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

4355

2013-2014 Regular Sessions

I N S E N A T E

March 21, 2013

Introduced by Sen. YOUNG -- (at request of the Legislative Commission on Rural Resources) -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to telemedicine and telehealth; and to repeal certain provisions of such law relating thereto

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

Section 1. Section 2111 of the public health law is REPEALED.

S 2. Section 2805-u of the public health law, as added by chapter 390 of the laws of 2012, is REPEALED.

S 3. The opening paragraph of paragraph (uu) of subdivision 1 of section 2807-v of the public health law, as amended by section 8 of part C of chapter 59 of the laws of 2011, is amended to read as follows:

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 AND TELEHEALTH demonstration programs authorized pursuant to section [twenty-one] THIRTY-NINE hundred [eleven] TWELVE of this chapter for the following periods in the following amounts:

S 4. Subdivision 3-c of section 3614 of the public health law is REPEALED.

S 5. Subparagraph (i) of paragraph (a) of subdivision 11 of section 3614 of the public health law is REPEALED.

S 6. The public health law is amended by adding a new article 39-A to read as follows:

ARTICLE 39-A

TELEMEDICINE AND TELEHEALTH

SECTION 3910. DEFINITIONS.

3911. CREDENTIALING AND PRIVILEGING OF HEALTH CARE PRACTITIONERS.

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

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S 3910. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "DISTANT SITE HOSPITAL" MEANS A HOSPITAL LICENSED PURSUANT TO THIS ARTICLE OR A HOSPITAL LICENSED BY ANOTHER STATE, THAT HAS ENTERED INTO AN AGREEMENT WITH AN ORIGINATING HOSPITAL TO MAKE AVAILABLE ONE OR MORE HEALTH CARE PRACTITIONERS THAT ARE MEMBERS OF ITS CLINICAL STAFF TO THE ORIGINATING HOSPITAL FOR THE PURPOSES OF PROVIDING TELEMEDICINE SERVICES. TO QUALIFY AS A DISTANT SITE HOSPITAL FOR PURPOSES OF THIS ARTICLE, A HOSPITAL LICENSED BY ANOTHER STATE MUST COMPLY WITH THE FEDERAL REGULATIONS GOVERNING PARTICIPATION BY HOSPITALS IN MEDICARE.

2. "HEALTH CARE PRACTITIONER" SHALL MEAN A PERSON LICENSED PURSUANT TO ARTICLE ONE HUNDRED THIRTY-ONE, ONE HUNDRED THIRTY-ONE-B, ONE HUNDRED THIRTY-THREE, ONE HUNDRED THIRTY-NINE, ONE HUNDRED FORTY, ONE HUNDRED FORTY-ONE, ONE HUNDRED FORTY-THREE, ONE HUNDRED FORTY-FOUR, ONE HUNDRED FIFTY-THREE, ONE HUNDRED FIFTY-FOUR OR ONE HUNDRED FIFTY-NINE OF THE EDUCATION LAW, OR AS OTHERWISE AUTHORIZED BY THE COMMISSIONER.

3. "ORIGINATING HOSPITAL" MEANS THE HOSPITAL AT WHICH A PATIENT IS LOCATED AT THE TIME TELEMEDICINE SERVICES ARE PROVIDED TO HIM OR HER.

4. "TELEMEDICINE" MEANS THE DELIVERY OF CLINICAL HEALTH CARE SERVICES BY MEANS OF REAL TIME TWO-WAY ELECTRONIC AUDIO-VISUAL COMMUNICATIONS WHICH FACILITATE THE ASSESSMENT, DIAGNOSIS, CONSULTATION, TREATMENT, EDUCATION, CARE MANAGEMENT AND SELF MANAGEMENT OF A PATIENT'S HEALTH CARE WHILE SUCH PATIENT IS AT THE ORIGINATING SITE AND THE HEALTH CARE PROVIDER IS AT A DISTANT SITE.

