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

7193

I N S E N A T E

March 19, 2010

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

AN ACT to amend the public health law, in relation to establishing the New York state home care quality of care innovations initiative; and to amend the state finance law, in relation to establishing New York state home care quality innovations initiative fund

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 3616-b to read as follows:

S 3616-B. NEW YORK STATE HOME CARE QUALITY OF CARE INNOVATIONS INITIATIVE. 1. THE LEGISLATURE HEREBY FINDS AND DECLARES THAT WITH THE ADVANCEMENT OF CLINICAL TECHNIQUES AND THE IMPROVEMENTS IN DATA, TECHNOLOGY AND MEASUREMENT OF CLINICAL PRACTICES AND OUTCOMES, NEW AND SIGNIFICANT OPPORTUNITIES EXIST FOR QUALITY OF CARE INNOVATION, WITH CONSEQUENT BENEFITS FOR PATIENTS, THE HEALTH CARE SYSTEM AND POTENTIAL FOR COST-SAVINGS FOR ALL PAYERS. THE LEGISLATURE FURTHER FINDS THAT WITH THE INCREASING, CENTRAL ROLE OF HOME CARE IN THE TOTAL CARE OF ALL TYPES OF PATIENTS, THE SUPPORT OF QUALITY INNOVATION IN CONNECTION WITH CARE IN THE HOME SHOULD BE A VITAL FOCUS FOR ADVANCING THESE OPPORTUNITIES.

THE LEGISLATURE FINDS THAT METHODS OF ADVANCING THESE OPPORTUNITIES THROUGH HOME CARE, BOTH DIRECTLY THROUGH HOME CARE AGENCIES AND THROUGH HOME CARE'S COLLABORATION WITH HOSPITALS, PHYSICIANS AND OTHERS, INCLUDE BUT ARE NOT LIMITED TO: (A) THE DEVELOPMENT, TARGETED APPLICATION AND UTILIZATION OF CLINICAL GUIDELINES AND EVIDENCE BASED PRACTICES TAILORED TO SPECIFIC CONDITIONS, POPULATIONS AND CIRCUMSTANCES OF CARE; (B) THE APPLICATION OF SPECIFIC TECHNOLOGY AS A BASIC STANDARD OF CARE FOR CERTAIN CONDITIONS; (C) IDENTIFYING AND ADDRESSING GAPS AND OTHER ASPECTS AFFECTING TRANSITIONS IN CARE, ESPECIALLY TRANSITIONS TO AND FROM HOME CARE AND HOSPITALS, NURSING HOMES, REHABILITATION CENTERS AND OTHER SETTINGS; AND (D) TARGETING THE CONTRIBUTING FACTORS TO HOSPITAL READMISSIONS AND PROMOTING APPROPRIATE INTERVENTIONS TO PREVENT AND REDUCE SUCH READMISSIONS.

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

LBD16497-01-0

THE LEGISLATURE FINDS THAT SUCH INNOVATIONS NECESSITATE THE STATE'S INVESTMENT IN AND VOLUNTARY ENGAGEMENT OF HOME CARE AGENCIES, THEIR PATIENTS AND COLLABORATIVE PROVIDERS, AND THAT THE ACTIVE SUPPORT AND PARTNERSHIP OF THE DEPARTMENT IS CONDUCIVE TO THE GOAL OF THESE INNOVATIONS AND, AS SUCH, IN THE STRONG INTEREST OF THE CITIZENS OF THE STATE.

THE LEGISLATURE THEREFORE CONCLUDES THAT THE STATE ESTABLISH THE "HOME CARE QUALITY OF CARE INNOVATIONS INITIATIVE" TO PROMOTE AND SUPPORT THESE ACTIVITIES AND INTERVENTIONS.

2. THERE IS HEREBY CREATED THE NEW YORK STATE HOME CARE QUALITY OF CARE INNOVATIONS INITIATIVE, WHICH HEREINAFTER MAY BE REFERRED TO AS "INITIATIVE." SUCH INITIATIVE IS CREATED FOR THE PURPOSE OF PROMOTING QUALITY INNOVATIONS IN THE CARE OF PATIENTS AT HOME TO IMPROVE OVERALL CARE MANAGEMENT, PATIENT OUTCOMES, PATIENT/CAREGIVER SELF-MANAGEMENT OF CHRONIC CONDITIONS AND POTENTIAL COST-EFFECTIVENESS OF CARE. SUCH INITIATIVE SHALL BE UNDERTAKEN TO INFORM AND SUPPORT, AND NOT BE EMPLOYED TO SUPERSEDE CLINICAL JUDGMENT ABOUT THE PROVISION OR MANAGEMENT OF CARE.

