

4384--A

2011-2012 Regular Sessions

I N S E N A T E

April 4, 2011

Introduced by Sen. RANZENHOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to establishing the Medicaid identification and anti-fraud biometric technology program; to amend the social services law, in relation to conforming medical assistance identification cards with the Medicaid identification and anti-fraud biometric technology program; and to amend the state finance law, in relation to establishing the Medicaid identification and anti-fraud biometric technology program trust fund

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

1 Section 1. The public health law is amended by adding a new article
2 2-B to read as follows:

3 ARTICLE 2-B

4 MEDICAID IDENTIFICATION AND ANTI-FRAUD BIOMETRIC
5 TECHNOLOGY PROGRAM

6 SECTION 290. MEDICAID IDENTIFICATION AND ANTI-FRAUD BIOMETRIC TECHNOLOGY
7 PROGRAM.

8 291. DEFINITIONS.

9 292. BIOMETRIC TECHNOLOGY USE REQUIREMENT.

10 293. REPORT.

11 294. RULES AND REGULATIONS.

12 S 290. MEDICAID IDENTIFICATION AND ANTI-FRAUD BIOMETRIC TECHNOLOGY
13 PROGRAM. THERE IS HEREBY ESTABLISHED IN THE DEPARTMENT THE MEDICAID
14 IDENTIFICATION AND ANTI-FRAUD BIOMETRIC TECHNOLOGY PROGRAM.

15 S 291. DEFINITIONS. AS USED IN THIS ARTICLE:

16 1. "BIOMETRIC TECHNOLOGY" MEANS TECHNOLOGY THAT MEASURES AND ANALYZES
17 BIOLOGICAL DATA, INCLUDING HUMAN BODY CHARACTERISTICS, SUCH AS DNA,

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

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1 FINGERPRINTS, VASCULAR PATTERNS, EYE RETINAS AND IRISES, VOICE PATTERNS,
2 FACIAL PATTERNS AND HAND MEASUREMENTS, FOR AUTHENTICATION PURPOSES.

3 2. "PALM SCANNER" MEANS A DEVICE CAPABLE OF USING PALM-VEIN PATTERN
4 RECOGNITION OR VASCULAR RECOGNITION USING NEAR-INFRARED LIGHT TO CAPTURE
5 A PATIENT'S PALM VEIN PATTERN TO GENERATE A BIOMETRIC PATTERN.

6 S 292. BIOMETRIC TECHNOLOGY USE REQUIREMENT. 1. THE DEPARTMENT, IN
7 CONSULTATION WITH THE OFFICE OF THE MEDICAID INSPECTOR GENERAL AND THE
8 OFFICE OF THE ATTORNEY GENERAL, SHALL IMPLEMENT A PROGRAM REQUIRING THE
9 USE OF BIOMETRIC TECHNOLOGY IN THE FORM OF PALM SCANNERS TO BE USED BY
10 HOSPITALS, CLINICS AND PHARMACIES, FOR THE PURPOSES OF PATIENT IDENTIFI-
11 CATION AND FOR USE AS AN ANTI-FRAUD APPLICATION IN THE MEDICAID PROGRAM.

12 2. (A) MEDICAID CARDS ISSUED BY THE STATE TO MEDICAID RECIPIENTS SHALL
13 BE ENCODED AND ENCRYPTED WITH THE BIOMETRIC PALM PRINT OF THE CARD HOLD-
14 ER ALONG WITH OTHER INFORMATION DEEMED NECESSARY BY THE COMMISSIONER AND
15 THE OFFICE OF HEALTH INSURANCE PROGRAMS, PROVIDED, HOWEVER, THAT SUCH
16 INFORMATION SHALL NOT INCLUDE SOCIAL SECURITY NUMBERS AND SHALL NOT BE
17 STORED IN A CENTRAL DATA BANK. SUCH CARD HELD BY EACH MEDICAID RECIPIENT
18 WILL BE CAPABLE OF STORING BIOMETRIC MARKERS AND A LOG OF DOCTOR AND
19 PHARMACY VISITS FOR EACH SERVICE BILLED TO THE MEDICAID PROGRAM.

