

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

S. 2809--D

A. 4009--D

S E N A T E - A S S E M B L Y

February 1, 2011

IN SENATE -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the elder law, in relation to Medicare part D; to amend the public health law, in relation to early intervention services; to amend the public health law, in relation to tobacco control and insurance initiatives pool distributions; to amend the public health law, in relation to clinical laboratories; to amend the public health law, in relation to distribution of HEAL NY capital grants; to amend section 32 of part A of chapter 58 of the laws of 2008, amending the elder law and other laws relating to reimbursement to particular provider pharmacies and prescription drug coverage, in relation to the effectiveness thereof; to amend section 4 of part X2 of chapter 62 of the laws of 2003, amending the public health law relating to allowing for the use of funds of the office of professional medical conduct for activities of the patient health information and quality improvement act of 2000, in relation to the effectiveness thereof; to amend paragraph b of subdivision 1 of section 76 of chapter 731 of the laws of 1993, amending the public health law and other laws relating to reimbursement, delivery and capital costs of ambulatory health care

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

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services and inpatient hospital services, in relation to the effectiveness thereof; to amend section 4 of chapter 505 of the laws of 1995, amending the public health law relating to the operation of department of health facilities, in relation to the effectiveness thereof; to amend section 3 of chapter 303 of the laws of 1999, amending the New York state medical care facilities finance agency act relating to financing health facilities, in relation to the effectiveness thereof; to repeal subdivision 2, and paragraphs (c), (d) and (g) of subdivision 3 of section 242 of the elder law, relating to eligibility for comprehensive coverage for elderly pharmaceutical insurance; to repeal section 244 of the elder law, relating to the elderly pharmaceutical insurance coverage panel; to repeal subdivisions 1, 2 and 4 of section 247 of the elder law, relating to cost-sharing responsibilities of participants in the elderly pharmaceutical insurance coverage program; and to repeal section 248 of the elder law, relating to cost-sharing responsibilities of participants in the elderly catastrophic insurance program (Part A); to amend the public health law, in relation to rates of payment and medical assistance (Part B); to amend the New York Health Care Reform Act of 1996, in relation to extending certain provisions relating thereto; to amend the New York Health Care Reform Act of 2000, in relation to extending the effectiveness of provisions thereof; to amend the public health law, in relation to the distribution of pool allocations and graduate medical education; to amend chapter 62 of the laws of 2003 amending the general business law and other laws relating to enacting major components necessary to implement the state fiscal plan for the 2003-04 state fiscal year, in relation to the deposit of certain funds; to amend the public health law, in relation to health care initiative pool distributions; to amend the public authorities law, in relation to the transfer of certain funds; to amend the social services law, in relation to extending payment provisions for general hospitals; to amend chapter 600 of the laws of 1986 amending the public health law relating to the development of pilot reimbursement programs for ambulatory care services, in relation to the effectiveness of such chapter; to amend chapter 520 of the laws of 1978 relating to providing for a comprehensive survey of health care financing, education and illness prevention and creating councils for the conduct thereof, in relation to extending the effectiveness of portions thereof; to amend the public health law, in relation to extending access to community health care services in rural areas; to amend the public health law, in relation to continuing the priority restoration adjustment; to amend chapter 266 of the laws of 1986 amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, in relation to extending the applicability of certain provisions thereof; to amend the insurance law, in relation to liquidation of domestic insurers; to amend chapter 63 of the laws of 2001 amending chapter 20 of the laws of 2001 amending the military law and other laws relating to making appropriations for the support of government, in relation to extending the applicability of certain provisions thereof; to amend chapter 904 of the laws of 1984, amending the public health law and the social services law relating to encouraging comprehensive health services, in relation to the effectiveness thereof; to amend the social services law and the public health law, in relation to rates of payment for personal care service providers, residential health care facilities and diagnostic and treatment centers; and to amend chapter 495 of the laws of 2004 amending the