S 3911. CREDENTIALING AND PRIVILEGING OF HEALTH CARE PRACTITIONERS. 1. WHEN TELEMEDICINE SERVICES ARE PROVIDED TO AN ORIGINATING HOSPITAL'S PATIENTS PURSUANT TO AN AGREEMENT WITH A DISTANT SITE HOSPITAL, THE ORIGINATING HOSPITAL MAY, IN LIEU OF SATISFYING THE REQUIREMENTS SET FORTH IN SECTION TWENTY-EIGHT HUNDRED FIVE-K OF THIS ARTICLE, RELY ON THE CREDENTIALING AND PRIVILEGING DECISIONS MADE BY THE DISTANT SITE HOSPITAL IN GRANTING OR RENEWING PRIVILEGES TO A HEALTH CARE PRACTITIONER WHO IS A MEMBER OF THE CLINICAL STAFF OF THE DISTANT SITE HOSPITAL, PROVIDED THAT:

(A) THE DISTANT SITE HOSPITAL PARTICIPATES IN MEDICARE AND MEDICAID;

(B) EACH HEALTH CARE PRACTITIONER PROVIDING TELEMEDICINE IS LICENSED TO PRACTICE IN THIS STATE;

(C) THE DISTANT SITE HOSPITAL, IN ACCORDANCE WITH REQUIREMENTS OTHERWISE APPLICABLE TO THAT HOSPITAL, COLLECTS AND EVALUATES ALL CREDENTIALING INFORMATION CONCERNING EACH HEALTH CARE PRACTITIONER PROVIDING TELEMEDICINE SERVICES, PERFORMS ALL REQUIRED VERIFICATION ACTIVITIES, AND ACTS ON BEHALF OF THE ORIGINATING SITE HOSPITAL FOR SUCH CREDENTIALING PURPOSES;

(D) THE DISTANT SITE HOSPITAL REVIEWS PERIODICALLY, AT LEAST EVERY TWO YEARS, AND AS OTHERWISE WARRANTED BASED ON OUTCOMES, COMPLAINTS OR OTHER CIRCUMSTANCES, THE CREDENTIALS, PRIVILEGES, PHYSICAL AND MENTAL CAPACITY, AND COMPETENCE IN DELIVERING HEALTH CARE SERVICES OF EACH HEALTH CARE PRACTITIONER PROVIDING TELEMEDICINE SERVICES, CONSISTENT WITH REQUIREMENTS OTHERWISE APPLICABLE TO THAT HOSPITAL; REPORTS THE RESULTS OF SUCH REVIEW TO THE ORIGINATING HOSPITAL; AND NOTIFIES THE ORIGINATING HOSPITAL IMMEDIATELY UPON ANY SUSPENSION, REVOCATION, OR LIMITATION OF SUCH PRIVILEGES;

(E) WITH RESPECT TO EACH DISTANT SITE HEALTH CARE PRACTITIONER WHO HOLDS PRIVILEGES AT THE ORIGINATING HOSPITAL, THE ORIGINATING HOSPITAL CONDUCTS A PERIODIC INTERNAL REVIEW, AT LEAST EVERY TWO YEARS, OF THE

DISTANT SITE PRACTITIONER'S PERFORMANCE OF THESE PRIVILEGES AND PROVIDES THE DISTANT SITE HOSPITAL WITH SUCH PERFORMANCE INFORMATION FOR USE IN THE DISTANT HOSPITAL'S PERIODIC APPRAISAL OF THE DISTANT SITE PHYSICIAN OR HEALTH CARE PRACTITIONER. SUCH INFORMATION SHALL INCLUDE, AT A MINIMUM, ALL ADVERSE EVENTS THAT RESULT FROM THE TELEMEDICINE SERVICES PROVIDED BY THE DISTANT SITE HEALTH CARE PRACTITIONER TO THE ORIGINATING HOSPITAL'S PATIENTS, ALL COMPLAINTS THE ORIGINATING HOSPITAL HAS RECEIVED ABOUT THE DISTANT SITE PRACTITIONER, AND ANY REVOCATION, SUSPENSION OR LIMITATION OF THE DISTANT SITE PRACTITIONER'S PRIVILEGES BY THE ORIGINATING HOSPITAL; AND

(F) THE AGREEMENT ENTERED INTO BETWEEN THE ORIGINATING SITE HOSPITAL AND DISTANT SITE HOSPITAL SHALL BE IN WRITING AND SHALL, AT A MINIMUM:

(I) PROVIDE THE CATEGORIES OF HEALTH CARE PRACTITIONERS THAT ARE ELIGIBLE CANDIDATES FOR APPOINTMENT TO THE ORIGINATING HOSPITAL'S CLINICAL STAFF,

