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

6675--A

2009-2010 Regular Sessions

I N A S S E M B L Y

March 11, 2009

Introduced by M. of A. SCHIMMINGER, DelMONTE, GABRYSZAK -- Multi-Sponsored by -- M. of A. HOOPER, MAGEE, N. RIVERA -- 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 social services law, in relation to mandatory managed care for certain recipients of medical assistance

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

Section 1. Paragraph (b) of subdivision 1 of section 364-j of the social services law, as amended by chapter 649 of the laws of 1996, subparagraphs (i) and (ii) as amended by chapter 433 of the laws of 1997, is amended to read as follows:

(b) "Managed care provider". An entity that provides or arranges for the provision of medical assistance services and supplies to participants directly or indirectly (including by referral), including case management; and:

(i) is authorized to operate under article forty-four of the public health law or article forty-three of the insurance law and provides or arranges, directly or indirectly (including by referral) for covered comprehensive health services on a full capitation basis; [or]

(ii) is authorized as a partially capitated program pursuant to section three hundred sixty-four-f of this title or section forty-four hundred three-e of the public health law or section 1915b of the social security act;

(III) IS A RURAL HEALTH NETWORK AS DEFINED IN SUBDIVISION TWO OF SECTION TWENTY-NINE HUNDRED FIFTY-ONE OF THE PUBLIC HEALTH LAW; OR

(IV) HOLDS A COMPREHENSIVE HIV SPECIAL NEEDS PLAN CERTIFICATE OF AUTHORITY PURSUANT TO SECTION FORTY-FOUR HUNDRED THREE-C OF THE PUBLIC HEALTH LAW.

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

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S 2. Paragraph (g) of subdivision 3 of section 364-j of the social services law, as amended by chapter 649 of the laws of 1996, subparagraph (i) as amended by section 30 of part C of chapter 58 of the laws of 2008, is amended to read as follows:

(g) The following categories of individuals will [not] be required to enroll with a managed care program [until] FOLLOWING THE APPROVAL OF program features and reimbursement rates [are approved] by the commissioner of health and, as appropriate, the commissioner of mental health:

(i) an individual dually eligible for medical assistance and benefits under the federal Medicare program and enrolled in a Medicare managed care plan offered by an entity that is also a managed care provider; provided that (notwithstanding paragraph (g) of subdivision four of this section):

(a) if the individual changes his or her Medicare managed care plan as authorized by title XVIII of the federal social security act, and enrolls in another Medicare managed care plan that is also a managed care provider, the individual shall be (if required by the commissioner under this paragraph) enrolled in that managed care provider;

(b) if the individual changes his or her Medicare managed care plan as authorized by title XVIII of the federal social security act, but enrolls in another Medicare managed care plan that is not also a managed care provider, the individual shall be disenrolled from the managed care provider in which he or she was enrolled and withdraw from the managed care program;

(c) if the individual disenrolls from his or her Medicare managed care plan as authorized by title XVIII of the federal social security act, and does not enroll in another Medicare managed care plan, the individual shall be disenrolled from the managed care provider in which he or she was enrolled and withdraw from the managed care program;

(d) nothing herein shall require an individual enrolled in a managed long term care plan, pursuant to section forty-four hundred three-f of the public health law, to disenroll from such program.

(ii) an individual eligible for supplemental security income;

(iii) HIV positive individuals; and

(iv) persons with serious mental illness and children and adolescents with serious emotional disturbances[, as defined in section forty-four hundred one of the public health law].

S 3. Section 364-j of the social services law is amended by adding two new subdivisions 25 and 26 to read as follows:

25. THE COMMISSIONER OF HEALTH SHALL TAKE ALL MEASURES NECESSARY AND CONVENIENT TO CAUSE ALL SOCIAL SERVICES DISTRICTS IN THE STATE NOT ALREADY DOING SO TO PROVIDE MEDICAL ASSISTANCE AND IMPLEMENT THE STATE'S MANAGED CARE PROGRAM AND PARTICIPATE IN SUCH PROGRAM AUTHORIZED BY THIS SECTION.

26. THE COMMISSIONER OF HEALTH SHALL SUBMIT THE APPROPRIATE WAIVERS, STATE PLAN AMENDMENTS AND FEDERAL APPLICATIONS, INCLUDING BUT NOT LIMITED TO, WAIVER REQUESTS AUTHORIZED PURSUANT TO SECTIONS ELEVEN HUNDRED FIFTEEN AND NINETEEN HUNDRED FIFTEEN OF THE FEDERAL SOCIAL SECURITY ACT, OR SUCCESSOR PROVISIONS, AS THE COMMISSIONER OF HEALTH SHALL DEEM NECESSARY TO SECURE APPROPRIATE FEDERAL FINANCIAL SUPPORT FOR THE COST OF A PROGRAM TO AUTHORIZE MANDATORY MANAGED CARE FOR MEDICAL ASSISTANCE RECIPIENTS RESIDING IN ALL AREAS OF THE STATE, INCLUDING RECIPIENTS OF SUPPLEMENTAL INCOME AND PERSONS ENROLLED OR ELIGIBLE TO BE ENROLLED IN A MEDICARE TEFRA PLAN.

S 4. Section two of this act shall not take effect unless and until the commissioner of health receives all necessary approvals under feder-

al law and regulation to implement its provisions, and provided that such provisions do not prevent the receipt of federal financial participation under the medical assistance program. The commissioner of health shall submit such waiver applications and/or state plan amendments as may be necessary to obtain such approvals and to ensure continued federal financial participation.

S 5. This act shall take effect immediately; provided, however, that the amendments to section 364-j of the social services law made by sections one, two and three of this act shall not affect the repeal of such section pursuant to chapter 710 of the laws of 1988, as amended, and shall be deemed repealed therewith; provided that the commissioner of health shall notify the legislative bill drafting commission upon the occurrence of the enactment of the legislation provided for in section two of this act in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effecting the provisions of section 44 of the legislative law and section 70-b of the public officers law.