3. SUCH INITIATIVE SHALL INCLUDE BUT NOT BE LIMITED TO: (A) PROMOTING THE DEVELOPMENT, APPLICATION, UTILIZATION AND RESEARCH OF CLINICAL GUIDELINES AND EVIDENCE BASED PRACTICES IN CONNECTION WITH THE CARE OF PATIENTS AT HOME;

(B) PROMOTING THE USE OF TECHNOLOGY IN CONJUNCTION WITH CLINICAL CRITERIA AND EVIDENCE BASED PRACTICES FOR THE ADVANCEMENT OF QUALITY CARE;

(C) PROMOTING QUALITY TRANSITIONS IN CARE, INCLUDING BUT NOT LIMITED TO TRANSITIONS TO AND FROM HOME-BASED CARE AND TO HOSPITALS, NURSING HOMES, REHABILITATION CENTERS AND OTHER SETTINGS, AS WELL AS TRANSITIONS TO AND FROM DIFFERENT HOME CARE PROGRAMS;

(D) IDENTIFYING GAPS AND OTHER ELEMENTS OF THE SYSTEM WHICH CONTRIBUTE TO AVOIDABLE HOSPITAL READMISSIONS, INCLUDING MEDICATION RECONCILIATION, AND TARGETING INTERVENTION TO PREVENT AND REDUCE SUCH READMISSIONS;

(E) IDENTIFYING THE COST-EFFECTIVENESS OF THE APPLICATION OF SUCH QUALITY INNOVATIONS FOR GOVERNMENTAL AND NONGOVERNMENTAL PAYERS; AND

(F) RESEARCHING CLINICAL PROTOCOLS, PROGRAMS, PRACTICES AND OUTCOMES TO IDENTIFY ADDITIONAL AREAS AND METHODS FOR DEVELOPING AND PROMOTING QUALITY INNOVATIONS.

4. (A) SUCH INITIATIVE SHALL BE UNDERTAKEN WITH VOLUNTARILY PARTICIPATING CERTIFIED HOME HEALTH AGENCIES, LONG TERM HOME HEALTH CARE PROGRAMS, LICENSED HOME CARE SERVICES AGENCIES AND AIDS HOME CARE PROGRAMS, AND SHALL INCLUDE SUCH AGENCIES OR PROGRAMS CONTAINED WITHIN OR UNDER CONTRACT WITH MANAGED LONG TERM CARE PLANS. SUCH INITIATIVES MAY INCLUDE SUCH AGENCIES' AND PROGRAMS' COLLABORATION WITH PHYSICIANS, HOSPITALS AND OTHER PROVIDERS OR ENTITIES.

(B) SUCH INITIATIVE MAY ALSO INCLUDE THE PARTICIPATION OF: A NON-PROVIDER ENTITY WITH EXPERTISE IN PERFORMING QUALITY AND UTILIZATION REVIEW FOR HOME HEALTH CARE AS WELL AS STUDIES OR DEMONSTRATIONS FOR IMPROVED TRANSITIONS IN CARE; AN ENTITY WHICH SERVES AS A NATIONAL ACCREDITING BODY FOR HOME HEALTH AGENCIES; AND, A STATEWIDE TRADE ASSOCIATION MOST BROADLY REPRESENTATIVE OF HOME CARE AGENCIES AND PROGRAMS CERTIFIED BY MEDICARE AND MEDICAID IN THE STATE, INCLUDING CERTIFIED HOME HEALTH AGENCIES AND LONG TERM HOME HEALTH CARE PROGRAMS.

