

2737

2013-2014 Regular Sessions

I N S E N A T E

January 23, 2013

Introduced by Sen. RANZENHOFER -- read twice and ordered printed, and
when printed to be committed to the Committee on Health

AN ACT to amend the social services law, in relation to mandatory
managed care for certain recipients of medical assistance

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

1 Section 1. Paragraph (b) of subdivision 1 of section 364-j of the
2 social services law, as amended by chapter 649 of the laws of 1996,
3 subparagraphs (i) and (ii) as amended by chapter 433 of the laws of
4 1997, is amended to read as follows:
5 (b) "Managed care provider". An entity that provides or arranges for
6 the provision of medical assistance services and supplies to partic-
7 ipants directly or indirectly (including by referral), including case
8 management; and:
9 (i) is authorized to operate under article forty-four of the public
10 health law or article forty-three of the insurance law and provides or
11 arranges, directly or indirectly (including by referral) for covered
12 comprehensive health services on a full capitation basis; [or]
13 (ii) is authorized as a partially capitated program pursuant to
14 section three hundred sixty-four-f of this title or section forty-four
15 hundred three-e of the public health law or section 1915b of the social
16 security act;
17 (III) IS A RURAL HEALTH NETWORK AS DEFINED IN SUBDIVISION TWO OF
18 SECTION TWENTY-NINE HUNDRED FIFTY-ONE OF THE PUBLIC HEALTH LAW; OR
19 (IV) HOLDS A COMPREHENSIVE HIV SPECIAL NEEDS PLAN CERTIFICATE OF
20 AUTHORITY PURSUANT TO SECTION FORTY-FOUR HUNDRED THREE-C OF THE PUBLIC
21 HEALTH LAW.
22 S 2. Paragraph (e) of subdivision 3 of section 364-j of the social
23 services law, as amended by section 77-a of part H of chapter 59 of the
24 laws of 2011, is amended to read as follows:

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

LBD05160-01-3

(e) The following categories of individuals [may] SHALL be required to enroll with a managed care program [when] FOLLOWING THE APPROVAL OF program features and reimbursement rates [are approved] by the commissioner of health and, as appropriate, the commissioners of the department of mental health, the office for persons with developmental disabilities, the office of children and family services, 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; provided that (notwithstanding paragraph (g) of subdivision four of this section):

(a) if the individual changes his or her Medicare managed care plan as authorized by title XVIII of the federal social security act, and enrolls in another Medicare managed care plan that is also a managed care provider, the individual shall be (if required by the commissioner under this paragraph) enrolled in that managed care provider;

(b) if the individual changes his or her Medicare managed care plan as authorized by title XVIII of the federal social security act, but enrolls in another Medicare managed care plan that is not also a managed care provider, the individual shall be disenrolled from the managed care provider in which he or she was enrolled and withdraw from the managed care program;

(c) if the individual disenrolls from his or her Medicare managed care plan as authorized by title XVIII of the federal social security act, and does not enroll in another Medicare managed care plan, the individual shall be disenrolled from the managed care provider in which he or she was enrolled and withdraw from the managed care program;

(d) nothing herein shall require an individual enrolled in a managed long term care plan, pursuant to section forty-four hundred three-f of the public health law, to disenroll from such program.

(ii) an individual eligible for supplemental security income;

(iii) HIV positive individuals;

(iv) persons with serious mental illness and children and adolescents with serious emotional disturbances[, as defined in section forty-four hundred one of the public health law];

(v) a person receiving services provided by a residential alcohol or substance abuse program or facility for the mentally retarded;

(vi) a person receiving services provided by an intermediate care facility for the mentally retarded or who has characteristics and needs similar to such persons;

(vii) a person with a developmental or physical disability who receives home and community-based services or care-at-home services through existing waivers under section nineteen hundred fifteen (c) of the federal social security act or who has characteristics and needs similar to such persons;

(viii) a person who is eligible for medical assistance pursuant to subparagraph twelve or subparagraph thirteen of paragraph (a) of subdivision one of section three hundred sixty-six of this title;

(ix) a person receiving services provided by a long term home health care program, or a person receiving inpatient services in a state-operated psychiatric facility or a residential treatment facility for children and youth;

(x) certified blind or disabled children living or expected to be living separate and apart from the parent for thirty days or more;

(xi) residents of nursing facilities;

1 (xii) a foster child in the placement of a voluntary agency or in the
2 direct care of the local social services district;

3 (xiii) a person or family that is homeless; and

4 (xiv) individuals for whom a managed care provider is not geograph-
5 ically accessible so as to reasonably provide services to the person. A
6 managed care provider is not geographically accessible if the person
7 cannot access the provider's services in a timely fashion due to
8 distance or travel time.

9 S 3. Section 364-j of the social services law is amended by adding two
10 new subdivisions 27 and 28 to read as follows:

11 27. THE COMMISSIONER OF HEALTH SHALL TAKE ALL MEASURES NECESSARY AND
12 CONVENIENT TO CAUSE ALL SOCIAL SERVICES DISTRICTS IN THE STATE NOT
13 ALREADY DOING SO TO PROVIDE MEDICAL ASSISTANCE AND IMPLEMENT THE STATE'S
14 MANAGED CARE PROGRAM AND PARTICIPATE IN SUCH PROGRAM AUTHORIZED BY THIS
15 SECTION.

16 28. THE COMMISSIONER OF HEALTH SHALL SUBMIT THE APPROPRIATE WAIVERS,
17 STATE PLAN AMENDMENTS AND FEDERAL APPLICATIONS, INCLUDING BUT NOT LIMIT-
18 ED TO, WAIVER REQUESTS AUTHORIZED PURSUANT TO SECTIONS ELEVEN HUNDRED
19 FIFTEEN AND NINETEEN HUNDRED FIFTEEN OF THE FEDERAL SOCIAL SECURITY ACT,
20 OR SUCCESSOR PROVISIONS, AS THE COMMISSIONER OF HEALTH SHALL DEEM NECES-
21 SARY TO SECURE APPROPRIATE FEDERAL FINANCIAL SUPPORT FOR THE COST OF A
22 PROGRAM TO AUTHORIZE MANDATORY MANAGED CARE FOR MEDICAL ASSISTANCE
23 RECIPIENTS RESIDING IN ALL AREAS OF THE STATE, INCLUDING RECIPIENTS OF
24 SUPPLEMENTAL INCOME AND PERSONS ENROLLED OR ELIGIBLE TO BE ENROLLED IN A
25 MEDICARE TEFRA PLAN.

26 S 4. Section two of this act shall not take effect unless and until
27 the commissioner of health receives all necessary approvals under feder-
28 al law and regulation to implement its provisions, and provided that
29 such provisions do not prevent the receipt of federal financial partic-
30 ipation under the medical assistance program. The commissioner of health
31 shall submit such waiver applications and/or state plan amendments as
32 may be necessary to obtain such approvals and to ensure continued feder-
33 al financial participation.

34 S 5. This act shall take effect immediately; provided, however, that
35 the amendments to section 364-j of the social services law made by
36 sections one, two and three of this act shall not affect the repeal of
37 such section pursuant to chapter 710 of the laws of 1988, as amended,
38 and shall be deemed repealed therewith; provided that the commissioner
39 of health shall notify the legislative bill drafting commission upon the
40 occurrence of the enactment of the legislation provided for in section
41 two of this act in order that the commission may maintain an accurate
42 and timely effective data base of the official text of the laws of the
43 state of New York in furtherance of effecting the provisions of section
44 44 of the legislative law and section 70-b of the public officers law.