S T A T E O F N E W Y O R K

2748

2009-2010 Regular Sessions

I N A S S E M B L Y

January 21, 2009

Introduced by M. of A. PAULIN, BRADLEY, GALEF, LATIMER, PRETLOW, FIELDS, SPANO -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to establishing a healthcare reinvestment fund suburban demonstration project

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

Section 1. Statement of legislative intent. The legislature finds that hospitals in the suburbs of New York city face challenges that result in a significant competitive disadvantage when compared to nearby hospitals in New Jersey and Connecticut. In particular, reimbursement rates for these New York state suburban hospitals are significantly lower. In addition, while hospitals in the suburbs of New York city are struggling financially, in general the for-profit health insurers and health maintenance organizations operating in the suburban area incur profits.

The legislature finds that there needs to be a balance between the financial health of hospitals and that of for-profit health insurers and health maintenance organizations. While the state of New York is investing in the health care infrastructure of New York state in an amount of two hundred fifty million dollars a year for four years through the health care efficiency and affordability law of New Yorkers (HEAL-NY) capital grant program, health insurers should likewise provide investment in the health care infrastructure of communities, particularly in the area of health information technology as health insurers are an immediate benefactor of health information technology. Strengthening the financial health of the suburban hospitals will also improve quality of care and help retain and attract businesses.

The legislature finds that requiring for-profit insurers and for-profit health maintenance organizations to provide funds for reinvestment in health information technology in the suburban area around New York city will provide a benefit to payors, patients, hospitals and businesses.

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

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S 2. The public health law is amended by adding a new section 2807-z to read as follows:

S 2807-Z. HEALTHCARE REINVESTMENT FUND SUBURBAN DEMONSTRATION PROJECT. 1. DEFINITIONS. FOR THE PURPOSES OF THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "DEMONSTRATION PROJECT" SHALL MEAN THE HEALTHCARE REINVESTMENT FUND SUBURBAN DEMONSTRATION PROJECT ESTABLISHED PURSUANT TO THIS SECTION.

(B) "DESIGNATED THIRD-PARTY PAYORS" SHALL MEAN FOR-PROFIT ORGANIZATIONS OPERATING IN ACCORDANCE WITH ARTICLE FORTY-FOUR OF THIS CHAPTER, AND FOR-PROFIT COMMERCIAL INSURERS LICENSED TO DO BUSINESS IN THIS STATE AND AUTHORIZED TO WRITE ACCIDENT AND HEALTH INSURANCE AND WHOSE POLICIES PROVIDE COVERAGE ON AN EXPENSE INCURRED BASIS. DESIGNATED THIRD PARTY PAYORS SHALL NOT INCLUDE SELF-INSURED FUNDS AND ADMINISTRATORS ACTING ON BEHALF OF SELF-INSURED FUNDS, GOVERNMENTAL AGENCIES OR PROVIDERS OF COVERAGE PURSUANT TO THE COMPREHENSIVE MOTOR VEHICLE REPARATIONS ACT, THE WORKERS' COMPENSATION LAW, THE VOLUNTEER FIREFIGHTERS' BENEFIT LAW, OR THE VOLUNTEER AMBULANCE WORKERS' BENEFIT LAW.

(C) "FAMILY UNIT" SHALL HAVE THE SAME MEANING AS SET FORTH IN PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION TWENTY-EIGHT HUNDRED SEVEN-T OF THIS ARTICLE.

(D) "INDIVIDUAL" SHALL HAVE THE SAME MEANING AS SET FORTH IN PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION TWENTY-EIGHT HUNDRED SEVEN-T OF THIS ARTICLE.

(E) "REGIONAL HOSPITAL ASSOCIATIONS" SHALL MEAN THE REGIONAL HOSPITAL ASSOCIATION WITH THE MAJORITY OF ITS MEMBERS LOCATED IN NASSAU AND SUFFOLK COUNTIES AND THE REGIONAL HOSPITAL ASSOCIATION WITH THE MAJORITY OF ITS MEMBERS LOCATED IN WESTCHESTER, ROCKLAND, PUTNAM, DUTCHESS, ORANGE, ULSTER AND SULLIVAN COUNTIES.

