
49 cive marketing methods to encourage participants to enroll. A managed
50 long term care plan shall not distribute marketing materials to poten-
51 tial enrollees before such materials have been approved by the commis-
52 sioner.

53 (ii) The commissioner shall ensure, through periodic reviews of
54 managed long term care plans, that enrollment was [a voluntary and] AN
55 informed choice; such plan has only enrolled persons whom it is author-
56 ized to enroll, and plan services are promptly available to enrollees

1 when appropriate. Such periodic reviews shall be made according to stan-
2 dards as determined by the commissioner in regulations.

3 (d) Notwithstanding any provision of law, rule or regulation to the
4 contrary, the commissioner may issue a request for proposals to carry
5 out reviews of enrollment and assessment activities in managed long term
6 care plans and operating demonstrations with respect to enrollees eligi-
7 ble to receive services under title XIX of the federal social security
8 act to determine if enrollment meets the requirements of subparagraph
9 (ii) of paragraph (c) of this subdivision; and that assessments of such
10 enrollees' health, functional and other status, for the purpose of
11 adjusting premiums, were accurate. [Evaluations shall address each
12 bidder's ability to ensure that enrollments in such plans are promptly
13 reviewed and that medical assistance required to be furnished pursuant
14 to title eleven of article five of the social services law will be
15 appropriately furnished to the recipients for whom the local commission-
16 ers are responsible pursuant to section three hundred sixty-five of such
17 title and that plan implementation will be consistent with the proper
18 and efficient administration of the medical assistance program and
19 managed long term care plans.]

20 (e) The commissioner may, in his or her discretion for the purpose of
21 protection of enrollees, impose measures including, but not limited to,
22 bans on further enrollments and requirements for use of enrollment
23 brokers until any identified problems are resolved to the satisfaction
24 of the commissioner.

25 (f) Continuation of a certificate of authority issued under this
26 section shall be contingent upon satisfactory performance by the managed
27 long term care plan in the delivery, continuity, accessibility, cost
28 effectiveness and quality of the services to enrolled members; compli-
29 ance with applicable provisions of this section and rules and regu-
30 lations promulgated thereunder; the continuing fiscal solvency of the
31 organization; and, federal financial participation in payments on behalf
32 of enrollees who are eligible to receive services under title XIX of the
33 federal social security act.

34 (g) [The commissioner shall ensure that (i) a process exists for the
35 resolution of disputes concerning the accuracy of assessments performed
36 pursuant to paragraphs (d) and (e) of this subdivision; and (ii) the
37 tasks described in paragraphs (d) and (e) of this subdivision are
38 consistently administered.

39 (h)] (i) Managed long term care plans and demonstrations may enroll
40 eligible persons in the plan or demonstration upon the completion of a
41 comprehensive assessment that shall include, but not be limited to, an
42 evaluation of the medical, social and environmental needs of each
43 prospective enrollee in such program. This assessment shall also serve
44 as the basis for the development and provision of an appropriate plan of
45 care for the [prospective] enrollee. UPON APPROVAL OF FEDERAL WAIVERS
46 PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION WHICH REQUIRE MEDICAL
47 ASSISTANCE RECIPIENTS WHO REQUIRE COMMUNITY-BASED LONG TERM CARE
48 SERVICES TO ENROLL IN A PLAN, AND UPON APPROVAL OF THE COMMISSIONER, A
49 PLAN MAY ENROLL AN APPLICANT WHO IS CURRENTLY RECEIVING HOME AND COMMU-
50 NITY-BASED SERVICES AND COMPLETE THE COMPREHENSIVE ASSESSMENT WITHIN
51 THIRTY DAYS OF ENROLLMENT PROVIDED THAT THE PLAN CONTINUES TO COVER
52 TRANSITIONAL CARE UNTIL SUCH TIME AS THE ASSESSMENT IS COMPLETED.

53 (ii) The assessment shall be completed by a representative of the
54 managed long term care plan or demonstration, in consultation with the
55 prospective enrollee's health care practitioner AS NECESSARY. The

1 commissioner shall prescribe the forms on which the assessment shall be
2 made.

3 (iii) The [completed assessment and documentation of the] enrollment
4 APPLICATION shall be submitted by the managed long term care plan or
5 demonstration to the [local department of social services, or to a
6 contractor selected pursuant to paragraph (d) of this subdivision,]
7 ENTITY DESIGNATED BY THE DEPARTMENT prior to the commencement of
8 services under the managed long term care plan or demonstration. For
9 purposes of reimbursement of the managed long term care plan or demon-
10 stration, if the [completed assessment and documentation are] ENROLLMENT
11 APPLICATION IS submitted on or before the twentieth day of the month,
12 the enrollment shall commence on the first day of the month following
13 the completion and submission and if the [completed assessment and
14 documentation are] ENROLLMENT APPLICATION IS submitted after the twenti-
15 eth day of the month, the enrollment shall commence on the first day of
16 the second month following submission. Enrollments conducted by a plan
17 or demonstration shall be subject to review and audit by the department
18 [and by the local social services district] or a contractor selected
19 pursuant to paragraph (d) of this subdivision.

20 (iv) Continued enrollment in a managed long term care plan or demon-
21 stration paid for by government funds shall be based upon a comprehen-
22 sive assessment of the medical, social and environmental needs of the
23 recipient of the services. Such assessment shall be performed at least
24 [annually] EVERY SIX MONTHS by the managed long term care plan serving
25 the enrollee. The commissioner shall prescribe the forms on which the
26 assessment will be made.

27 [(i)] (H) The commissioner shall, upon request by a managed long term
28 care plan[, approved managed long term care demonstration,] or operating
29 demonstration, and consistent with federal regulations promulgated
30 pursuant to the Health Insurance Portability and Accountability Act,
31 share with such plan or demonstration the following data if it is avail-
32 able:

33 (i) information concerning utilization of services and providers by
34 each of its enrollees prior to and during enrollment, including but not
35 limited to utilization of emergency department services, prescription
36 drugs, and hospital and nursing facility admissions.

37 (ii) aggregate data concerning utilization and costs for enrollees and
38 for comparable cohorts served through the Medicaid fee-for-service
39 program.

40 10. [The] NOTWITHSTANDING ANY INCONSISTENT PROVISION TO THE CONTRARY,
41 THE ENROLLMENT AND DISENROLLMENT PROCESS AND services provided or
42 arranged by all operating demonstrations or any program that receives
43 designation as a Program of All-Inclusive Care for the Elderly (PACE) as
44 authorized by federal public law 105-33, subtitle I of title IV of the
45 Balanced Budget Act of 1997, MUST MEET ALL APPLICABLE FEDERAL REQUIRE-
46 MENTS. SERVICES may include, but need not be limited to, housing, inpa-
47 tient and outpatient hospital services, nursing home care, home health
48 care, adult day care, assisted living services provided in accordance
49 with article forty-six-B of this chapter, adult care facility services,
50 enriched housing program services, hospice care, respite care, personal
51 care, homemaker services, diagnostic laboratory services, therapeutic
52 and diagnostic radiologic services, emergency services, emergency alarm
53 systems, home delivered meals, physical adaptations to the client's
54 home, physician care (including consultant and referral services),
55 ancillary services, case management services, transportation, and
56 related medical services.

1 S 42. The social services law is amended by adding a new section 365-m
2 to read as follows:

3 S 365-M. ADMINISTRATION AND MANAGEMENT OF BEHAVIORAL HEALTH SERVICES.

4 1. THE COMMISSIONERS OF THE OFFICE OF MENTAL HEALTH AND THE OFFICE OF
5 ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, IN CONSULTATION WITH THE
6 COMMISSIONER OF HEALTH AND WITH THE APPROVAL OF THE DIVISION OF THE
7 BUDGET, SHALL HAVE RESPONSIBILITY FOR JOINTLY DESIGNATING REGIONAL ENTI-
8 TIES TO PROVIDE ADMINISTRATIVE AND MANAGEMENT SERVICES FOR THE PURPOSES
9 OF PRIOR APPROVING AND COORDINATING THE PROVISION OF BEHAVIORAL HEALTH
10 SERVICES, AND INTEGRATING SUCH BEHAVIORAL HEALTH SERVICES WITH OTHER
11 SERVICES AVAILABLE UNDER THIS TITLE, FOR RECIPIENTS OF MEDICAL ASSIST-
12 ANCE WHO ARE NOT ENROLLED IN MANAGED CARE, AND FOR SUCH APPROVAL, COOR-
13 DINATION, AND INTEGRATION OF BEHAVIORAL HEALTH SERVICES THAT ARE NOT
14 PROVIDED THROUGH MANAGED CARE PROGRAMS UNDER THIS TITLE FOR INDIVIDUALS
15 REGARDLESS OF WHETHER OR NOT SUCH INDIVIDUALS ARE ENROLLED IN MANAGED
16 CARE PROGRAMS. SUCH REGIONAL ENTITIES SHALL ALSO BE RESPONSIBLE FOR
17 SAFEGUARDING AGAINST UNNECESSARY UTILIZATION OF SUCH CARE AND SERVICES
18 AND ASSURING THAT PAYMENTS ARE CONSISTENT WITH THE EFFICIENT AND ECONOM-
19 ICAL DELIVERY OF QUALITY CARE.

20 2. IN EXERCISING THIS RESPONSIBILITY, THE COMMISSIONERS OF THE OFFICE
21 OF MENTAL HEALTH AND THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE
22 SERVICES ARE AUTHORIZED TO CONTRACT, AFTER CONSULTATION WITH THE COMMIS-
23 SIONER OF HEALTH, WITH REGIONAL BEHAVIORAL HEALTH ORGANIZATIONS OR OTHER
24 ENTITIES. SUCH CONTRACTS MAY INCLUDE RESPONSIBILITY FOR RECEIPT, REVIEW,
25 AND DETERMINATION OF PRIOR AUTHORIZATION REQUESTS FOR BEHAVIORAL HEALTH
26 CARE AND SERVICES, CONSISTENT WITH CRITERIA ESTABLISHED OR APPROVED BY
27 THE COMMISSIONERS OF MENTAL HEALTH AND ALCOHOLISM AND SUBSTANCE ABUSE
28 SERVICES, AND AUTHORIZATION OF APPROPRIATE CARE AND SERVICES BASED ON
29 DOCUMENTED PATIENT MEDICAL NEED.

30 3. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SECTIONS ONE HUNDRED
31 TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, OR SECTION
32 ONE HUNDRED FORTY-TWO OF THE ECONOMIC DEVELOPMENT LAW, OR ANY OTHER LAW
33 TO THE CONTRARY, THE COMMISSIONERS OF THE OFFICE OF MENTAL HEALTH AND
34 THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES ARE AUTHORIZED TO
35 ENTER INTO A CONTRACT OR CONTRACTS UNDER SUBDIVISIONS ONE AND TWO OF
36 THIS SECTION WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS,
37 PROVIDED, HOWEVER, THAT:

38 (A) THE OFFICE OF MENTAL HEALTH AND THE OFFICE OF ALCOHOLISM AND
39 SUBSTANCE ABUSE SERVICES SHALL POST ON THEIR WEBSITES, FOR A PERIOD OF
40 NO LESS THAN THIRTY DAYS:

41 (I) A DESCRIPTION OF THE PROPOSED SERVICES TO BE PROVIDED PURSUANT TO
42 THE CONTRACTOR CONTRACTS;

43 (II) THE CRITERIA FOR SELECTION OF A CONTRACTOR OR CONTRACTORS;

44 (III) THE PERIOD OF TIME DURING WHICH A PROSPECTIVE CONTRACTOR MAY
45 SEEK SELECTION, WHICH SHALL BE NO LESS THAN THIRTY DAYS AFTER SUCH
46 INFORMATION IS FIRST POSTED ON THE WEBSITE; AND

47 (IV) THE MANNER BY WHICH A PROSPECTIVE CONTRACTOR MAY SEEK SUCH
48 SELECTION, WHICH MAY INCLUDE SUBMISSION BY ELECTRONIC MEANS;

49 (B) ALL REASONABLE AND RESPONSIVE SUBMISSIONS THAT ARE RECEIVED FROM
50 PROSPECTIVE CONTRACTORS IN TIMELY FASHION SHALL BE REVIEWED BY THE
51 COMMISSIONERS; AND

52 (C) THE COMMISSIONERS OF THE OFFICE OF MENTAL HEALTH AND THE OFFICE OF
53 ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, IN CONSULTATION WITH THE
54 COMMISSIONER OF HEALTH, SHALL SELECT SUCH CONTRACTOR OR CONTRACTORS
55 THAT, IN THEIR DISCRETION, HAVE DEMONSTRATED THE ABILITY TO EFFECTIVELY,
56 EFFICIENTLY, AND ECONOMICALLY INTEGRATE BEHAVIORAL HEALTH AND HEALTH

SERVICES; HAVE THE REQUISITE EXPERTISE AND FINANCIAL RESOURCES; HAVE DEMONSTRATED THAT THEIR DIRECTORS, SPONSORS, MEMBERS, MANAGERS, PARTNERS OR OPERATORS HAVE THE REQUISITE CHARACTER, COMPETENCE AND STANDING IN THE COMMUNITY, AND ARE BEST SUITED TO SERVE THE PURPOSES OF THIS SECTION.

4. THE COMMISSIONERS OF THE OFFICE OF MENTAL HEALTH, THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES AND THE DEPARTMENT OF HEALTH, SHALL HAVE THE RESPONSIBILITY FOR JOINTLY DESIGNATING ON A REGIONAL BASIS, AFTER CONSULTATION WITH THE CITY OF NEW YORK'S LOCAL SOCIAL SERVICES DISTRICT AND LOCAL GOVERNMENTAL UNIT, AS SUCH TERM IS DEFINED IN THE MENTAL HYGIENE LAW, AND AFTER CONSULTATION OF OTHER AFFECTED COUNTIES, A LIMITED NUMBER OF SPECIALIZED MANAGED CARE PLANS, SPECIAL NEED MANAGED CARE PLANS, AND/OR INTEGRATED PHYSICAL AND BEHAVIORAL HEALTH PROVIDER SYSTEMS CAPABLE OF MANAGING THE BEHAVIORAL AND PHYSICAL HEALTH NEEDS OF MEDICAL ASSISTANCE ENROLLEES WITH SIGNIFICANT BEHAVIORAL HEALTH NEEDS. INITIAL DESIGNATIONS OF SUCH PLANS OR PROVIDER SYSTEMS SHOULD BE MADE NO LATER THAN APRIL FIRST, TWO THOUSAND THIRTEEN, PROVIDED, HOWEVER, SUCH DESIGNATIONS SHALL BE CONTINGENT UPON A DETERMINATION BY SUCH STATE COMMISSIONERS THAT THE ENTITIES TO BE DESIGNATED HAVE THE CAPACITY AND FINANCIAL ABILITY TO PROVIDE SERVICES IN SUCH PLANS OR PROVIDER SYSTEMS, AND THAT THE REGION HAS A SUFFICIENT POPULATION AND SERVICE BASE TO SUPPORT SUCH PLANS AND SYSTEMS. ONCE DESIGNATED, THE COMMISSIONER OF HEALTH SHALL MAKE ARRANGEMENTS TO ENROLL SUCH ENROLLEES IN SUCH PLANS OR INTEGRATED PROVIDER SYSTEMS AND TO PAY SUCH PLANS OR PROVIDER SYSTEMS ON A CAPITATED OR OTHER BASIS TO MANAGE, COORDINATE, AND PAY FOR BEHAVIORAL AND PHYSICAL HEALTH MEDICAL ASSISTANCE SERVICES FOR SUCH ENROLLEES. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SECTION ONE HUNDRED TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, AND SECTION ONE HUNDRED FORTY-TWO OF THE ECONOMIC DEVELOPMENT LAW, OR ANY OTHER LAW TO THE CONTRARY, THE DESIGNATIONS OF SUCH PLANS AND PROVIDER SYSTEMS, AND ANY RESULTING CONTRACTS WITH SUCH PLANS, PROVIDERS OR PROVIDER SYSTEMS ARE AUTHORIZED TO BE ENTERED INTO BY SUCH STATE COMMISSIONERS WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS. OVERSIGHT OF SUCH CONTRACTS WITH SUCH PLANS, PROVIDERS OR PROVIDER SYSTEMS SHALL BE THE JOINT RESPONSIBILITY OF SUCH STATE COMMISSIONERS, AND FOR CONTRACTS AFFECTING THE CITY OF NEW YORK, ALSO WITH THE CITY'S LOCAL SOCIAL SERVICES DISTRICT AND LOCAL GOVERNMENTAL UNIT, AS SUCH TERM IS DEFINED IN THE MENTAL HYGIENE LAW.

S 43. Paragraph (c) of subdivision 6 of section 367-a of the social services law, as amended by chapter 41 of the laws of 1992 and subparagraph (iii) as amended by section 47 of part C of chapter 58 of the laws of 2009, is amended to read as follows:

(c) (i) Co-payments charged pursuant to this subdivision for non-institutional services shall not exceed the following table, provided, however, that the department may establish standard co-payments for services based upon the average or typical payment for that service:

State's payment for the services	Maximum co-payment chargeable to recipient
\$10 or less	\$[.50] .60
\$10.01 to \$25	\$[1.00] 1.15
\$25.01 to \$50	\$[2.00] 2.30
\$50.01 or more	\$[3.00] 3.40

(ii) co-payments charged pursuant to this subdivision for each discharge for inpatient care shall be [twenty-five] THIRTY dollars.

1 (iii) Notwithstanding any other provision of this paragraph, co-
2 payments charged for each generic prescription drug dispensed shall be
3 one dollar AND FIFTEEN CENTS and for each brand name prescription drug
4 dispensed shall be three dollars AND FORTY CENTS; provided, however,
5 that the co-payments charged for each brand name prescription drug on
6 the preferred drug list established pursuant to section two hundred
7 seventy-two of the public health law and the co-payments charged for
8 each brand name prescription drug reimbursed pursuant to subparagraph
9 (ii) of paragraph (a-1) of subdivision four of section three hundred
10 sixty-five-a of this title shall be one dollar AND FIFTEEN CENTS.

11 (IV) THE CO-PAYMENT FOR EMERGENCY ROOM SERVICES PROVIDED FOR NON-UR-
12 GENT OR NON-EMERGENCY MEDICAL CARE SHALL BE SIX DOLLARS AND FORTY CENTS;
13 PROVIDED HOWEVER THAT CO-PAYMENTS PURSUANT TO THIS SUBPARAGRAPH SHALL
14 NOT BE REQUIRED WITH RESPECT TO EMERGENCY SERVICES OR FAMILY PLANNING
15 SERVICES AND SUPPLIES.

16 S 44. Paragraph (d) of subdivision 6 of section 367-a of the social
17 services law is amended by adding six new subparagraphs (ix), (x), (xi),
18 (xii), (xiii), and (xiv) to read as follows:

19 (IX) VISION CARE;

20 (X) DENTAL SERVICES;

21 (XI) AUDIOLOGY SERVICES;

22 (XII) PHYSICIAN SERVICES;

23 (XIII) NURSE PRACTITIONER SERVICES;

24 (XIV) REHABILITATION SERVICES INCLUDING OCCUPATIONAL THERAPY; PHYSICAL
25 THERAPY AND SPEECH THERAPY;

26 S 45. Subparagraph (ii) of paragraph (f) of subdivision 6 of section
27 367-a of the social services law, as amended by section 42 of part C of
28 chapter 58 of the laws of 2005, is amended and a new subparagraph (iii)
29 is added to read as follows:

30 (ii) In the year commencing April first, two thousand five and for
31 each year thereafter, AND ENDING IN THE YEAR CONCLUDING ON MARCH THIR-
32 TY-FIRST, TWO THOUSAND ELEVEN, no recipient shall be required to pay
33 more than a total of two hundred dollars in co-payments required by this
34 subdivision, nor shall reductions in payments as a result of such
35 co-payments exceed two hundred dollars for any recipient.

36 (III) IN THE YEAR COMMENCING APRIL FIRST, TWO THOUSAND ELEVEN AND FOR
37 EACH YEAR THEREAFTER, NO RECIPIENT SHALL BE REQUIRED TO PAY MORE THAN A
38 TOTAL OF THREE HUNDRED DOLLARS IN CO-PAYMENTS REQUIRED BY THIS SUBDIVI-
39 SION, NOR SHALL REDUCTIONS IN PAYMENTS AS A RESULT OF SUCH CO-PAYMENTS
40 EXCEED THREE HUNDRED DOLLARS FOR ANY RECIPIENT.