(II) REQUIRE THE GOVERNING BODY OF THE DISTANT SITE HOSPITAL TO COMPLY WITH THE MEDICARE CONDITIONS OF PARTICIPATION GOVERNING THE APPOINTMENT OF MEDICAL STAFF WITH REGARD TO THE HEALTH CARE PRACTITIONERS PROVIDING TELEMEDICINE SERVICES,

(III) ITEMIZE THE CREDENTIALING INFORMATION TO BE COLLECTED AND THE REQUIRED VERIFICATION ACTIVITIES TO BE PERFORMED BY THE DISTANT SITE HOSPITAL AND RELIED UPON BY THE ORIGINATING HOSPITAL IN CONSIDERING THE RECOMMENDATIONS OF THE DISTANT SITE HOSPITAL,

(IV) REQUIRE EACH DISTANT SITE HEALTH CARE PRACTITIONER PROVIDING TELEMEDICINE SERVICES TO BE LICENSED TO PRACTICE IN THIS STATE AND PRIVILEGED AT THE DISTANT SITE HOSPITAL,

(V) REQUIRE THE DISTANT SITE HOSPITAL TO PROVIDE TO THE ORIGINATING HOSPITAL A CURRENT LIST OF EACH DISTANT SITE HEALTH CARE PRACTITIONER'S PRIVILEGES AT THE DISTANT SITE HOSPITAL, AND

(VI) REQUIRE THE DISTANT SITE HOSPITAL TO CONDUCT A PERIODIC REVIEW CONSISTENT WITH REQUIREMENTS OTHERWISE APPLICABLE TO THAT HOSPITAL, AT LEAST EVERY TWO YEARS, AND AS OTHERWISE WARRANTED BASED ON OUTCOMES, COMPLAINTS OR OTHER CIRCUMSTANCES, THE CREDENTIALS, PRIVILEGES, PHYSICAL AND MENTAL CAPACITY, AND COMPETENCE IN DELIVERING HEALTH CARE SERVICES OF EACH HEALTH CARE PRACTITIONER PROVIDING TELEMEDICINE SERVICES; TO PROVIDE THE ORIGINATING HOSPITAL WITH THE RESULTS OF SUCH REVIEW; AND TO NOTIFY THE ORIGINATING HOSPITAL IMMEDIATELY UPON ANY SUSPENSION, REVOCATION, OR LIMITATION OF SUCH PRIVILEGES.

2. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS ALLOWING AN ORIGINATING HOSPITAL TO DELEGATE ITS AUTHORITY OVER AND RESPONSIBILITY FOR DECISIONS CONCERNING THE CREDENTIALING AND GRANTING STAFF MEMBERSHIP OR PROFESSIONAL PRIVILEGES TO HEALTH CARE PRACTITIONERS PROVIDING TELEMEDICINE SERVICES.

3. NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW, AN ORIGINATING HOSPITAL SHALL NOT BE REQUIRED TO PROVIDE A PHYSICAL EXAMINATION OR TO MAINTAIN RECORDED MEDICAL HISTORY INCLUDING IMMUNIZATIONS FOR A HEALTH CARE PROVIDER PROVIDING CONSULTATIONS SOLELY THROUGH TELEMEDICINE FROM A DISTANT SITE HOSPITAL.

S 3912. DISEASE MANAGEMENT DEMONSTRATION PROGRAMS. 1. THE DEPARTMENT MAY ESTABLISH DISEASE MANAGEMENT DEMONSTRATION PROGRAMS THROUGH A REQUEST FOR PROPOSALS PROCESS TO ENHANCE THE QUALITY AND COST-EFFECTIVENESS OF CARE RENDERED TO MEDICAID-ELIGIBLE PERSONS WITH CHRONIC HEALTH PROBLEMS WHOSE CARE AND TREATMENT, BECAUSE OF ONE OR MORE HOSPITALIZATIONS, MULTIPLE DISABLING CONDITIONS REQUIRING RESIDENTIAL TREATMENT OR OTHER HEALTH CARE REQUIREMENTS, RESULTS IN HIGH MEDICAID EXPENDITURES. IN ORDER TO BE ELIGIBLE TO SPONSOR AND TO UNDERTAKE A DISEASE MANAGEMENT