(F) "REINVESTMENT FUNDS" SHALL MEAN THE FUNDS AVAILABLE PURSUANT TO THE DEMONSTRATION PROJECT.

(G) "SUBURBAN REGION" SHALL MEAN THE COUNTIES OF NASSAU, SUFFOLK, WESTCHESTER, ROCKLAND, PUTNAM, DUTCHESS, ORANGE, ULSTER AND SULLIVAN.

2. HEALTHCARE REINVESTMENT FUND SUBURBAN DEMONSTRATION PROJECT. A HEALTHCARE REINVESTMENT FUND SUBURBAN DEMONSTRATION PROJECT EFFECTIVE JULY FIRST, TWO THOUSAND NINE THROUGH JUNE THIRTIETH, TWO THOUSAND THIRTEEN, TO FUND THE INFORMATION TECHNOLOGY NEEDS OF GENERAL HOSPITALS LOCATED IN THE SUBURBAN REGION SHALL BE ESTABLISHED BY THE COMMISSIONER. A TOTAL OF SIXTY-SEVEN MILLION DOLLARS FROM THE FUNDS ACCUMULATED FROM THE PAYMENTS MADE IN ACCORDANCE WITH SUBDIVISION SEVEN OF THIS SECTION SHALL BE PROVIDED ANNUALLY DURING THE PERIOD JULY FIRST, TWO THOUSAND NINE THROUGH JUNE THIRTIETH, TWO THOUSAND THIRTEEN, TO FUND THE DEMONSTRATION PROJECT.

3. HEALTHCARE REINVESTMENT FUND OVERSIGHT COMMITTEE. A HEALTHCARE REINVESTMENT FUND OVERSIGHT COMMITTEE OF TWELVE MEMBERS SHALL BE APPOINTED TO OVERSEE THE DISTRIBUTION OF REINVESTMENT FUNDS. SIX MEMBERS SHALL BE APPOINTED BY EACH OF THE REGIONAL HOSPITAL ASSOCIATIONS. FOUR MEMBERS SHALL REPRESENT GENERAL HOSPITALS, FOUR MEMBERS SHALL REPRESENT DESIGNATED THIRD-PARTY PAYORS AND FOUR MEMBERS SHALL REPRESENT THE BUSINESS COMMUNITY. THE HEALTHCARE REINVESTMENT OVERSIGHT COMMITTEE SHALL:

(A) MAKE RECOMMENDATIONS ON USES OF THE REINVESTMENT FUNDS THAT WILL RESULT IN IMPROVED SHARING OF CLINICAL INFORMATION IN A COST EFFECTIVE MANNER AMONG (I) GENERAL HOSPITALS AND PHYSICIANS, (II) GENERAL HOSPITALS AND OTHER PROVIDERS INCLUDING OTHER GENERAL HOSPITALS, AND (III) GENERAL HOSPITALS AND PAYORS;

(B) DEVELOP A PROCESS TO ENSURE THAT GENERAL HOSPITALS USE THE REINVESTMENT FUNDS IN ACCORDANCE WITH THE RECOMMENDATIONS MADE PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION; AND

(C) PROVIDE A REPORT TO THE COMMISSIONER ON OR BEFORE JANUARY FIRST, TWO THOUSAND THIRTEEN, EVALUATING WHETHER THE DEMONSTRATION PROJECT HAS ACHIEVED THE GOAL OF IMPROVING THE SHARING OF CLINICAL INFORMATION IN A COST EFFECTIVE MANNER, AND MAKING RECOMMENDATIONS ON WHETHER THE DEMONSTRATION PROJECT SHOULD BE CONTINUED AND ON POTENTIAL IMPROVEMENTS TO THE DEMONSTRATION PROJECT.