41 S 46. Subdivision 2-a of section 369-ee of the social services law, as
42 amended by section 26 of part E of chapter 63 of the laws of 2005, is
43 amended to read as follows:

44 2-a. Co-payments. Subject to federal approval pursuant to subdivision
45 six of this section, persons receiving family health plus coverage under
46 this section shall be responsible to make co-payments in accordance with
47 the terms of subdivision six of section three hundred sixty-seven-a of
48 this article, including those individuals who are otherwise exempted
49 under the provisions of subparagraph (iv) of paragraph (b) of subdivi-
50 sion six of section three hundred sixty-seven-a of this article,
51 provided however, that notwithstanding the provisions of paragraphs (c)
52 and (d) of such subdivision:

53 (i) co-payments charged for each generic prescription drug dispensed
54 shall be three dollars and for each brand name prescription drug
55 dispensed shall be six dollars;

(ii) the co-payment charged for each dental service visit shall be five dollars, provided that no enrollee shall be required to pay more than twenty-five dollars per year in co-payments for dental services; [and]

(iii) the co-payment for clinic services [and], physician services, AND NURSE PRACTITIONER SERVICES shall be five dollars; AND

(IV) THE CO-PAYMENT FOR EMERGENCY ROOM SERVICES PROVIDED FOR NON-URGENT OR NON-EMERGENCY MEDICAL CARE SHALL BE SIX DOLLARS AND FORTY CENTS; PROVIDED HOWEVER THAT CO-PAYMENTS PURSUANT TO THIS PARAGRAPH SHALL NOT BE REQUIRED WITH RESPECT TO EMERGENCY SERVICES OR FAMILY PLANNING SERVICES AND SUPPLIES;

and provided further that the limitations in paragraph (f) of such subdivision shall not apply.

S 47. Section 2510 of the public health law is amended by adding a new subdivision 13 to read as follows:

13. "CO-PAYMENT" MEANS A PAYMENT MADE ON BEHALF OF AN ELIGIBLE CHILD TO A HEALTH CARE PROVIDER FOR A COVERED HEALTH CARE SERVICE PROVIDED TO SUCH CHILD IN AN AMOUNT TO BE DETERMINED BY THE COMMISSIONER CONSISTENT WITH FEDERAL STANDARDS AND SPECIFIED IN APPLICABLE CONTRACTS. AGGREGATE CO-PAYMENT AMOUNTS COLLECTED BY HEALTH CARE PROVIDERS PURSUANT TO THIS SUBDIVISION SHALL NOT EXCEED THREE HUNDRED DOLLARS PER YEAR PER ELIGIBLE CHILD.

S 47-a. Subdivision 8 of section 2511 of the public health law is amended by adding three new paragraphs (f), (g) and (h) to read as follows:

(F) THE COMMISSIONER SHALL ADJUST SUBSIDY PAYMENTS MADE TO APPROVED ORGANIZATIONS ON AND AFTER APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND TWELVE, SO THAT THE AMOUNT OF EACH SUCH PAYMENT IS REDUCED BY ONE AND SEVEN-TENTHS PERCENT.

(G) EFFECTIVE OCTOBER FIRST, TWO THOUSAND ELEVEN, THE COMMISSIONER SHALL REDUCE SUBSIDY PAYMENTS MADE TO APPROVED ORGANIZATIONS TO REFLECT ESTIMATED COLLECTIONS OF CO-PAYMENT AMOUNTS IMPOSED PURSUANT TO SUBDIVISION THIRTEEN OF SECTION TWENTY-FIVE HUNDRED TEN OF THIS TITLE AND AS SPECIFIED IN APPLICABLE CONTRACTS BASED ON THE NUMBER OF COVERED HEALTH CARE SERVICE VISITS REPORTED BY AN APPROVED ORGANIZATION ON THE MEDICAID MANAGED CARE OPERATING REPORT SUBMITTED TO THE DEPARTMENT FOR THE CALENDAR YEAR ENDING DECEMBER THIRTY-FIRST, TWO THOUSAND TEN AND ADJUSTED ANNUALLY ON JULY FIRST TO REFLECT THE VISITS REPORTED FOR THE PRECEDING CALENDAR YEAR.

(H) THE COMMISSIONER MAY INCREASE SUBSIDY PAYMENTS MADE TO APPROVED ORGANIZATIONS THAT VOLUNTARILY PARTICIPATE IN THE MULTI-PAYOR PATIENT CENTERED MEDICAL HOME PROGRAM TO REFLECT ADDITIONAL COSTS ASSOCIATED WITH ENHANCED PAYMENTS MADE TO CERTIFIED MEDICAL HOMES BY APPROVED ORGANIZATIONS AS REQUIRED BY ARTICLE TWENTY-NINE-AA OF THIS CHAPTER.

S 48. The public health law is amended by adding a new section 2997-d to read as follows:

S 2997-D. HOSPITAL, NURSING HOME, HOME CARE, SPECIAL NEEDS ASSISTED LIVING RESIDENCES AND ENHANCED ASSISTED LIVING RESIDENCES PALLIATIVE CARE SUPPORT. 1. (A) "PALLIATIVE CARE" MEANS HEALTH CARE TREATMENT, INCLUDING INTERDISCIPLINARY END-OF-LIFE CARE, AND CONSULTATION WITH PATIENTS AND FAMILY MEMBERS, TO PREVENT OR RELIEVE PAIN AND SUFFERING AND TO ENHANCE THE PATIENT'S QUALITY OF LIFE, INCLUDING HOSPICE CARE UNDER ARTICLE FORTY OF THIS CHAPTER.

(B) "APPROPRIATE" HAS THE SAME MEANING AS PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION TWENTY-NINE HUNDRED NINETY-SEVEN-C OF THIS TITLE.

1 2. GENERAL HOSPITALS, NURSING HOMES, ORGANIZATIONS LICENSED OR CERTI-
2 FIED PURSUANT TO ARTICLE THIRTY-SIX OF THIS CHAPTER, AND ORGANIZATIONS
3 LICENSED AS SPECIAL NEEDS ASSISTED LIVING RESIDENCES OR ENHANCED
4 ASSISTED LIVING RESIDENCES PURSUANT TO ARTICLE FORTY-SIX-B OF THIS CHAP-
5 TER SHALL ESTABLISH POLICIES AND PROCEDURES TO PROVIDE PATIENTS WITH
6 ADVANCED LIFE LIMITING CONDITIONS AND ILLNESSES WHO MIGHT BENEFIT FROM
7 PALLIATIVE CARE AND PAIN MANAGEMENT SERVICES WITH ACCESS TO INFORMATION
8 AND COUNSELING REGARDING PALLIATIVE CARE AND PAIN MANAGEMENT OPTIONS
9 APPROPRIATE TO THE PATIENT. POLICIES MUST INCLUDE PROVISION FOR
10 PATIENTS WHO LACK CAPACITY TO MAKE MEDICAL DECISIONS, SO THAT ACCESS TO
11 SUCH INFORMATION AND COUNSELING SHALL BE PROVIDED TO THE PERSONS WHO ARE
12 LEGALLY AUTHORIZED TO MAKE MEDICAL DECISIONS ON BEHALF OF SUCH PATIENTS.

13 3. GENERAL HOSPITALS, NURSING HOMES, ORGANIZATIONS LICENSED OR CERTI-
14 FIED PURSUANT TO ARTICLE THIRTY-SIX OF THIS CHAPTER, AND ORGANIZATIONS
15 LICENSED AS SPECIAL NEEDS ASSISTED LIVING RESIDENCES OR ENHANCED
16 ASSISTED LIVING RESIDENCES PURSUANT TO ARTICLE FORTY-SIX-B OF THIS CHAP-
17 TER SHALL FACILITATE ACCESS TO APPROPRIATE PALLIATIVE CARE AND PAIN
18 MANAGEMENT CONSULTATIONS AND SERVICES INCLUDING BUT NOT LIMITED TO
19 REFERRALS CONSISTENT WITH PATIENT NEEDS AND PREFERENCES.

20 S 49. The commissioner of health shall establish a workgroup
21 comprised of county officials, representatives of the nursing home
22 industry, representatives of organized labor unions, representatives
23 from the department of health and the division of budget, and any other
24 interested individuals or representatives to develop a plan and the
25 necessary legislation to establish a public benefit corporation for the
26 purpose of operating and managing public nursing homes.

27 The workgroup shall prepare and submit a report and draft legislation
28 to the governor and the legislature no later than November 1, 2011.

29 S 50. Legislative findings. Legislative intent. The legislature finds
30 that integration and coordination of health care services is essential
31 to the improvement of health care quality, efficiency, access and
32 outcomes. The federal Patient Protection and Affordable Care Act creates
33 several health system demonstration and pilot programs, intended to
34 promote and assess delivery system and payment reforms, that require
35 integration of services, coordination among providers, or a combination
36 of the two. Expanding these programs to include non-governmental payers
37 may strengthen their impact, but will require collaboration among
38 competing payers. In addition, collaborative arrangements among, or
39 consolidation of, providers may be necessary to preserve access to
40 essential services in some communities, while improving the quality of
41 the services they provide and the efficiency of their operations, as
42 well as minimizing unnecessary increases in the cost of care.

43 Federal and state antitrust laws may prohibit or discourage such
44 collaboration or consolidation beneficial to residents of New York
45 state, given their potential for, or actual, reduction in competition.
46 The legislature finds that such agreements should be permitted and
47 encouraged. Under these circumstances, competition as currently mandated
48 by federal and state antitrust laws should be supplanted by a regulatory
49 program to permit and encourage cooperative, collaborative and integra-
50 tive agreements between health care providers, payers, and others, that
51 are beneficial to New York residents when the benefits of such agree-
52 ments outweigh any disadvantages caused by their potential or actual
53 adverse effects on competition. Regulatory oversight of such arrange-
54 ments should be provided to ensure that the benefits of such agreements
55 outweigh any disadvantages attributable to any reduction in competition
56 that may result from the agreements. Accordingly, the legislature

intends to authorize a regulatory program to permit and oversee integration, consolidation, collaboration, and coordination among and between providers and payers, where necessary to assure access to essential health care services, to improve health care quality and outcomes, to enhance efficiency, or to minimize the cost of health care.

S 51. The public health law is amended by adding a new article 29-E to read as follows:

ARTICLE 29-E

IMPROVED INTEGRATION OF HEALTH CARE AND FINANCING

SECTION 2999-AA. ANTITRUST PROVISIONS, STATE OVERSIGHT.

2999-BB. DEPARTMENT AUTHORITY.

S 2999-AA. ANTITRUST PROVISIONS, STATE OVERSIGHT. 1. IN ORDER TO PROMOTE IMPROVED QUALITY AND EFFICIENCY OF, AND ACCESS TO, HEALTH CARE SERVICES AND TO PROMOTE IMPROVED CLINICAL OUTCOMES TO THE RESIDENTS OF NEW YORK, IT SHALL BE THE POLICY OF THE STATE TO ENCOURAGE COOPERATIVE, COLLABORATIVE AND INTEGRATIVE ARRANGEMENTS BETWEEN HEALTH CARE PROVIDERS, PAYERS AND OTHERS WHO MIGHT OTHERWISE BE COMPETITORS, UNDER THE ACTIVE SUPERVISION OF THE COMMISSIONER. TO THE EXTENT SUCH ARRANGEMENTS MIGHT BE ANTI-COMPETITIVE WITHIN THE MEANING AND INTENT OF THE STATE AND FEDERAL ANTITRUST LAWS, THE INTENT OF THE STATE IS TO SUPPLANT COMPETITION WITH SUCH ARRANGEMENTS AS NECESSARY TO ACCOMPLISH THE PURPOSES OF THIS ARTICLE, AND TO PROVIDE STATE ACTION IMMUNITY UNDER THE STATE AND FEDERAL ANTITRUST LAWS WITH RESPECT TO ACTIVITIES UNDERTAKEN BY HEALTH CARE PROVIDERS AND OTHERS PURSUANT TO THIS ARTICLE, WHERE THE BENEFITS OF SUCH ARRANGEMENTS OUTWEIGH ANY DISADVANTAGES LIKELY TO RESULT FROM A REDUCTION OF COMPETITION.

2. THE COMMISSIONER OR HIS OR HER DULY AUTHORIZED REPRESENTATIVE MAY ALSO ENGAGE IN APPROPRIATE STATE SUPERVISION NECESSARY TO PROMOTE STATE ACTION IMMUNITY UNDER THE STATE AND FEDERAL ANTITRUST LAWS.

S 2999-BB. DEPARTMENT AUTHORITY. THE DEPARTMENT SHALL PROMULGATE REGULATIONS TO IMPLEMENT THIS ARTICLE. THE DEPARTMENT SHALL FURTHER BE AUTHORIZED TO IMPOSE FEES AS APPROPRIATE TO FACILITATE THE IMPLEMENTATION OF THIS ARTICLE. THIS ARTICLE IS NOT INTENDED TO LIMIT THE AUTHORITY OF THE ATTORNEY GENERAL OF THE STATE OF NEW YORK.

S 52. Article 29-D of the public health law is amended by adding a new title 4 to read as follows:

TITLE 4

NEW YORK STATE MEDICAL INDEMNITY FUND

SECTION 2999-G. PURPOSE OF THIS ARTICLE.

2999-H. DEFINITIONS.

2999-I. CUSTODY AND ADMINISTRATION OF THE FUND.

2999-J. PAYMENTS FROM THE FUND.

2999-L. RULES AND REGULATIONS.

S 2999-G. PURPOSE OF THIS ARTICLE. CREATION OF THE NEW YORK STATE MEDICAL INDEMNITY FUND. THERE IS HEREBY CREATED THE NEW YORK STATE MEDICAL INDEMNITY FUND (THE "FUND"). THE PURPOSE OF THE FUND IS TO PROVIDE A FUNDING SOURCE FOR CERTAIN COSTS ASSOCIATED WITH BIRTH RELATED NEUROLOGICAL INJURIES, IN ORDER TO REDUCE PREMIUM COSTS FOR MEDICAL MALPRACTICE INSURANCE COVERAGE.

S 2999-H. DEFINITIONS. AS USED IN THIS TITLE, UNLESS THE CONTEXT OR SUBJECT MATTER REQUIRES OTHERWISE:

(A) "BIRTH RELATED NEUROLOGICAL INJURY" MEANS AN INJURY TO THE BRAIN OR SPINAL CORD OF A LIVE INFANT CAUSED BY THE DEPRIVATION OF OXYGEN OR MECHANICAL INJURY OCCURRING IN THE COURSE OF LABOR, DELIVERY OR RESUSCITATION OR BY OTHER MEDICAL SERVICES PROVIDED OR NOT PROVIDED DURING DELIVERY ADMISSION THAT RENDERED THE INFANT WITH A PERMANENT AND

1 SUBSTANTIAL MOTOR IMPAIRMENT OR WITH A DEVELOPMENTAL DISABILITY AS THAT
2 TERM IS DEFINED BY SECTION 1.03 OF THE MENTAL HYGIENE LAW. THIS DEFINITION SHALL APPLY TO LIVE BIRTHS ONLY.

4 (B) "FUND" MEANS THE NEW YORK STATE MEDICAL INDEMNITY FUND.

5 (C) "MEDICALLY NECESSARY HEALTH CARE COSTS" MEANS THE FUTURE MEDICAL,
6 DENTAL, REHABILITATION, CUSTODIAL, DURABLE MEDICAL EQUIPMENT, HOME
7 MODIFICATIONS, ASSISTIVE TECHNOLOGY, VEHICLE MODIFICATIONS, PRESCRIPTION
8 AND NON-PRESCRIPTION MEDICATIONS, AND OTHER HEALTH CARE COSTS ACTUALLY
9 INCURRED FOR SERVICES RENDERED TO AND SUPPLIES UTILIZED BY QUALIFIED
10 PLAINTIFFS, WHICH ARE MEDICALLY NECESSARY AS THAT TERM IS DEFINED BY THE
11 COMMISSIONER IN REGULATION.

12 (D) "QUALIFIED PLAINTIFFS" MEANS THOSE PLAINTIFFS WHO (I) HAVE BEEN
13 FOUND BY A JURY OR COURT TO HAVE SUSTAINED A BIRTH-RELATED NEUROLOGICAL
14 INJURY AS THE RESULT OF MEDICAL MALPRACTICE, OR (II) HAVE SUSTAINED A
15 BIRTH-RELATED NEUROLOGICAL INJURY AS THE RESULT OF ALLEGED MEDICAL MALPRACTICE, AND HAVE SETTLED THEIR LAWSUITS THEREFOR.

17 S 2999-I. CUSTODY AND ADMINISTRATION OF THE FUND. (A) THE COMMISSIONER OF TAXATION AND FINANCE SHALL BE THE CUSTODIAN OF THE FUND. ALL PAYMENTS FROM THE FUND SHALL BE MADE BY THE COMMISSIONER OF TAXATION AND FINANCE UPON CERTIFICATES SIGNED BY THE SUPERINTENDENT OF FINANCIAL REGULATION, OR HIS OR HER DESIGNEE, AS HEREINAFTER PROVIDED. THE FUND SHALL BE SEPARATE AND APART FROM ANY OTHER FUND AND FROM ALL OTHER STATE MONIES. NO MONIES FROM THE FUND SHALL BE TRANSFERRED TO ANY OTHER FUND, NOR SHALL ANY SUCH MONIES BE APPLIED TO THE MAKING OF ANY PAYMENT FOR ANY PURPOSE OTHER THAN THE PURPOSE SET FORTH IN THIS TITLE.

26 (B) THE FUND SHALL BE ADMINISTERED BY THE SUPERINTENDENT OF FINANCIAL REGULATION OR HIS OR HER DESIGNEE IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE.

29 (C) THE EXPENSE OF ADMINISTERING THE FUND, INCLUDING THE EXPENSES INCURRED BY THE DEPARTMENT, SHALL BE PAID FROM THE FUND.

31 (D) MONIES FOR THE FUND WILL BE PROVIDED PURSUANT TO THIS CHAPTER.

32 (E) BEGINNING APRIL FIRST, TWO THOUSAND TWELVE AND ANNUALLY THEREAFTER, THE SUPERINTENDENT OF FINANCIAL REGULATION SHALL CAUSE TO BE DEPOSITED INTO THE FUND, SUBJECT TO AVAILABLE APPROPRIATIONS, AN AMOUNT EQUAL TO THE DIFFERENCE BETWEEN THE AMOUNT APPROPRIATED TO THE FUND IN THE PRECEDING YEAR, AS INCREASED BY THE ADJUSTMENT FACTOR DEFINED IN SUBDIVISION (G) OF THIS SECTION, AND THE ASSETS OF THE FUND AT THE CONCLUSION OF THAT FISCAL YEAR.

39 (F) FOLLOWING THE DEPOSIT REFERENCED IN SUBDIVISION (E) OF THIS SECTION, THE SUPERINTENDENT OF FINANCIAL REGULATION SHALL CONDUCT AN ACTUARIAL CALCULATION OF THE ESTIMATED LIABILITIES OF THE FUND FOR THE COMING YEAR RESULTING FROM THE QUALIFIED PLAINTIFFS ENROLLED IN THE FUND. THE ADMINISTRATOR SHALL FROM TIME TO TIME ADJUST SUCH CALCULATION. IF THE TOTAL OF ALL CURRENT ESTIMATES OF LIABILITIES EQUALS EIGHTY PERCENT OF THE FUND'S ASSETS, THEN THE FUND SHALL NOT ACCEPT ANY NEW ENROLLMENTS UNTIL A NEW DEPOSIT HAS BEEN MADE PURSUANT TO SUBDIVISION (E) OF THIS SECTION. WHEN, AS A RESULT OF SUCH NEW DEPOSIT, THE FUND'S LIABILITIES NO LONGER EXCEED THE FUND'S ASSETS, THE FUND ADMINISTRATOR SHALL ENROLL NEW QUALIFIED PLAINTIFFS IN THE ORDER THAT AN APPLICATION FOR ENROLLMENT HAS BEEN SUBMITTED IN ACCORDANCE WITH SUBDIVISION SIX OF SECTION TWENTY-NINE HUNDRED NINETY-NINE-J OF THIS TITLE.

52 (G) FOR PURPOSES OF THIS SECTION, THE ADJUSTMENT FACTOR REFERENCED IN THIS SECTION SHALL BE THE TEN YEAR ROLLING AVERAGE MEDICAL COMPONENT OF THE CONSUMER PRICE INDEX AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, FOR THE PRECEDING TEN YEARS.