DEMONSTRATION PROGRAM, THE PROPOSED SPONSOR MAY BE A NOT-FOR-PROFIT, FOR-PROFIT OR LOCAL GOVERNMENT ORGANIZATION THAT HAS DEMONSTRATED EXPERTISE IN THE MANAGEMENT OR COORDINATION OF CARE TO PERSONS WITH CHRONIC DISEASES OR THAT HAS THE EXPERIENCE OF PROVIDING COST-EFFECTIVE COMMUNITY-BASED CARE TO SUCH PATIENTS, OR IN THE CASE OF A LOCAL GOVERNMENT ORGANIZATION, HAS EXPRESSED A STRONG WILLINGNESS TO SPONSOR SUCH A PROGRAM. THE DEPARTMENT MAY ALSO APPROVE DISEASE MANAGEMENT DEMONSTRATION PROGRAMS WHICH INCLUDE, BUT ARE NOT LIMITED TO, THE PROMOTION OF ADHERENCE TO EVIDENCE-BASED GUIDELINES, IMPROVEMENT OF PROVIDER AND PATIENT COMMUNICATION AND PROVIDE INFORMATION ON PROVIDER AND BENEFICIARY UTILIZATION OF SERVICES. THE DEPARTMENT SHALL GRANT NO FEWER THAN SIX DEMONSTRATION PROGRAMS, NO MORE THAN ONE-THIRD OF SUCH PROGRAMS SHALL BE SELECTED TO PROVIDE THESE SERVICES IN ANY SINGLE SOCIAL SERVICES DISTRICT; PROVIDED FURTHER, WHERE THE DEPARTMENT GRANTS LESS THAN SIX DEMONSTRATION PROGRAMS, NO MORE THAN ONE SUCH PROGRAM SHALL BE SELECTED TO PROVIDE THESE SERVICES IN ANY SINGLE SOCIAL SERVICES DISTRICT. THE DEPARTMENT SHALL APPROVE DISEASE MANAGEMENT DEMONSTRATION PROGRAMS WHICH ARE GEOGRAPHICALLY DIVERSE AND REPRESENTATIVE OF BOTH URBAN AND RURAL SOCIAL SERVICES DISTRICTS. THE PROGRAM SPONSOR MUST ESTABLISH, TO THE SATISFACTION OF THE DEPARTMENT, ITS CAPACITY TO ENROLL AND SERVE SUFFICIENT NUMBERS OF ENROLLEES TO DEMONSTRATE THE COST-EFFECTIVENESS OF THE DEMONSTRATION PROGRAM.

2. THE DEPARTMENT SHALL ESTABLISH THE CRITERIA BY WHICH INDIVIDUALS WILL BE IDENTIFIED AS ELIGIBLE FOR ENROLLMENT IN THE DEMONSTRATION PROGRAMS. PERSONS ELIGIBLE FOR ENROLLMENT IN THE DISEASE MANAGEMENT DEMONSTRATION PROGRAM SHALL BE LIMITED TO INDIVIDUALS WHO: RECEIVE MEDICAL ASSISTANCE PURSUANT TO TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW AND MAY BE ELIGIBLE FOR BENEFITS PURSUANT TO TITLE 18 OF THE SOCIAL SECURITY ACT (MEDICARE); ARE NOT ENROLLED IN A MEDICAID MANAGED CARE PLAN, INCLUDING INDIVIDUALS WHO ARE NOT REQUIRED OR NOT ELIGIBLE TO PARTICIPATE IN MEDICAID MANAGED CARE PROGRAMS PURSUANT TO SECTION THREE HUNDRED SIXTY-FOUR-J OF THE SOCIAL SERVICES LAW; ARE DIAGNOSED WITH CHRONIC HEALTH PROBLEMS AS MAY BE SPECIFIED BY THE ENTITY UNDERTAKING THE DEMONSTRATION PROGRAM, INCLUDING, BUT NOT LIMITED TO ONE OR MORE OF THE FOLLOWING: CONGESTIVE HEART FAILURE, CHRONIC OBSTRUCTIVE PULMONARY DISEASE, ASTHMA, DIABETES OR OTHER CHRONIC HEALTH CONDITIONS AS MAY BE SPECIFIED BY THE DEPARTMENT; OR HAVE EXPERIENCED OR ARE LIKELY TO EXPERIENCE ONE OR MORE HOSPITALIZATIONS OR ARE OTHERWISE EXPECTED TO INCUR EXCESSIVE COSTS AND HIGH UTILIZATION OF HEALTH CARE SERVICES.

