

3973

2015-2016 Regular Sessions

I N S E N A T E

February 25, 2015

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 authorizing the
commissioner of health to apply for a medicaid reform demonstration
waiver

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

1 Section 1. Section 366 of the social services law is amended by adding
2 a new subdivision 6-b to read as follows:
3 6-B. A. THE COMMISSIONER OF HEALTH SHALL APPLY FOR A MEDICAID REFORM
4 DEMONSTRATION WAIVER PURSUANT TO SECTION ELEVEN HUNDRED FIFTEEN OF THE
5 FEDERAL SOCIAL SECURITY ACT IN ORDER TO CREATE AN INITIATIVE TO PROVIDE
6 FOR A MORE EFFICIENT AND EFFECTIVE MEDICAID SERVICES DELIVERY SYSTEM IN
7 NEW YORK THAT EMPOWERS MEDICAID PATIENTS, BRIDGES PUBLIC AND PRIVATE
8 COVERAGE, IMPROVES PATIENT OUTCOMES AND STABILIZES PROGRAM COSTS.
9 B. THE DEMONSTRATION WAIVER SHALL INCLUDE, BUT SHALL NOT BE LIMITED
10 TO, THE FOLLOWING COMPONENTS:
11 (I) A RISK ADJUSTED CAPITATED MANAGED CARE PILOT PROGRAM FOR RECIPI-
12 ENTS CURRENTLY SERVED IN MEDICAID-FEE-FOR SERVICE OR MEDICAID MANAGED
13 CARE THAT PROVIDES BENEFIT PLANS THAT MORE CLOSELY RESEMBLE PRIVATE
14 PLANS YET ARE ACTUARIALLY EQUIVALENT TO THE CURRENT MEDICAID BENEFIT
15 PACKAGE. RISK ADJUSTED CAPITATION RATES SHALL BE SEPARATED INTO THREE
16 COMPONENTS TO COVER COMPREHENSIVE CARE, CATASTROPHIC CARE AND ENHANCED
17 SERVICES AND MAY PHASE IN FINANCIAL RISK FOR APPROVED PROVIDERS. HEALTH
18 PLANS SHALL PROVIDE COMPREHENSIVE CARE WHICH SHALL COVER ALL EXPENSES
19 UNTIL A PREDETERMINED THRESHOLD OF EXPENSES IS REACHED AT WHICH TIME THE
20 CATASTROPHIC COMPONENT SHALL TAKE OVER. HEALTH PLANS MAY CHOOSE TO
21 ASSUME THE CATASTROPHIC RISK FOR TARGET POPULATIONS THEY SERVE. THE
22 CATASTROPHIC COMPONENT SHALL ENCOURAGE PROVIDER NETWORKS TO IDENTIFY
23 RECIPIENTS WITH UNDIAGNOSED CHRONIC ILLNESS AND ENSURE PROPER DISEASE
24 MANAGEMENT OF THE ENROLLEE'S CONDITION. THE ENHANCED SERVICES COMPONENT

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

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1 SHALL ENCOURAGE ENROLLEES TO ENGAGE IN APPROVED HEALTH ACTIVITIES BY
2 INCLUDING THE FLEXIBILITY FOR HEALTH SPENDING ACCOUNTS. PLANS SHALL BE
3 ENCOURAGED TO ESTABLISH CUSTOMIZED BENEFIT PACKAGES TARGETED TO SPECIFIC
4 SPECIAL NEEDS POPULATIONS THAT SHALL FOSTER ENROLLEE CHOICE AND ENABLE
5 ENROLLEES TO ACCESS HEALTH CARE SERVICES THEY NEED. THE PACKAGES MAY
6 VARY THE AMOUNT, DURATION AND SCOPE OF SOME TRADITIONAL MEDICAID
7 SERVICES, PROVIDED THE MANDATORY MEDICAID SERVICES ARE INCLUDED, THE
8 BENEFITS ARE ACTUARIALLY EQUIVALENT TO THE VALUE OF TRADITIONAL MEDICAID
9 SERVICES, AND THEY PASS A SUFFICIENCY TEST TO ENSURE THE PACKAGE IS
10 SUFFICIENT TO MEET THE MEDICAL NEEDS OF THE TARGET POPULATION. THESE
11 BENEFIT PACKAGES SHALL BE PRIOR APPROVED BY THE COMMISSIONER OF HEALTH.
12 PARTICIPATION SHALL BE MANDATORY IN DEMONSTRATION AREAS FOR ALL MEDICAID
13 POPULATIONS NOT SPECIFICALLY EXCLUDED BY THE COMMISSIONER OF HEALTH.
14 THOSE NOT REQUIRED TO PARTICIPATE SHALL BE PROVIDED THE OPTION TO VOLUN-
15 TARILY PARTICIPATE IN THE DEMONSTRATION WAIVER;