1 S 2999-J. PAYMENTS FROM THE FUND. 1. THE FUND SHALL BE USED TO PAY
2 THE (I) MEDICALLY NECESSARY HEALTH CARE COSTS OF QUALIFIED PLAINTIFFS,
3 (II) EXISTING MEDICAID LIENS ASSERTED AGAINST THE PROCEEDS OF ANY RECOV-
4 ERY FOR THE BIRTH RELATED NEUROLOGICAL INJURIES SUSTAINED BY SUCH QUALI-
5 FIED PLAINTIFFS, AND (III) THE PORTION OF THE FEES OF THE QUALIFIED
6 PLAINTIFFS' ATTORNEYS DEEMED TO BE ATTRIBUTABLE TO SUCH LIEN AMOUNT OR
7 AMOUNTS.

8 2. IN DETERMINING THE AMOUNT OF MEDICALLY NECESSARY HEALTH CARE COSTS
9 TO BE PAID FROM THE FUND, ANY SUCH COST OR EXPENSE THAT WAS OR WILL,
10 WITH REASONABLE CERTAINTY, BE PAID, REPLACED OR INDEMNIFIED FROM ANY
11 COLLATERAL SOURCE AS PROVIDED BY SUBDIVISION (A) OF SECTION FORTY-FIVE
12 HUNDRED FORTY-FIVE OF THE CIVIL PRACTICE LAW AND RULES SHALL NOT CONSTI-
13 TUTE A MEDICALLY NECESSARY HEALTH CARE COST AND SHALL NOT BE PAID FROM
14 THE FUND. FOR PURPOSES OF THIS TITLE, "COLLATERAL SOURCE" SHALL NOT
15 INCLUDE MEDICARE OR MEDICAID.

16 3. IN DETERMINING THE AMOUNT OF MEDICALLY NECESSARY HEALTH CARE COSTS
17 TO BE PAID FROM THE FUND, THERE SHALL BE PROPORTIONATELY DEDUCTED FROM
18 EACH CLAIM SUBMITTED TO THE FUND THE AMOUNTS NECESSARY FOR PAYMENT OF
19 THE SET-OFFS, ADJUSTMENTS AND DEDUCTIONS AS SET FORTH IN SUBDIVISION (E)
20 OF SECTION FIVE THOUSAND THIRTY-ONE OF THE CIVIL PRACTICE LAW AND RULES.

21 4. THE AMOUNT OF MEDICALLY NECESSARY HEALTH CARE COSTS TO BE PAID FROM
22 THE FUND SHALL BE CALCULATED ON THE BASIS OF MEDICAID RATES OF
23 REIMBURSEMENT OR, WHERE NO SUCH RATES ARE AVAILABLE, AS DEFINED BY THE
24 COMMISSIONER IN REGULATION. ANY DISPUTE AS TO WHETHER ANY COST IS
25 MEDICALLY NECESSARY SHALL BE DETERMINED BY THE COMMISSIONER.

26 5. ON A FORM TO BE PRESCRIBED AND FURNISHED BY THE FUND, THE QUALIFIED
27 PLAINTIFF SHALL FILE WITH THE FUND CLAIMS FOR THE PAYMENT FROM THE FUND
28 OF MEDICALLY NECESSARY HEALTH CARE COSTS, ANY EXISTING MEDICAID LIENS,
29 AND THE PORTION OF THE FEE OF THE QUALIFIED PLAINTIFF'S ATTORNEY DEEMED
30 TO BE ATTRIBUTABLE TO SUCH LIEN AMOUNT OR AMOUNTS.

31 6. A QUALIFIED PLAINTIFF SHALL BE ENROLLED WHEN (A) SUCH PLAINTIFF, OR
32 ANY OF THE DEFENDANTS IN REGARD TO THE PLAINTIFF'S CLAIM, MAKES AN
33 APPLICATION FOR ENROLLMENT BY PROVIDING THE FUND ADMINISTRATOR WITH A
34 CERTIFIED COPY OF THE JUDGMENT OR OF THE COURT APPROVED SETTLEMENT
35 AGREEMENT; AND (B) THE FUND ADMINISTRATOR DETERMINES UPON THE BASIS OF
36 SUCH JUDGMENT OR SETTLEMENT AGREEMENT AND ANY ADDITIONAL INFORMATION THE
37 FUND ADMINISTRATOR SHALL REQUEST THAT THE PLAINTIFF IS A QUALIFIED
38 PLAINTIFF; PROVIDED THAT NO ENROLLMENT SHALL OCCUR WHEN THE FUND IS
39 CLOSED TO ENROLLMENT PURSUANT TO SUBDIVISION (F) OF SECTION TWENTY-NINE
40 HUNDRED NINETY-NINE-I OF THIS TITLE.

41 6-A. AS TO ALL CLAIMS, THE FUND ADMINISTRATOR SHALL:

42 (A) DETERMINE WHICH OF SUCH COSTS ARE MEDICALLY NECESSARY HEALTH CARE
43 COSTS TO BE PAID FROM THE FUND; AND

44 (B) THEREUPON CERTIFY TO THE COMMISSIONER OF TAXATION AND FINANCE
45 THOSE COSTS THAT HAVE BEEN DETERMINED TO BE MEDICALLY NECESSARY HEALTH
46 CARE COSTS TO BE PAID FROM THE FUND.

47 7. THE QUALIFIED PLAINTIFF'S CLAIM FOR THE PAYMENT OF ANY EXISTING
48 MEDICAID LIENS SHALL BE ACCOMPANIED BY EVIDENCE OF ANY SUCH LIENS AND,
49 AS TO SUCH CLAIM, THE FUND ADMINISTRATOR SHALL:

50 (A) CONFIRM THE EXISTENCE AND AMOUNT OF SUCH LIENS; AND

51 (B) ACCEPT AND PROCESS CLAIMS FOR PAYMENT OF SUCH LIENS; AND

52 (C) THEREUPON CERTIFY TO THE COMMISSIONER OF TAXATION AND FINANCE
53 THOSE LIENS THAT HAVE BEEN DETERMINED TO BE EXISTING VALID MEDICAID
54 LIENS TO BE PAID FROM THE FUND.

55 WITH REGARD TO THE QUALIFIED PLAINTIFF'S CLAIM FOR THE PAYMENT OF THE
56 PORTION OF THE FEE OF THE QUALIFIED PLAINTIFF'S ATTORNEY DEEMED TO BE

1 ATTRIBUTABLE TO THE EXISTING MEDICAID LIENS, THE FUND ADMINISTRATOR
2 SHALL ACCEPT AND PROCESS CLAIMS FOR PAYMENT OF SUCH FEE, ASSUMING THAT
3 THE EXISTING MEDICAID LIEN IS THE LAST COMPONENT OF THE JUDGMENT OR
4 SETTLEMENT SUM TO BE PAID.

5 8. ANY DISPUTE CONCERNING ANY DETERMINATION BY THE FUND ADMINISTRATOR
6 WITH REGARD TO THAT PORTION OF THE ATTORNEY'S FEE SHALL BE REFERRED TO
7 THE COMMISSIONER.

8 9. PAYMENTS FROM THE FUND SHALL BE MADE BY THE COMMISSIONER OF TAXA-
9 TION AND FINANCE ON THE SAID CERTIFICATE OF THE SUPERINTENDENT OF FINAN-
10 CIAL REGULATION. NO PAYMENT SHALL BE MADE BY THE COMMISSIONER OF TAXA-
11 TION AND FINANCE IN EXCESS OF THE AMOUNT CERTIFIED. PROMPTLY UPON
12 RECEIPT OF THE SAID CERTIFICATE OF THE SUPERINTENDENT OF FINANCIAL REGU-
13 LATION, THE COMMISSIONER OF TAXATION AND FINANCE SHALL PAY (I) THE QUAL-
14 IFIED PLAINTIFF'S HEALTH CARE PROVIDER OR REIMBURSE THE QUALIFIED PLAIN-
15 TIFF THE AMOUNT SO CERTIFIED FOR PAYMENT, (II) THE LIEN AMOUNT OR
16 AMOUNTS SO CERTIFIED FOR PAYMENT, AND (III) THE QUALIFIED PLAINTIFF'S
17 ATTORNEY THE PORTION OF THE FEE SO CERTIFIED FOR PAYMENT.

18 10. PAYMENT FROM THE FUND SHALL NOT GIVE THE FUND ANY RIGHT OF RECOV-
19 ERY AGAINST ANY QUALIFIED PLAINTIFF OR SUCH QUALIFIED PLAINTIFF'S ATTOR-
20 NEY EXCEPT IN THE CASE OF FRAUD OR MISTAKE.

21 11. ALL HEALTH CARE PROVIDERS SHALL ACCEPT FROM QUALIFIED PLAINTIFFS
22 ASSIGNMENTS OF THE RIGHT TO RECEIVE PAYMENTS FROM THE FUND FOR MEDICALLY
23 NECESSARY HEALTH CARE COSTS.

24 12. HEALTH INSURERS (OTHER THAN MEDICARE AND MEDICAID) SHALL BE THE
25 PRIMARY PAYERS OF MEDICALLY NECESSARY HEALTH CARE COSTS OF QUALIFIED
26 PLAINTIFFS. SUCH COSTS SHALL BE PAID FROM THE FUND ONLY TO THE EXTENT
27 THAT HEALTH INSURERS OR OTHER COLLATERAL SOURCES ARE NOT OTHERWISE OBLI-
28 GATED TO MAKE PAYMENTS THEREFOR. HEALTH INSURERS THAT MAKE PAYMENTS FOR
29 MEDICALLY NECESSARY HEALTH CARE COSTS TO OR ON BEHALF OF QUALIFIED
30 PLAINTIFFS SHALL HAVE NO RIGHT OF RECOVERY AGAINST AND SHALL HAVE NO
31 LIEN UPON THE FUND OR ANY PERSON OR ENTITY NOR SHALL THE FUND CONSTITUTE
32 AN ADDITIONAL PAYMENT SOURCE TO OFFSET THE PAYMENTS OTHERWISE CONTRACTU-
33 ALLY REQUIRED TO BE MADE BY SUCH HEALTH INSURERS.

34 13. EXCEPT AS PROVIDED FOR BY THIS TITLE, NO PAYMENT SHALL BE REQUIRED
35 TO BE MADE BY ANY DEFENDANT OR SUCH DEFENDANT'S INSURER FOR MEDICALLY
36 NECESSARY HEALTH CARE COSTS, OR FOR THE EXISTING MEDICAID LIEN AMOUNTS,
37 OR FOR THE PORTION OF THE FEE OF THE QUALIFIED PLAINTIFF'S ATTORNEY
38 DEEMED TO BE ATTRIBUTABLE TO SUCH LIEN AMOUNTS, AND NO JUDGMENT SHALL BE
39 MADE OR ENTERED REQUIRING THAT ANY SUCH PAYMENT BE MADE BY ANY DEFENDANT
40 OR SUCH DEFENDANT'S INSURER.

41 14. THE DETERMINATION OF THE QUALIFIED PLAINTIFF'S ATTORNEY'S FEE
42 SHALL BE BASED UPON THE ENTIRE SUM AWARDED BY THE JURY OR THE COURT OR
43 THE FULL SUM OF THE SETTLEMENT, AS THE CASE MAY BE. THE PORTION OF THE
44 QUALIFIED PLAINTIFF'S ATTORNEY'S FEE DEEMED TO BE ATTRIBUTABLE TO THE
45 EXISTING MEDICAID LIEN SHALL BE PAID IN ACCORDANCE WITH SUBDIVISION
46 SEVEN OF THIS SECTION AND SHALL NOT BE PAID OUT OF THE MEDICAID LIEN
47 AMOUNT. THE PORTION OF THE QUALIFIED PLAINTIFF'S ATTORNEY'S FEE THAT IS
48 ALLOCATED TO ALL OTHER ELEMENTS OF DAMAGES SHALL BE PAID IN A LUMP SUM
49 BY THE DEFENDANTS AND THEIR INSURERS PURSUANT TO SECTION FOUR HUNDRED
50 SEVENTY-FOUR-A OF THE JUDICIARY LAW; PROVIDED HOWEVER THAT THE PORTION
51 OF THE ATTORNEY FEE THAT IS ALLOCATED TO THE NON-FUND ELEMENTS OF
52 DAMAGES SHALL BE DEDUCTED FROM THE NON-FUND PORTION OF THE AWARD IN A
53 PROPORTIONAL MANNER.

54 15. THE COMMISSIONER OF HEALTH AND THE SUPERINTENDENT OF FINANCIAL
55 REGULATION SHALL PROMULGATE, AMEND AND ENFORCE ALL REASONABLE RULES AND
56 REGULATIONS NECESSARY FOR THE PROPER ADMINISTRATION OF THE FUND IN

1 ACCORDANCE WITH THE PROVISIONS OF THIS SECTION, INCLUDING, BUT NOT
2 LIMITED TO, THOSE CONCERNING THE PAYMENT OF CLAIMS AND CONCERNING THE
3 ACTUARIAL CALCULATIONS NECESSARY TO DETERMINE, ANNUALLY, THE TOTAL
4 AMOUNT TO BE PAID INTO THE FUND AS PROVIDED HEREIN, AND AS OTHERWISE
5 NEEDED TO IMPLEMENT THIS TITLE.

6 S 52-a. Article 29-D of the public health law is amended by adding a
7 new title 5 to read as follows:

8 TITLE 5

9 NEW YORK STATE HOSPITAL QUALITY INITIATIVE

10 SECTION 2999-M. NEW YORK STATE HOSPITAL QUALITY INITIATIVE.

11 S 2999-M. NEW YORK STATE HOSPITAL QUALITY INITIATIVE. THE NEW YORK
12 STATE HOSPITAL QUALITY INITIATIVE, INCLUDING THE NEW YORK STATE OBSTET-
13 RICAL PATIENT SAFETY WORKGROUP, WILL BE CREATED IN THE DEPARTMENT OF
14 HEALTH TO BE COMPRISED OF MEDICAL, HOSPITAL AND ACADEMIC EXPERTS AND
15 OTHER STAKEHOLDERS CHOSEN BY THE COMMISSIONER.

16 THE NEW YORK STATE QUALITY INITIATIVE WILL OVERSEE THE GENERAL DISSEM-
17 INATION OF INITIATIVES, GUIDANCE, AND BEST PRACTICES TO GENERAL HOSPI-
18 TALS. ACTIVITIES WILL INCLUDE BUT NOT BE LIMITED TO: BUILDING CULTURES
19 OF PATIENT SAFETY AND IMPLEMENTING EVIDENCE BASED CARE IN TARGET AREAS.
20 THE WORKGROUP WILL UNDERTAKE COLLABORATIVE WORK TO IMPROVE OBSTETRICAL
21 CARE OUTCOMES AND QUALITY OF CARE, BASED ON IDENTIFYING AND IMPLEMENTING
22 EVIDENCE BASED PRACTICES, AND CLINICAL PROTOCOLS THAT CAN BE STANDARD-
23 IZED AND ADOPTED BY HOSPITALS INCLUDING BUT NOT LIMITED TO:

24 (A) SURVEYING, REVIEWING AND ANALYZING CURRENT "BEST" PRACTICES
25 EMPLOYED IN OBSTETRICAL CASES, INCLUDING EXPLORING THE USE OF "VIRTUAL
26 GRAND ROUNDS";

27 (B) UNDERTAKING A REVIEW OF "CLOSED CLAIMS" IN AN EFFORT TO DEVELOP A
28 SET OF "STANDARD BEST PRACTICES" FOR DELIVERIES IN NEW YORK STATE;

29 (C) FORMULATING AND RECOMMENDING TO THE COMMISSIONER BEST PRACTICE
30 STANDARDS AND DESIGNING NEW PROGRAMS FOR IMPLEMENTATION AND IMPROVED
31 OUTCOMES, INCLUDING BUT NOT LIMITED TO, CLINICAL BUNDLES FOR HIGH PRIOR-
32 ITY CONDITIONS, ELECTRONIC FETAL MONITORING TRAINING AND CERTIFICATION,
33 AND TEAM TRAINING; AND

34 (D) ENGAGING THE EXISTING REGIONAL PERINATAL CENTER NETWORK IN
35 DIALOGUES REGARDING THE ABOVE TOPICS AND MAKING RECOMMENDATIONS TO
36 IMPROVE AND/OR UPGRADE ASSISTANCE AND COMMUNICATION TO SMALLER HOSPI-
37 TALS.

38 S 52-b. Subdivision 1 of section 2807-v of the public health law is
39 amended by adding a new paragraph (iii) to read as follows:

40 (III) FUNDS SHALL BE RESERVED AND SET ASIDE AND ACCUMULATED FROM YEAR
41 TO YEAR AND SHALL BE MADE AVAILABLE, INCLUDING INCOME FROM INVESTMENT
42 FUNDS, FOR THE PURPOSE OF SUPPORTING THE NEW YORK STATE MEDICAL INDEM-
43 NITY FUND AS AUTHORIZED PURSUANT TO TITLE FOUR OF ARTICLE TWENTY-NINE-D
44 OF THIS CHAPTER, FOR THE FOLLOWING PERIODS AND IN THE FOLLOWING AMOUNTS,
45 PROVIDED, HOWEVER, THAT THE COMMISSIONER IS AUTHORIZED TO SEEK WAIVER
46 AUTHORITY FROM THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID FOR THE
47 PURPOSE OF SECURING MEDICAID FEDERAL FINANCIAL PARTICIPATION FOR SUCH
48 PROGRAM, IN WHICH CASE THE FUNDING AUTHORIZED PURSUANT TO THIS PARAGRAPH
49 SHALL BE UTILIZED AS THE NON-FEDERAL SHARE FOR SUCH PAYMENTS:

50 ONE HUNDRED MILLION DOLLARS FOR THE PERIOD APRIL FIRST, TWO THOUSAND
51 ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND TWELVE.

52 S 52-c. The public health law is amended by adding a new section
53 2807-d-1 to read as follows:

54 S 2807-D-1. HOSPITAL QUALITY CONTRIBUTIONS. 1. NOTWITHSTANDING ANY
55 CONTRARY PROVISION OF LAW AND SUBJECT TO THE RECEIPT OF ALL NECESSARY
56 FEDERAL APPROVALS OR WAIVERS, FOR PERIODS ON AND AFTER JULY FIRST, TWO

1 THOUSAND ELEVEN, A QUALITY CONTRIBUTION SHALL BE IMPOSED ON THE INPA-
2 TIENT REVENUE OF EACH GENERAL HOSPITAL EQUAL TO THREE TENTHS OF ONE
3 PERCENT OF SUCH REVENUE, AS DEFINED IN ACCORDANCE WITH PARAGRAPH (A) OF
4 SUBDIVISION THREE OF SECTION TWENTY-EIGHT HUNDRED SEVEN-D OF THIS ARTI-
5 CLE, AND PROVIDED FURTHER, HOWEVER, THAT ON AND AFTER JULY FIRST, TWO
6 THOUSAND ELEVEN, AN ADDITIONAL QUALITY CONTRIBUTION EQUAL TO FOUR
7 PERCENT OF SUCH INPATIENT REVENUE SHALL BE IMPOSED WITH REGARD TO ALL
8 SUCH INPATIENT REVENUE THAT IS RECEIVED FOR THE PROVISION OF INPATIENT
9 OBSTETRICAL PATIENT CARE SERVICES, PROVIDED, HOWEVER, THAT SUCH ADDI-
10 TIONAL QUALITY CONTRIBUTION IS SUBJECT TO RECEIPT OF ALL NECESSARY
11 FEDERAL APPROVALS OR WAIVERS, AS DETERMINED AS NECESSARY BY THE COMMIS-
12 SIONER, AND PROVIDED FURTHER, HOWEVER, THAT IN THE EVENT THE COMMISSION-
13 ER, IN CONSULTATION WITH THE DIRECTOR OF THE BUDGET, DETERMINES THAT
14 SUCH QUALITY CONTRIBUTION AND SUCH ADDITIONAL QUALITY CONTRIBUTION SHALL
15 RAISE LESS THAN OR MORE THAN THE TOTAL QUALITY COLLECTION AMOUNT SET
16 FORTH IN SUBDIVISION TWO OF THIS SECTION, THEN IN THAT EVENT THE COMMIS-
17 SIONER, IN CONSULTATION WITH THE DIRECTOR OF THE BUDGET, MAY PROMULGATE
18 REGULATIONS, AND MAY PROMULGATE EMERGENCY REGULATIONS, INCREASING OR
19 DECREASING SUCH QUALITY CONTRIBUTIONS BY AMOUNTS SUFFICIENT TO ENSURE
20 THE COLLECTION OF SUCH ANNUAL QUALITY CONTRIBUTION AMOUNT AND TO ENSURE
21 THAT FIFTY-FIVE PERCENT OF SUCH AGGREGATE AMOUNT IS RAISED BY SUCH QUAL-
22 ITY CONTRIBUTION AND FORTY-FIVE PERCENT IS RAISED BY SUCH ADDITIONAL
23 QUALITY CONTRIBUTION.