3. ENROLLMENT IN A DEMONSTRATION PROGRAM SHALL BE VOLUNTARY. A PARTICIPATING INDIVIDUAL MAY DISCONTINUE HIS OR HER ENROLLMENT AT ANY TIME WITHOUT CAUSE. THE COMMISSIONER SHALL REVIEW AND APPROVE ALL ENROLLMENT AND MARKETING MATERIALS FOR A DEMONSTRATION PROGRAM.

4. THE DEMONSTRATION PROGRAM SHALL OFFER EVIDENCE-BASED SERVICES AND INTERVENTIONS DESIGNED TO ENSURE THAT THE ENROLLEES RECEIVE HIGH QUALITY, PREVENTATIVE AND COST-EFFECTIVE CARE, AIMED AT REDUCING THE NECESSITY FOR HOSPITALIZATION OR EMERGENCY ROOM CARE OR AT REDUCING LENGTHS OF STAY WHEN HOSPITALIZATION IS NECESSARY. THE DEMONSTRATION PROGRAM MAY INCLUDE SCREENING OF ELIGIBLE ENROLLEES, DEVELOPING AN INDIVIDUALIZED CARE MANAGEMENT PLAN FOR EACH ENROLLEE AND IMPLEMENTING THAT PLAN. DISEASE MANAGEMENT DEMONSTRATION PROGRAMS THAT UTILIZE INFORMATION TECHNOLOGY SYSTEMS THAT ALLOW FOR CONTINUOUS APPLICATION OF EVIDENCE-BASED GUIDELINES TO MEDICAL ASSISTANCE CLAIMS DATA AND OTHER AVAILABLE DATA TO IDENTIFY SPECIFIC INSTANCES IN WHICH CLINICAL INTERVENTIONS ARE JUSTIFIED AND COMMUNICATE INDICATED INTERVENTIONS TO PHYSICIANS, HEALTH CARE PROVIDERS AND/OR PATIENTS, AND MONITOR PHYSICIAN AND HEALTH CARE PROVID-

ER RESPONSE TO SUCH INTERVENTIONS, SHALL HAVE THE ENROLLEES, OR GROUPS OF ENROLLEES, APPROVED BY THE DEPARTMENT FOR PARTICIPATION. THE SERVICES PROVIDED BY THE DEMONSTRATION PROGRAM AS PART OF THE CARE MANAGEMENT PLAN MAY INCLUDE, BUT ARE NOT LIMITED TO, CASE MANAGEMENT, SOCIAL WORK, INDIVIDUALIZED HEALTH COUNSELORS, MULTI-BEHAVIORAL GOALS PLANS, CLAIMS DATA MANAGEMENT, HEALTH AND SELF-CARE EDUCATION, DRUG THERAPY MANAGEMENT AND OVERSIGHT, PERSONAL EMERGENCY RESPONSE SYSTEMS AND OTHER MONITORING TECHNOLOGIES, TELEMEDICINE, TELEHEALTH AND SIMILAR SERVICES DESIGNED TO IMPROVE THE QUALITY AND COST-EFFECTIVENESS OF HEALTH CARE SERVICES.

5. THE DEPARTMENT SHALL BE RESPONSIBLE FOR MONITORING THE QUALITY, APPROPRIATENESS AND COST-EFFECTIVENESS OF A DEMONSTRATION PROGRAM. THE DEPARTMENT SHALL UTILIZE, TO THE EXTENT POSSIBLE, ALL POTENTIAL SOURCES OF FUNDING FOR DEMONSTRATION PROGRAMS, INCLUDING, BUT NOT LIMITED TO, PRIVATE PAYMENTS AND DONATIONS. ALL SUCH FUNDS SHALL BE DEPOSITED BY THE COMMISSIONER AND CREDITED TO THE DISEASE MANAGEMENT ACCOUNT WHICH SHALL BE ESTABLISHED BY THE COMPTROLLER IN THE SPECIAL REVENUE-OTHER FUND. ADDITIONALLY, TO THE EXTENT OF FUNDS APPROPRIATED THEREFOR, MEDICAL ASSISTANCE FUNDS, INCLUDING ANY FUNDING OR SHARED SAVINGS AS MAY BECOME AVAILABLE THROUGH FEDERAL WAIVERS OR OTHERWISE UNDER TITLES 18 AND 19 OF THE FEDERAL SOCIAL SECURITY ACT, MAY BE USED BY THE DEPARTMENT FOR EXPENDITURES IN SUPPORT OF THE DISEASE MANAGEMENT PROGRAM.

