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

86

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

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

AN ACT to amend the state finance law, the public health law and the labor law, in relation to enacting the "New York state community health care investment fund act"

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

Section 1. Short title. This act shall be known and may be cited as the "New York state community health care investment fund act".

S 2. Legislative intent. The legislature hereby declares that the provision of health care in New York state must be affordable, accessible, and address the multi-faceted needs of its diverse population, from pre-conception planning through the end of life. The legislature also finds that many constituencies play an important role in the state's health care infrastructure: consumers, health care professionals, communities of faith, state and local governments, businesses, insurance companies, community based organizations, home care agencies, school based health clinics, nursing homes, and hospitals.

Health care in New York state also faces many challenges. New York state is home to world class medical institutions and research centers. According to the United Health Foundation 2006 America Health Rankings, New York state has the 4th highest per capita spending on public health in the nation, a low rate of motor vehicle deaths and a low rate of cancer deaths. The health care challenges in New York state include a high incidence of infectious disease, limited access to adequate prenatal care, and a low high school graduation rate. Twenty percent of the state's children under 18 years of age live in poverty. Furthermore, the state's overall rank among the rest of the country decreased between 2005 and 2006, from 26th place to 29th place. Despite a high per capita spending on health ($316 per person) almost three million of its resi-

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

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dents do not have health insurance. Not surprisingly, health disparities persist in low-income cities and neighborhoods and where racial and ethnic minorities comprise a majority of the population. According to a report released in 2004 by the New York city departments of health and mental health, "more than 4,000 deaths would be prevented if the all-cause mortality rate in the poorest neighborhoods were lowered to the rate in the wealthiest neighborhoods."

Against this backdrop of high public health spending, significant health care disparities experienced by ethnic and racial minorities and approximately three million uninsured people in New York state, HMO profits in New York state have soared in recent years while costs for members have risen and reimbursement for health care providers has fallen. Premium increases statewide have increased about 20 percent, and revenues have risen from $14.5 billion in 2001 to $17.4 billion in 2005. In fact, premium rate increases outpaced medical payments from 2001 to 2005 by over $1 billion as New York's HMOs' profits climbed 93 percent, from $672 million to $1.3 billion. HMOs' administrative and claims adjustment costs went up by 24 percent from 2001 to 2005, and average revenue per member increased an average of 8.6 percent annually. During the same period, enrollments declined 14 percent, provider reimbursements trended downward from 85.3 percent of every dollar to 81.7 percent, and out of pocket costs for members increased by 7.7 percent.

The legislature additionally finds that HMOs that conduct business in New York state have a responsibility toward improving the health status of the residents of this state and should assist in providing revenue to support critical community health and economic development needs.

Definitions. For the purposes of this act, the following terms shall have the following meanings:

1. New York state stimulus health care investment fund and New York state health care entrepreneurial stimulus fund refer to the funds established pursuant to section three of this act.

2. New York state community health care investment fund council refers to the council established pursuant to section five of this act.

3. New York state community health care investment fund grant program refers to the grant program established pursuant to section six of this act.

4. New York state entrepreneurial stimulus investment grant program refers to the program established pursuant to section seven of this act.

S 3. The state finance law is amended by adding two new sections 99-q and 99-r to read as follows:

S 99-Q. NEW YORK STATE COMMUNITY HEALTH CARE INVESTMENT FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE COMPTROLLER AND THE COMMISSIONER OF HEALTH A FUND TO BE KNOWN AS THE NEW YORK STATE COMMUNITY HEALTH CARE INVESTMENT FUND.

2. SUCH FUND SHALL CONSIST OF ALL MONEYS APPROPRIATED FOR THE PURPOSE OF SUCH FUND, ALL OTHER MONEYS CREDITED OR TRANSFERRED TO SUCH FUND PURSUANT TO LAW, ALL MONEYS REQUIRED BY THE PROVISIONS OF THIS SECTION OR ANY OTHER LAW TO BE PAID INTO OR CREDITED TO SUCH FUND, AND ALL MONEYS RECEIVED BY THE FUND OR DONATED TO IT.

3. MONEYS OF SUCH FUND SHALL BE AVAILABLE FOR APPROPRIATION AND ALLOCATION TO THE DEPARTMENT OF HEALTH FOR PURPOSES OF DISTRIBUTING SUCH MONEYS TO QUALIFIED ENTITIES OF THE NEW YORK STATE COMMUNITY HEALTH CARE INVESTMENT FUND GRANT PROGRAM. FUNDS COLLECTED PURSUANT TO SECTION TWENTY-TWO OF THE PUBLIC HEALTH LAW SHALL BE USED FOR ONE OR MORE OF THE FOLLOWING:

(A) PROJECTS THAT ADDRESS THE SIX CLINICAL INDICATORS AS ESTABLISHED BY THE FEDERAL CENTER FOR DISEASE CONTROL'S GOAL TO ELIMINATE HEALTH DISPARITIES: INFANT MORTALITY; CANCER SCREENING AND MANAGEMENT; CARDIO-VASCULAR DISEASE; DIABETES; HIV INFECTION/AIDS; AND IMMUNIZATIONS.