24 2. THE ANNUAL QUALITY CONTRIBUTION AMOUNT REFERENCED IN SUBDIVISION
25 ONE OF THIS SECTION SHALL BE ONE HUNDRED SEVENTY MILLION DOLLARS FOR THE
26 STATE FISCAL YEAR BEGINNING APRIL FIRST, TWO THOUSAND ELEVEN, AND FOR
27 EACH SUBSEQUENT STATE FISCAL YEAR THEREAFTER IT SHALL BE THE AMOUNT OF
28 THE PRECEDING YEAR AS INCREASED BY THE TEN YEAR ROLLING AVERAGE OF THE
29 MEDICAL COMPONENT OF THE CONSUMER PRICE INDEX AS PUBLISHED BY THE UNITED
30 STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, FOR THE PRECED-
31 ING TEN YEARS.

32 3. THE QUALITY CONTRIBUTIONS DESCRIBED IN THIS SECTION SHALL BE ADMIN-
33 ISTERED IN ACCORDANCE WITH AND SUBJECT TO THE PROVISIONS OF SUBDIVISIONS
34 FOUR, FIVE, SIX, SEVEN, EIGHT AND TWELVE OF SECTION TWENTY-EIGHT HUNDRED
35 SEVEN-D OF THIS ARTICLE, PROVIDED, HOWEVER, THAT SUCH QUALITY CONTRIB-
36 UTIONS SHALL BE DEPOSITED IN THE HCRA RESOURCES FUND AS ESTABLISHED
37 PURSUANT TO SECTION NINETY-TWO-DD OF THE STATE FINANCE LAW; AND PROVIDED
38 FURTHER, HOWEVER, THAT SUCH CONTRIBUTIONS SHALL NOT BE AN ALLOWABLE COST
39 IN THE DETERMINATION OF REIMBURSEMENT RATES OF PAYMENT COMPUTED PURSUANT
40 TO THIS ARTICLE.

41 4. THE COLLECTION OF THE QUALITY CONTRIBUTIONS DESCRIBED IN THIS
42 SECTION SHALL BE SUSPENDED AND THE AMOUNTS ALREADY PAID FOR THAT FISCAL
43 YEAR SHALL BE REFUNDED PROPORTIONATELY TO EACH CONTRIBUTOR IF A TWO
44 HUNDRED FIFTY THOUSAND DOLLAR LIMITATION FOR NON-ECONOMIC DAMAGES PURSU-
45 ANT TO ARTICLE FIFTY-C OF THE CIVIL PRACTICE LAW AND RULES IS NOT IN
46 PLACE.

47 S 52-d. Section 3012-a of the civil practice law and rules, as amended
48 by chapter 507 of the laws of 1987, is amended to read as follows:

49 S 3012-a. Certificate of merit in medical, dental and podiatric malp-
50 ractice actions. (a) In any action for medical, dental or podiatric
51 malpractice, the complaint shall be accompanied by a certificate,
52 executed by the attorney for the plaintiff, declaring that:

53 (1) the attorney has reviewed the facts of the case and has consulted
54 AS TO EACH NAMED DEFENDANT, with at least one physician in medical malp-
55 ractice actions, at least one dentist in dental malpractice actions or
56 at least one podiatrist in podiatric malpractice actions who is licensed

1 to practice in this state or any other state, WHO IS CURRENTLY IN ACTIVE
2 PRACTICE IN THE SAME SPECIALTY AS THE DEFENDANT, and who the attorney
3 reasonably believes is knowledgeable in the relevant issues involved in
4 the particular action, and that the attorney has concluded on the basis
5 of such review and consultation that there is a reasonable basis for the
6 commencement of such action AGAINST EACH DEFENDANT NAMED IN THE
7 COMPLAINT; or

8 (2) the attorney was unable to obtain the consultation required by
9 paragraph one of this subdivision because a limitation of time, estab-
10 lished by article two of this chapter, would bar the action and that the
11 certificate required by paragraph one of this subdivision could not
12 reasonably be obtained before such time expired. If a certificate is
13 executed pursuant to this subdivision, the certificate required by this
14 section shall be filed within ninety days after service of the
15 complaint; or

16 (3) the attorney was unable to obtain the consultation required by
17 paragraph one of this subdivision because the attorney had made three
18 separate good faith attempts with three separate physicians, dentists or
19 podiatrists, in accordance with the provisions of paragraph one of this
20 subdivision to obtain such consultation and none of those contacted
21 would agree to such a consultation].

22 (b) Where a certificate is required pursuant to this section, a single
23 certificate shall be filed for each DEFENDANT NAMED IN THE action[, even
24 if more than one defendant has been named in the complaint or is] AND
25 FOR EACH DEFENDANT WHO IS subsequently named.

26 (c) Where the attorney intends to rely solely on the doctrine of "res
27 ipsa loquitur", this section shall be inapplicable. In such cases, the
28 complaint shall be accompanied by a certificate, executed by the attor-
29 ney, declaring that the attorney is solely relying on such doctrine and,
30 for that reason, is not filing a certificate required by this section.

31 (d) If a request by the plaintiff for the records of the plaintiff's
32 medical or dental treatment by the defendants has been made and such
33 records have not been produced, the plaintiff shall not be required to
34 serve the certificate required by this section until ninety days after
35 such records have been produced.

36 (e) For purposes of this section, and subject to the provisions of
37 section thirty-one hundred one of this chapter, an attorney who submits
38 a certificate as required by paragraph one or two of subdivision (a) of
39 this section and the physician, dentist or podiatrist with whom the
40 attorney consulted shall not be required to disclose the identity of the
41 physician, dentist or podiatrist consulted and the contents of such
42 consultation; provided, however, that when the attorney makes a claim
43 under paragraph three of subdivision (a) of this section that he was
44 unable to obtain the required consultation with the physician, dentist
45 or podiatrist, the court may, upon the request of a defendant made prior
46 to compliance by the plaintiff with the provisions of section thirty-one
47 hundred of this chapter, require the attorney to divulge to the court
48 the names of physicians, dentists or podiatrists refusing such consulta-
49 tion.

50 (f) The provisions of this section shall not be applicable to a plain-
51 tiff who is not represented by an attorney.

52 (g) The plaintiff may, in lieu of serving the certificate required by
53 this section, provide the defendant or defendants with the information
54 required by paragraph one of subdivision (d) of section thirty-one
55 hundred one of this chapter within the period of time prescribed by this
56 section.

1 S 52-e. Subparagraphs (i) and (ii) of paragraph 1 of subdivision (d)
2 of section 3101 of the civil practice law and rules, subparagraph (i) as
3 amended by chapter 184 of the laws of 1988, and subparagraph (ii) as
4 amended by chapter 165 of the laws of 1991, are amended to read as
5 follows:

6 (i) Upon request, each party shall identify each person whom the party
7 expects to call as an expert witness at trial and shall disclose in
8 reasonable detail the subject matter on which each expert is expected to
9 testify, the substance of the facts and opinions on which each expert is
10 expected to testify, the qualifications of each expert witness and a
11 summary of the grounds for each expert's opinion. However, where a party
12 for good cause shown retains an expert an insufficient period of time
13 before the commencement of trial to give appropriate notice thereof, the
14 party shall not thereupon be precluded from introducing the expert's
15 testimony at the trial solely on grounds of noncompliance with this
16 paragraph. In that instance, upon motion of any party, made before or at
17 trial, or on its own initiative, the court may make whatever order may
18 be just. [In an action for medical, dental or podiatric malpractice, a
19 party, in responding to a request, may omit the names of medical, dental
20 or podiatric experts but shall be required to disclose all other infor-
21 mation concerning such experts otherwise required by this paragraph.]

22 (ii) In an action for medical, dental or podiatric malpractice, [any
23 party may, by written offer made to and served upon all other parties
24 and filed with the court, offer to disclose the name of, and to make
25 available for examination upon oral deposition, any person the party
26 making the offer expects to call as an expert witness at trial. Within
27 twenty days of service of the offer, a party shall accept or reject the
28 offer by serving a written reply upon all parties and filing a copy
29 thereof with the court. Failure to serve a reply within twenty days of
30 service of the offer shall be deemed a rejection of the offer. If all
31 parties accept the offer, each party shall be required to produce his or
32 her expert witness for examination upon oral deposition upon receipt of
33 a notice to take oral deposition in accordance with rule thirty-one
34 hundred seven of this chapter. If any party, having made or accepted the
35 offer, fails to make that party's expert available for oral deposition,
36 that party shall be precluded from offering expert testimony at the
37 trial of the action] A PARTY SHALL BE REQUIRED TO PRODUCE EACH PERSON SO
38 IDENTIFIED BY SUCH PARTY AS AN EXPERT WITNESS FOR EXAMINATION UPON ORAL
39 DEPOSITION UPON RECEIPT OF A NOTICE TO TAKE ORAL DEPOSITION AFTER SUCH
40 TIME AS THE PRODUCING PARTY COMPLIES WITH SUBPARAGRAPH (I) OF THIS PARA-
41 GRAPH.

42 S 52-f. The civil practice law and rules is amended by adding a new
43 rule 3409 to read as follows:

44 RULE 3409. SETTLEMENT CONFERENCE IN DENTAL, PODIATRIC AND MEDICAL
45 MALPRACTICE ACTIONS. IN EVERY DENTAL, PODIATRIC OR MEDICAL MALPRACTICE
46 ACTION, THE COURT SHALL HOLD A MANDATORY SETTLEMENT CONFERENCE WITHIN
47 FORTY-FIVE DAYS AFTER THE FILING OF THE NOTE OF ISSUE AND CERTIFICATE OF
48 READINESS OR, IF A PARTY MOVES TO VACATE THE NOTE OF ISSUE AND CERTIF-
49 ICATE OF READINESS, WITHIN FORTY-FIVE DAYS AFTER THE DENIAL OF SUCH
50 MOTION. WHERE PARTIES ARE REPRESENTED BY COUNSEL, ONLY ATTORNEYS FULLY
51 FAMILIAR WITH THE ACTION AND AUTHORIZED TO DISPOSE OF THE CASE, OR
52 ACCOMPANIED BY A PERSON EMPOWERED TO ACT ON BEHALF OF THE PARTY REPRES-
53 ENTED, WILL BE PERMITTED TO APPEAR AT THE CONFERENCE. WHERE APPROPRIATE,
54 THE COURT MAY ORDER PARTIES, REPRESENTATIVES OF PARTIES, REPRESENTATIVES
55 OF INSURANCE CARRIERS OR PERSONS HAVING AN INTEREST IN ANY SETTLEMENT TO
56 ALSO ATTEND IN PERSON OR TELEPHONICALLY AT THE SETTLEMENT CONFERENCE.

1 THE CHIEF ADMINISTRATIVE JUDGE SHALL BY RULE ADOPT PROCEDURES TO IMPLE-
2 MENT SUCH SETTLEMENT CONFERENCE.

3 S 52-g. Intentionally omitted.

4 S 52-h. Subdivision 2 of section 2805-m of the public health law, as
5 amended by chapter 808 of the laws of 1987, is amended to read as
6 follows:

7 2. Notwithstanding any other provisions of law, none of the records,
8 documentation or committee actions or records required pursuant to
9 sections twenty-eight hundred five-j and twenty-eight hundred five-k of
10 this article, the reports required pursuant to section twenty-eight
11 hundred five-l of this article nor any incident reporting requirements
12 imposed upon diagnostic and treatment centers pursuant to the provisions
13 of this chapter shall be subject to disclosure under article six of the
14 public officers law or article thirty-one of the civil practice law and
15 rules, except [as hereinafter provided or] as provided by any other
16 provision of law. No person in attendance at a meeting of any such
17 committee shall be required to testify as to what transpired thereat.
18 [The prohibition relating to discovery of testimony shall not apply to
19 the statements made by any person in attendance at such a meeting who is
20 a party to an action or proceeding the subject matter of which was
21 reviewed at such meeting.]

22 S 52-i. The civil practice law and rules is amended by adding a new
23 article 50-C to read as follows:

24 ARTICLE 50-C
25 DAMAGE AWARDS

26 SECTION 5051. DEFINITION.

27 5052. DAMAGE AWARDS.

28 S 5051. DEFINITION. AS USED IN THIS ARTICLE, "NONECONOMIC DAMAGES"
29 MEANS NONPECUNIARY DAMAGES ARISING FROM PAIN AND SUFFERING, LOSS OF
30 SERVICES, LOSS OF CONSORTIUM, OR OTHER NONPECUNIARY DAMAGES.

31 S 5052. DAMAGE AWARDS. IN ANY MEDICAL, DENTAL, OR PODIATRIC MALPRAC-
32 TICE ACTION, THE PREVAILING PLAINTIFF MAY BE AWARDED:

33 (A) ECONOMIC AND PECUNIARY DAMAGES; AND

34 (B) NONECONOMIC DAMAGES SUFFERED BY THE INJURED PLAINTIFF, NOT TO
35 EXCEED TWO HUNDRED FIFTY THOUSAND DOLLARS, PROVIDED, HOWEVER, THAT SUCH
36 LIMITATION SHALL BE ADJUSTED IN ACCORDANCE WITH THE CONSUMER PRICE INDEX
37 FOR ALL URBAN CONSUMERS (CPI-U), AS PUBLISHED ANNUALLY BY THE UNITED
38 STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS.

39 S 52-j. Subdivision (c) of section 5031 of the civil practice law and
40 rules is REPEALED and subdivisions (d), (e), (f), (g) and (h) are relet-
41 tered subdivisions (c), (d), (e), (f) and (g).

42 S 52-k. Subdivisions (c), (d), (e) and (f) of section 5031 of the
43 civil practice law and rules, as added by chapter 86 of the laws of 2003
44 and as relettered by section fifty-two-j of this act, are amended to
45 read as follows:

46 (c) The findings of future economic and pecuniary damages except in
47 wrongful death actions AND IN ACTIONS SUBJECT TO TITLE 4 OF ARTICLE 29-D
48 OF THE PUBLIC HEALTH LAW, shall be used to determine a stream of
49 payments for each such item of damages by applying (i) the growth rate,
50 to the (ii) annual amount in current dollars, for the (iii) period of
51 years, all of such items as determined by the finder of fact for each
52 such item of damages. The court shall determine the present value of the
53 stream of payments for each such item of damages by applying a discount
54 rate to the stream of payments. After determining the present value of
55 the stream of payments for future economic and pecuniary damages, thir-
56 ty-five percent of that present value shall be paid in a lump sum, and

1 the stream of payments for future economic and pecuniary damages shall
2 be adjusted accordingly by proportionately reducing each item of the
3 remaining stream of payments for future economic and pecuniary damages
4 and paying those amounts over time in the form of an annuity in accord-
5 ance with the provisions set forth in subdivision [(g)] (F) of this
6 section, subject to the adjustments and deductions specified in subdivi-
7 sion [(f)](E) of this section.

8 (d) The discount rate to be used in determining the present value of
9 all streams of payments for periods of up to twenty years shall be the
10 rate in effect for the ten-year United States Treasury Bond on the date
11 of the verdict. As to any streams of payments for which the period of
12 years exceeds twenty years, the discount rate to be used in determining
13 the present value shall be calculated by averaging, on an annual basis,
14 the rate in effect for the ten-year United States Treasury Bond on the
15 date of the verdict for the first twenty years and two percentage points
16 above the rate in effect for the ten-year United States Treasury Bond on
17 the date of the verdict for the years after twenty years.

18 (e) After making the applicable calculations set forth above:

19 (1) The court shall apply any set-offs for comparative negligence and
20 settlements by deducting them proportionately from each item of the
21 damages awards, including the lump sum payments specified in subdivi-
22 sions (b)[, (c),] and [(d)] (C) of this section, and the present value
23 of the streams of payments specified in [such subdivisions] SUBDIVISION
24 (c) [and (d)]. After such deductions, the streams of payments specified
25 in [such subdivisions] SUBDIVISION (c) [and (d)] and their present value
26 shall be adjusted accordingly.

27 (2) The court shall then deduct the litigation expenses of the
28 plaintiff's attorney proportionately from each remaining item of the
29 damages awards, including the remaining lump sum payments specified in
30 such subdivisions (b)[, (c),] and [(d)] (C), and the present value of
31 the remaining streams of payments specified in [such subdivisions]
32 SUBDIVISION (c) [and (d)], and such expenses shall be paid in a lump
33 sum. After said deductions, the streams of payments specified in [such
34 subdivisions] SUBDIVISION (c) [and (d)] and their present value shall be
35 adjusted accordingly.

36 (3) The court shall then determine the attorney's fees based upon the
37 remaining damages awards, including the remaining lump sum payments
38 specified in such subdivisions (b)[, (c),] and [(d)] (C), and the pres-
39 ent value of the remaining streams of payments specified in [such subdivi-
40 sions] SUBDIVISION (c) [and (d)]. The attorney's fees shall be
41 deducted proportionately from each item of the remaining damages awards,
42 including the remaining lump sum payments specified in such subdivisions
43 (B) AND (c)[, and (d),] and the present value of the remaining streams
44 of payments specified in [such subdivisions] SUBDIVISION (c) [and (d)],
45 and such fees shall be paid in a lump sum. After said deductions, the
46 stream of payments specified in [such subdivisions] SUBDIVISION (c) [and
47 (d)] and their present value shall be adjusted accordingly.

48 (4) Any liens which are not the subject of a separate award by the
49 finder of fact shall then be deducted proportionately from each item of
50 the remaining damages awards, including the remaining lump sum payments
51 specified in such subdivisions (b)[, (c),] and [(d)] (C), and the pres-
52 ent value of the remaining streams of payments specified in [such subdivi-
53 sions] SUBDIVISION (c) [and (d)], and such liens shall be paid in a
54 lump sum. After said deductions, the stream of payments specified in
55 [such subdivisions] SUBDIVISION (c) [and (d)] and their present value
56 shall be adjusted accordingly.

1 (f) The defendants and their insurance carriers shall be required to
2 offer and to guarantee the purchase and payment of an annuity contract
3 to make annual payments in equal monthly installments of the remaining
4 streams of payments specified in [such subdivisions] SUBDIVISION (c)
5 [and (d)], after making the deductions and adjustments prescribed in
6 subdivision [(f)] (E) of this section. The annuity contract shall
7 provide that the payments shall run from the date of the verdict (unless
8 some other date is specified in the verdict) for the period of years
9 determined by the finder of fact (except the stream of payments for
10 future pain and suffering, which shall not exceed eight years) or the
11 life of the plaintiff, whichever is shorter, except that:

12 (1) awards for lost earnings shall be paid for the full term of the
13 award determined by the finder of fact; and

14 (2) awards for any item of economic or pecuniary damages as to which
15 the finder of fact found that the loss or item of damage is permanent,
16 the payments for that item shall continue to run for the entire life of
17 the plaintiff, increasing each year beyond the period of years deter-
18 mined by the finder of fact at the same growth rate as determined by the
19 finder of fact.

20 S 52-l. Section 5034 of the civil practice law and rules, as amended
21 by chapter 446 of the laws of 1999, is amended to read as follows:

22 S 5034. Failure to make payment. If at any time following entry of
23 judgment, a judgment debtor fails for any reason to make a payment in a
24 timely fashion according to the terms of this article, the judgment
25 creditor may petition the court which rendered the original judgment for
26 an order requiring payment by the judgment debtor of the outstanding
27 payments in a lump sum. In calculating the amount of the lump sum judg-
28 ment, the court shall total the remaining periodic payments due and
29 owing to the judgment creditor, as calculated pursuant to subdivision
30 [(e)] (D) of section five thousand thirty-one of this article, and shall
31 not convert these amounts to their present value. The court may also
32 require the payment of interest on the outstanding judgment.

33 S 52-m. The creation and continuation of the New York State Medical
34 Indemnity Fund established pursuant to title 4 of article 29-D of the
35 public health law, as added by section fifty-two of this act, is contin-
36 gent upon the application of a two hundred fifty thousand dollar limita-
37 tion for non-economic damages, defined in article 50-C of the civil
38 practice law and rules, as added by section fifty-two of this act;
39 provided, however, that payments pursuant to section 2999-j of the
40 public health law, as added by section fifty-two of this act shall
41 continue to be made as set forth in such section with respect to any
42 qualified plaintiff enrolled in such fund prior to any suspension of
43 such limitation for non-economic damages.

