

STATE OF NEW YORK

4911

2021-2022 Regular Sessions

IN ASSEMBLY

February 8, 2021

Introduced by M. of A. GOODELL -- read once and referred to the Committee on Ways and Means

AN ACT to amend the financial services law, the tax law and the public health law, in relation to enacting the Health Care Tax Reform Act

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

1 Section 1. This act shall be known and may be cited as the "Health
2 Care Tax Reform Act".

3 § 2. Legislative findings. The Legislature hereby finds that:

4 (a) The affordability of health care and health insurance is extremely
5 important in ensuring that the maximum number of New York State resi-
6 dents can obtain high quality affordable health care;

7 (b) Health care and health insurance are currently subject to several
8 taxes that directly and indirectly increase the cost of health insurance
9 coverage, including an annual flat tax on all privately insured people
10 in New York State called the covered lives assessment that raises the
11 costs to health plans by \$1.1 Billion, a 9.63% sales tax surcharge on
12 certain hospital based health services that costs consumers \$3.6
13 Billion, a 1.75% flat tax on all commercial health insurance policies
14 that costs consumers \$350 Million, and a gross receipts tax on insurance
15 companies called a section 206 assessment that costs health plans \$149
16 Million a year;

17 (c) Collectively, the taxes on health care and health insurance cost
18 consumers a total of over \$5 Billion in 2018, which exceeds the total
19 amount of taxes paid by corporations through the franchise taxes and
20 exceeds all other types of taxes except for personal income taxes and
21 general sales taxes; and

22 (d) The taxes on health care and health insurance are fundamentally
23 regressive taxes because the taxes are unrelated to a consumer's wealth
24 or ability to pay, directly impact hospitalization costs at a time when
25 consumers are facing some of their greatest health care challenges,

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

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1 directly increase the cost of health insurance, and are counterproduc-
2 tive to the public policy objective of making health insurance as
3 affordable as possible.

4 § 3. Section 206 of the financial services law is amended by adding a
5 new subsection (g) to read as follows:

6 (g) For the fiscal year commencing on April first, two thousand twen-
7 ty-one, the commissioner shall only collect eighty per centum of any
8 assessments collected pursuant to this section in the fiscal year
9 commencing on April first, two thousand twenty-two, and provided
10 further, however, that for the fiscal year commencing on April first,
11 two thousand twenty-four, the commissioner shall only collect sixty per
12 centum of any assessments collected pursuant to this section in the
13 fiscal year commencing on April first, two thousand twenty-two, and
14 provided further, however, that for the fiscal year commencing on April
15 first, two thousand twenty-five, the commissioner shall only collect
16 forty per centum of any assessments collected pursuant to this section
17 in the fiscal year commencing on April first, two thousand twenty-two,
18 and provided further, however, that for the fiscal year commencing on
19 April first, two thousand twenty-six, the commissioner shall only
20 collect twenty per centum of any assessments collected pursuant to this
21 section in the fiscal year commencing on April first, two thousand twen-
22 ty-two, and provided further, however, that for the fiscal year commenc-
23 ing on April first, two thousand twenty-seven, no such assessment under
24 this section shall be collected.

25 § 4. Section 1502-a of the tax law, as amended by section 2 of part
26 B-1 of chapter 57 of the laws of 2009 and as further amended by section
27 104 of part A of chapter 62 of the laws of 2011, is amended to read as
28 follows:

29 § 1502-a. Tax on non-life insurance corporations. (a) In lieu of the
30 tax imposed by section fifteen hundred one of this article, every domes-
31 tic insurance corporation, every foreign insurance corporation and every
32 alien insurance corporation, other than such corporations transacting
33 the business of life insurance, (1) authorized to transact business in
34 this state under a certificate of authority from the superintendent of
35 financial services~~[7]~~ or (2) that is a risk retention group as defined
36 in subsection (n) of section five thousand nine hundred two of the
37 insurance law, ~~[or (3) that is a health maintenance organization~~
38 ~~required to obtain a certificate of authority under article forty-four~~
39 ~~of the public health law,~~] shall, for the privilege of exercising corpo-
40 rate franchises or for carrying on business in a corporate or organized
41 capacity within this state, and in addition to any other taxes imposed
42 for such privilege, pay a tax on all gross direct premiums, less return
43 premiums thereon, written on risks located or resident in this state.
44 The tax imposed by this section shall be computed in the manner set
45 forth in subdivision (a) of section fifteen hundred ten of this article
46 as such subdivision applied to taxable years beginning before January
47 first, two thousand three, except that the rate of tax imposed by this
48 section shall be ~~[one and seventy-five hundredths percent on all gross~~
49 ~~direct premiums, less return premiums thereon, for accident and health~~
50 ~~insurance contracts, including contracts with health maintenance organ-~~
51 ~~izations for health services, and]~~ two percent on all ~~[other]~~ such
52 premiums except accident and health insurance contracts, including
53 contracts with health maintenance organizations for health services.