4. DISTRIBUTION OF REINVESTMENT FUNDS. THE REINVESTMENT FUNDS SHALL BE DISTRIBUTED TO EACH GENERAL HOSPITAL LOCATED IN THE SUBURBAN REGION PROPORTIONALLY BASED ON EACH GENERAL HOSPITAL'S REPORTED INPATIENT DISCHARGES TO THE TOTAL OF SUCH INPATIENT DISCHARGES FOR ALL GENERAL HOSPITALS LOCATED IN THE SUBURBAN REGION. FOR THE PERIOD JULY FIRST, TWO THOUSAND NINE THROUGH JUNE THIRTIETH, TWO THOUSAND ELEVEN, THE DISTRIBUTIONS SHALL BE BASED ON DISCHARGES REPORTED THROUGH THE STATEWIDE PLANNING AND RESEARCH COOPERATIVE SYSTEM FOR TWO THOUSAND SEVEN, AND FOR THE PERIOD JULY FIRST, TWO THOUSAND ELEVEN THROUGH JUNE THIRTIETH, TWO THOUSAND THIRTEEN, THE DISTRIBUTIONS SHALL BE BASED ON DISCHARGES REPORTED THROUGH THE STATEWIDE PLANNING AND RESEARCH COOPERATIVE SYSTEM FOR TWO THOUSAND NINE.

5. COLLECTION OF FUNDS. THE COMMISSIONER SHALL CONTRACT WITH THE REGIONAL ASSOCIATIONS TO COLLECT AND DISTRIBUTE FUNDS FOR THE DEMONSTRATION PROJECT IN ACCORDANCE WITH THIS SECTION.

6. CALCULATION OF REINVESTMENT FUND PAYMENTS. (A) BASED ON THE NUMBER OF INDIVIDUALS AND THE NUMBER OF FAMILY UNITS REPORTED TO THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE PURSUANT TO SUBDIVISION FOUR OF SECTION TWENTY-EIGHT HUNDRED SEVEN-T OF THIS ARTICLE, THE COMMISSIONER SHALL CALCULATE THE TOTAL NUMBER OF "INDIVIDUAL MEMBER MONTHS" FOR THE SUBURBAN REGION FOR ALL DESIGNATED THIRD-PARTY PAYORS TO DETERMINE "AGGREGATE INDIVIDUAL MEMBER MONTHS" FOR THE SUBURBAN REGION. THE COMMISSIONER SHALL ALSO CALCULATE THE TOTAL NUMBER OF "FAMILY MEMBER MONTHS" FOR THE SUBURBAN REGION FOR ALL DESIGNATED THIRD-PARTY PAYORS TO DETERMINE THE "AGGREGATE FAMILY MEMBER MONTHS" FOR THE SUBURBAN REGION. THE COMMISSIONER SHALL MULTIPLY THE AVERAGE NUMBER OF PERSONS COVERED UNDER FAMILY INSURANCE CONTRACTS, AS REPORTED TO THE COMMISSIONER BY THE SUPERINTENDENT OF INSURANCE PURSUANT TO SUBDIVISION FOUR OF SECTION TWENTY-EIGHT HUNDRED SEVEN-T OF THIS ARTICLE BY THE "AGGREGATE FAMILY MEMBER MONTHS" TO DETERMINE "ADJUSTED AGGREGATE FAMILY MEMBER MONTHS" FOR THE SUBURBAN REGION. THE COMMISSIONER SHALL ADD THE NUMBER OF "ADJUSTED FAMILY MEMBER MONTHS" FOR THE SUBURBAN REGION TO THE TOTAL NUMBER OF "AGGREGATE INDIVIDUAL MEMBER MONTHS" FOR THE SUBURBAN REGION. THIS AMOUNT SHALL BE KNOWN AS "TOTAL COVERED MEMBER MONTHS" FOR THE SUBURBAN REGION.