44 S 53. Subdivision 6 of section 369 of the social services law, as
45 added by chapter 170 of the laws of 1994, is amended to read as follows:

46 6. For purposes of this section, [the term] AN INDIVIDUAL'S "estate"
47 [means] INCLUDES all OF THE INDIVIDUAL'S real and personal property and
48 other assets [included within the individual's estate and] passing under
49 the terms of a valid will or by intestacy. AN INDIVIDUAL'S ESTATE ALSO
50 INCLUDES ANY OTHER PROPERTY IN WHICH THE INDIVIDUAL HAS ANY LEGAL TITLE
51 OR INTEREST AT THE TIME OF DEATH, INCLUDING JOINTLY HELD PROPERTY,
52 RETAINED LIFE ESTATES, AND INTERESTS IN TRUSTS, TO THE EXTENT OF SUCH
53 INTERESTS; PROVIDED, HOWEVER, THAT A CLAIM AGAINST A RECIPIENT OF SUCH
54 PROPERTY BY DISTRIBUTION OR SURVIVAL SHALL BE LIMITED TO THE VALUE OF
55 THE PROPERTY RECEIVED OR THE AMOUNT OF MEDICAL ASSISTANCE BENEFITS
56 OTHERWISE RECOVERABLE PURSUANT TO THIS SECTION, WHICHEVER IS LESS.

1 S 54. Subparagraph 12 of paragraph (a) of subdivision 1 of section
2 366 of the social services law, as amended by section 42-a of part C of
3 chapter 58 of the laws of 2008, is amended to read as follows:

4 (12) is a disabled person at least sixteen years of age, but under the
5 age of sixty-five, who: would be eligible for benefits under the supple-
6 mental security income program but for earnings in excess of the allow-
7 able limit; has net available income that does not exceed two hundred
8 fifty percent of the applicable federal income official poverty line, as
9 defined and updated by the United States department of health and human
10 services, for a one-person or two-person household, as defined by the
11 commissioner in regulation; has household resources, as defined in para-
12 graph (e) of subdivision two of section three hundred sixty-six-c of
13 this title, OTHER THAN RETIREMENT ACCOUNTS, that do not exceed [the
14 amount described in subparagraph four of paragraph (a) of subdivision
15 two of this section] TWENTY THOUSAND DOLLARS for a one-person HOUSEHOLD
16 or THIRTY THOUSAND DOLLARS FOR A two-person household, as defined by the
17 commissioner in regulation; and contributes to the cost of medical
18 assistance provided pursuant to this subparagraph in accordance with
19 subdivision twelve of section three hundred sixty-seven-a of this title;
20 for purposes of this subparagraph, disabled means having a medically
21 determinable impairment of sufficient severity and duration to qualify
22 for benefits under section 1902(a)(10)(A)(ii)(xv) of the social security
23 act; or

24 S 55. The mental hygiene law is amended by adding a new section 31.08
25 to read as follows:

26 S 31.08 COMPLIANCE WITH OPERATIONAL STANDARDS BY HOSPITALS.

27 (A) NOTWITHSTANDING THE PROVISIONS OF SECTION 31.07 OF THIS ARTICLE, A
28 HOSPITAL AS DEFINED IN SECTION 1.03 OF THIS CHAPTER, WHICH IS A WARD,
29 WING, UNIT, OR OTHER PART OF A HOSPITAL, AS DEFINED IN ARTICLE
30 TWENTY-EIGHT OF THE PUBLIC HEALTH LAW, WHICH PROVIDES SERVICES FOR
31 PERSONS WITH MENTAL ILLNESS PURSUANT TO AN OPERATING CERTIFICATE ISSUED
32 BY THE COMMISSIONER OF MENTAL HEALTH, MAY BE DEEMED TO BE IN COMPLIANCE
33 WITH APPLICABLE PROVISIONS OF THIS CHAPTER AND OTHER APPLICABLE LAWS,
34 RULES AND REGULATIONS, PROVIDED THAT SUCH HOSPITAL HAS BEEN ACCREDITED
35 BY THE JOINT COMMISSION, OR ANY OTHER HOSPITAL ACCREDITING ORGANIZATION
36 TO WHICH THE CENTERS FOR MEDICARE AND MEDICAID SERVICES HAS GRANTED
37 DEEMING STATUS, AND WHICH THE COMMISSIONER OF MENTAL HEALTH SHALL HAVE
38 DETERMINED HAS ACCREDITING STANDARDS SUFFICIENT TO ASSURE THE COMMIS-
39 SIONER THAT HOSPITALS SO ACCREDITED ARE IN COMPLIANCE WITH SUCH
40 PROVISIONS OF LAW, RULES AND REGULATIONS. THE COMMISSIONER MAY EXEMPT
41 ANY SUCH HOSPITAL FROM THE ANNUAL INSPECTION AND VISITATION REQUIREMENTS
42 ESTABLISHED IN SECTION 31.07 OF THIS ARTICLE, PROVIDED THAT:

43 1. SUCH HOSPITAL HAS A HISTORY OF COMPLIANCE WITH SUCH PROVISIONS OF
44 LAW, RULES AND REGULATIONS AND A RECORD OF PROVIDING GOOD QUALITY CARE,
45 AS DETERMINED BY THE COMMISSIONER;

46 2. A COPY OF THE SURVEY REPORT AND THE CERTIFICATE OF ACCREDITATION OF
47 THE JOINT COMMISSION OR OTHER APPROVED ACCREDITING ORGANIZATION IS
48 SUBMITTED BY THE ACCREDITING BODY OR THE HOSPITAL TO THE COMMISSIONER,
49 WITHIN SEVEN DAYS OF ISSUANCE TO THE HOSPITAL;

50 3. THE JOINT COMMISSION OR OTHER ACCREDITING ORGANIZATION HAS AGREED
51 TO AND DOES EVALUATE, AS PART OF ITS ACCREDITATION SURVEY, ANY MINIMAL
52 OPERATIONAL STANDARDS ESTABLISHED BY THE COMMISSIONER WHICH ARE IN ADDI-
53 TION TO THE MINIMAL OPERATIONAL STANDARDS OF ACCREDITATION OF THE JOINT
54 COMMISSION OR OTHER ACCREDITING ORGANIZATION; AND

55 4. THERE ARE NO CONSTRAINTS PLACED UPON ACCESS BY THE COMMISSIONER TO
56 THE JOINT COMMISSION OR OTHER APPROVED ACCREDITING ORGANIZATION SURVEY

1 REPORTS, PLANS OF CORRECTION, INTERIM SELF-EVALUATION REPORTS, NOTICES
2 OF NONCOMPLIANCE, PROGRESS REPORTS ON CORRECTION OF AREAS OF NONCOMPLI-
3 ANCE, OR ANY OTHER RELATED REPORTS, INFORMATION, COMMUNICATIONS OR MATE-
4 RIALS REGARDING SUCH HOSPITAL.

5 (B) ANY HOSPITAL GOVERNED BY THE PROVISIONS OF SUBDIVISION (A) OF THIS
6 SECTION SHALL AT ALL TIMES BE SUBJECT TO INSPECTION OR VISITATION BY THE
7 COMMISSIONER TO DETERMINE COMPLIANCE WITH APPLICABLE LAW, REGULATIONS,
8 STANDARDS OR CONDITIONS AS DEEMED NECESSARY BY THE COMMISSIONER. ANY
9 SUCH HOSPITAL SHALL BE SUBJECT TO THE FULL RANGE OF LICENSING ENFORCE-
10 MENT AUTHORITY OF THE COMMISSIONER.

11 (C) ANY HOSPITAL GOVERNED BY THE PROVISIONS OF SUBDIVISION (A) OF THIS
12 SECTION SHALL NOTIFY THE COMMISSIONER IMMEDIATELY UPON RECEIPT OF NOTICE
13 BY THE JOINT COMMISSION OR OTHER APPROVED ACCREDITING ORGANIZATION, OR
14 ANY COMMUNICATION THE HOSPITAL MAY RECEIVE THAT SUCH ORGANIZATION WILL
15 BE RECOMMENDING THAT SUCH HOSPITAL NOT BE ACCREDITED, NOT HAVE ITS
16 ACCREDITATION RENEWED, OR HAVE ITS ACCREDITATION TERMINATED, OR UPON
17 RECEIPT OF NOTICE OR OTHER COMMUNICATION FROM THE CENTERS FOR MEDICARE
18 AND MEDICAID SERVICES REGARDING A DETERMINATION THAT THE HOSPITAL WILL
19 BE TERMINATED FROM PARTICIPATION IN THE MEDICARE PROGRAM BECAUSE IT IS
20 NOT IN COMPLIANCE WITH ONE OR MORE CONDITIONS OF PARTICIPATION IN SUCH
21 PROGRAM, OR HAS DEFICIENCIES THAT EITHER INDIVIDUALLY OR IN COMBINATION
22 JEOPARDIZE THE HEALTH AND SAFETY OF PATIENTS OR ARE OF SUCH CHARACTER AS
23 TO SERIOUSLY LIMIT THE PROVIDER'S CAPACITY TO RENDER ADEQUATE CARE.

24 S 56. The mental hygiene law is amended by adding a new section 32.14
25 to read as follows:

26 S 32.14 COMPLIANCE WITH OPERATIONAL STANDARDS BY PROVIDERS OF SERVICES
27 IN HOSPITALS.

28 (A) NOTWITHSTANDING THE PROVISIONS OF SECTION 32.13 OF THIS ARTICLE, A
29 PROVIDER OF SERVICES AS DEFINED IN SECTION 1.03 OF THIS CHAPTER THAT
30 OCCUPIES A WARD, WING, UNIT, OR OTHER PART OF A HOSPITAL, AS DEFINED IN
31 ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW, WHICH PROVIDES SERVICES
32 FOR PERSONS WITH MENTAL DISABILITIES PURSUANT TO AN OPERATING CERTIF-
33 ICATE ISSUED BY THE COMMISSIONER, MAY BE DEEMED TO BE IN COMPLIANCE WITH
34 APPLICABLE PROVISIONS OF THIS CHAPTER AND OTHER APPLICABLE LAWS, RULES
35 AND REGULATIONS IN REGARD TO SERVICES PROVIDED AT SUCH WARD, WING, UNIT
36 OR OTHER PART OF A HOSPITAL, PROVIDED THAT SUCH HOSPITAL HAS BEEN
37 ACCREDITED BY THE JOINT COMMISSION, OR ANY OTHER ACCREDITING ORGANIZA-
38 TION TO WHICH THE CENTERS FOR MEDICARE AND MEDICAID SERVICES HAS GRANTED
39 DEEMING STATUS, AND WHICH THE COMMISSIONER SHALL HAVE DETERMINED HAS
40 ACCREDITING STANDARDS SUFFICIENT TO ASSURE THE COMMISSIONER THAT PROVID-
41 ERS OF SERVICES OCCUPYING A WARD, WING, UNIT OR OTHER PART OF SUCH
42 HOSPITAL SO ACCREDITED ARE IN COMPLIANCE WITH SUCH PROVISIONS OF LAW,
43 RULES AND REGULATIONS IN REGARD TO SERVICES PROVIDED AT SUCH WARD, WING,
44 UNIT OR OTHER PART OF A HOSPITAL. THE COMMISSIONER MAY EXEMPT ANY SUCH
45 PROVIDER OF SERVICES, IN REGARD TO SERVICES PROVIDED AT SUCH WARD, WING,
46 UNIT OR OTHER PART OF A HOSPITAL, FROM THE ANNUAL INSPECTION AND VISITA-
47 TION REQUIREMENTS ESTABLISHED IN SECTION 32.13 OF THIS ARTICLE, PROVIDED
48 THAT:

49 1. SUCH PROVIDER OF SERVICES HAS A HISTORY OF COMPLIANCE WITH SUCH
50 PROVISIONS OF LAW, RULES AND REGULATIONS AND A RECORD OF PROVIDING GOOD
51 QUALITY CARE, AS DETERMINED BY THE COMMISSIONER;

52 2. A COPY OF THE SURVEY REPORT AND THE CERTIFICATE OF ACCREDITATION OF
53 THE JOINT COMMISSION OR OTHER APPROVED ACCREDITING ORGANIZATION IS
54 SUBMITTED BY THE ACCREDITING BODY OR THE PROVIDER OF SERVICES TO THE
55 COMMISSIONER, WITHIN SEVEN DAYS OF ISSUANCE TO SUCH PROVIDER OF
56 SERVICES;

1 3. THE JOINT COMMISSION OR OTHER APPROVED ACCREDITING ORGANIZATION HAS
2 AGREED TO AND DOES EVALUATE, AS PART OF ITS ACCREDITATION SURVEY, ANY
3 MINIMAL OPERATIONAL STANDARDS ESTABLISHED BY THE COMMISSIONER WHICH ARE
4 IN ADDITION TO THE MINIMAL OPERATIONAL STANDARDS OF ACCREDITATION OF THE
5 JOINT COMMISSION OR OTHER ACCREDITING ORGANIZATION; AND

6 4. THERE ARE NO CONSTRAINTS PLACED UPON ACCESS BY THE COMMISSIONER TO
7 THE JOINT COMMISSION OR OTHER APPROVED ACCREDITING ORGANIZATION SURVEY
8 REPORTS, PLANS OF CORRECTION, INTERIM SELF-EVALUATION REPORTS, NOTICES
9 OF NONCOMPLIANCE, PROGRESS REPORTS ON CORRECTION OF AREAS OF NONCOMPLI-
10 ANCE, OR ANY OTHER RELATED REPORTS, INFORMATION, COMMUNICATIONS OR MATE-
11 RIALS REGARDING SUCH PROVIDER OF SERVICES.

12 (B) ANY PROVIDER OF SERVICES GOVERNED BY THE PROVISIONS OF SUBDIVISION
13 (A) OF THIS SECTION SHALL AT ALL TIMES BE SUBJECT TO INSPECTION OR VISI-
14 TATION BY THE COMMISSIONER TO DETERMINE COMPLIANCE WITH APPLICABLE LAW,
15 REGULATIONS, STANDARDS OR CONDITIONS AS DEEMED NECESSARY BY THE COMMIS-
16 SIONER. ANY SUCH PROVIDER OF SERVICES SHALL BE SUBJECT TO THE FULL RANGE
17 OF CERTIFICATION ENFORCEMENT AUTHORITY OF THE COMMISSIONER.

18 (C) ANY PROVIDER OF SERVICES GOVERNED BY THE PROVISIONS OF SUBDIVISION
19 (A) OF THIS SECTION SHALL NOTIFY THE COMMISSIONER IMMEDIATELY UPON
20 RECEIPT OF NOTICE BY THE JOINT COMMISSION OR OTHER APPROVED ACCREDITING
21 ORGANIZATION, OR ANY COMMUNICATION THE PROVIDER OF SERVICES MAY RECEIVE
22 THAT SUCH ORGANIZATION WILL BE RECOMMENDING THAT SUCH PROVIDER OF
23 SERVICES NOT BE ACCREDITED, NOT HAVE ITS ACCREDITATION RENEWED, OR HAVE
24 ITS ACCREDITATION TERMINATED, OR UPON RECEIPT OF NOTICE OR OTHER COMMU-
25 NICATION FROM THE CENTERS FOR MEDICARE AND MEDICAID SERVICES REGARDING A
26 DETERMINATION THAT THE PROVIDER OF SERVICES WILL BE TERMINATED FROM
27 PARTICIPATION IN THE MEDICARE OR MEDICAID PROGRAM BECAUSE IT IS NOT IN
28 COMPLIANCE WITH ONE OR MORE CONDITIONS OF PARTICIPATION IN SUCH PROGRAM,
29 OR HAS DEFICIENCIES THAT EITHER INDIVIDUALLY OR IN COMBINATION JEOPARD-
30 IZE THE HEALTH AND SAFETY OF PATIENTS OR ARE OF SUCH CHARACTER AS TO
31 SERIOUSLY LIMIT THE PROVIDER'S CAPACITY TO RENDER ADEQUATE CARE.

32 S 57. Notwithstanding any other provision of law to the contrary, the
33 requirements set forth in section 2805-t of the public health law are
34 hereby suspended until October 1, 2012.

35 S 58. Section 2805-1 of the public health law, as added by chapter 266
36 of the laws of 1986, subdivision 3 as amended by chapter 542 of the laws
37 of 2000, subdivision 4 as added and subdivision 5 as renumbered by chap-
38 ter 632 of the laws of 2006, is amended to read as follows:

39 S 2805-1. [Incident] SERIOUS EVENT reporting. 1. (A) All hospitals[,
40 as defined in subdivision ten of section twenty-eight hundred one of
41 this article,] shall be required to report [incidents] EVENTS described
42 by subdivision two of this section to the department in a manner and
43 within time periods as may be specified by regulation of the department.

44 (B) FOR PURPOSES OF THIS SECTION, "HOSPITAL" MEANS ANY GENERAL HOSPI-
45 TAL OR DIAGNOSTIC AND TREATMENT CENTER.

46 2. The following [incidents] EVENTS shall be reported to the depart-
47 ment:

48 (a) patients' deaths or impairments of bodily functions in circum-
49 stances other than those related to the natural course of illness,
50 disease or proper treatment in accordance with generally accepted
51 medical standards;

52 (b) fires in the hospital which disrupt the provision of patient care
53 services or cause harm to patients or staff;

54 (c) equipment malfunction during treatment or diagnosis of a patient
55 which did or could have adversely affected a patient or hospital person-
56 nel;

1 (d) poisoning occurring within the hospital;
2 (e) strikes by hospital staff;
3 (f) disasters or other emergency situations external to the hospital
4 environment which affect hospital operations; and
5 (g) termination of any services vital to the continued safe operation
6 of the hospital or to the health and safety of its patients and person-
7 nel, including but not limited to the anticipated or actual termination
8 of telephone, electric, gas, fuel, water, heat, air conditioning, rodent
9 or pest control, laundry services, food or contract services.

10 3. NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, THE
11 COMMISSIONER IS AUTHORIZED TO MODIFY, BY REGULATION, THE REPORTABLE
12 EVENTS REQUIRED BY THIS SECTION, CONSISTENT WITH NATIONAL CONSENSUS
13 STANDARDS.

14 4. The hospital shall conduct an investigation of [incidents] EVENTS
15 described in paragraphs (a) through (d) of subdivision two of this
16 section within thirty days of obtaining knowledge of any information
17 which reasonably appears to show that such an [incident] EVENT has
18 occurred, provided that, if the hospital reasonably expects such inves-
19 tigation to extend beyond such thirty day period, the hospital shall
20 notify the department of such expectation and the reason therefor, and
21 shall inform the department of the expected completion date of the
22 investigation. The hospital shall provide to the department a copy of
23 the investigation report within twenty-four hours of completion. Nothing
24 herein shall limit the authority of the department to conduct an inves-
25 tigation of [incidents] EVENTS occurring in [general] hospitals.

26 5. THE DEPARTMENT SHALL:

27 (A) ANALYZE EVENT REPORTS, FINDINGS OF THE INVESTIGATIONS, THEIR ROOT
28 CAUSE ANALYSES, AND CORRECTIVE ACTION PLANS TO DETERMINE PATTERNS OF
29 SYSTEMIC FAILURE IN THE HEALTH CARE SYSTEM AND IDENTIFY SUCCESSFUL METH-
30 ODS TO CORRECT THESE FAILURES; AND

31 (B) COMMUNICATE TO FACILITIES THE DEPARTMENT'S CONCLUSIONS, IF ANY,
32 REGARDING EVENT REPORTS, PATTERNS OF SYSTEMIC FAILURE, AND RECOMMENDA-
33 TIONS FOR CORRECTIVE ACTION RESULTING FROM THE ANALYSIS OF SUBMISSIONS
34 FROM FACILITIES.

35 [4] 6. The commissioner shall establish protocols for hospital
36 personnel where a patient under the age of eighteen years dies during
37 transportation to the hospital or while at the hospital, under circum-
38 stances other than those related to the natural course of illness,
39 disease or proper treatment in accordance with generally accepted
40 medical standards. Such protocols shall address matters including, but
41 not limited to, the following:

42 (a) medical and social history, and examination of the patient;

43 (b) preservation of evidence and chain of custody;

44 (c) questioning of the patient's family, guardian or person in
45 parental authority;

46 (d) circumstances surrounding the injury resulting in death;

47 (e) determination of the cause of death;

48 (f) notification of law enforcement personnel; and

49 (g) reporting requirements under title six of article six of the
50 social services law.

51 In developing such protocols, the commissioner shall consult with the
52 office of children and family services, local departments of social
53 services, coordinators of child fatality review teams established pursu-
54 ant to section four hundred twenty-two-b of the social services law, law
55 enforcement agencies, pediatricians preferably with expertise in the

1 area of child abuse and maltreatment or forensic pediatrics, and such
2 other persons as the commissioner deems necessary.

3 [5] 7. The commissioner shall make, adopt, promulgate and enforce
4 such rules and regulations as he may deem appropriate to effectuate the
5 purposes of this section.