54 (b) In lieu of the tax imposed by section fifteen hundred one of this
55 article, every domestic insurance corporation, every foreign insurance
56 corporation and every alien insurance corporation, other than such

1 corporations transacting the business of life insurance that is a health
2 maintenance organization required to obtain a certificate of authority
3 under article forty-four of the public health law, shall, for the privi-
4 lege of exercising corporate franchises or for carrying on business in a
5 corporate or organized capacity within this state, and in addition to
6 any other taxes imposed for such privilege, pay a tax on all gross
7 direct premiums, less return premiums thereon, written on risks located
8 or resident in this state. The tax imposed by this section shall be
9 computed in the manner set forth in subdivision (a) of section fifteen
10 hundred ten of this article as such subdivision applied to taxable years
11 beginning before January first, two thousand three, except that the rate
12 of tax imposed by this section shall be one and seventy-five hundredths
13 percent on all gross direct premiums, less return premiums thereon, for
14 accident and health insurance contracts, including contracts with health
15 maintenance organizations for health services, provided, however, that
16 for the taxable year beginning January first, two thousand twenty-three,
17 the percentage shall be one and four tenths percent, and provided
18 further, however, that for the taxable year beginning January first, two
19 thousand twenty-four, the percentage shall be one and five hundredths
20 percent, and provided further, however, that for the taxable year begin-
21 ning January first, two thousand twenty-five, the percentage shall be
22 seven tenths of one percent, and provided further, however, that for the
23 taxable year beginning January first, two thousand twenty-six, the
24 percentage shall be thirty-seven hundredths of one percent, and provided
25 further, however, that for the taxable years beginning on and after
26 January first, two thousand twenty-seven, no such tax shall be imposed.

27 (c) All the other provisions in section fifteen hundred ten of this
28 article as amended from time to time, other than subdivision (b) of such
29 section, shall apply to the tax imposed by this section. In no event
30 shall the tax imposed under this section be less than two hundred fifty
31 dollars.

32 § 5. Subdivision 2 of section 2807-j of the public health law, as
33 amended by section 41 of part B of chapter 58 of the laws of 2005 and
34 paragraphs (b), (c), (d), and (e) as amended by section 50 of part B of
35 chapter 58 of the laws of 2009, is amended to read as follows:

36 2. (a) The total percentage allowance for any period during the period
37 January first, nineteen hundred ninety-seven through December thirty-
38 first, nineteen hundred ninety-nine and on and after January first, two
39 thousand, for a designated provider of services applicable to a payor
40 shall be determined in accordance with this subdivision and applied to
41 net patient service revenues.

42 (b) The total percentage allowance for each payor, other than govern-
43 mental agencies, or health maintenance organizations for services
44 provided to subscribers eligible for medical assistance pursuant to
45 title eleven of article five of the social services law, or approved
46 organizations for services provided to subscribers eligible for the
47 family health plus program pursuant to title eleven-D of article five of
48 the social services law, and other than payments for a patient that has
49 no third-party coverage in whole or in part for services provided by a
50 designated provider of services, shall be:

51 (i) the sum of (A) eight and eighteen-hundredths percent, provided,
52 however, that for services provided on and after July first, two thou-
53 sand three, the percentage shall be eight and eighty-five hundredths
54 percent, and further provided that for services provided on and after
55 January first, two thousand six, the percentage shall be eight and nine-
56 ty-five hundredths percent, and further provided that for services

provided on and after April first, two thousand nine, the percentage shall be nine and sixty-three hundredths percent, and further provided that for services provided on and after April first, two thousand twenty-two, the percentage shall be twenty-two and sixty-one hundredths percent, and further provided that for services provided on and after April first, two thousand twenty-three, the percentage shall be sixteen and ninety-six hundredths percent, and further provided that for services provided on and after April first, two thousand twenty-four, the percentage shall be eleven and thirty-one hundredths percent, and further provided that for services provided on and after April first, two thousand twenty-five, the percentage shall be five and sixty-five hundredths percent, and further provided that for services provided on and after April first, two thousand twenty-six, the percentage shall be zero percent, plus (B) twenty-four percent, provided, however, that for services provided on and after July first, two thousand three, the percentage shall be twenty-five and ninety-seven hundredths percent, and further provided that for services provided on and after January first, two thousand six, the percentage shall be twenty-six and twenty-six hundredths percent, and further provided that for services provided on and after April first, two thousand nine, the percentage shall be twenty-eight and twenty-seven hundredths percent, and further provided that for services provided on and after April first, two thousand twenty-two, the percentage shall be twenty-two and sixty-one hundredths percent, and further provided that for services provided on and after April first, two thousand twenty-three, the percentage shall be sixteen and ninety-six hundredths percent, and further provided that for services provided on and after April first, two thousand twenty-four, the percentage shall be eleven and thirty-one hundredths percent, and further provided that for services provided on and after April first, two thousand twenty-five, the percentage shall be five and sixty-five hundredths percent, and further provided that for services provided on and after April first, two thousand twenty-six, the percentage shall be zero percent, and plus (C) for a specified third-party payor as defined in subdivision one-a of section twenty-eight hundred seven-s of this article the percentage allowance applicable for a general hospital for inpatient hospital services pursuant to subdivision two of section twenty-eight hundred seven-s of this article;

(ii) unless (A) an election in accordance with paragraph (a) of subdivision five of this section to pay the allowance directly to the commissioner or the commissioner's designee is in effect for a third-party payor, and in addition (B) for a specified third-party payor an election to pay the assessment in accordance with section twenty-eight hundred seven-t of this article is in effect.

(c) If an election in accordance with subdivision five of this section is in effect for a third-party payor and in addition in accordance with section twenty-eight hundred seven-t of this article for a specified third-party payor, the total percentage allowance factor shall be reduced to eight and eighteen-hundredths percent, provided, however, that for services provided on and after July first, two thousand three the total percentage allowance factor shall be reduced to eight and eighty-five hundredths percent, and further provided that for services provided on and after January first, two thousand six, the total percentage allowance factor shall be reduced to eight and ninety-five hundredths percent, and further provided that for services provided on and after April first, two thousand nine, the total percentage allowance factor shall be reduced to nine and sixty-three hundredths percent and

1 further provided that for services provided on and after April first,
2 two thousand twenty-two, the percentage shall be seven and seventy-one
3 hundredths percent, and further provided that for services provided on
4 and after April first, two thousand twenty-three, the percentage shall
5 be five and seventy-nine hundredths percent, and further provided that
6 for services provided on and after April first, two thousand twenty-
7 four, the percentage shall be three and eighty-six hundredths percent,
8 and further provided that for services provided on and after April
9 first, two thousand twenty-five, the percentage shall be one and nine-
10 ty-three hundredths percent, and further provided that for services
11 provided on and after April first, two thousand twenty-six, the percent-
12 age shall be zero percent.