(B) PROJECTS THAT IMPROVE THE CULTURAL COMPETENCE OF THE HEALTH CARE WORKFORCE.

(C) PROJECTS THAT COLLECT DATA REGARDING (I) ETHNIC AND MINORITY REPRESENTATION IN THE NEW YORK STATE HEALTH CARE WORKFORCE AND (II) ETHNIC AND RACIAL MINORITIES SERVED IN HOSPITALS AND NURSING HOMES.

(D) PROJECTS THAT CONDUCT SURVEYS ON RACIAL AND ETHNIC HEALTH DISPARI-TIES.

(E) SCHOLARSHIPS TO RECRUIT AND TRAIN RACIAL AND ETHNIC MINORITIES IN THE HEALTH CARE PROFESSIONS.

(F) PROJECTS THAT ADDRESS UNMET HEALTH CARE NEEDS IN RURAL AREAS.

4. MONEYS SHALL BE PAID OUT ON THE AUDIT AND WARRANT OF THE COMP-TROLLER ON VOUCHERS CERTIFIED OR APPROVED BY THE COMMISSIONER OF HEALTH.

S 99-R. NEW YORK STATE HEALTH CARE ENTREPRENEURIAL STIMULUS FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE COMPTROLLER AND THE COMMISSIONER OF LABOR A FUND TO BE KNOWN AS THE NEW YORK STATE HEALTH CARE ENTREPRENEURIAL STIMULUS FUND.

2. SUCH FUND SHALL CONSIST OF ALL MONEYS APPROPRIATED FOR THE PURPOSE OF SUCH FUND, ALL OTHER MONEYS CREDITED OR TRANSFERRED TO SUCH FUND PURSUANT TO LAW, ALL MONEYS REQUIRED BY THE PROVISIONS OF THIS SECTION OR ANY OTHER LAW TO BE PAID INTO OR CREDITED TO SUCH FUND, AND ALL MONEYS RECEIVED BY THE FUND OR DONATED TO IT.

3. MONEYS OF SUCH FUND SHALL BE AVAILABLE FOR APPROPRIATION AND ALLO-CATION TO THE DEPARTMENT OF LABOR FOR PURPOSES OF DISTRIBUTING SUCH MONEYS TO QUALIFIED PERSONS OR ENTITIES OF THE NEW YORK STATE ENTREPRE-NEURIAL STIMULUS INVESTMENT GRANT PROGRAM. FUNDS COLLECTED PURSUANT TO SECTION FORTY-FOUR OF THE LABOR LAW SHALL BE USED FOR ONE OR MORE OF THE FOLLOWING:

GRANTS TO NEW INDIVIDUAL ENTREPRENEURS IN THE STATE AND TO PERSONS QUALIFYING FOR UNEMPLOYMENT INSURANCE IN THE STATE, TO ASSIST WITH THEIR FIRST-YEAR COSTS OF PURCHASING HEALTH INSURANCE, INCLUDING, BUT NOT LIMITED TO, PARTICIPATION IN THE HEALTHY NEW YORK OR FAMILY HEALTH PLUS PROGRAMS, ESTABLISHED PURSUANT TO SECTIONS FOUR THOUSAND THREE HUNDRED TWENTY-SIX AND FOUR THOUSAND THREE HUNDRED TWENTY-SEVEN OF THE INSURANCE LAW.

4. MONEYS SHALL BE PAID OUT ON THE AUDIT AND WARRANT OF THE COMP-TROLLER ON VOUCHERS CERTIFIED OR APPROVED BY THE COMMISSIONER OF LABOR.

S 4. Any health maintenance organization, company or corporation, certified under article 44 of the public health law or licensed pursuant to the insurance law shall be subject to the following provisions:

1. On or before each April first, the superintendent of insurance shall collect from the entities covered by this section all moneys for deposit into the New York state community health care investment fund and the New York state health care entrepreneurial stimulus fund.

2. The total amount paid by all entities covered by this section shall equal:

a. in 2011 the sum of $35,000,000 for deposit into the New York state community health care investment fund and the sum of $35,000,000 for deposit into the New York state health care entrepreneurial stimulus fund;

b. beginning in 2012, and each year thereafter, the total amount to be collected for deposit into the New York state community health care investment fund shall equal the total of the prior year deposits into

the New York state community health care investment fund multiplied by the sum of one plus any positive percent change in the total annual profits of all companies and corporations covered by this section;

c. beginning in 2012, and each year thereafter, the total amount to be collected for deposit into the New York state health care entrepreneurial stimulus fund shall equal the total of the prior year deposits into the New York state health care entrepreneurial stimulus fund multiplied by the sum of one plus any positive percent change in the total annual profits of all companies and corporations covered by this section;

3. The amount paid by each company or corporation covered by this section shall equal their net income divided by the total net income of all companies and corporations covered by this section, rounded to four decimal places, multiplied by the total amount calculated pursuant to paragraphs a, b and c of subdivision two of this section.

