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

4058--A

2009-2010 Regular Sessions

I N A S S E M B L Y

January 29, 2009

Introduced by M. of A. PAULIN, GOTTFRIED, CAHILL, CANESTRARI, CLARK, COOK, FIELDS, GALEF, GUNTHER, JACOBS, JAFFEE, LIFTON, MARKEY, MAYERSOHN, REILLY, SCHROEDER, LAVINE, LATIMER, MAGNARELLI, DINOWITZ, PHEFFER -- Multi-Sponsored by -- M. of A. ESPAILLAT, KOON, MAISEL, McENENY, MOLINARO, SWEENEY, TOWNS, WEINSTEIN, WEISENBERG -- read once and referred to the Committee on Health -- recommitted to the Committee on Health in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to funding early intervention services

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

Section 1. The public health law is amended by adding a new section 2807-o to read as follows:

S 2807-O. EARLY INTERVENTION SERVICES POOL. 1. DEFINITIONS. THE FOLLOWING WORDS OR PHRASES AS USED IN THIS SECTION SHALL HAVE THE FOLLOWING MEANINGS:

(A) "EARLY INTERVENTION SERVICES" SHALL MEAN SERVICES DELIVERED TO AN ELIGIBLE CHILD, PURSUANT TO AN INDIVIDUALIZED FAMILY SERVICE PLAN UNDER THE EARLY INTERVENTION PROGRAM.

(B) "EARLY INTERVENTION PROGRAM" SHALL MEAN THE EARLY INTERVENTION PROGRAM FOR TODDLERS WITH DISABILITIES AND THEIR FAMILIES AS CREATED BY TITLE TWO-A OF ARTICLE TWENTY-FIVE OF THIS CHAPTER.

(C) "MUNICIPALITY" SHALL MEAN ANY COUNTY OUTSIDE OF THE CITY OF NEW YORK OR THE CITY OF NEW YORK.

2. GRANTS FOR EARLY INTERVENTION SERVICES. (A) THE COMMISSIONER SHALL, FROM FUNDS ALLOCATED FOR SUCH PURPOSE UNDER PARAGRAPH (G) OF SUBDIVISION SIX OF SECTION TWENTY-EIGHT HUNDRED SEVEN-S OF THIS ARTICLE, MAKE GRANTS TO MUNICIPALITIES FOR THE DELIVERY OF EARLY INTERVENTION SERVICES. SUCH

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

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GRANTS SHALL BE DEEMED REIMBURSEMENT FROM THIRD PARTY PAYORS TO SUCH MUNICIPALITIES FOR THE PURPOSES OF THE EARLY INTERVENTION PROGRAM.

(B) GRANTS UNDER THIS SUBDIVISION SHALL BE AWARDED TO MUNICIPALITIES BY THE COMMISSIONER. EACH MUNICIPALITY SHALL RECEIVE A SHARE OF SUCH GRANTS EQUAL TO ITS PROPORTIONATE SHARE OF THE TOTAL APPROVED STATEWIDE DOLLARS NOT REIMBURSABLE BY THE MEDICAL ASSISTANCE PROGRAM PAID TO PROVIDERS OF EARLY INTERVENTION SERVICES BY MUNICIPALITIES, NOT INCLUDING PROVIDERS OF TRANSPORTATION, ON ACCOUNT OF EARLY INTERVENTION SERVICES, IN THE LAST COMPLETE STATE FISCAL YEAR FOR WHICH SUCH DATA IS AVAILABLE.

S 2. Subdivision 6 of section 2807-s of the public health law is amended by adding two new paragraphs (g) and (h) to read as follows:

(G) A FURTHER GROSS STATEWIDE AMOUNT FOR TWO THOUSAND ELEVEN SHALL BE ONE HUNDRED MILLION DOLLARS.

(H) THE AMOUNT SPECIFIED IN PARAGRAPH (G) OF THIS SUBDIVISION SHALL BE ALLOCATED AMONG THE MUNICIPALITIES BASED ON EACH MUNICIPALITY'S SHARE OF EARLY INTERVENTION PROGRAM EXPENDITURES NOT REIMBURSABLE BY THE MEDICAL ASSISTANCE PROGRAM FOR THE LATEST TWELVE MONTH PERIOD FOR WHICH SUCH DATA IS AVAILABLE.

S 3. Subdivision 7 of section 2807-s of the public health law is amended by adding a new paragraph (d) to read as follows:

(D) FUNDS SHALL BE ADDED TO THE FUNDS COLLECTED BY THE COMMISSIONER FOR DISTRIBUTION IN ACCORDANCE WITH SECTION TWENTY-EIGHT HUNDRED SEVEN-O OF THIS ARTICLE, IN THE FOLLOWING AMOUNT: ONE HUNDRED MILLION DOLLARS FOR THE PERIOD JANUARY FIRST, TWO THOUSAND ELEVEN THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND ELEVEN.