13 (d) The total percentage allowance for payments by governmental agen-
14 cies, as determined in accordance with paragraphs (a) and (a-1) of
15 subdivision one of section twenty-eight hundred seven-c of this article
16 as in effect on December thirty-first, nineteen hundred ninety-six, or
17 health maintenance organizations for services provided to subscribers
18 eligible for medical assistance pursuant to title eleven of article five
19 of the social services law, or approved organizations for services
20 provided to subscribers eligible for the family health plus program
21 pursuant to title eleven-D of article five of the social services law,
22 shall be five and ninety-eight-hundredths percent, provided, however,
23 that for services provided on and after July first, two thousand three
24 the total percentage allowance shall be six and forty-seven hundredths
25 percent, and further provided that for services provided on and after
26 January first, two thousand six, the total percentage allowance shall be
27 six and fifty-four hundredths percent, and further provided that for
28 services provided on and after April first, two thousand nine, the total
29 percentage allowance shall be seven and four hundredths percent and
30 further provided that for services provided on and after April first,
31 two thousand twenty-two, the percentage shall be five and sixty-three
32 hundredths percent, and further provided that for services provided on
33 and after April first, two thousand twenty-three, the percentage shall
34 be four and twenty-two hundredths percent, and further provided that for
35 services provided on and after April first, two thousand twenty-four,
36 the percentage shall be two and eighty-two hundredths percent, and
37 further provided that for services provided on and after April first,
38 two thousand twenty-five, the percentage shall be one and forty-one
39 hundredths percent, and further provided that for services provided on
40 and after April first, two thousand twenty-six, the percentage shall be
41 zero percent.

42 (e) The total percentage allowance for payments for services provided
43 by designated providers of services for which there is no third-party
44 coverage in whole or in part shall be eight and eighteen-hundredths
45 percent, provided, however, that for services provided on and after July
46 first, two thousand three the total percentage allowance shall be eight
47 and eighty-five hundredths percent, and further provided that for
48 services provided on and after January first, two thousand six, the
49 total percentage allowance shall be eight and ninety-five hundredths
50 percent, and further provided that for services provided on and after
51 April first, two thousand nine, the total percentage allowance shall be
52 nine and sixty-three hundredths percent and further provided that for
53 services provided on and after April first, two thousand twenty-two, the
54 percentage shall be seven and seventy-one hundredths percent, and
55 further provided that for services provided on and after April first,
56 two thousand twenty-three, the percentage shall be five and seventy-nine

hundredths percent, and further provided that for services provided on and after April first, two thousand twenty-four, the percentage shall be three and eighty-six hundredths percent, and further provided that for services provided on and after April first, two thousand twenty-five, the percentage shall be one and ninety-three hundredths percent, and further provided that for services provided on and after April first, two thousand twenty-six, the percentage shall be zero percent. This paragraph shall not apply to patient deductibles and coinsurance amounts.

(f) The total percentage allowance for patient deductibles and coinsurance amounts shall be the same percentage allowance applicable to payments by the primary third-party payor covering the patient in each case determined in accordance with paragraphs (a), (b) and (c) of this subdivision.

(g) The total percentage allowance for secondary third-party payors under coordination of benefits principles shall be the same percentage allowance applicable to payments by the primary third-party payor in the case determined in accordance with paragraphs (a), (b) and (c) of this subdivision.

§ 6. Subdivision 2 of section 2807-s of the public health law, as added by chapter 639 of the laws of 1996, subparagraph (ii) of paragraph (b) as amended by chapter 1 of the laws of 1999, paragraph (c) as amended by section 15 of part A-3 of chapter 62 of the laws of 2003, subparagraph (ii) of paragraph (c) as amended and subparagraph (iii) of paragraph (c) as added by section 31 of part B of chapter 58 of the laws of 2005, and subparagraph (iv) of paragraph (c) as added by section 21 of part A of chapter 58 of the laws of 2007, is amended to read as follows:

2. (a) The regional percentage allowance for any period during the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-nine for all general hospitals in the region applicable to a specified third-party payor, and applicable to related patient coinsurance and deductible amounts and to secondary third-party payors under coordination of benefits principles, shall be the following, and shall be applied to inpatient hospital net patient service revenues:

(b) the result expressed as a percentage of:

(i) for each region, the amount allocated to the region in accordance with subdivision six of this section, divided by

(ii) the total estimated nineteen hundred ninety-six general hospital inpatient revenue of all general hospitals in the region, excluding (A) an estimate of revenue from services provided to beneficiaries of title XVIII of the federal social security act (medicare), (B) an estimate of revenue from services provided to patients eligible for payments by governmental agencies, patients eligible for payments pursuant to the comprehensive motor vehicle insurance reparations act, the workers' compensation law, the volunteer firefighters' benefit law, and the volunteer ambulance workers' benefit law, and self-pay patients, (C) from general hospitals providing graduate medical education in the aggregate an amount equal to the amount specified in subparagraph (i) of this subdivision, other than the components of such amount allocable to payors specified in clause (B) of this subparagraph, and (D) an estimate of revenue reductions related to negotiated reimbursement in nineteen hundred ninety-seven with specified third-party payors which shall be a uniform statewide percentage estimated reduction.