6 S 59. Subdivision 4 of section 854 of the general municipal law, as
7 amended by chapter 541 of the laws of 1982, is amended to read as
8 follows:

9 (4) "Project" - shall mean any land, any building or other improve-
10 ment, and all real and personal properties located within the state of
11 New York and within or outside or partially within and partially outside
12 the municipality for whose benefit the agency was created, including,
13 but not limited to, machinery, equipment and other facilities deemed
14 necessary or desirable in connection therewith, or incidental thereto,
15 whether or not now in existence or under construction, which shall be
16 suitable for manufacturing, warehousing, research, commercial or indus-
17 trial purposes or other economically sound purposes identified and
18 called for to implement a state designated urban cultural park manage-
19 ment plan as provided in title G of the parks, recreation and historic
20 preservation law and which may include or mean an industrial pollution
21 control facility, a recreation facility, educational or cultural facili-
22 ty, A HOSPITAL, A CONTINUING CARE RETIREMENT COMMUNITY, a horse racing
23 facility or a railroad facility, provided, however, no agency shall use
24 its funds in respect of any project wholly or partially outside the
25 municipality for whose benefit the agency was created without the prior
26 consent thereto by the governing body or bodies of all the other munici-
27 palities in which a part or parts of the project is, or is to be,
28 located.

29 S 60. Section 854 of the general municipal law is amended by adding a
30 new subdivision 13 to read as follows:

31 (13) "HOSPITAL" - SHALL MEAN A FACILITY AUTHORIZED TO CONDUCT ACTIV-
32 ITIES IN THIS STATE, PURSUANT TO ARTICLE TWENTY-EIGHT OF THE PUBLIC
33 HEALTH LAW. NOTHING IN THIS ARTICLE SHALL BE DEEMED TO WAIVE ANY APPLI-
34 CABLE REQUIREMENT FOR AN OPERATING FACILITY CERTIFICATE, CONSENT OR ANY
35 OTHER APPROVAL AS PROVIDED BY LAW.

36 S 61. Section 15 of chapter 66 of the laws of 1994 amending the public
37 health law, the general municipal law and the insurance law relating to
38 the financing of life care communities, as amended by chapter 381 of the
39 laws of 2007, is amended to read as follows:

40 S 15. This act shall take effect immediately, provided, however that
41 the amendment made to subdivision 4 of section 854 of the general munic-
42 ipal law by section eight of this act shall not affect the reversion of
43 such subdivision as provided by section 5 of chapter 905 of the laws of
44 1986, as amended and that where the continuing care retirement community
45 council is authorized to promulgate regulations by this act, it is here-
46 by authorized to implement the provisions of this act in advance of such
47 regulations[; and provided further that sections one, three, seven,
48 eight, nine, ten, eleven, twelve and thirteen of this act, and paragraph
49 m of subdivision 2 of section 4602 of the public health law, as added by
50 section two of this act, shall apply only to applicants for a certif-
51 icate of authority pursuant to article 46 of the public health law that
52 have been approved to receive and have received such certificate of
53 authority on or before January 31, 2008].

54 S 62. Section 461-m of the social services law, as amended by chapter
55 462 of the laws of 1996, is amended to read as follows:

1 S 461-m. Death and felony crime reporting. The operator of an adult
2 home or residence for adults shall have an affirmative duty to report
3 any death INVOLVING CIRCUMSTANCES OTHER THAN THOSE RELATED TO THE
4 NATURAL COURSE OF ILLNESS OR DISEASE, or attempted suicide of a
5 resident, to the department within twenty-four hours of [its] occur-
6 rence, and shall also have an affirmative duty to report to an appropri-
7 ate law enforcement authority if it is believed that a felony crime may
8 have been committed against a resident of such facility as soon as
9 possible, or in any event within forty-eight hours. In addition, the
10 operator shall send any reports involving a resident who had at any time
11 received services from a mental hygiene service provider to the state
12 commission on quality of care [for the mentally disabled] AND ADVOCACY
13 FOR PERSONS WITH DISABILITIES.

14 S 63. Subdivision 38 of section 2 of the social services law is
15 amended by adding four new paragraphs (f), (g), (h) and (i) to read as
16 follows:

17 (F) "VERIFICATION ORGANIZATION" MEANS AN ENTITY WHICH USES ELECTRONIC
18 MEANS INCLUDING BUT NOT LIMITED TO CONTEMPORANEOUS TELEPHONE VERIFICA-
19 TION OR CONTEMPORANEOUS VERIFIED ELECTRONIC DATA TO VERIFY WHETHER A
20 SERVICE OR ITEM WAS PROVIDED TO AN ELIGIBLE MEDICAID RECIPIENT. FOR EACH
21 SERVICE OR ITEM THE VERIFICATION ORGANIZATION SHALL CAPTURE:

22 (I) THE IDENTITY OF THE INDIVIDUAL PROVIDING SERVICES OR ITEMS TO THE
23 MEDICAID RECIPIENT;

24 (II) THE IDENTITY OF THE MEDICAID RECIPIENT; AND

25 (III) THE DATE, TIME, DURATION, LOCATION AND TYPE OF SERVICE OR ITEM.

26 A LIST OF VERIFICATION ORGANIZATIONS SHALL BE JOINTLY DEVELOPED BY THE
27 DEPARTMENT OF HEALTH AND THE OFFICE OF THE MEDICAID INSPECTOR GENERAL.

28 (G) "EXCEPTION REPORT" MEANS AN ELECTRONIC REPORT CONTAINING ALL THE
29 DATA FIELDS IN PARAGRAPH (F) OF THIS SUBDIVISION FOR CONFLICTS BETWEEN
30 SERVICES OR ITEMS ON THE BASIS OF THE IDENTITY OF THE PERSON PROVIDING
31 THE SERVICE OR ITEM TO THE MEDICAID RECIPIENT, THE IDENTITY OF THE MEDI-
32 CAID RECIPIENT, AND/OR TIME, DATE, DURATION OR LOCATION OF SERVICE;

33 (H) "CONFLICT REPORT" MEANS AN ELECTRONIC REPORT CONTAINING ALL OF THE
34 DATA FIELDS IN PARAGRAPH (F) OF THIS SUBDIVISION DETAILING INCONGRUITIES
35 IN SERVICES OR ITEMS BETWEEN SCHEDULING AND/OR LOCATION OF SERVICE WHEN
36 COMPARED TO A DUTY ROSTER.

37 (I) "PARTICIPATING PROVIDER" MEANS A CERTIFIED HOME HEALTH AGENCY,
38 LONG TERM HOME HEALTH AGENCY OR PERSONAL CARE PROVIDER WITH TOTAL MEDI-
39 CAID REIMBURSEMENTS EXCEEDING FIFTEEN MILLION DOLLARS PER CALENDAR YEAR.

40 S 64. The social services law is amended by adding a new section 363-e
41 to read as follows:

42 S 363-E. PRECLAIM REVIEW FOR PARTICIPATING PROVIDERS OF MEDICAL
43 ASSISTANCE PROGRAM SERVICES AND ITEMS. EVERY SERVICE OR ITEM WITHIN A
44 CLAIM SUBMITTED BY A PARTICIPATING PROVIDER SHALL BE REVIEWED AND VERI-
45 FIED BY A VERIFICATION ORGANIZATION PRIOR TO SUBMISSION OF A CLAIM TO
46 THE DEPARTMENT OF HEALTH. THE VERIFICATION ORGANIZATION SHALL DECLARE
47 EACH SERVICE OR ITEM TO BE VERIFIED OR UNVERIFIED. EACH PARTICIPATING
48 PROVIDER SHALL RECEIVE AND MAINTAIN REPORTS FROM THE VERIFICATION ORGAN-
49 IZATION WHICH SHALL CONTAIN DATA ON:

50 1. VERIFIED SERVICES OR ITEMS, INCLUDING WHETHER A SERVICE APPEARED ON
51 A CONFLICT OR EXCEPTION REPORT BEFORE VERIFICATION AND HOW THAT CONFLICT
52 OR EXCEPTION WAS RESOLVED; AND

53 2. SERVICES OR ITEMS THAT WERE NOT VERIFIED, INCLUDING CONFLICT AND
54 EXCEPTION REPORT DATA FOR THESE SERVICES.

1 S 65. Subparagraph (iii) of paragraph (d) of subdivision 1 of section
2 367-a of the social services law, as amended by section 53 of part C of
3 chapter 58 of the laws of 2008, is amended to read as follows:

4 (iii) When payment under part B of title XVIII of the federal social
5 security act for items and services provided to eligible persons who are
6 also beneficiaries under part B of title XVIII of the federal social
7 security act and for items and services provided to qualified medicare
8 beneficiaries under part B of title XVIII of the federal social security
9 act would exceed the amount that otherwise would be made under this
10 title if provided to an eligible person other than a person who is also
11 a beneficiary under part B or is a qualified medicare beneficiary, the
12 amount payable FOR SERVICES COVERED under this title shall be twenty
13 percent of the amount of any co-insurance liability of such eligible
14 persons pursuant to federal law were they not eligible for medical
15 assistance or were they not qualified medicare beneficiaries with
16 respect to such benefits under such part B; provided, however, amounts
17 payable under this title for items and services provided to eligible
18 persons who are also beneficiaries under part B or to qualified medicare
19 beneficiaries by an ambulance service under the authority of an operat-
20 ing certificate issued pursuant to article thirty of the public health
21 law, a psychologist licensed under article one hundred fifty-three of
22 the education law, or a facility under the authority of an operating
23 certificate issued pursuant to article sixteen, thirty-one or thirty-two
24 of the mental hygiene law [and with respect to outpatient hospital and
25 clinic items and services provided by a facility under the authority of
26 an operating certificate issued pursuant to article twenty-eight of the
27 public health law], shall not be less than the amount of any co-insu-
28 rance liability of such eligible persons or such qualified medicare
29 beneficiaries, or for which such eligible persons or such qualified
30 medicare beneficiaries would be liable under federal law were they not
31 eligible for medical assistance or were they not qualified medicare
32 beneficiaries with respect to such benefits under part B.

33 S 65-a. Subdivision 1 of section 367-a of the social services law is
34 amended by adding a new paragraph (g) to read as follows:

35 (G) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY,
36 AMOUNTS PAYABLE UNDER THIS TITLE FOR MEDICAL ASSISTANCE IN THE FORM OF
37 HOSPITAL OUTPATIENT SERVICES OR DIAGNOSTIC AND TREATMENT CENTER SERVICES
38 PURSUANT TO ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW PROVIDED TO
39 ELIGIBLE PERSONS WHO ARE ALSO BENEFICIARIES UNDER PART B OF TITLE XVIII
40 OF THE FEDERAL SOCIAL SECURITY ACT SHALL NOT EXCEED THE APPROVED MEDICAL
41 ASSISTANCE PAYMENT LEVEL LESS THE AMOUNT PAYABLE UNDER PART B.

42 S 66. Section 2807 of the public health law is amended by adding a new
43 subdivision 20 to read as follows:

44 20. FOR PERIODS ON OR AFTER OCTOBER FIRST, TWO THOUSAND ELEVEN, THE
45 COMMISSIONER IS AUTHORIZED TO SEEK ALL NECESSARY FEDERAL APPROVALS TO
46 ESTABLISH PAYMENT METHODOLOGIES WITH "ACCOUNTABLE CARE ORGANIZATIONS"
47 ("ACO") AS DESCRIBED IN SECTION EIGHTEEN HUNDRED NINETY-NINE OF THE
48 FEDERAL SOCIAL SECURITY ACT FOR THE PURPOSE OF IMPROVING THE QUALITY,
49 COORDINATION AND ACCOUNTABILITY OF SERVICES PROVIDED TO MEDICAID
50 FEE-FOR-SERVICE PATIENTS IN NEW YORK. THE COMMISSIONER MAY PROMULGATE
51 REGULATIONS, INCLUDING EMERGENCY REGULATIONS, PERTAINING TO ACOS. SUCH
52 REGULATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO, ESTABLISHING QUALITY
53 STANDARDS FOR ACOS AND ESTABLISHING MECHANISMS FOR RELATING REIMBURSE-
54 MENT TO THE ACHIEVING OF SUCH QUALITY STANDARDS.

55 S 67. Section 18 of part B of chapter 58 of the laws of 2010, amending
56 chapter 474 of the laws of 1996, amending the education law and other

1 laws relating to rates for residential healthcare facilities and other
2 laws relating to Medicaid payments, is amended to read as follows:

3 S 18. Notwithstanding any contrary provision of law, surcharges and
4 assessments due and owing pursuant to sections 2807-j, 2807-s and 2807-t
5 of the public health law for any period prior to January 1, [2010] 2011,
6 which are paid and accompanied by all required reports and which are
7 received on or before December 31, [2010] 2011 shall not be subject to
8 interest or penalties as otherwise provided in such sections, provided,
9 however, that such reports may be based on estimates by payors and
10 designated providers of services of the amounts owed, subject to subse-
11 quent audit by the commissioner of health or the commissioner's desig-
12 nee, and provided further, however, with regard to all principal, inter-
13 est and penalty amounts collected by the commissioner of health prior to
14 the effective date of this act, the penalty provisions of sections
15 2807-j, 2807-s and 2807-t of the public health law shall remain in full
16 force and effect and such amounts collected shall not be subject to
17 further adjustment pursuant to this section, and provided further,
18 however, that payments of principal amounts of surcharges and assess-
19 ments which were paid late and received prior to the effective date of
20 this provision, and in regard to which interest and penalty amounts have
21 not been collected, shall not be subject to such interest and penalties,
22 and provided, further, however, that the provisions of this section
23 shall not apply to delinquent amounts which have been referred by the
24 commissioner of health for recoupment or collection proceeding.
25 Furthermore, the provisions of this section shall not apply to any
26 surcharge or assessment payments made in response to a final audit find-
27 ing issued by the commissioner of health or the commissioner's designee.

28 S 68. Section 2807-j of the public health law is amended by adding a
29 new subdivision 13 to read as follows:

30 13. (A) NOTWITHSTANDING ANY INCONSISTENT PROVISIONS OF THIS SECTION OR
31 ANY OTHER CONTRARY PROVISION OF LAW, FOR PERIODS ON OR AFTER JULY FIRST,
32 TWO THOUSAND ELEVEN, EACH THIRD PARTY PAYOR WHICH HAS ENTERED INTO AN
33 ELECTION AGREEMENT WITH THE COMMISSIONER PURSUANT TO SUBDIVISION FIVE OF
34 THIS SECTION MAY, AS A CONDITION OF SUCH ELECTION, BE REQUIRED BY THE
35 COMMISSIONER TO PAY TO THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE,
36 A PERCENTAGE SURCHARGE EQUAL TO THE SURCHARGE PERCENT SET FORTH IN PARA-
37 GRAPH (C) OF SUBDIVISION TWO OF THIS SECTION FOR THE SAME PERIOD AND
38 APPLIED TO ALL PAYMENTS MADE BY SUCH THIRD PARTY PAYORS FOR PATIENT CARE
39 SERVICES PROVIDED WITHIN THE STATE OF NEW YORK BY PHYSICIANS IN PHYSI-
40 CIAN OFFICES OR IN URGENT CARE FACILITIES THAT ARE NOT OTHERWISE
41 LICENSED PURSUANT TO THIS ARTICLE AND WHICH ARE BILLED AS SURGERY OR
42 RADIOLOGY SERVICES IN ACCORDANCE WITH THE CURRENT PROCEDURE TERMINOLOGY,
43 FOURTH EDITION, AS PUBLISHED BY THE AMERICAN MEDICAL ASSOCIATION.

44 (B) SUCH PAYMENTS SHALL BE MADE AND REPORTED AT THE SAME TIME AND IN
45 THE SAME MANNER AS THE PAYMENTS AND REPORTS WHICH ARE OTHERWISE SUBMIT-
46 TED BY EACH THIRD PARTY PAYOR TO THE COMMISSIONER OR THE COMMISSIONER'S
47 DESIGNEE IN ACCORDANCE WITH THIS SECTION. SUCH PAYMENTS SHALL BE SUBJECT
48 TO AUDIT BY THE COMMISSIONER IN THE SAME MANNER AS THE OTHER PAYMENTS
49 OTHERWISE SUBMITTED AND REPORTED PURSUANT TO THIS SECTION. THE COMMIS-
50 SIONER MAY TAKE ALL MEASURES TO COLLECT DELINQUENT PAYMENTS DUE PURSUANT
51 TO THIS SUBDIVISION AS ARE OTHERWISE PERMITTED WITH REGARD TO DELINQUENT
52 PAYMENTS DUE PURSUANT TO OTHER SUBDIVISIONS OF THIS SECTION.

53 (C) SURCHARGES PURSUANT TO THIS SUBDIVISION SHALL NOT APPLY TO
54 PAYMENTS MADE BY THIRD PARTY PAYORS FOR SERVICES PROVIDED TO PATIENTS
55 INSURED BY MEDICAID OR BY THE CHILD HEALTH PLUS PROGRAM OR TO ANY

PATIENT IN A CATEGORY THAT IS EXEMPT FROM SURCHARGE OBLIGATIONS ASSESSED PURSUANT TO SUBDIVISIONS ONE THROUGH TWELVE OF THIS SECTION.

S 69. Subparagraph (iii) of paragraph (b) of subdivision 25 of section 2808 of the public health law, as added by section 31 of part B of chapter 109 of the laws of 2010, is amended and a new subparagraph (iv) is added to read as follows:

(iii) payment to a facility for reserved bed days provided on behalf of such person for non-hospitalization leaves of absence may not exceed ten days in any twelve month period[.]; AND

(IV) PAYMENTS FOR RESERVED BED DAYS FOR TEMPORARY HOSPITALIZATIONS SHALL ONLY BE MADE TO A RESIDENTIAL HEALTH CARE FACILITY IF AT LEAST FIFTY PERCENT OF THE FACILITY'S RESIDENTS ELIGIBLE TO PARTICIPATE IN A MEDICARE MANAGED CARE PLAN ARE ENROLLED IN SUCH A PLAN.

S 70. Subdivision 1 of section 2801 of the public health law, as separately amended by chapters 297 and 416 of the laws of 1983, is amended to read as follows:

1. "Hospital" means a facility or institution engaged principally in providing services by or under the supervision of a physician or, in the case of a dental clinic or dental dispensary, of a dentist, for the prevention, diagnosis or treatment of human disease, pain, injury, deformity or physical condition, including, but not limited to, a general hospital, public health center, diagnostic center, treatment center, dental clinic, dental dispensary, rehabilitation center other than a facility used solely for vocational rehabilitation, nursing home, tuberculosis hospital, chronic disease hospital, maternity hospital, lying-in-asylum, out-patient department, out-patient lodge, dispensary and a laboratory or central service facility serving one or more such institutions, but the term hospital shall not include an institution, sanitarium or other facility engaged principally in providing services for the prevention, diagnosis or treatment of mental disability and which is subject to [the powers of visitation, examination, inspection and investigation of the department of mental hygiene except for those distinct parts of] LICENSURE UNDER THE MENTAL HYGIENE LAW, ALTHOUGH such a facility which [provide] ALSO PROVIDES hospital service SHALL BE SUBJECT TO THE POWERS OF VISITATION, EXAMINATION, INSPECTION AND INVESTIGATION OF THE DEPARTMENT. The provisions of this article shall not apply to a facility or institution engaged principally in providing services by or under the supervision of the bona fide members and adherents of a recognized religious organization whose teachings include reliance on spiritual means through prayer alone for healing in the practice of the religion of such organization and where services are provided in accordance with those teachings.

S 71. Subdivision (a) of section 16.03 of the mental hygiene law, as added by chapter 786 of the laws of 1983, paragraph 3 as amended by chapter 555 of the laws of 1993, is amended to read as follows:

(a) No provider of services shall engage in any of the following activities without an operating certificate issued by the commissioner pursuant to this article:

(1) Operation of a residential facility for the care and treatment of the mentally retarded or developmentally disabled including a family care home.

(2) [Operation of any distinct part of a general hospital or other facility possessing an operating certificate, pursuant to article twenty-eight of the public health law, operated for the primary purpose of providing residential or non-residential services for the mentally retarded or developmentally disabled.

1 (3)] Operation of a facility established or maintained by a public
2 agency, board, or commission, or by a corporation or voluntary associ-
3 ation for the rendition of out-patient or non-residential services for
4 the mentally retarded or developmentally disabled; provided, however,
5 that such operation shall not be deemed to include (i) professional
6 practice, within the scope of a professional license or certificate
7 issued by an agency of the state, by an individual practitioner or by a
8 partnership of such individuals or by a professional service corporation
9 duly incorporated pursuant to the business corporation law or by a
10 university faculty practice corporation duly incorporated pursuant to
11 the not-for-profit corporation law or (ii) non-residential services
12 which are licensed, supervised, or operated by another agency of the
13 state, PROVIDED, HOWEVER, THAT SUCH OPERATION SHALL BE SUBJECT TO VISI-
14 TATION, EXAMINATION, INSPECTION AND INVESTIGATION OF THE COMMISSIONER,
15 and non-residential services which are chartered or issued a certificate
16 of incorporation pursuant to the education law or (iii) pastoral coun-
17 seling by a clergyman or minister, including those defined as clergyman
18 or minister by section two of the religious corporations law.