(B) AN ANNUAL AMOUNT OF SIXTY-SEVEN MILLION DOLLARS SHALL BE DIVIDED BY AN ESTIMATE DERIVED FROM POPULATION BASED DATA SOURCES OF THE TOTAL COVERED MEMBER MONTHS DETERMINED CONSISTENT WITH THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION IN THE SUBURBAN REGION TO ESTABLISH THE "INDIVIDUAL ANNUAL PAYMENT AMOUNT" FOR JULY FIRST, TWO THOUSAND NINE THROUGH JUNE THIRTIETH, TWO THOUSAND TEN; JULY FIRST, TWO THOUSAND TEN THROUGH JUNE THIRTIETH, TWO THOUSAND ELEVEN; JULY FIRST, TWO THOUSAND ELEVEN THROUGH JUNE THIRTIETH, TWO THOUSAND TWELVE; AND JULY FIRST, TWO THOUSAND TWELVE THROUGH JUNE THIRTIETH, TWO THOUSAND THIRTEEN, RESPECTIVELY. THE INDIVIDUAL ANNUAL PAYMENT AMOUNT SHALL BE MULTIPLIED BY THE AVERAGE FAMILY SIZE REPORTED TO THE COMMISSIONER BY THE SUPERINTENDENT OF INSURANCE TO ESTABLISH THE "FAMILY UNIT ANNUAL PAYMENT AMOUNT" IN THE

SUBURBAN REGION FOR JULY FIRST, TWO THOUSAND NINE THROUGH JUNE THIRTIETH, TWO THOUSAND TEN; JULY FIRST, TWO THOUSAND TEN THROUGH JUNE THIRTIETH, TWO THOUSAND ELEVEN; JULY FIRST, TWO THOUSAND ELEVEN THROUGH JUNE THIRTIETH, TWO THOUSAND TWELVE; AND JULY FIRST, TWO THOUSAND TWELVE THROUGH JUNE THIRTIETH, TWO THOUSAND THIRTEEN, RESPECTIVELY.

7. MONTHLY PAYMENTS. WITHIN THIRTY DAYS AFTER THE END OF EACH MONTH, A DESIGNATED THIRD-PARTY PAYOR SHALL REMIT TO THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE ONE-TWELFTH OF THE INDIVIDUAL ANNUAL PAYMENT AMOUNT FOR EACH OF THE INDIVIDUALS RESIDING IN THE SUBURBAN REGION WHICH WERE INCLUDED IN THE MEMBERSHIP ROLLS OF THAT DESIGNATED THIRD-PARTY PAYOR DURING ALL OR ANY PORTION OF THE PRIOR MONTH. WITHIN THIRTY DAYS AFTER THE END OF EACH MONTH, A DESIGNATED THIRD-PARTY PAYOR SHALL REMIT TO THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE ONE-TWELFTH OF THE FAMILY UNIT ANNUAL PAYMENT AMOUNT FOR EACH FAMILY UNIT FOR WHICH THE PRIMARY INSURED RESIDED IN THE SUBURBAN REGION WHICH WERE INCLUDED IN THE MEMBERSHIP ROLLS OF THAT DESIGNATED THIRD-PARTY PAYOR DURING ALL OR ANY PORTION OF THE PRIOR MONTH.

8. PROSPECTIVE ADJUSTMENTS. THE COMMISSIONER SHALL ANNUALLY RECONCILE THE SUM OF THE ACTUAL PAYMENTS MADE TO THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE PURSUANT TO THIS SECTION WITH SIXTY-SEVEN MILLION DOLLARS. THE DIFFERENCE BETWEEN THE ACTUAL PAYMENTS AND SIXTY-SEVEN MILLION DOLLARS SHALL BE APPLIED AS A PROSPECTIVE ADJUSTMENT TO THE TOTAL AMOUNT DUE FOR THE YEAR NEXT FOLLOWING THE CALCULATION OF THE RECONCILIATION. THE AUTHORIZED DOLLAR VALUE OF THE ADJUSTMENTS SHALL BE THE SAME AS IF CALCULATED RETROSPECTIVELY.

9. REPORTED DATA. THE COMMISSIONER SHALL HAVE THE AUTHORITY TO REQUIRE THE DESIGNATED THIRD-PARTY PAYORS TO PROVIDE ADDITIONAL GEOGRAPHIC BREAKDOWN OF THE INDIVIDUAL MEMBER MONTHS AND FAMILY MEMBER MONTHS REPORTED PURSUANT TO SUBDIVISION FOUR OF SECTION TWENTY-EIGHT HUNDRED SEVEN-T OF THIS ARTICLE IN ORDER FOR THE COMMISSIONER TO HAVE INDIVIDUAL MEMBER MONTHS AND FAMILY MEMBER MONTHS FOR THE SUBURBAN REGION.