(c) (i) The regional percentage allowance for the periods January first, two thousand through June thirtieth, two thousand three, for all general hospitals in the region applicable to specified third-party payors, and applicable to related patient coinsurance and deductible amounts, shall be the same regional percentage allowance calculated pursuant to paragraph (b) of this subdivision for the period January first, nineteen hundred ninety-nine through December thirty-first, nineteen hundred ninety-nine.

(ii) The regional percentage allowance for the periods July first, two thousand three through December thirty-first, two thousand five, for all general hospitals in the region applicable to specified third-party payors, and applicable to related patient coinsurance and deductible amounts, shall be the same regional percentage allowance calculated pursuant to paragraph (b) of this subdivision for the period January first, nineteen hundred ninety-nine through December thirty-first, nineteen hundred ninety-nine multiplied by one hundred eight and nineteen hundredths percent.

(iii) The regional percentage allowance for the periods January first, two thousand six through June thirtieth, two thousand seven, for all general hospitals in the region applicable to specified third-party payors, and applicable to related patient coinsurance and deductible amounts, shall be the same regional percentage allowance calculated pursuant to subparagraph (ii) of this paragraph for the period January first, two thousand five through December thirty-first, two thousand five multiplied by one hundred one and thirteen hundredths percent.

(iv) The regional percentage allowance for periods ~~[on and after]~~ July first, two thousand seven through March thirtieth, two thousand twenty-two, for all general hospitals in the region applicable to specified third-party payors, and applicable to related patient coinsurance and deductible amounts, shall be the same regional percentage allowance calculated pursuant to subparagraph (iii) of this paragraph for the period January first, two thousand six through June thirtieth, two thousand seven.

(v) The regional percentage allowance for periods April first, two thousand twenty-two through March thirtieth, two thousand twenty-three, for all general hospitals in the region applicable to specified third-party payors, and applicable to related patient coinsurance and deductible amounts, shall be the same regional percentage allowance calculated pursuant to paragraph (b) of this subdivision for the period January first, nineteen hundred ninety-nine through December thirty-first, nineteen hundred ninety-nine multiplied by ninety-seven and seventy-one hundredths percent.

(vi) The regional percentage allowance for periods April first, two thousand twenty-three through March thirtieth, two thousand twenty-four, for all general hospitals in the region applicable to specified third-party payors, and applicable to related patient coinsurance and deductible amounts, shall be the same regional percentage allowance calculated pursuant to paragraph (b) of this subdivision for the period January first, nineteen hundred ninety-nine through December thirty-first, nineteen hundred ninety-nine multiplied by seventy-three and twenty-nine hundredths percent.

(vii) The regional percentage allowance for periods April first, two thousand twenty-four through March thirtieth, two thousand twenty-five, for all general hospitals in the region applicable to specified third-party payors, and applicable to related patient coinsurance and deductible amounts, shall be the same regional percentage allowance calculated

1 pursuant to paragraph (b) of this subdivision for the period January
2 first, nineteen hundred ninety-nine through December thirty-first, nine-
3 teen hundred ninety-nine multiplied by forty-eight and eighty-six
4 hundredths percent.

5 (viii) The regional percentage allowance for periods April first, two
6 thousand twenty-five through March thirtieth, two thousand twenty-six,
7 for all general hospitals in the region applicable to specified third-
8 party payors, and applicable to related patient coinsurance and deduct-
9 ible amounts, shall be the same regional percentage allowance calculated
10 pursuant to paragraph (b) of this subdivision for the period January
11 first, nineteen hundred ninety-nine through December thirty-first, nine-
12 teen hundred ninety-nine multiplied by twenty-four and forty-three
13 hundredths percent.

14 § 7. This act shall take effect immediately; provided, however, that
15 the amendments to section 2807-j of the public health law made by
16 section five of this act shall not affect the expiration of such section
17 and shall be deemed to expire therewith; provided further, however, that
18 the amendments to section 2807-s of the public health law made by
19 section six of this act shall not affect the expiration of such section
20 and shall be deemed to expire therewith.