insurance law and the public health law relating to the New York state health insurance continuation assistance demonstration project, in relation to the effectiveness of such provisions (Part C); to amend the public health law, in relation to payments to residential health care facilities; to amend chapter 474 of the laws of 1996, amending the education law and other laws relating to rates for residential healthcare facilities, in relation to reimbursements; to amend chapter 884 of the laws of 1990, amending the public health law relating to authorizing bad debt and charity care allowances for certified home health agencies, in relation to the effectiveness thereof; to amend chapter 81 of the laws of 1995, amending the public health law and other laws relating to medical reimbursement and welfare reform, in relation to reimbursements and the effectiveness thereof; to amend the public health law, in relation to capital related inpatient expenses; to amend part C of chapter 58 of the laws of 2007, amending the social services law and other laws relating to enacting the major components of legislation necessary to implement the health and mental hygiene budget for the 2007-2008 state fiscal year, in relation to rates of payment by state governmental agencies; to amend chapter 451 of the laws of 2007, amending the public health law, the social services law and the insurance law, relating to providing enhanced consumer and provider protections, in relation to extending the effectiveness of certain provisions thereof; to amend the public health law, in relation to rates of payment for long term home health care programs; to amend chapter 2 of the laws of 1998, amending the public health law and other laws relating to expanding the child health insurance plan, in relation to the effectiveness of certain provisions thereof; to amend chapter 649 of the laws of 1996, amending the public health law, the mental hygiene law and the social services law relating to authorizing the establishment of special needs plans, in relation to the effectiveness thereof; to amend chapter 58 of the laws of 2008, amending the social services law and the public health law relating to adjustments of rates, in relation to the effectiveness of certain provisions thereof; to amend chapter 535 of the laws of 1983, amending the social services law relating to eligibility of certain enrollees for medical assistance, in relation to the effectiveness thereof; to amend chapter 19 of the laws of 1998, amending the social services law relating to limiting the method of payment for prescription drugs under the medical assistance program, in relation to the effectiveness thereof; to amend chapter 710 of the laws of 1988, amending the social services law and the education law relating to medical assistance eligibility of certain persons and providing for managed medical care demonstration programs, in relation to the effectiveness thereof; to amend chapter 165 of the laws of 1991, amending the public health law and other laws relating to establishing payments for medical assistance, in relation to the effectiveness thereof; to repeal certain provisions of the public health law relating to capital related inpatient expenses; and to repeal certain provisions of chapter 41 of the laws of 1992, amending the public health law and other laws relating to health care providers relating to the effectiveness of certain provisions thereof (Part D); to amend the social services law, in relation to suspension of eligibility for medical assistance (Part E); to amend chapter 57 of the laws of 2006, relating to establishing a cost of living adjustment for designated human services programs, in relation to foregoing such adjustment during the 2011-2012 state fiscal year (Part F); to amend the mental hygiene law, in relation to

the closure and the reduction in size of certain facilities serving persons with mental illness; and providing for the repeal of certain provisions upon expiration thereof (Part G); and to amend the public health law, in relation to general hospital inpatient reimbursement for annual rates; to amend the public health law, in relation to establishing ceiling limitations for certain rates of payment; to repeal certain provisions of the social services law relating to prescription drug payments; to amend the social services law, in relation to a study to determine costs incurred by public school districts for certain medical care, services and supplies; to amend the public health law, in relation to calculation of capital costs and to repeal certain provisions of such law relating thereto; to amend chapter 58 of the laws of 2010 amending the public health law and other laws relating to Medicaid payments, in relation to the HIV special needs plan; to amend the public health law, in relation to the pharmacy and therapeutics committee and the preferred drug program; and to repeal certain provisions of such law relating thereto; to amend the social services law and the public health law, in relation to covered part D drugs, limited coverage for formula therapy, prescription footwear, speech therapy, physical therapy and occupational therapy, payment for home health care nursing services, and coverage for smoking cessation counseling services, the furnishing of medical assistance to applicants with responsible relatives, mail order prescriptions, and the commissioner of health's authority to negotiate agreements resolving multiple pending rate appeals; to repeal subdivision 12 of section 272 of the public health law relating to authorization under the preferred drug program for anti-psychotics, anti-depressants, anti-rejection drugs for transplants and anti-retrovirals used in the treatment of HIV and AIDS; to amend the public health law, in relation to diagnostic care centers; to amend the public health law, in relation to temporary operator certificates for general hospitals or diagnostic and treatment centers; to amend the social services law, in relation to health home services; to amend the public health law, in relation to statewide planning and research cooperative systems; to amend the public health law, in relation to managed long term care plans and residential health care facilities; to amend the social services law, in relation to insurance co-payments; to amend the public health law, in relation to providing palliative care support for patients with advanced life limiting conditions and illnesses; to amend the social services law, in relation to provisions of home health care services, to establish a workgroup to develop a plan and draft legislation for the purpose of operating and managing public nursing homes; to amend the public health law, in relation to encouraging cooperative, collaborative and integrative arrangements between health care providers, payers, and others; to amend the social services law, in relation to definition of estate; to amend the public health law, in relation to the New York state medical indemnity fund and the New York state hospital quality initiative; to amend the mental hygiene law, in relation to compliance with operational standards by hospitals and providers of services in hospitals; to amend the public health law, in relation to serious event reporting; to amend the public health law in relation to creating an accountable care organization demonstration program; to amend the social services law, in relation to limiting the reporting of death by the operator of an adult home or residence, to define certain terms as used in the social services law, and to require preclaim review for

