

STATE OF NEW YORK

3298

2023-2024 Regular Sessions

IN ASSEMBLY

February 2, 2023

Introduced by M. of A. CARROLL -- read once and referred to the Committee on Alcoholism and Drug Abuse

AN ACT to amend the mental hygiene law, the social services law and the workers' compensation law, in relation to establishing contingency management services for certain persons with substance use disorders

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

1 Section 1. Section 19.03 of the mental hygiene law is amended by
2 adding a new subdivision 3 to read as follows:

3 3. "Contingency management services" means addiction disorder
4 services, including digital therapeutics prescribed by a healthcare
5 professional, for persons with a substance use disorder that provides
6 individuals with a financial incentive or positive reinforcement to
7 abstain from substance use, by rewarding specified behaviors, including,
8 but not limited to continued evidence of negative urinalysis, engagement
9 in treatment, and other behavior which adheres to treatment goals.

10 § 2. Section 19.17 of the mental hygiene law is amended by adding a
11 new subdivision (h) to read as follows:

12 (h) (1) The office shall, in coordination with the department of
13 health and the New York state conference of local mental hygiene direc-
14 tors, establish a program to provide contingency management services, as
15 defined in subdivision three of section 19.03 of this article for
16 persons eligible for medical assistance under title eleven of article
17 five of the social services law for individuals in recovery for
18 substance use disorder.

19 (2) Notwithstanding any contrary provision of law, incentives or
20 rewards for contingency management services received by an individual
21 pursuant to this subdivision shall not be considered income or resources
22 of an individual for the purposes of any determinations of eligibility
23 for any other state program or benefit, including but not limited to the

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

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1 medical assistance program, any state or federal program, or any other
2 means-tested program or benefit.

3 (3) In developing the program under paragraph one of this subdivision,
4 the office shall ensure that incentives or rewards for contingency
5 management services are used for the intended purposes and not diverted
6 for other uses. The office shall develop a plan to monitor the program
7 for fraud and misuse of contingency management incentives and rewards.

8 (4) Notwithstanding any contrary provision of law, the commissioner,
9 in collaboration with the commissioner of health, shall, to the extent
10 necessary, develop and submit any appropriate waivers for implementation
11 of this program, including, but not limited to, those authorized pursu-
12 ant to sections eleven hundred fifteen and nineteen hundred fifteen of
13 the federal social security act, or successor provisions, and any other
14 waivers necessary to achieve the purposes of high quality, integrated,
15 and cost effective care and integrated financial eligibility policies
16 under the medical assistance program or pursuant to title XVIII of the
17 federal social security act. Copies of such original waiver applications
18 shall be provided to the chair of the senate finance committee and the
19 chair of the assembly ways and means committee simultaneously with their
20 submission to the federal government.

21 § 3. Subdivision 2 of section 365-a of the social services law is
22 amended by adding a new paragraph (kk) to read as follows:

23 (kk) contingency management services and supports provided pursuant to
24 article nineteen of the mental hygiene law.

25 § 4. The social services law is amended by adding a new section 367-x
26 to read as follows:

27 § 367-x. Payment for contingency management services. 1. (a) For the
28 purpose of this section, "contingency management services" shall have
29 the same meaning as set forth in subdivision three of section 19.03 of
30 the mental hygiene law.

31 (b) The receipt of any incentive or reward pursuant to contingency
32 management services shall not be considered income for purposes of
33 eligibility for public benefits or other public assistance to the extent
34 allowed by law.

35 2. The commissioner may authorize the payment of medical assistance
36 funds for contingency management services. The commissioner shall, in
37 consultation with the AIDS Institute and the office of addiction
38 services and supports;

39 (a) Issue guidance on the use of contingency management services for
40 beneficiaries who access substance use disorder services under the
41 medical assistance program;

42 (b) Establish limits on the number and value of incentives available
43 to beneficiaries who receive services pursuant to contingency management
44 services; and

45 (c) Determine maximum allowable rates for contingency management
46 services based upon the medical assistance program fee-for-service
47 outpatient rates for the same or similar services, or any other data
48 deemed reliable and relevant by the commissioner.