6. PAYMENTS SHALL BE MADE BY THE DEPARTMENT TO THE ENTITY RESPONSIBLE FOR THE OPERATION OF THE DEMONSTRATION PROGRAM ON A FIXED AMOUNT PER MEMBER PER MONTH OF ENROLLMENT AND SHALL REIMBURSE THE PROGRAM SPONSOR FOR THE SERVICES RENDERED PURSUANT TO SUBDIVISION FOUR OF THIS SECTION. THE AMOUNT PAID SHALL BE AN AMOUNT REASONABLY NECESSARY TO MEET THE COSTS OF PROVIDING SUCH SERVICES, PROVIDED THAT THE TOTAL AMOUNT PAID FOR MEDICAL ASSISTANCE TO ENROLLEES IN ANY SUCH DISEASE MANAGEMENT DEMONSTRATION PROGRAM, INCLUDING ANY DEMONSTRATION PROGRAM EXPENDITURES, SHALL NOT EXCEED NINETY-FIVE PERCENT OF THE MEDICAL ASSISTANCE EXPENDITURE RELATED TO SUCH ENROLLEE THAT WOULD REASONABLY HAVE BEEN ANTICIPATED IF THE ENROLLEE HAD NOT BEEN ENROLLED IN SUCH DEMONSTRATION PROGRAM. THE DEPARTMENT MAY MAKE PAYMENTS TO DEMONSTRATION PROGRAMS THAT PROVIDE ADMINISTRATIVE SERVICES ONLY, PROVIDED THAT EXPENDITURES MADE FOR ENROLLEES, OR A GROUP OF ENROLLEES, PARTICIPATING IN THE DEMONSTRATION PROGRAM SHALL PROVIDE SUFFICIENT SAVINGS AS DETERMINED BY THE DEPARTMENT, HAD THE ENROLLEES, OR GROUPS OF ENROLLEES, NOT BEEN ENROLLED IN SUCH DEMONSTRATION. THE DEPARTMENT SHALL PROVIDE AN INTERIM REPORT TO THE GOVERNOR, AND THE LEGISLATURE ON OR BEFORE DECEMBER THIRTY-FIRST, TWO THOUSAND SIX AND A FINAL REPORT ON OR BEFORE DECEMBER THIRTY-FIRST, TWO THOUSAND SEVEN ON THE RESULTS OF DEMONSTRATION PROGRAMS. BOTH REPORTS SHALL INCLUDE FINDINGS AS TO THE DEMONSTRATION PROGRAMS' CONTRIBUTION TO IMPROVING QUALITY OF CARE AND THEIR COST-EFFECTIVENESS. IN THE FINAL REPORT, THE DEPARTMENT SHALL OFFER RECOMMENDATIONS AS TO WHETHER DEMONSTRATION PROGRAMS SHOULD BE EXTENDED, MODIFIED, ELIMINATED OR MADE PERMANENT.

S 3913. HOME TELEHEALTH. 1. DEMONSTRATION RATES OF PAYMENT OR FEES SHALL BE ESTABLISHED FOR TELEHEALTH PROVIDED BY A CERTIFIED HOME HEALTH AGENCY, A LONG TERM HOME HEALTH CARE PROGRAM OR AIDS HOME CARE PROGRAM, OR FOR TELEMEDICINE BY A LICENSED HOME CARE SERVICES AGENCY UNDER CONTRACT WITH SUCH AN AGENCY OR PROGRAM, IN ORDER TO ENSURE THE AVAILABILITY OF TECHNOLOGY-BASED PATIENT MONITORING, COMMUNICATION AND HEALTH MANAGEMENT. REIMBURSEMENT FOR TELEHEALTH PROVIDED PURSUANT TO THIS SECTION SHALL BE PROVIDED ONLY IN CONNECTION WITH FEDERAL FOOD AND DRUG ADMINISTRATION-APPROVED AND INTEROPERABLE DEVICES, AND INCORPORATED AS

PART OF THE PATIENT'S PLAN OF CARE. THE COMMISSIONER SHALL SEEK FEDERAL FINANCIAL PARTICIPATION WITH REGARD TO THIS DEMONSTRATION INITIATIVE.