participating providers of medical assistance program items and services; to amend the public health law, and part B of chapter 58 of the laws of 2010, amending chapter 474 of the laws of 1996 amending the education law and other laws relating to rates for residential healthcare facilities and other laws relating to Medicaid payments, in relation to seeking federal approvals to establish payment methodologies with accountable care organizations, to amend the social services law, in relation to medical assistance for needy persons and to repeal certain provisions of such law relating thereto; to amend the social services law, in relation to the character and adequacy of assistance; to amend the public health law, in relation to operating costs and rates of payment and repealing certain provisions of such law relating thereto; to amend chapter 58 of the laws of 2009, amending the public health law and other laws relating to Medicaid reimbursements to residential health care facilities, in relation to such reimbursements; and to amend the public health law, in relation to residential health care facility supplemental payments, non-capital components of rates, temporary nursing home stability contributions, authorizes commissioner of health to enter into contracts for purposes of the Early Innovator federal grant award; to amend chapter 385 of the laws of 2008 amending the insurance law relating to an exemption to certain provisions of law relating to risk-based capital for property/casualty insurance companies, in relation to the effectiveness thereof; and to amend the insurance law, in relation to applications for orders of rehabilitation or liquidation; to amend chapter 19 of the laws of 1998, amending the social services law relating to limiting the method of payment for prescription drugs under the medical assistance program, in relation to extending the effectiveness thereof and providing for the repeal of certain provisions upon expiration thereof (Part H)

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

1 Section 1. This act enacts into law major components of legislation
2 which are necessary to implement the state fiscal plan for the 2011-2012
3 state fiscal year. Each component is wholly contained within a Part
4 identified as Parts A through H. The effective date for each particular
5 provision contained within such Part is set forth in the last section of
6 such Part. Any provision in any section contained within a Part, includ-
7 ing the effective date of the Part, which makes a reference to a section
8 "of this act", when used in connection with that particular component,
9 shall be deemed to mean and refer to the corresponding section of the
10 Part in which it is found. Section three of this act sets forth the
11 general effective date of this act.

12 PART A

13 Section 1. Paragraph (f) of subdivision 3 of section 242 of the elder
14 law, as added by section 3 of part B of chapter 58 of the laws of 2007,
15 is amended to read as follows:

16 (f) As a condition of [continued] eligibility for benefits under this
17 title, if a program participant is eligible for Medicare part D drug
18 coverage under section 1860D of the federal social security act, the
19 participant is required to enroll in Medicare part D at the first avail-

able enrollment period and to maintain such enrollment. [This requirement shall be waived if such enrollment would result in significant additional financial liability by the participant, including, but not limited to, individuals in a Medicare advantage plan whose cost sharing would be increased, or if such enrollment would result in the loss of any health coverage through a union or employer plan for the participant, the participant's spouse or other dependent. The elderly pharmaceutical insurance coverage program shall provide premium assistance for all participants enrolled in Medicare part D as follows:

(i) for participants with comprehensive coverage under section two hundred forty-seven of this title] FOR UNMARRIED PARTICIPANTS WITH INDIVIDUAL ANNUAL INCOME LESS THAN OR EQUAL TO TWENTY-THREE THOUSAND DOLLARS AND MARRIED PARTICIPANTS WITH JOINT ANNUAL INCOME LESS THAN OR EQUAL TO TWENTY-NINE THOUSAND DOLLARS, the elderly pharmaceutical insurance coverage program shall pay for the portion of the part D monthly premium that is the responsibility of the participant. Such payment shall be limited to the low-income benchmark premium amount established by the federal centers for Medicare and Medicaid services and any other amount which such agency establishes under its de minimus premium policy, except that such payments made on behalf of participants enrolled in a Medicare advantage plan may exceed the low-income benchmark premium amount if determined to be cost effective to the program.

[(ii) for participants with catastrophic coverage under section two hundred forty-eight of this title, the elderly pharmaceutical insurance coverage program shall credit the participant's annual personal covered drug expenditure amount required under this title by an amount equal to the annual low-income benchmark premium amount established by the centers for Medicare and Medicaid services, prorated for the remaining portion of the participant's elderly pharmaceutical insurance coverage program coverage period. The elderly pharmaceutical insurance coverage program shall, at appropriate times, notify participants with catastrophic coverage under section two hundred forty-seven of this title of their right to coordinate the annual coverage period with that of Medicare part D, along with the possible advantages and disadvantages of doing so.]

S 2. Subdivision 6 of section 241 of the elder law is amended and two new subdivisions 8 and 9 are added to read as follows:

6. "Annual coverage period" shall mean the period of twelve consecutive calendar months for which an eligible program participant has met the [application fee or deductible requirements, as the case may be, of sections two hundred forty-seven and two hundred forty-eight] REQUIREMENTS OF SECTION TWO HUNDRED FORTY-TWO of this title.

8. "COVERAGE GAP PERIOD" SHALL MEAN THE PERIOD BETWEEN THE END OF THE MEDICARE PART D INITIAL COVERAGE PHASE AND THE START OF MEDICARE PART D CATASTROPHIC COVERAGE.

9. "MEDICARE PART D EXCLUDED DRUG CLASSES" SHALL MEAN ANY DRUGS OR CLASSES OF DRUGS, OR THEIR MEDICAL USES, WHICH ARE DESCRIBED IN SECTION 1927(D)(2) OR 1927(D)(3) OF THE FEDERAL SOCIAL SECURITY ACT, WITH THE EXCEPTION OF SMOKING CESSATION AGENTS.

S 3. Subdivision 1 of section 242 of the elder law, paragraph (b) as amended by section 14 of part B of chapter 57 of the laws of 2006, is amended to read as follows:

1. Persons eligible for [comprehensive] coverage under [section two hundred forty-seven of] this title shall include:

(a) any unmarried resident who is at least sixty-five years of age, WHO IS ENROLLED IN MEDICARE PART D, and whose income for the calendar

1 year immediately preceding the effective date of the annual coverage period beginning on or after January first, two thousand five, is less than or equal to [twenty] THIRTY-FIVE thousand dollars. After the initial determination of eligibility, each eligible individual must be redetermined eligible at least every twenty-four months; and

6 (b) any married resident who is at least sixty-five years of age, WHO IS ENROLLED IN MEDICARE PART D, and whose income for the calendar year immediately preceding the effective date of the annual coverage period when combined with the income in the same calendar year of such married person's spouse beginning on or after January first, two thousand one, is less than or equal to [twenty-six] FIFTY thousand dollars. After the initial determination of eligibility, each eligible individual must be redetermined eligible at least every twenty-four months.