16 (II) A CHOICE OF MANAGED CARE PROVIDER WHICH SHALL REST WITH THE INDI-
17 VIDUAL RECIPIENT, PROVIDED FAILURE TO CHOOSE SHALL RESULT IN AN AUTOMAT-
18 IC ASSIGNMENT. AFTER A LIMITED OPEN ENROLLMENT PERIOD, RECIPIENTS MAY BE
19 LOCKED IN A CAPITATED MANAGED CARE NETWORK FOR TWELVE MONTHS. A RECIPI-
20 ENT SHALL BE ALLOWED TO SELECT ANOTHER CAPITATED MANAGED CARE NETWORK
21 AFTER TWELVE MONTHS OF ENROLLMENT. HOWEVER, NOTHING SHALL PREVENT A
22 MEDICAID RECIPIENT FROM CHANGING PRIMARY CARE PROVIDERS WITHIN THE CAPI-
23 TATED MANAGED CARE NETWORK DURING THE TWELVE MONTH PERIOD;

24 (III) AN OPT-OUT PROVISION WHEREBY MEDICAID RECIPIENTS SHALL BE ABLE
25 TO USE THEIR MEDICAID PREMIUM TO PURCHASE HEALTH CARE COVERAGE THROUGH
26 AN EMPLOYER SPONSORED HEALTH INSURANCE PLAN INSTEAD OF THROUGH A MEDI-
27 CAID CERTIFIED PLAN;

28 (IV) AN ENHANCED BENEFIT PACKAGE UNDER WHICH MEDICAID RECIPIENTS WILL
29 RECEIVE FINANCIAL INCENTIVES AS A REWARD FOR HEALTHIER BEHAVIOR. FUNDS
30 SHALL BE DEPOSITED INTO A SPECIAL HEALTH SAVINGS ACCOUNT AND AVAILABLE
31 TO THE INDIVIDUAL TO OFFSET HEALTH CARE RELATED COSTS SUCH AS OVER THE
32 COUNTER MEDICINES, VITAMINS OR OTHER EXPENSES NOT COVERED UNDER THEIR
33 PLAN OR TO RETAIN FOR USE IN PURCHASING EMPLOYER PROVIDED INSURANCE;

34 (V) A MECHANISM TO REQUIRE CAPITATED MANAGED CARE PLANS TO REIMBURSE
35 QUALIFIED EMERGENCY SERVICE PROVIDERS, INCLUDING AMBULANCE SERVICES AND
36 EMERGENCY MEDICAL SERVICES, PROVIDED THE DEMONSTRATION SHALL INCLUDE A
37 PROVISION FOR CONTINUING FEE-FOR-SERVICE PAYMENTS FOR EMERGENCY SERVICES
38 FOR INDIVIDUALS WHO ARE SUBSEQUENTLY DETERMINED TO BE ELIGIBLE FOR MEDI-
39 CAID;

40 (VI) A CHOICE COUNSELING SYSTEM TO ASSIST RECIPIENTS IN SELECTING A
41 CAPITATED MANAGED CARE PLAN THAT BEST MEETS THEIR NEEDS, INCLUDING
42 INFORMATION ON BENEFITS PROVIDED, COST SHARING AND OTHER CONTRACT INFOR-
43 MATION. THE COMMISSIONER OF HEALTH SHALL PROHIBIT PLANS, THEIR EMPLOYEES
44 OR CONTRACTEES FROM RECRUITING RECIPIENTS, SEEKING ENROLLMENT THROUGH
45 INDUCEMENTS, OR PREJUDICING RECIPIENTS AGAINST OTHER CAPITATED PLANS;

46 (VII) A SYSTEM TO MONITOR THE PROVISIONS OF HEALTH CARE SERVICES IN
47 THE PILOT PROGRAM, INCLUDING UTILIZATION AND QUALITY OF CARE TO ENSURE
48 ACCESS TO MEDICALLY NECESSARY SERVICES;

49 (VIII) A GRIEVANCE RESOLUTION PROCESS FOR MEDICAID RECIPIENTS ENROLLED
50 IN THE PILOT PROGRAM INCLUDING AN EXPEDITED REVIEW IF THE LIFE OF A
51 MEDICAID RECIPIENT IS IN IMMINENT AND EMERGENT JEOPARDY;

52 (IX) A GRIEVANCE RESOLUTION PROCESS FOR HEALTH CARE PROVIDERS EMPLOYED
53 BY OR CONTRACTED WITH A CAPITATED MANAGED CARE NETWORK UNDER THE DEMON-
54 STRATION WAIVER TO SETTLE DISPUTES; AND

