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

2617

2013-2014 Regular Sessions

I N S E N A T E

January 23, 2013

Introduced by Sens. YOUNG, GALLIVAN -- read twice and ordered printed, and when printed to be committed to the Committee on Social Services

AN ACT to amend the social services law, in relation to creating incentives for counties to investigate and prosecute medicaid fraud

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

Section 1. The social services law is amended by adding a new article 5-A to read as follows:

ARTICLE 5-A

MEDICAID FRAUD REIMBURSEMENT

SECTION 370-BB. DISPOSITION OF MONEYS RECEIVED AS THE RESULT OF THE PROSECUTION OF MEDICAID FRAUD.

S 370-BB. DISPOSITION OF MONEYS RECEIVED AS THE RESULT OF THE PROSECUTION OF MEDICAID FRAUD. 1. FOR THE PURPOSES OF THIS SECTION, "MEDICAID FRAUD" SHALL MEAN THE KNOWING COMMISSION OF ANY CRIME WITH INTENT TO ILLEGALLY RECEIVE BENEFITS, OR REIMBURSEMENT FROM THE MEDICAL ASSISTANCE FOR NEEDY PERSONS PROGRAM ESTABLISHED AND ADMINISTERED PURSUANT TO THIS CHAPTER, THE PUBLIC HEALTH LAW AND FEDERAL LAW.

2. SHOULD ANY COUNTY OR THE CITY OF NEW YORK SUCCESSFULLY PROSECUTE ANY CASE FOR MEDICAID FRAUD AND A COURT AWARDS RESTITUTION OR CIVIL FORFEITURE, THE FOLLOWING PORTION OF THE NON-FEDERAL SHARE OF THE PROCEEDS OF SUCH RESTITUTION OR CIVIL FORFEITURE SHALL BE ALLOCATED AS FOLLOWS:

(I) THE COUNTY OR THE CITY OF NEW YORK SHALL RECEIVE ONE HUNDRED PERCENT OF THE LOCAL SHARE OF SUCH FUNDS, IN EFFECT IMMEDIATELY PRIOR TO SUCH DATE AS CERTIFIED BY THE DIVISION OF BUDGET OR TEN PERCENT OF THE TOTAL RECOVERY WHICHEVER NUMBER IS GREATER;

(II) THE REMAINDER THEREOF SHALL BE DEPOSITED INTO THE GENERAL FUND OF THE STATE.

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

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3. NOTHING IN THIS ARTICLE SHALL IMPAIR ANY COUNTY OR THE CITY OF NEW YORK'S ABILITY TO SEEK DAMAGES UNDER SECTION ONE HUNDRED FORTY-FIVE-B OF THIS CHAPTER.

S 2. Paragraph (a) of subdivision 2 of section 145-b of the social services law, as amended by chapter 109 of the laws of 2007, is amended to read as follows:

(a) For civil damages collected by a local social services district, relating to the medical assistance program, pursuant to a judgment under this subdivision, such amounts shall be apportioned between the local social services district and the state. [If the violation occurred: (i) prior to January first, two thousand six, the] THE amount apportioned to the local social services district shall be ONE HUNDRED PERCENT OF the local share [percentage] OF SUCH FUNDS, in effect immediately prior to such date as certified by the division of budget[, or (ii) after January first, two thousand six, the amount apportioned to the local social services district shall be based on a reimbursement schedule, created by the office of Medicaid inspector general, in effect at the time the violation occurred; provided that, if there is no schedule in effect at the time the violation occurred, the schedule to be used shall be the first schedule adopted pursuant to this subdivision. Such schedule shall provide for reimbursement to a local social services district in an amount between ten and fifteen percent of the gross amount collected. Such schedule shall be set on a county by county basis and shall be periodically reviewed and updated as necessary; provided, however, that any such updated schedule shall not be less than ten percent nor greater than fifteen percent of the gross amount collected] OR TEN PERCENT OF THE TOTAL RECOVERY WHICHEVER NUMBER IS GREATER; and

S 3. This act shall take effect immediately.