S 4. Subdivision 1 and paragraphs (j) and (k) of subdivision 4 of section 2557 of the public health law, subdivision 1 as amended by section 4 of part C of chapter 1 of the laws of 2002 and paragraphs (j) and (k) of subdivision 4 as amended by section 7 of part B3 of chapter 62 of the laws of 2003, are amended to read as follows:

1. The approved costs for an eligible child who receives an evaluation and early intervention services pursuant to this title shall be a charge upon the municipality wherein the eligible child resides or, where the services are covered by the medical assistance program, upon the social services district of fiscal responsibility with respect to those eligible children who are also eligible for medical assistance. All approved costs shall be paid in the first instance and at least quarterly by the appropriate governing body or officer of the municipality upon vouchers presented and audited in the same manner as the case of other claims against the municipality. Notwithstanding the insurance law or regulations thereunder relating to the permissible exclusion of payments for services under governmental programs, no such exclusion shall apply with respect to payments made pursuant to this title. Notwithstanding the insurance law or any other law or agreement to the contrary, benefits under this title shall be considered secondary to any [plan of insurance or] state government benefit program under which an eligible child may have coverage. [Nothing in this section shall increase or enhance coverages provided for within an insurance contract subject to the provisions of this title.]

(j) The number of children that [have third party reimbursement] ARE COVERED BY THE MEDICAL ASSISTANCE PROGRAM;

(k) The number of claims submitted to [third party payors] THE MEDICAL ASSISTANCE PROGRAM by municipality. The percentage of claims denied by [third party payors] THE MEDICAL ASSISTANCE PROGRAM. The reasons for the denials.

S 5. Subdivision 2 of section 2557 of the public health law, as added by chapter 428 of the laws of 1992, is amended to read as follows:

2. The department shall reimburse the approved costs paid by a municipality for the purposes of this title, other than those reimbursable by the medical assistance program [or by third party payors], in an amount of fifty percent of the amount expended in accordance with the rules and regulations of the commissioner. Such state reimbursement to the municipality shall not be paid prior to April first of the year in which the approved costs are paid by the municipality.

S 6. The section heading of section 2559 of the public health law, as added by chapter 428 of the laws of 1992, is amended to read as follows:

[Third party insurance and medical] MEDICAL assistance program payments.

S 7. Subdivision 3 of section 2559 of the public health law, as added by chapter 428 of the laws of 1992, paragraph (a) as amended and paragraph (d) as added by chapter 231 of the laws of 1993, is amended to read as follows:

3. (a) Providers of early intervention services and transportation services shall in the first instance and where applicable, seek payment from [all third party payors including governmental agencies] THE MEDICAL ASSISTANCE PROGRAM prior to claiming payment from a given municipality for services rendered to eligible children, provided that, for the purpose of seeking payment from the medical assistance program [or from other third party payors], the municipality shall be deemed the provider of such early intervention services to the extent that the provider has promptly furnished to the municipality adequate and complete information necessary to support the municipality billing, and provided further that the obligation to seek payment shall not apply [to a payment from a third party payor who is not prohibited from applying such payment, and will apply such payment, to an annual or lifetime limit specified in the insured's policy] WHERE THE INSURED IS NOT ELIGIBLE FOR MEDICAL ASSISTANCE PURSUANT TO THE SOCIAL SERVICES LAW.

(b) [The commissioner, in consultation with the director of budget and the superintendent of insurance, shall promulgate regulations providing public reimbursement for deductibles and copayments which are imposed under an insurance policy or health benefit plan to the extent that such deductibles and copayments are applicable to early intervention services.

(c) Payments made for early intervention services under an insurance policy or health benefit plan which are provided as part of an IFSP pursuant to section twenty-five hundred forty-five of this title shall not be applied by the insurer or plan administrator against any maximum lifetime or annual limits specified in the policy or health benefits plan, pursuant to section eleven of the chapter of the laws of nineteen hundred ninety-two which added this title.

(d)] A municipality, or its designee, shall be subrogated, to the extent of the expenditures by such municipality for early intervention services furnished to persons eligible for benefits under this title, to any rights such person may have or be entitled to from [third party reimbursement] THE MEDICAL ASSISTANCE PROGRAM. The right of subrogation does not attach to benefits paid or provided [under any health insurance policy or health benefits plan] prior to receipt of written notice of the exercise of subrogation rights [by the insurer or plan administrator providing such benefits]. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS TITLE, EXCEPT AS PROVIDED FOR HEREIN, NO THIRD PARTY PAYOR OTHER

THAN THE MEDICAL ASSISTANCE PROGRAM SHALL BE REQUIRED TO REIMBURSE FOR EARLY INTERVENTION SERVICES PROVIDED UNDER THIS TITLE.

S 8. This act shall take effect January 1, 2011; provided, however, that the amendments to section 2807-s of the public health law made by sections two and three of this act shall not affect the expiration of such section and shall be deemed to expire therewith.