2. THE PURPOSES OF SUCH SERVICES SHALL BE TO ASSIST IN THE EFFECTIVE MONITORING AND MANAGEMENT OF PATIENTS WHOSE MEDICAL, FUNCTIONAL AND/OR ENVIRONMENTAL NEEDS CAN BE APPROPRIATELY AND COST-EFFECTIVELY MET AT HOME THROUGH THE APPLICATION OF TELEHEALTH INTERVENTION. REIMBURSEMENT PROVIDED PURSUANT TO THIS SECTION SHALL BE FOR SERVICES TO PATIENTS WITH CONDITIONS OR CLINICAL CIRCUMSTANCES ASSOCIATED WITH THE NEED FOR FREQUENT MONITORING, AND/OR THE NEED FOR FREQUENT PHYSICIAN, SKILLED NURSING OR ACUTE CARE SERVICES, AND WHERE THE PROVISION OF TELEHEALTH CAN APPROPRIATELY REDUCE THE NEED FOR ON-SITE OR IN-OFFICE VISITS OR ACUTE OR LONG TERM CARE FACILITY ADMISSIONS. SUCH CONDITIONS AND CLINICAL CIRCUMSTANCES SHALL INCLUDE, BUT NOT BE LIMITED TO, CONGESTIVE HEART FAILURE, DIABETES, CHRONIC PULMONARY OBSTRUCTIVE DISEASE, WOUND CARE, POLYPHARMACY, MENTAL OR BEHAVIORAL PROBLEMS LIMITING SELF-MANAGEMENT, AND TECHNOLOGY-DEPENDENT CARE SUCH AS CONTINUOUS OXYGEN, VENTILATOR CARE, TOTAL PARENTERAL NUTRITION OR ENTERAL FEEDING.

3. DEMONSTRATION RATES OR FEES ESTABLISHED BY THE COMMISSIONER AND APPROVED BY THE DIRECTOR OF THE BUDGET, FOR SUCH TELEHEALTH SHALL REFLECT THE COSTS THEREOF ON A MONTHLY BASIS IN ORDER TO ACCOUNT FOR DAILY VARIATION IN THE INTENSITY AND COMPLEXITY OF PATIENTS' TELEHEALTH NEEDS; PROVIDED THAT SUCH DEMONSTRATION RATES SHALL FURTHER REFLECT THE COST OF THE DAILY OPERATION AND PROVISION OF SUCH SERVICES, WHICH COSTS SHALL INCLUDE THE FOLLOWING FUNCTIONS UNDERTAKEN BY THE PARTICIPATING CERTIFIED HOME HEALTH AGENCY, LONG TERM HOME HEALTH CARE PROGRAM, AIDS HOME CARE PROGRAM OR LICENSED HOME CARE SERVICES AGENCY:

(A) MONITORING OF PATIENT VITAL SIGNS;

(B) PATIENT EDUCATION;

(C) MEDICATION MANAGEMENT;

(D) EQUIPMENT MAINTENANCE;

(E) REVIEW OF PATIENT TRENDS AND/OR OTHER CHANGES IN PATIENT CONDITION NECESSITATING PROFESSIONAL INTERVENTION; AND

(F) SUCH OTHER ACTIVITIES AS THE COMMISSIONER MAY DEEM NECESSARY AND APPROPRIATE TO THIS SECTION.

4. THE COMMISSIONER SHALL TAKE SUCH ADDITIONAL STEPS AS MAY BE REASONABLY NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION; PROVIDED HOWEVER THAT THE COMMISSIONER SHALL ESTABLISH INITIAL DEMONSTRATION RATES OR FEES FOR TELEHEALTH AS PROVIDED FOR IN THIS SECTION BY NO LATER THAN OCTOBER FIRST, TWO THOUSAND SEVEN; AND PROVIDED, FURTHER, HOWEVER, THAT THE COMMISSIONER SHALL SEEK THE INPUT OF REPRESENTATIVES FROM PARTICIPATING PROVIDERS AND OTHER INTERESTED PARTIES IN THE DEVELOPMENT OF SUCH RATES OR FEES AND ANY APPLICABLE REQUIREMENTS ESTABLISHED PURSUANT TO THIS SUBDIVISION.

