STATE OF NEW YORK

6559

2017-2018 Regular Sessions

IN SENATE

June 2, 2017

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

AN ACT to amend the public health law, in relation to payment for reserved bed days in residential health care facilities; and to repeal paragraph (f) of subdivision 2-c of section 2808 of such law relating to prospective per diem adjustments for certain nursing homes

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 25 of section 2808 of the public health law, as amended by section 2 of part E of chapter 57 of the laws of 2017, is amended to read as follows:

25. Reserved bed days. (a) For purposes of this subdivision, a "reserved bed day" is a day for which a governmental agency pays a residential health care facility to reserve a bed for a person eligible for medical assistance pursuant to title eleven of article five of the social services law while he or she is **temporarily hospitalized or** on [~~therapeutic~~] leave of absence from the facility.

(b) Notwithstanding any other provisions of this section or any other law or regulation to the contrary, for reserved bed days provided on behalf of persons twenty-one years of age or older:

(i) payments for reserved bed days shall be made at ninety-five percent of the Medicaid rate otherwise payable to the facility for services provided on behalf of such person; [~~and~~]

(ii) **payment to a facility for reserved bed days provided on behalf of such person for temporary hospitalizations may not exceed fourteen days in any twelve month period; and**

(iii) payment to a facility for reserved bed days provided on behalf of such person for [~~therapeutic~~] **non-hospitalization** leaves of absence may not exceed ten days in any twelve month period.

(c)(i) Notwithstanding any contrary provision of this subdivision or any other law and subject to the availability of federal financial

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

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participation, with regard to services provided to residential health care facility residents twenty-one years of age or older, the commissioner shall promulgate regulations, and may promulgate emergency regulations, effective for periods on and after July first, two thousand twelve, establishing reimbursement rates for reserved bed days.

(ii) Such regulations shall, for each Medicaid patient for any twelve month period, provide for reimbursement for reserved bed days for: (A) up to an aggregate of fourteen days for hospitalizations and for other therapeutic leave of absences consistent with a plan of care ordered by such patient's treating health care professional; and (B) up to aggregate of ten days of other leaves of absence.

(iii) No later than thirty days after promulgation of such regulations, the commissioner shall advise the chair of the senate finance committee, the chair of the assembly ways and means committee and the chairs of the senate and assembly health committees of the projected reductions expected to be achieved under the methodology set forth in such regulations.

(iv) In the event the commissioner determines, in consultation with the director of the budget, that the regulations promulgated pursuant to subparagraph (i) of this paragraph shall achieve projected aggregate Medicaid savings, as determined by the commissioner, of less than forty million dollars for the state fiscal year beginning April first, two thousand twelve, and each state fiscal year thereafter, the commissioner shall establish a prospective per diem rate adjustment for all nursing homes, other than nursing homes providing services primarily to children under the age of twenty-one, sufficient to achieve such forty million dollars in savings for each such state fiscal year.

§ 2. Paragraph (f) of subdivision 2-c of section 2808 of the public health law is REPEALED.

§ 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2017.