5. THE DEPARTMENT SHALL CONVENE AN ADVISORY GROUP OF REPRESENTATIVES OF PARTICIPATING PROVIDERS AND PROGRAMS AS WELL AS STATEWIDE ASSOCIATIONS REPRESENTATIVE OF SUCH PROVIDERS AND THEIR CONSUMERS TO GUIDE THE IMPLEMENTATION OF EACH COMPONENT OF THE INITIATIVE. THE ADVISORY GROUP MAY ALSO INCLUDE REPRESENTATIVES OF PHYSICIANS, HOSPITALS AND THIRD-PAR-

TY PAYORS AND OTHERS WHICH THE DEPARTMENT DEEMS APPROPRIATE AND CONSISTENT WITH THE PURPOSES OF THIS SECTION.

6. THE DEPARTMENT SHALL WORK WITH THE ADVISORY GROUP TO: (A) IDENTIFY CLINICAL GUIDELINES AND EVIDENCE BASED PRACTICES TO BE RESEARCHED AND/OR PROMOTED THROUGH THE INITIATIVE, WHICH SHALL INCLUDE THE CONSIDERATION OF NATIONALLY DEVELOPED GUIDELINES AND PRACTICES AS WELL AS THOSE DEVELOPED OR EVIDENCED ON A PROVIDER-SPECIFIC BASIS;

(B) IDENTIFY TYPES OF TECHNOLOGY AND AREAS WHERE THE APPLICATION AND COVERAGE OF SUCH TECHNOLOGY SHOULD BE CONSIDERED AS A STANDARD OF CARE;

(C) IDENTIFY ELEMENTS TO BE ADDRESSED IN IMPROVING TRANSITIONS OF CARE AS WELL AS FOR PREVENTING AVOIDABLE REHOSPITALIZATIONS, AND THE CORRESPONDING METHODS FOR ADDRESSING SUCH ELEMENTS;

(D) CONDUCT PROVIDER/CONSUMER EDUCATION, INCLUDING THAT OF PROVIDER QUALITY IMPROVEMENT PERSONNEL, RELATIVE TO THE UTILIZATION OF CLINICAL GUIDELINES, EVIDENCE BASED PRACTICES, APPLICATION OF TECHNOLOGY, THE IMPLEMENTATION OF STRATEGIES TO IMPROVE TRANSITIONS IN CARE AND INTERVENTIONS TO PREVENT OR REDUCE HOSPITAL READMISSIONS;

(E) DETERMINE DATA TO BE SHARED WITH PROVIDERS WHICH WOULD FURTHER THE GOALS OF CLINICAL GUIDELINE IDENTIFICATION, DEVELOPMENT AND/OR USE AND IMPROVEMENT IN TRANSITIONS IN CARE;

(F) IDENTIFY AND RESPOND AS PRACTICABLE TO THE TECHNICAL ASSISTANCE NEEDS OF PROVIDERS PARTICIPATING IN THE INITIATIVE;

(G) IMPLEMENT THE GRANT PROGRAM PROVIDED FOR IN SUBDIVISION SEVEN OF THIS SECTION;

(H) DETERMINE AND RECOMMEND POSITIVE ADJUSTMENTS IN THE MEDICAID RATE METHODOLOGY TO ENABLE AND ENCOURAGE DESIRED PROVIDER BEHAVIOR AND GOALS WITH REGARD TO QUALITY INNOVATION AND ENHANCEMENT PURSUANT TO THIS SECTION; AND

(I) IDENTIFY AREAS FOR RESEARCH PURSUANT TO THIS SECTION AND FOSTER SUCH OTHER ACTIVITIES AS THE DEPARTMENT IN CONJUNCTION WITH THE WORKGROUP DEEM TO BE NECESSARY, APPROPRIATE AND CONSISTENT WITH THE GOALS OF THIS SECTION.

7. (A) THE DEPARTMENT IS HEREBY AUTHORIZED, FROM ANY FUNDS APPROPRIATED THEREFOR, INCLUDING FUNDS FROM THE NEW YORK STATE HOME CARE QUALITY OF CARE INNOVATIONS INITIATIVE FUND PURSUANT TO SECTION NINETY-NINE-T OF THE STATE FINANCE LAW, TO ISSUE GRANTS TO PROVIDERS AND PARTICIPATING ENTITIES TO ASSIST IN MEETING THE COSTS OF PLANNING, IMPLEMENTING, AND/OR CONDUCTING QUALITY INNOVATIONS PURSUANT TO THIS SECTION.