5. THE COMMISSIONER SHALL, WITHIN MONIES APPROPRIATED THEREFOR, ESTABLISH A RURAL HOME TELEHEALTH DELIVERY DEMONSTRATION STUDY PROGRAM IN COUNTIES HAVING A POPULATION OF NOT LESS THAN ONE HUNDRED THIRTY THOUSAND AND NOT MORE THAN ONE HUNDRED FORTY THOUSAND, ACCORDING TO THE TWO THOUSAND TEN DECENNIAL FEDERAL CENSUS. THE COMMISSIONER SHALL DIRECT A HOME HEALTH ORGANIZATION SERVING IN SUCH COUNTY TO STUDY PATIENTS RECEIVING TELEMEDICINE, PURSUANT TO THIS SECTION, WHO HAVE BEEN DIAGNOSED WITH CONGESTIVE HEART FAILURE, DIABETES AND/OR CHRONIC PULMONARY OBSTRUCTIVE DISEASE, AND WHOSE MEDICAL, FUNCTIONAL AND/OR ENVIRONMENTAL NEEDS ARE APPROPRIATELY MET AT HOME THROUGH THE APPLICATION OF TELEHEALTH INTERVENTIONS. SUCH A STUDY SHALL DETERMINE THE COST OF PROVIDING TELEHEALTH, THE QUALITY OF CARE PROVIDED THROUGH TELEHEALTH AND THE OUTCOMES OF PATIENTS RECEIVING SUCH TELEHEALTH. THE COMMISSIONER SHALL

REIMBURSE THE HOME HEALTH ORGANIZATION FOR CONDUCTING THE STUDY WITH AMOUNTS APPROPRIATED UNDER THIS SECTION. THE HOME HEALTH ORGANIZATION SHALL EVALUATE THE FINDINGS OF THE STUDY AND REPORT TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE COMMISSIONER, AND THE CHAIR OF THE LEGISLATIVE COMMISSION ON RURAL RESOURCES ON ITS FINDINGS OF PROVIDING TELEHEALTH FOR EACH CONDITION, SO AS TO PROVIDE THE COST BENCHMARKS WITH AND WITHOUT TELEHEALTH CARE, AS WELL AS PROVIDING COST BENEFIT MEASUREMENTS IN TERMS OF THE QUALITY BENEFIT OUTCOMES FOR EACH OF THE CONDITIONS ADDRESSED VIA TELEHEALTH.

6. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, RULE OR REGULATION AND SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, THE COMMISSIONER IS AUTHORIZED AND DIRECTED TO IMPLEMENT A PROGRAM WHEREBY HE OR SHE SHALL ADJUST MEDICAL ASSISTANCE RATES OF PAYMENT FOR SERVICES PROVIDED BY CERTIFIED HOME HEALTH AGENCIES, LONG TERM HOME HEALTH CARE PROGRAMS, AIDS HOME CARE PROGRAMS AND PROVIDERS OF PERSONAL CARE SERVICES AND/OR PROVIDERS OF PRIVATE DUTY NURSING SERVICES UNDER THE SOCIAL SERVICES LAW IN ACCORDANCE WITH THIS SUBDIVISION FOR PURPOSES OF ENHANCING THE PROVISION, ACCESSIBILITY, QUALITY AND/OR EFFICIENCY OF HOME CARE SERVICES. SUCH RATE ADJUSTMENTS SHALL BE FOR THE PURPOSES OF ASSISTING SUCH PROVIDERS, LOCATED IN SOCIAL SERVICES DISTRICTS WHICH DO NOT INCLUDE A CITY WITH A POPULATION OF OVER ONE MILLION PERSONS, IN MEETING THE COST OF INCREASED USE OF TECHNOLOGY IN THE DELIVERY OF SERVICES, INCLUDING TELEHEALTH AND CLINICAL AND ADMINISTRATIVE MANAGEMENT INFORMATION SYSTEM.

S 7. This act shall take effect on the first of April next succeeding the date on which it shall have become a law.