19 S 72. Subdivision (a) of section 31.02 of the mental hygiene law, as
20 amended by chapter 804 of the laws of 1975 and such section as renum-
21 bered by chapter 978 of the laws of 1977, paragraph 3 as amended by
22 chapter 555 of the laws of 1993, paragraph 4 as added by chapter 947 of
23 the laws of 1981, paragraph 5 as added by chapter 351 of the laws of
24 1985, and paragraph 6 as added by chapter 723 of the laws of 1989, is
25 amended to read as follows:

26 (a) Except as provided in subdivision (b) of this section no provider
27 of services shall engage in any of the following activities without an
28 operating certificate issued by the commissioner pursuant to this arti-
29 cle:

30 1. operation of a residential facility or institution, including a
31 community residence, for the care, custody, or treatment of the mentally
32 disabled; provided, however, that giving domestic care and comfort to a
33 person in the home shall not constitute such an operation.

34 2. [operation of any part of a general hospital for the purpose of
35 providing residential or non-residential services for the mentally disa-
36 bled.

37 3.] operation of a facility established or maintained by a public
38 agency, board, or commission, or by a corporation for the rendition of
39 out-patient or non-residential services for the mentally disabled;
40 provided, however, that such operation shall not be deemed to include
41 (i) professional practice, within the scope of a professional license or
42 certificate issued by an agency of the state, by an individual practi-
43 tioner or by a partnership of such individuals or by a professional
44 service corporation duly incorporated pursuant to the business corpo-
45 ration law or by a university faculty practice corporation duly incorpo-
46 rated pursuant to the not-for-profit corporation law or (ii) non-resi-
47 dential services which are licensed, supervised, or operated by another
48 agency of the state, PROVIDED, HOWEVER, THAT SUCH OPERATION SHALL BE
49 SUBJECT TO VISITATION, EXAMINATION, INSPECTION AND INVESTIGATION OF THE
50 COMMISSIONER, and nonresidential services which are chartered or issued
51 a certificate of incorporation pursuant to the education law or (iii)
52 pastoral counseling by a clergyman or minister, including those defined
53 as clergyman or minister by section two of the religious corporations
54 law.

55 [4.] 3. operation of a residential treatment facility for children and
56 youth.

[5.] 4. operation of a residential care center for adults.

[6.] 5. operation of a comprehensive psychiatric emergency program.

S 73. Subdivision (a) of section 32.05 of the mental hygiene law, as added by chapter 558 of the laws of 1999, is amended to read as follows:

(a) Except as provided in subdivision (b) of this section no provider of services shall engage in any of the following activities without an operating certificate issued by the commissioner pursuant to this article:

1. operation of a residential program, including a community residence for the care, custody, or treatment of persons suffering from chemical abuse or dependence; provided, however, that giving domestic care and comfort to a person in the home shall not constitute such an operation; OR

2. [operation of a discrete unit of a hospital or other facility possessing an operating certificate pursuant to article twenty-eight of the public health law for the purpose of providing residential or non-residential chemical dependence services; or

3.] operation of a program established or maintained by a provider of services for the rendition of out-patient or non-residential chemical dependence services; provided, however, that such operation shall not be deemed to include (i) professional practice, within the scope of a professional license or certificate issued by an agency of the state, by an appropriately licensed individual or by a partnership of such individuals, or by a professional service corporation duly incorporated pursuant to the business corporation law wherein all professionals bear the same professional license, or a university faculty practice corporation duly incorporated pursuant to the not-for-profit corporation law, unless more than fifty percent of such practice by either such corporation consists of the rendering of chemical dependence services; or (ii) non-residential services which are chartered or issued a certificate of incorporation pursuant to the education law; or (iii) pastoral counseling by a clergyman or minister, including those defined as clergyman or minister by section two of the religious corporations law; or (iv) services which are exclusively prevention strategies and approaches as defined in section 1.03 of this chapter.

S 74. Section 366 of the social services law is amended by adding a new subdivision 14 to read as follows:

14. THE COMMISSIONER OF HEALTH MAY MAKE ANY AVAILABLE AMENDMENTS TO THE STATE PLAN FOR MEDICAL ASSISTANCE SUBMITTED PURSUANT TO SECTION THREE HUNDRED SIXTY-THREE-A OF THIS TITLE, OR, IF AN AMENDMENT IS NOT POSSIBLE, DEVELOP AND SUBMIT AN APPLICATION FOR ANY WAIVER OR APPROVAL UNDER THE FEDERAL SOCIAL SECURITY ACT THAT MAY BE NECESSARY TO DISREGARD OR EXEMPT AN AMOUNT OF INCOME, FOR THE PURPOSE OF ASSISTING WITH HOUSING COSTS, FOR INDIVIDUALS RECEIVING COVERAGE OF NURSING FACILITY SERVICES UNDER THIS TITLE WHO ARE: (I) DISCHARGED FROM THE NURSING FACILITY TO THE COMMUNITY; (II) ENROLLED IN A PLAN CERTIFIED PURSUANT TO SECTION FORTY-FOUR HUNDRED THREE-F OF THE PUBLIC HEALTH LAW; AND (III) WHILE SO ENROLLED, NOT CONSIDERED AN "INSTITUTIONALIZED SPOUSE" FOR PURPOSES OF SECTION THREE HUNDRED SIXTY-SIX-C OF THIS TITLE.

S 75. Intentionally Omitted.

S 76. Subdivision 6 of section 364-i of the social services law is amended by adding a new paragraph (a-2) to read as follows:

(A-2) AT THE TIME OF APPLICATION FOR PRESUMPTIVE ELIGIBILITY PURSUANT TO THIS SUBDIVISION, A PREGNANT WOMAN WHO RESIDES IN A SOCIAL SERVICES DISTRICT THAT HAS IMPLEMENTED THE STATE'S MANAGED CARE PROGRAM PURSUANT TO SECTION THREE HUNDRED SIXTY-FOUR-J OF THIS TITLE MUST CHOOSE A

MANAGED CARE PROVIDER. IF A MANAGED CARE PROVIDER IS NOT CHOSEN AT THE TIME OF APPLICATION, THE PREGNANT WOMAN WILL BE ASSIGNED TO A MANAGED CARE PROVIDER IN ACCORDANCE WITH SUBPARAGRAPHS (II), (III), (IV) AND (V) OF PARAGRAPH (F) OF SUBDIVISION FOUR OF SECTION THREE HUNDRED SIXTY-FOUR-J OF THIS TITLE.

S 77. Paragraphs (b), (c), (d) and (f) of subdivision 3 of section 364-j of the social services law are REPEALED, paragraph (e) is relettered paragraph (d), and two new paragraphs (b) and (c) are added to read as follows:

(B) THE FOLLOWING MEDICAL ASSISTANCE RECIPIENTS SHALL NOT BE REQUIRED TO PARTICIPATE IN A MANAGED CARE PROGRAM ESTABLISHED PURSUANT TO THIS SECTION:

(I) INDIVIDUALS WITH A CHRONIC MEDICAL CONDITION WHO ARE BEING TREATED BY A SPECIALIST PHYSICIAN THAT IS NOT ASSOCIATED WITH A MANAGED CARE PROVIDER IN THE INDIVIDUAL'S SOCIAL SERVICES DISTRICT MAY DEFER PARTICIPATION IN THE MANAGED CARE PROGRAM FOR SIX MONTHS OR UNTIL THE COURSE OF TREATMENT IS COMPLETE, WHICHEVER OCCURS FIRST; AND

(II) NATIVE AMERICANS.

(C) THE FOLLOWING MEDICAL ASSISTANCE RECIPIENTS SHALL NOT BE ELIGIBLE TO PARTICIPATE IN A MANAGED CARE PROGRAM ESTABLISHED PURSUANT TO THIS SECTION:

(I) A PERSON ELIGIBLE FOR MEDICARE PARTICIPATING IN A CAPITATED DEMONSTRATION PROGRAM FOR LONG TERM CARE;

(II) AN INFANT LIVING WITH AN INCARCERATED MOTHER IN A STATE OR LOCAL CORRECTIONAL FACILITY AS DEFINED IN SECTION TWO OF THE CORRECTION LAW;

(III) A PERSON WHO IS EXPECTED TO BE ELIGIBLE FOR MEDICAL ASSISTANCE FOR LESS THAN SIX MONTHS;

(IV) A PERSON WHO IS ELIGIBLE FOR MEDICAL ASSISTANCE BENEFITS ONLY WITH RESPECT TO TUBERCULOSIS-RELATED SERVICES;

(V) INDIVIDUALS RECEIVING HOSPICE SERVICES AT TIME OF ENROLLMENT;

(VI) A PERSON WHO HAS PRIMARY MEDICAL OR HEALTH CARE COVERAGE AVAILABLE FROM OR UNDER A THIRD-PARTY PAYOR WHICH MAY BE MAINTAINED BY PAYMENT, OR PART PAYMENT, OF THE PREMIUM OR COST SHARING AMOUNTS, WHEN PAYMENT OF SUCH PREMIUM OR COST SHARING AMOUNTS WOULD BE COST-EFFECTIVE, AS DETERMINED BY THE LOCAL SOCIAL SERVICES DISTRICT;

(VII) A PERSON RECEIVING FAMILY PLANNING SERVICES PURSUANT TO SUBPARAGRAPH ELEVEN OF PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION THREE HUNDRED SIXTY-SIX OF THIS TITLE;

(VIII) A PERSON WHO IS ELIGIBLE FOR MEDICAL ASSISTANCE PURSUANT TO PARAGRAPH (V) OF SUBDIVISION FOUR OF SECTION THREE HUNDRED SIXTY-SIX OF THIS TITLE; AND

(IX) A PERSON WHO IS MEDICARE/MEDICAID DUALY ELIGIBLE AND WHO IS NOT ENROLLED IN A MEDICARE MANAGED CARE PLAN.

S 77-a. Paragraph (g) of subdivision 3 of section 364-j of the social services law, as amended by chapter 649 of the laws of 1996, and subparagraph (i) as amended by section 30 of part C of chapter 58 of the laws of 2008, is amended to read as follows:

[(g)] (E) The following categories of individuals [will not] MAY be required to enroll with a managed care program [until] WHEN program features and reimbursement rates are approved by the commissioner of health and, as appropriate, the [commissioner] COMMISSIONERS of THE DEPARTMENT OF mental health, THE OFFICE FOR PERSONS WITH DEVELOPMENTAL DISABILITIES, AND THE OFFICE OF ALCOHOL AND SUBSTANCE ABUSE SERVICES:

(i) an individual dually eligible for medical assistance and benefits under the federal Medicare program and enrolled in a Medicare managed care plan offered by an entity that is also a managed care provider;

1 provided that (notwithstanding paragraph (g) of subdivision four of this
2 section):

3 (a) if the individual changes his or her Medicare managed care plan as
4 authorized by title XVIII of the federal social security act, and
5 enrolls in another Medicare managed care plan that is also a managed
6 care provider, the individual shall be (if required by the commissioner
7 under this paragraph) enrolled in that managed care provider;

8 (b) if the individual changes his or her Medicare managed care plan as
9 authorized by title XVIII of the federal social security act, but
10 enrolls in another Medicare managed care plan that is not also a managed
11 care provider, the individual shall be disenrolled from the managed care
12 provider in which he or she was enrolled and withdraw from the managed
13 care program;

14 (c) if the individual disenrolls from his or her Medicare managed care
15 plan as authorized by title XVIII of the federal social security act,
16 and does not enroll in another Medicare managed care plan, the individ-
17 ual shall be disenrolled from the managed care provider in which he or
18 she was enrolled and withdraw from the managed care program;

19 (d) nothing herein shall require an individual enrolled in a managed
20 long term care plan, pursuant to section forty-four hundred three-f of
21 the public health law, to disenroll from such program.

22 (ii) an individual eligible for supplemental security income;

23 (iii) HIV positive individuals; [and]

24 (iv) persons with serious mental illness and children and adolescents
25 with serious emotional disturbances, as defined in section forty-four
26 hundred one of the public health law[.];

27 (V) A PERSON RECEIVING SERVICES PROVIDED BY A RESIDENTIAL ALCOHOL OR
28 SUBSTANCE ABUSE PROGRAM OR FACILITY FOR THE MENTALLY RETARDED;

29 (VI) A PERSON RECEIVING SERVICES PROVIDED BY AN INTERMEDIATE CARE
30 FACILITY FOR THE MENTALLY RETARDED OR WHO HAS CHARACTERISTICS AND NEEDS
31 SIMILAR TO SUCH PERSONS;

32 (VII) A PERSON WITH A DEVELOPMENTAL OR PHYSICAL DISABILITY WHO
33 RECEIVES HOME AND COMMUNITY-BASED SERVICES OR CARE-AT-HOME SERVICES
34 THROUGH EXISTING WAIVERS UNDER SECTION NINETEEN HUNDRED FIFTEEN (C) OF
35 THE FEDERAL SOCIAL SECURITY ACT OR WHO HAS CHARACTERISTICS AND NEEDS
36 SIMILAR TO SUCH PERSONS;

37 (VIII) A PERSON WHO IS ELIGIBLE FOR MEDICAL ASSISTANCE PURSUANT TO
38 SUBPARAGRAPH TWELVE OR SUBPARAGRAPH THIRTEEN OF PARAGRAPH (A) OF SUBDI-
39 VISION ONE OF SECTION THREE HUNDRED SIXTY-SIX OF THIS TITLE;

40 (IX) A PERSON RECEIVING SERVICES PROVIDED BY A LONG TERM HOME HEALTH
41 CARE PROGRAM, OR A PERSON RECEIVING INPATIENT SERVICES IN A STATE-OPER-
42 ATED PSYCHIATRIC FACILITY OR A RESIDENTIAL TREATMENT FACILITY FOR CHIL-
43 DREN AND YOUTH;

44 (X) CERTIFIED BLIND OR DISABLED CHILDREN LIVING OR EXPECTED TO BE
45 LIVING SEPARATE AND APART FROM THE PARENT FOR THIRTY DAYS OR MORE;

46 (XI) RESIDENTS OF NURSING FACILITIES;

47 (XII) A FOSTER CHILD IN THE PLACEMENT OF A VOLUNTARY AGENCY OR IN THE
48 DIRECT CARE OF THE LOCAL SOCIAL SERVICES DISTRICT;

49 (XIII) A PERSON OR FAMILY THAT IS HOMELESS; AND

50 (XIV) INDIVIDUALS FOR WHOM A MANAGED CARE PROVIDER IS NOT GEOGRAPH-
51 ICALLY ACCESSIBLE SO AS TO REASONABLY PROVIDE SERVICES TO THE PERSON. A
52 MANAGED CARE PROVIDER IS NOT GEOGRAPHICALLY ACCESSIBLE IF THE PERSON
53 CANNOT ACCESS THE PROVIDER'S SERVICES IN A TIMELY FASHION DUE TO
54 DISTANCE OR TRAVEL TIME.

1 S 78. Subparagraph (v) of paragraph (e) of subdivision 4 of section
2 364-j of the social services law, as amended by section 14 of part C of
3 chapter 58 of the laws of 2004, is amended to read as follows:

4 (v) Upon delivery of the pre-enrollment information, the local
5 district or the enrollment organization shall certify the participant's
6 receipt of such information. Upon verification that the participant has
7 received the pre-enrollment education information, a managed care
8 provider, a local district or the enrollment organization may enroll a
9 participant into a managed care provider. Managed care providers must
10 submit enrollment forms to the local department of social services. Upon
11 enrollment, participants will sign an attestation that they have been
12 informed that: participants have a choice of managed care providers;
13 participants have a choice of primary care practitioners; and, except as
14 otherwise provided in this section, including but not limited to the
15 exceptions listed in subparagraph (iii) of paragraph (a) of this subdi-
16 vision, participants must exclusively use their primary care practition-
17 ers and plan providers. The commissioner of health [or with respect to a
18 managed care plan serving participants in a city with a population of
19 over two million, the local department of social services in such city,]
20 may suspend or curtail enrollment or impose sanctions for failure to
21 appropriately notify clients as required in this subparagraph.

22 S 79. Subparagraph (i) of paragraph (f) of subdivision 4 of section
23 364-j of the social services law, as amended by section 14 of part C of
24 chapter 58 of the laws of 2004, is amended to read as follows:

25 (i) Participants SHALL CHOOSE A MANAGED CARE PROVIDER AT THE TIME OF
26 APPLICATION FOR MEDICAL ASSISTANCE; IF THE PARTICIPANT DOES NOT CHOOSE
27 SUCH A PROVIDER THE COMMISSIONER SHALL ASSIGN SUCH PARTICIPANT TO A
28 MANAGED CARE PROVIDER IN ACCORDANCE WITH SUBPARAGRAPHS (II), (III), (IV)
29 AND (V) OF THIS PARAGRAPH. PARTICIPANTS ALREADY IN RECEIPT OF MEDICAL
30 ASSISTANCE shall have no less than [sixty] THIRTY days from the date
31 selected by the district to enroll in the managed care program to select
32 a managed care provider, and as appropriate, a mental health special
33 needs plan, and shall be provided with information to make an informed
34 choice. Where a participant has not selected such a provider or mental
35 health special needs plan, the commissioner of health shall assign such
36 participant to a managed care provider, and as appropriate, to a mental
37 health special needs plan, taking into account capacity and geographic
38 accessibility. The commissioner may after the period of time established
39 in subparagraph (ii) of this paragraph assign participants to a managed
40 care provider taking into account quality performance criteria and cost.
41 Provided however, cost criteria shall not be of greater value than qual-
42 ity criteria in assigning participants.

43 S 80. Paragraphs (d), (e), and (f) of subdivision 5 of section 364-j
44 of the social services law, as added by section 15 of part C of chapter
45 58 of the laws of 2004, are amended to read as follows:

46 (d) Notwithstanding any inconsistent provision of this title and
47 section one hundred sixty-three of the state finance law, the commis-
48 sioner of health [or the local department of social services in a city
49 with a population of over two million] may contract with managed care
50 providers approved under paragraph (b) of this subdivision, without a
51 competitive bid or request for proposal process, to provide coverage for
52 participants pursuant to this title.

53 (e) Notwithstanding any inconsistent provision of this title and
54 section one hundred forty-three of the economic development law, no
55 notice in the procurement opportunities newsletter shall be required for
56 contracts awarded by the commissioner of health [or the local department

1 of social services in a city with a population of over two million], to
2 qualified managed care providers pursuant to this section.

3 (f) The care and services described in subdivision four of this
4 section will be furnished by a managed care provider pursuant to the
5 provisions of this section when such services are furnished in accord-
6 ance with an agreement with the department of health [or the local
7 department of social services in a city with a population of over two
8 million], and meet applicable federal law and regulations.

9 S 81. Paragraph (k) of subdivision 2 of section 365-a of the social
10 services law, as amended by chapter 659 of the laws of 1997, is amended
11 to read as follows:

12 (k) care and services furnished by an entity offering a comprehensive
13 health services plan, including an entity that has received a certif-
14 icate of authority pursuant to sections forty-four hundred three,
15 forty-four hundred three-a or forty-four hundred eight-a of the public
16 health law (as added by chapter six hundred thirty-nine of the laws of
17 nineteen hundred ninety-six) or a health maintenance organization
18 authorized under article forty-three of the insurance law, to eligible
19 individuals residing in the geographic area served by such entity, when
20 such services are furnished in accordance with an agreement approved by
21 the department which meets the requirements of federal law and regu-
22 lations [provided, that no such agreement shall allow for medical
23 assistance payments on a capitated basis for nursing facility, home care
24 or other long term care services of a duration and scope defined in
25 regulations of the department of health promulgated pursuant to section
26 forty-four hundred three-f of the public health law, unless such entity
27 has received a certificate of authority as a managed long term care plan
28 or is an operating demonstration or is an approved managed long term
29 care demonstration, pursuant to such section].