(B) THE DEPARTMENT SHALL AWARD SUCH GRANTS BASED ON CRITERIA AND PRIORITIES ESTABLISHED IN CONSULTATION WITH THE ADVISORY GROUP ESTABLISHED PURSUANT TO SUBDIVISION FOUR OF THIS SECTION.

(C) GRANTS AWARDED UNDER THIS SECTION MAY BE RENEWED SUBJECT TO THE AVAILABILITY OF FUNDS.

(D) NOTWITHSTANDING THE PROVISIONS OF SECTION ONE HUNDRED TWELVE OR ONE HUNDRED THIRTEEN OF THE STATE FINANCE LAW, THE DEPARTMENT MAY ISSUE GRANTS TO PARTICIPANTS SPECIFIED IN PARAGRAPH (B) OF SUBDIVISION FOUR OF THIS SECTION WITHOUT A COMPETITIVE BID PROCESS.

8. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISIONS SEVEN AND SEVEN-A OF SECTION THREE THOUSAND FOURTEEN OF THIS ARTICLE, PROVIDER COSTS ASSOCIATED WITH THE PARTICIPATION IN THE QUALITY INNOVATIONS INITIATIVE PURSUANT TO THIS SECTION SHALL NOT BE INCLUDED IN OR SUBJECT TO THE STATEWIDE AVERAGE ADMINISTRATIVE AND GENERAL COST LIMITATION APPLIED PURSUANT TO SUCH SUBDIVISIONS.

9. THE COMMISSIONER IS AUTHORIZED TO WAIVE PROVISIONS OF THE DEPARTMENT'S RULES AND REGULATIONS, AS WELL AS RULES AND REGULATIONS PROMULGATED PURSUANT TO THE SOCIAL SERVICES LAW, AS MAY BE NECESSARY AND

APPROPRIATE TO FACILITATE THE IMPLEMENTATION AND GOALS OF THIS SECTION, INCLUDING THE GOAL OF IMPROVING THE COST-EFFECTIVENESS TO PAYERS; PROVIDED HOWEVER THAT NO RULES OR REGULATIONS SHALL BE WAIVED WHICH WOULD REMOVE OR DIMINISH RIGHTS AFFORDED TO PROVIDERS OR CONSUMERS OF CARE.

10. THE DEPARTMENT SHALL REPORT TO THE GOVERNOR AND LEGISLATURE REGARDING THE EFFECTS ON QUALITY, COST AND UTILIZATION UNDER THE INITIATIVE. SUCH REPORT SHALL BE FILED ON OR BEFORE DECEMBER FIRST, TWO THOUSAND ELEVEN.

S 2. The state finance law is amended by adding a new section 99-t to read as follows:

S 99-T. NEW YORK STATE HOME CARE QUALITY OF CARE INNOVATIONS INITIATIVE FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND COMMISSIONER OF TAXATION AND FINANCE A SPECIAL FUND TO BE KNOWN AS THE "NEW YORK STATE HOME CARE QUALITY OF CARE INNOVATIONS INITIATIVE FUND".

2. SUCH FUND SHALL CONSIST OF ALL MONEYS APPROPRIATED FOR THE PURPOSE OF SUCH FUND AND ANY GRANT, GIFT OR BEQUEST MADE FOR PURPOSES OF HOME CARE QUALITY OF CARE INNOVATIONS PURSUANT TO SECTION THIRTY-SIX HUNDRED SIXTEEN-B OF THE PUBLIC HEALTH LAW.

3. MONIES OF THE FUND SHALL BE MADE AVAILABLE TO THE COMMISSIONER OF HEALTH FOR THE PURPOSE OF PROVIDING GRANTS AND FOR THE EXPENSES OF THE DEPARTMENT PURSUANT TO THE NEW YORK STATE HOME CARE QUALITY OF CARE INNOVATIONS INITIATIVE AS ADDED BY SECTION THIRTY-SIX HUNDRED SIXTEEN-B OF THE PUBLIC HEALTH LAW.

4. THE MONIES OF THE FUND SHALL BE PAID OUT ON THE AUDIT AND WARRANT OF THE COMPTROLLER ON VOUCHERS CERTIFIED OR APPROVED BY THE COMMISSIONER OF HEALTH, OR BY AN OFFICER OR EMPLOYEE OF THE DEPARTMENT OF HEALTH DESIGNATED BY SUCH COMMISSIONER.

S 3. This act shall take effect immediately.