20 (B) MEDICAID CARDS SHALL BE ISSUED TO THE ADMITTING STAFF OF HEALTH
21 CARE FACILITIES, MEDICAL STAFF PROVIDING SERVICE TO MEDICAID RECIPIENTS,
22 AND TO PHARMACY STAFF. HEALTH CARE FACILITY ADMITTING STAFF, HEALTH CARE
23 PROVIDERS AND PHARMACY STAFF SHALL SWIPE THE MEDICAID CARD ISSUED TO
24 THEM PURSUANT TO THIS ARTICLE AND SHALL SCAN HIS OR HER PALM ON A PALM
25 READER, UPON ADMITTING, PROVIDING CARE OR PHARMACY SERVICES TO A MEDI-
26 CAID RECIPIENT, TO VERIFY THE LEGITIMACY OF THE CARE BEING PROVIDED.
27 SUCH CARD SHALL MAINTAIN A LOG IDENTIFYING THE PERSON RESPONSIBLE FOR
28 PROVIDING CARE TO SUCH PERSON.

29 (C) MEDICAID RECIPIENTS SHALL BE REQUIRED TO SWIPE HIS OR HER MEDICAID
30 BENEFIT CARD AT TIME OF EACH VISIT TO A DOCTORS OFFICE OR CLINIC AT THE
31 POINT OF ACTUALLY BEING SEEN BY THE DOCTOR OR CLINICAL STAFF, AND UPON
32 LEAVING THE HEALTH CARE FACILITY.

33 (D) MEDICAID CARDS SHALL BE USED AND PALM READERS SHALL BE PLACED IN
34 PHARMACIES WHERE THE MEDICAID RECIPIENT SHALL SWIPE HIS OR HER CARD AND
35 SHALL HAVE HIS OR HER PALM SCANNED WHEN FILLING A PRESCRIPTION. PHARMACY
36 STAFF REGISTERING THE PRESCRIPTION ORDER SHALL SWIPE AND SCAN HIS OR HER
37 MEDICAID ISSUED CARD AT THE SAME TIME TO VERIFY THE TRANSACTION.

38 (E) THE COMMISSIONER AND THE OFFICE OF HEALTH INSURANCE PROGRAMS SHALL
39 PROMULGATE RULES AND REGULATIONS THAT SHALL BE DIGITIZED AND ENCODED
40 INTO THE MEDICAID CARD TO COMBAT FRAUD. SUCH RULES SHALL INCLUDE BUT ARE
41 NOT LIMITED TO ESTABLISHING A NUMBER OF POSSIBLE PATIENT VISITS PER
42 DOCTOR PER BUSINESS DAY, THE NUMBER OF TIMES A PRESCRIPTION CAN BE
43 FILLED BY EACH MEDICAID RECIPIENT EACH MONTH, THE NUMBER OF MEDICAL
44 EXAMS THAT CAN BE ORDERED FOR EACH PATIENT EACH MONTH IN ORDER TO ELIMI-
45 NATE DUPLICATIVE, REDUNDANT AND UNNECESSARY EXAMS.

46 (F) THE COMMISSIONER AND THE OFFICE OF HEALTH INSURANCE PROGRAMS IN
47 CONSULTATION WITH THE OFFICE OF THE ATTORNEY GENERAL AND THE OFFICE OF
48 THE MEDICAID INSPECTOR GENERAL SHALL DEVELOP ALL OF THE FRAUD PREVENTION
49 MARKERS WHICH SHALL BE ENCODED INTO THE MEDICAID CARDS ISSUED TO BOTH
50 MEDICAID RECIPIENTS AND MEDICAID SERVICE PROVIDERS.