30 S 82. Paragraph (a) of subdivision 1 of section 367-f of the social
31 services law, as amended by section 37 of part D of chapter 58 of the
32 laws of 2009, is amended to read as follows:

33 (a) "Medicaid extended coverage" shall mean eligibility for medical
34 assistance (i) without regard to the resource requirements of section
35 three hundred sixty-six of this title, or in the case of an individual
36 covered under an insurance policy or certificate described in subdivi-
37 sion two of this section that provided a residential health care facili-
38 ty benefit less than [three] TWO years in duration, without consider-
39 ation of an amount of resources equivalent to the value of benefits
40 received by the individual under such policy or certificate, as deter-
41 mined under the rules of the partnership for long-term care program;
42 (ii) without regard to the recovery of medical assistance from the
43 estates of individuals and the imposition of liens on the homes of
44 persons pursuant to section three hundred sixty-nine of this title, with
45 respect to resources exempt from consideration pursuant to subparagraph
46 (i) of this paragraph; provided, however, that nothing in this section
47 shall prevent the imposition of a lien or recovery against property of
48 an individual on account of medical assistance incorrectly paid; and
49 (iii) based on an income eligibility standard for married couples equal
50 to the amount of the minimum monthly maintenance needs allowance defined
51 in paragraph (h) of subdivision two of section three hundred sixty-six-c
52 of this title, and for single individuals equal to one-half of such
53 amount; provided, however, that the commissioner of health shall not be
54 required to implement the provisions of this subparagraph if the use of
55 such income eligibility standards will result in a loss of federal
56 financial participation in the costs of Medicaid extended coverage

1 furnished in accordance with subparagraphs (i) and (ii) of this para-
2 graph.

3 S 83. Subdivision 1 of section 190 of the tax law, as amended by
4 section 17 of part B of chapter 58 of the laws of 2004, is amended to
5 read as follows:

6 1. General. A taxpayer shall be allowed a credit against the tax
7 imposed by this article, other than the taxes and fees imposed by
8 sections one hundred eighty and one hundred eighty-one of this article,
9 equal to [twenty] FORTY percent of the premium paid during the taxable
10 year for long-term care insurance. In order to qualify for such credit,
11 the taxpayer's premium payment must be for the purchase of or for
12 continuing coverage under a long-term care insurance policy that quali-
13 fies for such credit pursuant to section one thousand one hundred seven-
14 teen of the insurance law.

15 S 84. Paragraph (a) of subdivision 25-a of section 210 of the tax law,
16 as amended by section 18 of part B of chapter 58 of the laws of 2004, is
17 amended to read as follows:

18 (a) A taxpayer shall be allowed a credit against the tax imposed by
19 this article equal to [twenty] FORTY percent of the premium paid during
20 the taxable year for long-term care insurance. In order to qualify for
21 such credit, the taxpayer's premium payment must be for the purchase of
22 or for continuing coverage under a long-term care insurance policy that
23 qualifies for such credit pursuant to section one thousand one hundred
24 seventeen of the insurance law.

25 S 85. Paragraph 1 of subsection (aa) of section 606 of the tax law, as
26 amended by section 1 of part P of chapter 61 of the laws of 2005, is
27 amended to read as follows:

28 (1) Residents. A taxpayer shall be allowed a credit against the tax
29 imposed by this article equal to [twenty] FORTY percent of the premium
30 paid during the taxable year for long-term care insurance. In order to
31 qualify for such credit, the taxpayer's premium payment must be for the
32 purchase of or for continuing coverage under a long-term care insurance
33 policy that qualifies for such credit pursuant to section one thousand
34 one hundred seventeen of the insurance law. If the amount of the credit
35 allowable under this subsection for any taxable year shall exceed the
36 taxpayer's tax for such year, the excess may be carried over to the
37 following year or years and may be deducted from the taxpayer's tax for
38 such year or years.

39 S 86. Paragraph 1 of subsection (k) of section 1456 of the tax law, as
40 amended by section 20 of part B of chapter 58 of the laws of 2004, is
41 amended to read as follows:

42 (1) A taxpayer shall be allowed a credit against the tax imposed by
43 this article equal to [twenty] FORTY percent of the premium paid during
44 the taxable year for long-term care insurance. In order to qualify for
45 such credit, the taxpayer's premium payment must be for the purchase of
46 or for continuing coverage under a long-term care insurance policy that
47 qualifies for such credit pursuant to section one thousand one hundred
48 seventeen of the insurance law.

49 S 87. Paragraph 1 of subdivision (m) of section 1511 of the tax law,
50 as amended by section 21 of part B of chapter 58 of the laws of 2004, is
51 amended to read as follows:

52 (1) A taxpayer shall be allowed a credit against the tax imposed by
53 this article equal to [twenty] FORTY percent of the premium paid during
54 the taxable year for long-term care insurance. In order to qualify for
55 such credit, the taxpayer's premium payment must be for the purchase of
56 or for continuing coverage under a long-term care insurance policy that

1 qualifies for such credit pursuant to section one thousand one hundred
2 seventeen of the insurance law.

3 S 88. Subparagraph 11 of paragraph (a) of subdivision 1 of section 366
4 of the social services law, as amended by section 1-h of part C of chap-
5 ter 58 of the laws of 2007, is amended to read as follows:

6 (11) for purposes of receiving family planning services eligible for
7 reimbursement by the federal government at a rate of ninety percent, is
8 not otherwise eligible for medical assistance and whose income is two
9 hundred percent or less of the comparable federal income official pover-
10 ty line (as defined and annually revised by the United States department
11 of health and human services); provided, however, that such ninety
12 percent limitation shall not apply to those services identified by the
13 commissioner of health as services, including treatment for sexually
14 transmitted diseases, generally performed as part of or as a follow-up
15 to a service eligible for such ninety percent reimbursement; PROVIDED
16 FURTHER THAT THE COMMISSIONER OF HEALTH IS AUTHORIZED TO ESTABLISH
17 CRITERIA FOR PRESUMPTIVE ELIGIBILITY FOR SERVICES PROVIDED PURSUANT TO
18 THIS SUBPARAGRAPH IN ACCORDANCE WITH ALL APPLICABLE REQUIREMENTS OF
19 FEDERAL LAW OR REGULATION PERTAINING TO SUCH ELIGIBILITY. The commis-
20 sioner of health shall submit whatever waiver applications as may be
21 necessary to receive federal financial participation for services
22 provided under this subparagraph and the provisions of this subparagraph
23 shall be effective if and so long as such federal financial partic-
24 ipation shall be available; or

25 S 89. Paragraph (e) of subdivision 2 of section 365-a of the social
26 services law, as amended by chapter 170 of the laws of 1994, is amended
27 to read as follows:

28 (e) (I) personal care services, including personal emergency response
29 services, shared aide and an individual aide, SUBJECT TO THE PROVISIONS
30 OF SUBPARAGRAPHS (II), (III), AND (IV) OF THIS PARAGRAPH, furnished to
31 an individual who is not an inpatient or resident of a hospital, nursing
32 facility, intermediate care facility for the mentally retarded, or
33 institution for mental disease, as determined to meet the recipient's
34 needs for assistance when cost effective and appropriate [in accordance
35 with section three hundred sixty-seven-k and section three hundred
36 sixty-seven-o of this title], and when prescribed by a physician, in
37 accordance with the recipient's plan of treatment and provided by indi-
38 viduals who are qualified to provide such services, who are supervised
39 by a registered nurse and who are not members of the recipient's family,
40 and furnished in the recipient's home or other location;

41 (II) THE COMMISSIONER IS AUTHORIZED TO ADOPT STANDARDS FOR THE
42 PROVISION AND MANAGEMENT OF SERVICES AVAILABLE UNDER THIS PARAGRAPH FOR
43 INDIVIDUALS WHOSE NEED FOR SUCH SERVICES EXCEEDS A SPECIFIED LEVEL TO BE
44 DETERMINED BY THE COMMISSIONER;

45 (III) THE COMMISSIONER IS AUTHORIZED TO PROVIDE ASSISTANCE TO PERSONS
46 RECEIVING SERVICES UNDER THIS PARAGRAPH WHO ARE TRANSITIONING TO RECEIV-
47 ING CARE FROM A MANAGED LONG TERM CARE PLAN CERTIFIED PURSUANT TO
48 SECTION FORTY-FOUR HUNDRED THREE-F OF THE PUBLIC HEALTH LAW;

49 (IV) PERSONAL CARE SERVICES AVAILABLE PURSUANT TO THIS PARAGRAPH SHALL
50 NOT EXCEED EIGHT HOURS PER WEEK FOR INDIVIDUALS WHOSE NEEDS ARE LIMITED
51 TO NUTRITIONAL AND ENVIRONMENTAL SUPPORT FUNCTIONS;

52 S 90. (a) Notwithstanding any other provision of law to the contrary,
53 for the state fiscal year period beginning April 1, 2011 and each state
54 fiscal year thereafter, all Medicaid payments made for services provided
55 on and after April 1, 2011, shall, except as hereinafter provided, be
56 subject to a uniform two percent reduction and such reduction shall be

1 applied, to the extent practicable, in equal amounts during the fiscal
2 year, provided, however, that an alternative method may be considered at
3 the discretion of the commissioner of health and the director of the
4 budget based upon consultation with the health care industry including
5 but not limited to, a uniform reduction in Medicaid rates of payments or
6 other reductions provided that any method selected achieves no less than
7 \$345,000,000 in Medicaid state share savings annually, except as herein-
8 after provided, for services provided on and after April 1, 2011 through
9 March 31, 2012 and each state fiscal year thereafter.

10 (b) The following types of appropriations shall be exempt from
11 reductions pursuant to this section:

12 (i) any reductions that would violate federal law including, but not
13 limited to, payments required pursuant to the federal Medicare program;

14 (ii) any reductions related to payments pursuant to article 32, arti-
15 cle 31 and article 16 of the mental hygiene law;

16 (iii) payments the state is obligated to make pursuant to court orders
17 or judgments;

18 (iv) payments for which the non-federal share does not reflect any
19 state funding; and

20 (v) at the discretion of the commissioner of health and the director
21 of the budget, payments with regard to which it is determined by the
22 commissioner of health and the director of the budget that application
23 of reductions pursuant to this section would result, by operation of
24 federal law, in a lower federal medical assistance percentage applicable
25 to such payments.

26 (c) Reductions to Medicaid payments or Medicaid rates of payments made
27 pursuant to this section shall be subject to the receipt of all neces-
28 sary federal approvals.

29 S 91. Notwithstanding any inconsistent provision of state law, rule
30 or regulation to the contrary, subject to federal approval, the year to
31 year rate of growth of department of health state funds spending shall
32 not exceed the ten year rolling average of the medical component of the
33 consumer price index as published by the United States department of
34 labor, bureau of labor statistics, for the preceding ten years.

35 S 92. The director of the budget, in consultation with the commis-
36 sioner of health, shall periodically assess known and projected depart-
37 ment of health state funds medicaid expenditures, and if the director of
38 the budget determines that such expenditures are expected to cause medi-
39 caid disbursements for such period to exceed the projected department of
40 health medicaid state funds disbursements in the enacted budget finan-
41 cial plan pursuant to subdivision 3 of section 23 of the state finance
42 law, the commissioner of health, in consultation with the director of
43 the budget, shall develop a medicaid savings allocation plan to limit
44 such spending to the aggregate limit level specified in the enacted
45 budget financial plan, provided, however, such projections may be
46 adjusted by the director of the budget to account for any changes in the
47 New York state federal medical assistance percentage amount established
48 pursuant to the federal social security act, changes in provider reven-
49 ues, and beginning April 1, 2012 the operational costs of the New York
50 state medical indemnity fund.

51 1. Such medicaid savings allocation plan shall be designed, to reduce
52 the disbursements authorized by the appropriations herein in compliance
53 with the following guidelines: (1) reductions shall be made in compli-
54 ance with applicable federal law, including the provisions of the
55 Patient Protection and Affordable Care Act, Public Law No. 111-148, and
56 the Health Care and Education Reconciliation Act of 2010, Public Law No.

1 111-152 (collectively "Affordable Care Act") and any subsequent amend-
2 ments thereto or regulations promulgated thereunder; (2) reductions
3 shall be made in a manner that complies with the state Medicaid plan
4 approved by the federal centers for medicare and medicaid services,
5 provided, however, that the commissioner of health is authorized to
6 submit any state plan amendment or seek other federal approval, includ-
7 ing waiver authority, to implement the provisions of the medicaid
8 savings allocation plan that meets the other criteria set forth herein;
9 (3) reductions shall be made in a manner that maximizes federal finan-
10 cial participation, to the extent practicable, including any federal
11 financial participation that is available or is reasonably expected to
12 become available, in the discretion of the commissioner of health, under
13 the Affordable Care Act; (4) reductions shall be made uniformly among
14 categories of services, to the extent practicable, and shall be made
15 uniformly within a category of service, to the extent practicable,
16 except where the commissioner of health determines that there are suffi-
17 cient grounds for non-uniformity, including but not limited to: the
18 extent to which specific categories of services contributed to depart-
19 ment of health medicaid state funds spending in excess of the limits
20 specified herein; the need to maintain safety net services in under-
21 served communities; the need to encourage or discourage certain activ-
22 ities by providers of particular health care services in order to
23 improve quality of and access to care; or the potential benefits of
24 pursuing innovative payment models contemplated by the Affordable Care
25 Act, in which case such grounds shall be set forth in the medicaid
26 savings allocation plan; and (5) reductions shall be made in a manner
27 that does not unnecessarily create administrative burdens to Medicaid
28 applicants and recipients or providers.

29 2. In accordance with the medicaid savings allocation plan, the
30 commissioner of the department of health shall reduce department of
31 health state funds medicaid disbursements by the amount of the projected
32 overspending through, actions including, but not limited to modifying or
33 suspending reimbursement methods, including but not limited to all fees,
34 premium levels and rates of payment, notwithstanding any provision of
35 law that sets a specific amount or methodology for any such payments or
36 rates of payment; modifying or discontinuing Medicaid program benefits;
37 seeking all necessary Federal approvals, including, but not limited to
38 waivers, waiver amendments; and suspending time frames for notice,
39 approval or certification of rate requirements, notwithstanding any
40 provision of law, rule or regulation to the contrary, including but not
41 limited to sections 2807 and 3614 of the public health law, section 18
42 of chapter 2 of the laws of 1988, and 18 NYCRR 505.14(h).

43 S 93. Notwithstanding any inconsistent provision of law, rule or regu-
44 lation, for purposes of implementing the provisions of the public health
45 law and the social services law, references to titles XIX and XXI of the
46 federal social security act in the public health law and the social
47 services law shall be deemed to include and also to mean any successor
48 titles thereto under the federal social security act.

49 S 94. Notwithstanding any inconsistent provision of law, rule or regu-
50 lation, the effectiveness of the provisions of sections 2807 and 3614 of
51 the public health law, section 18 of chapter 2 of the laws of 1988, and
52 18 NYCRR 505.14(h), as they relate to time frames for notice, approval
53 or certification of rates of payment, are hereby suspended and without
54 force or effect for purposes of implementing the provisions of this act.

55 S 95. Severability clause. If any clause, sentence, paragraph, subdi-
56 vision, section or part of this act shall be adjudged by any court of

competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 96. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2011; provided however, that:

(a) the amendment to subparagraph 1 of paragraph (c) of subdivision 10 of section 2807-c of the public health law made by section one of this act shall not affect the expiration of such subparagraph and shall expire and be deemed repealed therewith;

(b) the amendments to section 272 of the public health law, made by sections nine, sixteen and seventeen of this act shall not affect the repeal of such section and shall expire and be deemed repealed therewith;

(b-1) the amendments to subdivision 9 of section 367-a of the social services law made by section ten of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith;

(c) the amendments to subdivision 22 of section 6802 of the education law, made by section twelve of this act shall not affect the repeal of such subdivision and shall expire and be deemed repealed therewith;

(d) the amendments to section 271 of the public health law, made by sections thirteen, fourteen and fifteen of this act shall not affect the repeal of such section and shall expire and be deemed repealed therewith;

(e) the amendments to subparagraph (i) of paragraph (b-1) of subdivision 1 of section 2807-c of the public health law made by section thirty-two of this act shall not affect the expiration of such paragraph and shall be deemed to expire therewith;

(f) the amendments to section 4403-f of the public health law made by sections forty-one, forty-one-a and forty-one-b of this act shall not affect the repeal of such section and shall be deemed repealed therewith;

(g) the amendments to subdivision 6 of section 367-a of the social services law, made by sections forty-three, forty-four and forty-five of this act shall not affect the repeal of such subdivision and shall expire and be deemed repealed therewith;

(h) sections thirty-six, fifty, fifty-one and sixty-eight of this act shall take effect on the ninetieth day after it shall have become a law;

(i) the amendments to section 2807-j of the public health law made by section sixty-eight of this act shall not affect the expiration of such section and shall be deemed to expire therewith;

(j) sections five, twenty, twenty-one, twenty-four, twenty-seven, forty-one, forty-one-a, forty-one-b, forty-three, forty-four, forty-five, forty-six, forty-eight, fifty-four, fifty-eight, seventy, seventy-one, seventy-two and seventy-three of this act shall take effect on the one hundred eightieth day after it shall have become a law;

(k) section forty-seven of this act shall take effect on October 1, 2011;

(l) the amendments to paragraph 6 of subdivision (a) of section 31.02 of the mental hygiene law made by section seventy-two of this act shall not affect the repeal of such paragraph and shall be deemed to be repealed therewith;

1 (m) the amendments to section 364-j of the social services law made by
2 sections seventy-seven, seventy-seven-a, seventy-eight, seventy-nine and
3 eighty of this act shall not affect the repeal of such section and shall
4 be deemed repealed therewith;

5 (n) the amendments to paragraph (k) of subdivision 2 of section 365-a
6 of the social services law made by section eighty-one of this act shall
7 not affect the expiration of such subdivision and shall be deemed to
8 expire therewith;

9 (o) section twelve of this act shall take effect August 1, 2011;

10 (p) sections thirteen, fourteen, fifteen, sixteen, seventeen and eigh-
11 teen shall take effect May 1, 2011;

12 (q) section twenty-three of this act shall take effect December 1,
13 2011;

14 (r) section forty of this act shall take effect September 1, 2011;

15 (s) sections sixty-nine, eighty-two, eighty-three, eighty-four, eight-
16 y-five, eighty-six, and eighty-seven of this act shall take effect on
17 January 1, 2012 and shall apply to taxable years beginning on or after
18 January 1, 2012;

19 (t) section thirty-five of this act shall expire and be deemed
20 repealed April 1, 2015;

21 (u) section ninety-one of this act shall take effect April 1, 2012;

22 (v) any rules or regulations necessary to implement the provisions of
23 this act may be promulgated and any procedures, forms, or instructions
24 necessary for such implementation may be adopted and issued on or after
25 the date this act shall have become a law, provided that the department
26 of health may promulgate regulations including on an emergency basis,
27 necessary to implement this act, prior to its effective date;

28 (w) this act shall not be construed to alter, change, affect, impair
29 or defeat any rights, obligations, duties or interests accrued, incurred
30 or conferred prior to the effective date of this act;

31 (x) the commissioner of health and the superintendent of insurance and
32 any appropriate council may take any steps necessary to implement this
33 act prior to its effective date;

34 (y) notwithstanding any inconsistent provision of the state adminis-
35 trative procedure act or any other provision of law, rule or regulation,
36 the commissioner of health and the superintendent of insurance and any
37 appropriate council is authorized to adopt or amend or promulgate on an
38 emergency basis any regulation he or she or such council determines
39 necessary to implement any provision of this act on its effective date;

40 (z) sections fifty-two through fifty-two-m of this act shall take
41 effect on the ninetieth day after it shall have become law, provided
42 that it shall apply to birth-related neurological injury lawsuits in
43 existence as of the date of enactment and to all birth-related neurolog-
44 ical injury lawsuits commenced subsequently to the date of enactment,
45 and provided further that the commissioner of health and the superinten-
46 dent of financial regulations shall be authorized to promulgate any
47 regulations as necessary to implement such sections prior to such effec-
48 tive date, including on an emergency basis; and

49 (aa) the provisions of this act shall become effective notwithstanding
50 the failure of the commissioner of health or the superintendent of
51 insurance or any council to adopt or amend or promulgate regulations
52 implementing this act.

53 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
54 sion, section or part of this act shall be adjudged by any court of
55 competent jurisdiction to be invalid, such judgment shall not affect,
56 impair, or invalidate the remainder thereof, but shall be confined in

1 its operation to the clause, sentence, paragraph, subdivision, section
2 or part thereof directly involved in the controversy in which such judg-
3 ment shall have been rendered. It is hereby declared to be the intent of
4 the legislature that this act would have been enacted even if such
5 invalid provisions had not been included herein.

6 S 3. This act shall take effect immediately provided, however, that
7 the applicable effective date of Parts A through H of this act shall be
8 as specifically set forth in the last section of such Parts.