4. For any company or corporation with a net income of less than zero, their amount shall be calculated based on their net income in the last year that it was greater than zero. The superintendent shall have the authority to grant waivers from this section when deemed necessary to prevent an undue burden, provided that no company or corporation may receive a full or partial waiver in any two successive years.

5. Every not-for-profit health maintenance organization shall be excluded from the provisions of this section.

S 5. The New York state community health care investment fund council. 1. There is hereby established the New York state community health care investment fund council consisting of 13 members. The purpose of such council is to oversee the New York state health care community investment funds, establish the RFP process, award grants and issue an annual report. The members of such council shall consist of representatives from the insurance industry, health care institutions and providers, and consumer and advocacy groups. The members of the council shall be appointed in the following manner: six state agency heads or their representatives: one from the department of health; one from the office for the aging; one from the office of mental health; one from the office of mental retardation and developmental disabilities; one from the office of alcoholism and substance abuse services; one from the office of children and family services; and three members by the governor and one by the speaker of the assembly, one by the temporary president of the senate; one by the minority leader of the assembly; and one by the minority leader of the senate.

2. The New York state community health care investment fund council shall issue an annual report to the governor and legislature. Such annual report shall include, but not be limited to, the following: the dollar amount of HMO investments; the amount of award money granted; the names of the groups awarded grants; and a description of the projects for which the grants were awarded.

3. No member shall receive any compensation for his or her services, but shall be reimbursed for their actual and necessary expenses, including travel expenses, incurred in the performance of their duties.

S 6. The public health law is amended by adding a new section 22 to read as follows:

S 22. NEW YORK STATE COMMUNITY HEALTH CARE INVESTMENT FUND GRANT PROGRAM. THE COMMISSIONER SHALL ESTABLISH THE NEW YORK STATE COMMUNITY HEALTH CARE INVESTMENT FUND GRANT PROGRAM WHICH SHALL INCLUDE, BUT NOT BE LIMITED TO THE FOLLOWING:

1. PROJECTS THAT ADDRESS THE SIX CLINICAL INDICATORS AS ESTABLISHED BY THE FEDERAL CENTER FOR DISEASE CONTROL'S GOAL TO ELIMINATE HEALTH

DISPARITIES: INFANT MORTALITY; CANCER SCREENING AND MANAGEMENT; CARDIOVASCULAR DISEASE; DIABETES; HIV INFECTION/AIDS; AND IMMUNIZATIONS;

2. PROJECTS THAT IMPROVE THE CULTURAL COMPETENCE OF THE HEALTH CARE WORKFORCE;

3. PROJECTS THAT COLLECT DATA REGARDING ETHNIC AND MINORITY REPRESENTATION IN THE NEW YORK STATE HEALTH CARE WORKFORCE AND ETHNIC AND RACIAL MINORITIES SERVED IN HOSPITALS AND NURSING HOMES;

4. PROJECTS THAT CONDUCT SURVEYS ON RACIAL AND ETHNIC HEALTH DISPARITIES;

5. SCHOLARSHIPS TO RECRUIT AND TRAIN RACIAL AND ETHNIC MINORITIES IN THE HEALTH CARE PROFESSIONS; AND

6. PROJECTS THAT ADDRESS UNMET HEALTH CARE NEEDS IN RURAL AREAS.

S 7. The labor law is amended by adding a new section 44 to read as follows:

S 44. NEW YORK STATE ENTREPRENEURIAL STIMULUS INVESTMENT GRANT PROGRAM. 1. THE COMMISSIONER SHALL ESTABLISH WITHIN THE DEPARTMENT A NEW YORK STATE ENTREPRENEURIAL STIMULUS INVESTMENT GRANT PROGRAM. THE PURPOSE OF THE PROGRAM IS TO ENCOURAGE STATE RESIDENTS TO DIRECTLY PARTICIPATE IN THE ECONOMY OF THE STATE BY ESTABLISHING NEW BUSINESS ENTERPRISES.

2. THE COMMISSIONER SHALL ESTABLISH RULES AND REGULATIONS FOR IDENTIFYING QUALIFYING INDIVIDUALS, PROCEDURES FOR OUTREACH, CERTIFYING PROGRAM PARTICIPATION, AND FOR THE APPLICATION AND AWARDING OF GRANTS FROM THE NEW YORK STATE ENTREPRENEURIAL STIMULUS FUND.

S 8. This act shall take effect immediately.