55 (X) A TECHNICAL ADVISORY PANEL CONVENED BY THE COMMISSIONER OF HEALTH
56 TO ADVISE THE AGENCY IN THE AREAS OF RISK-ADJUSTED-RATE SETTING, BENEFIT

1 DESIGN INCLUDING THE ACTUARIAL EQUIVALENCE AND SUFFICIENCY STANDARDS TO
2 BE USED, CHOICE COUNSELING AND ANY OTHER ASPECTS OF THE DEMONSTRATION
3 IDENTIFIED BY THE COMMISSIONER OF HEALTH. THE PANEL SHALL INCLUDE, BUT
4 SHALL NOT BE LIMITED TO, REPRESENTATIVES FROM THE STATE'S HEALTH PLANS,
5 REPRESENTATIVES FROM PROVIDER-SPONSORED NETWORKS, A MEDICAID CONSUMER
6 REPRESENTATIVE, AND A REPRESENTATIVE FROM THE STATE DEPARTMENT OF FINAN-
7 CIAL SERVICES.

8 C. THE DEMONSTRATION WAIVER SHALL BE IMPLEMENTED IN NO LESS THAN THREE
9 GEOGRAPHIC AREAS OF THE STATE TO BE DETERMINED BY THE COMMISSIONER OF
10 HEALTH.

11 D. THE DEPARTMENT OF HEALTH SHALL COMPREHENSIVELY EVALUATE THE
12 PROGRAMS CREATED IN THIS SUBDIVISION AND CONTINUE SUCH EVALUATION FOR
13 TWENTY-FOUR MONTHS AFTER THE PILOT PROGRAMS HAVE ENROLLED MEDICAID
14 RECIPIENTS AND PROVIDED HEALTH CARE SERVICES. THE EVALUATION SHALL
15 INCLUDE ASSESSMENTS OF THE LEVEL OF CONSUMER EDUCATION, CHOICE AND
16 ACCESS TO SERVICES, COORDINATION OF CARE, QUALITY OF CARE BY EACH ELIGI-
17 BILITY CATEGORY AND MANAGED CARE PLAN IN EACH PILOT SITE AND ANY COST
18 SAVINGS. THE EVALUATION SHALL DESCRIBE ADMINISTRATIVE OR LEGAL BARRIERS
19 TO THE IMPLEMENTATION AND OPERATION OF EACH PILOT PROGRAM AND INCLUDE
20 RECOMMENDATIONS REGARDING STATEWIDE EXPANSION OF THE MANAGED CARE PILOT
21 PROGRAMS. THE DEPARTMENT OF HEALTH SHALL SUBMIT AN EVALUATION REPORT TO
22 THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF
23 THE ASSEMBLY BY DECEMBER THIRTY-FIRST, TWO THOUSAND EIGHTEEN.

24 E. UPON COMPLETION OF THE EVALUATION CONDUCTED UNDER PARAGRAPH D OF
25 THIS SUBDIVISION, THE COMMISSIONER OF HEALTH MAY REQUEST STATEWIDE
26 EXPANSION OF THE DEMONSTRATION PROJECTS. STATEWIDE EXPANSION INTO ADDI-
27 TIONAL AREAS SHALL BE CONTINGENT UPON REVIEW AND APPROVAL BY THE LEGIS-
28 LATURE.

29 F. THIS WAIVER AUTHORITY IS CONTINGENT UPON FEDERAL APPROVAL AND
30 FEDERAL FINANCIAL PARTICIPATION (FFP) FOR:

31 (I) THOSE MEDICAID BENEFITS AND ELIGIBILITY CATEGORIES PARTICIPATING
32 IN THE WAIVER, INCLUDING THE LOCK-IN PROVISIONS;

33 (II) THE EMPLOYER SPONSORED INSURANCE OPTION WITH COST SHARING;

34 (III) ANY ENHANCED BENEFIT EXPENDITURES, INCLUDING THE ABILITY TO
35 DISBURSE HEALTH SAVINGS ACCOUNT FUNDS TO FORMER MEDICAID RECIPIENTS WHO
36 ACCRUED FUNDS WHILE ON MEDICAID; AND

37 (IV) ANY OTHER FEDERAL APPROVALS OR FEDERAL FINANCIAL PARTICIPATION
38 CONTINGENCIES THAT THE COMMISSIONER OF HEALTH MAY DEEM NECESSARY.

39 S 2. This act shall take effect immediately; provided, however, that
40 the department of health shall submit the medicaid reform demonstration
41 waiver pursuant to the provisions of subdivision 6-b of section 366 of
42 the social services law, as added by section one of this act, within six
43 months of the effective date of this act.