51 (G) FRAUD PREVENTION MARKERS INCORPORATED INTO SOFTWARE WHICH SHALL BE
52 USED TO OPERATE THE HARDWARE COMPONENT OF THE BIOMETRIC SCANNERS SHALL
53 PREVENT AND/OR REJECT THE PAYMENT BY THE MEDICAID PROGRAM AT POINT OF
54 SERVICE IF FRAUD OR POTENTIAL FRAUD IS IDENTIFIED BY THE BIOMETRIC TECH-
55 NOLOGY SYSTEM.

(H) THE COMMISSIONER IN CONSULTATION WITH THE OFFICE OF HEALTH INSURANCE PROGRAMS AND THE OFFICE OF THE ATTORNEY GENERAL SHALL BE RESPONSIBLE FOR PROMULGATING RULES AND REGULATIONS NECESSARY FOR THE OPERATION OF THIS PROGRAM AND ENSURING THAT MEDICAID RECIPIENTS HAVE ACCESS TO EMERGENCY HEALTH SERVICES IN THE CASE OF A BIOMETRIC TECHNOLOGY SYSTEM MALFUNCTION OR FRAUD DETECTION ALARM.

3. (A) SUCH BIOMETRIC TECHNOLOGY USE REQUIREMENT SHALL BE IMPLEMENTED WITHIN TWELVE MONTHS FROM THE EFFECTIVE DATE OF THIS ARTICLE.

(B) IF THE DEPARTMENT FAILS TO MEET THE DEADLINE ESTABLISHED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, IT SHALL SUBMIT IN WRITING TO EACH MEMBER OF THE LEGISLATURE ITS FAILURE TO MEET SUCH DEADLINE AND A DETAILED EXPLANATION OF WHEN SUCH TECHNOLOGY WILL BE IN PLACE.

S 293. REPORT. 1. THE DEPARTMENT SHALL REPORT TO EACH MEMBER OF THE LEGISLATURE WITHIN SIX MONTHS OF THE EFFECTIVE DATE OF THIS ARTICLE, THE ESTIMATED TOTAL NUMBER OF BIOMETRIC SOFTWARE LICENSES REQUIRED TO PLACE BIOMETRIC PALM SCANNERS IN ALL HOSPITALS, CLINICS AND PHARMACIES SERVING MEDICAID RECIPIENTS.

2. SUCH REPORT SHALL INCLUDE:

(A) AN ESTIMATED NUMBER OF PALM SCANNERS TO BE PLACED IN ALL HOSPITALS, CLINICS AND PHARMACIES SERVING MEDICAID RECIPIENTS;

(B) THE ESTIMATED COST OF THE MAIN SERVER THAT SHALL BE USED TO AGGREGATE THE BIOMETRIC DATA; AND

(C) THE ESTIMATED ANNUAL COST FOR THE MAINTENANCE AND UPGRADES OF HARDWARE AND SOFTWARE REQUIRED FOR THE EFFECTIVE USE OF THIS TECHNOLOGY.

S 294. RULES AND REGULATIONS. THE COMMISSIONER IS AUTHORIZED AND DIRECTED TO PROMULGATE SUCH RULES AND REGULATIONS AS HE OR SHE MAY DEEM NECESSARY OR APPROPRIATE TO EFFECTUATE THE PURPOSES OF THIS ARTICLE.

S 2. Subdivision 1 of section 367-b of the social services law, as added by chapter 639 of the laws of 1976, is amended to read as follows:

1. The department shall design and implement a statewide medical assistance information and payments system for the purpose of providing individual and aggregate data to social services districts to assist them in making basic management decisions, to the department and other state agencies to assist in the administration of the medical assistance program, and to the governor and the legislature as may be necessary to assist in making major administrative and policy decisions affecting such program. Such system shall be designed so as to be capable of the following:

a. receiving and processing information relating to the eligibility of each person applying for medical assistance and [of issuing] REQUIRING THE DEPARTMENT OF HEALTH TO ISSUE AND MAIL a medical assistance identification card, CONFORMING TO THE REQUIREMENTS SET FORTH IN THE MEDICAID IDENTIFICATION AND ANTI-FRAUD BIOMETRIC TECHNOLOGY PROGRAM ESTABLISHED PURSUANT TO ARTICLE TWO-B OF THE PUBLIC HEALTH LAW to persons determined by a social services official to be eligible for such assistance;

A-1. ACTIVATING MEDICAL ASSISTANCE IDENTIFICATION CARDS BY REQUIRING AN APPLICANT RECEIVING SUCH CARD TO HAVE HIS OR HER PALM SCANNED, ENCODED AND ENCRYPTED INTO SUCH CARD AT A SOCIAL SERVICES DISTRICT OFFICE IN THE SOCIAL SERVICES DISTRICT IN WHICH THE APPLICANT RESIDES;

b. receiving and processing information relating to each qualified provider of medical assistance furnishing care, services or supplies for which claims for payment are made pursuant to this title;

c. receiving and processing, in a form and manner prescribed by the department, all claims for medical care, services and supplies, and

1 making payments for valid claims to providers of medical care, services
2 and supplies on behalf of social services districts;

3 d. maintaining information necessary to allow the department, consist-
4 ent with the powers and duties of the department of health, to review
5 the appropriateness, scope and duration of medical care, services and
6 supplies provided to any eligible person pursuant to this chapter; and

7 e. initiating implementation of such a system for the district
8 comprising the city of New York, in a manner compatible with expansion
9 of such system to districts other than the district comprising the city
10 of New York.

11 S 3. The state finance law is amended by adding a new section 98-d to
12 read as follows:

13 S 98-D. MEDICAID IDENTIFICATION AND ANTI-FRAUD BIOMETRIC TECHNOLOGY
14 PROGRAM TRUST FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY
15 OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND FINANCE A
16 FUND TO BE KNOWN AS THE MEDICAID IDENTIFICATION AND ANTI-FRAUD BIOMETRIC
17 TECHNOLOGY PROGRAM TRUST FUND.

18 2. SUCH FUND SHALL CONSIST OF TWENTY PERCENT OF ALL MONEYS RECOVERED
19 BY THE OFFICE OF THE ATTORNEY GENERAL AND THE OFFICE OF THE MEDICAID
20 INSPECTOR GENERAL RELATING TO MEDICAID FRAUD. ANY INTEREST EARNED BY THE
21 INVESTMENT OF MONEYS IN SUCH FUND SHALL BE ADDED TO SUCH FUND, BECOME A
22 PART OF SUCH FUND, AND BE USED FOR THE PURPOSE OF SUCH FUND.

23 3. MONEYS OF SUCH FUND SHALL BE AVAILABLE FOR APPROPRIATION AND ALLO-
24 CATION ONLY TO THE DEPARTMENT OF HEALTH FOR THE PURPOSES OF CARRYING OUT
25 THE PROVISIONS OF THE MEDICAID IDENTIFICATION AND ANTI-FRAUD BIOMETRIC
26 TECHNOLOGY PROGRAM TRUST FUND ESTABLISHED PURSUANT TO ARTICLE TWO-B OF
27 THE PUBLIC HEALTH LAW.

28 4. THE MONEYS OF THE FUND SHALL BE PAID OUT ON THE AUDIT AND WARRANT
29 OF THE COMPTROLLER ON VOUCHERS CERTIFIED OR APPROVED BY THE COMMISSIONER
30 OF HEALTH OR HIS DULY DESIGNATED REPRESENTATIVE.

31 S 4. This act shall take effect immediately; provided, however, that
32 effective immediately, the addition, amendment and/or repeal of any rule
33 or regulation necessary for the implementation of this act on its effec-
34 tive date are authorized and directed to be made and completed on or
35 before such effective date.