49 3. Subdivision two of this section shall be effective if, and as long
50 as, federal financial participation is available for medical assistance
51 expenditures made pursuant to it.

52 4. For the purposes of implementing this section, the commissioner
53 shall seek any necessary federal approvals, including approvals of any
54 state plan amendment or federal waivers, by the federal centers for
55 medicare and Medicaid services no later than December thirty-first, two
56 thousand twenty-three.

§ 5. Subdivision 2 of section 366-d of the social services law, as amended by chapter 2 of the laws of 1998, is amended to read as follows:

2. (a) No medical assistance provider shall:

[~~(a)~~] (i) solicit, receive, accept or agree to receive or accept any payment or other consideration in any form from another person to the extent such payment or other consideration is given[~~÷-(i)~~] for the referral of services for which payment is made under this title [~~eleven of article five of this chapter;~~], or [~~(ii)~~] to purchase, lease or order any good, facility, service or item for which payment is made under this title [~~eleven of article five of this chapter;~~]; or

[~~(b)~~] (ii) offer, agree to give or give any payment or other consideration in any form to another person to the extent such payment or other consideration is given[~~÷-(i)~~] for the referral of services for which payment is made under this title [~~eleven of article five of this chapter;~~], or [~~(ii)~~] to purchase, lease or order any good, facility, service or item for which payment is made under this title [~~eleven of article five of this chapter;~~];

~~(c) as~~.

(b) As used in this section "person" shall have the meaning set forth in subdivision seven of section 10.00 of the penal law.

[~~(d) this~~] (c) This subdivision shall not apply to any activity specifically exempt by federal statute or federal regulations promulgated thereunder.

(d) This subdivision shall not apply to contingency management services operated pursuant to section three hundred sixty-seven-x of this title.

§ 6. Paragraph (g) of subdivision 2 of section 13-d of the workers' compensation law, as amended by section 2 of part CC of chapter 55 of the laws of 2019, is amended to read as follows:

(g) has directly or indirectly requested, received or participated in the division, transference, assignment, rebating, splitting or refunding of a fee for, or has directly or indirectly requested, received or profited by means of a credit or other valuable consideration as a commission, discount or gratuity in connection with the furnishing of medical or surgical care, an independent medical examination, diagnosis or treatment or service, including X-ray examination and treatment, or for or in connection with the sale, rental, supplying or furnishing of clinical laboratory services or supplies, X-ray laboratory services or supplies, inhalation therapy service or equipment, ambulance service, hospital or medical supplies, physiotherapy or other therapeutic service or equipment, artificial limbs, teeth or eyes, orthopedic or surgical appliances or supplies, optical appliances, supplies or equipment, devices for aid of hearing, drugs, medication or medical supplies, or any other goods, services or supplies prescribed for medical diagnosis, care or treatment, under this chapter; except that reasonable payment, not exceeding the technical component fee permitted in the medical fee schedule, established under this chapter for X-ray examinations, diagnosis or treatment, may be made by a provider duly authorized as a roentgenologist to any hospital furnishing facilities and equipment for such examination, diagnosis or treatment, provided such hospital does not also submit a charge for the same services. Nothing contained in this paragraph shall prohibit such providers who practice as partners, in groups or as a professional corporation or as a university faculty practice corporation from pooling fees and moneys received, either by the partnership, professional corporation, university faculty practice corporation or group by the individual members thereof, for professional

1 services furnished by any individual professional member, or employee of
2 such partnership, corporation or group, nor shall the professionals
3 constituting the partnerships, corporations, or groups be prohibited
4 from sharing, dividing or apportioning the fees and moneys received by
5 them or by the partnership, corporation or group in accordance with a
6 partnership or other agreement. This paragraph shall not apply to
7 contingency management services operated pursuant to section three
8 hundred sixty-seven-x of the social services law.

9 § 7. This act shall take effect on the one hundred eightieth day after
10 it shall have become a law. Effective immediately, the addition, amend-
11 ment and/or repeal of any rule or regulation necessary for the implemen-
12 tation of this act on its effective date are authorized to be made and
13 completed on or before such effective date.