S 3. Subdivision 8 of section 2807-t of the public health law, as added by chapter 639 of the laws of 1996, is amended to read as follows:

8. Liability for assessments. (a) The assessments determined in accordance with this section AND THE PAYMENTS DETERMINED IN ACCORDANCE WITH SECTION TWENTY-EIGHT HUNDRED SEVEN-Z OF THIS ARTICLE shall, for individuals who have paid premiums directly to an insurer or to a health maintenance organization certified pursuant to article forty-four of this chapter or article forty-three of the insurance law for health care coverage which includes coverage of inpatient hospital services, be the liability of said individuals. The assessments determined in accordance with this section AND THE PAYMENTS DETERMINED IN ACCORDANCE WITH SECTION TWENTY-EIGHT HUNDRED SEVEN-Z OF THIS ARTICLE shall, for groups and entities who have paid premiums to an insurer or to a health maintenance organization certified pursuant to article forty-four of this chapter or article forty-three of the insurance law for health care coverage which includes coverage of inpatient hospital services, be the liability of said groups and entities. The assessments determined in accordance with this section shall, for individuals, groups and entities who have contributed to a self-insured fund for health care coverage which includes coverage of inpatient hospital services, be the liability of said individuals, groups or entities.

(b) Specified third-party payors AND DESIGNATED THIRD-PARTY PAYORS shall make payments to the commissioner or the commissioner's designee of the full amount of the assessments determined in accordance with this

section AND THE PAYMENTS DETERMINED IN ACCORDANCE WITH SECTION TWENTY-EIGHT HUNDRED SEVEN-Z OF THIS ARTICLE. Specified third-party payors AND DESIGNATED THIRD-PARTY PAYORS may recover amounts due or paid to the commissioner or the commissioner's designee from the parties liable in accordance with paragraph (a) of this subdivision.

S 4. Paragraph (a) of subdivision 8 of section 2807-j of the public health law, as amended by section 27 of part R of chapter 85 of the laws of 2002, is amended to read as follows:

(a) If a payment made pursuant to this section or to section twenty-eight hundred seven-s or twenty-eight hundred seven-t OR SECTION TWENTY-EIGHT HUNDRED SEVEN-Z of this article for a month to which an allowance OR PAYMENT applies is less than ninety percent of the amount due or which the commissioner estimates, based on available financial and statistical data, is due for such month, interest shall be due and payable to the commissioner by a designated provider of services, or by a third-party payor, other than a state governmental agency, that has elected OR IS REQUIRED to pay an allowance OR PAYMENT directly, on the difference between the amount paid and the amount due or estimated to be due from the day of the month the payment was due until the date of payment. The rate of interest shall be twelve percent per annum or, if greater, at the rate of interest set by the commissioner of taxation and finance with respect to underpayments of tax pursuant to subsection (e) of section one thousand ninety-six of the tax law minus two percentage points. Interest under this paragraph shall not be paid if the amount thereof is less than one dollar. Interest due from a designated provider of services, if not paid by the due date of the following month's payment, may be collected by the commissioner pursuant to paragraph (c) of subdivision six of this section in the same manner as an allowance pursuant to subdivision two of this section.

S 5. Notwithstanding the expiration date of sections 2807-t and 2807-j of the public health law, such sections shall remain in effect through June 30, 2013 with regard to their application to section 2807-z of the public health law.

S 6. This act shall take effect July 1, 2009; provided, however, if this act shall become a law after such date it shall take effect immediately and shall be deemed to have been in full force and effect on and after July 1, 2009; provided, however, that the amendments to subdivision 8 of section 2807-t of the public health law made by section three of this act shall not affect the expiration of such section and shall be deemed to expire therewith; provided further that the amendments to paragraph (a) of subdivision 8 of section 2807-j of the public health law made by section four of this act shall not affect the expiration of such section and shall be deemed to expire therewith. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.