14 S 3-a. Subdivision 2 of section 242 of the elder law is REPEALED.

15 S 3-b. Paragraph (c) of subdivision 3 of section 242 of the elder law is REPEALED and a new paragraph (c) is added to read as follows:

17 (C) FOR PERSONS WHO MEET THE ELIGIBILITY REQUIREMENTS TO PARTICIPATE IN THE ELDERLY PHARMACEUTICAL INSURANCE COVERAGE PROGRAM, THE PROGRAM WILL PAY FOR A DRUG COVERED BY THE PERSON'S MEDICARE PART D PLAN OR A DRUG IN A MEDICARE PART D EXCLUDED DRUG CLASS, AS DEFINED IN SUBDIVISION NINE OF SECTION TWO HUNDRED FORTY-ONE OF THIS TITLE, DURING THE COVERAGE GAP, AS DEFINED IN SUBDIVISION EIGHT OF SECTION TWO HUNDRED FORTY-ONE OF THIS TITLE, PROVIDED THAT SUCH DRUG IS A COVERED DRUG, AS DEFINED IN SUBDIVISION ONE OF SECTION TWO HUNDRED FORTY-ONE OF THIS TITLE, AND THAT THE PARTICIPANT COMPLIES WITH THE POINT OF SALE CO-PAYMENT REQUIREMENTS SET FORTH IN SECTION TWO HUNDRED FORTY-SEVEN OF THIS TITLE.

27 S 3-c. Paragraph (d) of subdivision 3 of section 242 of the elder law is REPEALED.

29 S 3-d. Paragraphs (e) and (f) of subdivision 3 of section 242 of the elder law, paragraph (e) as amended by section 112 of part C of chapter 58 of the laws of 2009, paragraph (f) as amended by section one of this act, are amended to read as follows:

33 (e) As a condition of [continued] eligibility for benefits under this title, if a program participant's income indicates that the participant could be eligible for an income-related subsidy under section 1860D-14 of the federal social security act by either applying for such subsidy or by enrolling in a medicare savings program as a qualified medicare beneficiary (QMB), a specified low-income medicare beneficiary (SLMB), or a qualifying individual (QI), a program participant is required to provide, and to authorize the elderly pharmaceutical insurance coverage program to obtain, any information or documentation required to establish the participant's eligibility for such subsidy, and to authorize the elderly pharmaceutical insurance coverage program to apply on behalf of the participant for the subsidy or the medicare savings program. The elderly pharmaceutical insurance coverage program shall make a reasonable effort to notify the program participant of his or her need to provide any of the above required information. After a reasonable effort has been made to contact the participant, a participant shall be notified in writing that he or she has sixty days to provide such required information. If such information is not provided within the sixty day period, the participant's coverage may be terminated.

52 (f) As a condition of [continued] eligibility for benefits under this title, [if] a program participant is [eligible for Medicare part D drug coverage under section 1860D of the federal social security act, the participant is] required to [enroll] BE ENROLLED in Medicare part D [at the first available enrollment period] and to maintain such enrollment.

[This requirement shall be waived if such enrollment would result in significant additional financial liability by the participant, including, but not limited to, individuals in a Medicare advantage plan whose cost sharing would be increased, or if such enrollment would result in the loss of any health coverage through a union or employer plan for the participant, the participant's spouse or other dependent.]

S 3-e. Paragraph (g) of subdivision 3 of section 242 of the elder law is REPEALED.

S 3-f. Paragraph (h) of subdivision 3 of section 242 of the elder law, as added by section 3 of part B of chapter 58 of the laws of 2007, is amended to read as follows:

(h) [In order to maximize prescription drug coverage under Medicare part D, the] THE elderly pharmaceutical insurance coverage program is authorized to represent program participants under this title [in the pursuit of such] WITH RESPECT TO THEIR MEDICARE PART D coverage. [Such representation shall not result in any additional financial liability on behalf of such program participants and shall include, but not be limited to, the following actions:

(i) application for the premium and cost-sharing subsidies on behalf of eligible program participants;

(ii) enrollment in a prescription drug plan or MA-PD plan; the elderly pharmaceutical insurance coverage program shall provide program participants with prior written notice of, and the opportunity to decline such facilitated enrollment subject, however, to the provisions of paragraph (f) of this subdivision;

(iii) pursuit of appeals, grievances, or coverage determinations.]

S 3-g. Section 243 of the elder law is amended to read as follows:

S 243. Pharmaceutical insurance contract. 1. The [elderly pharmaceutical insurance coverage panel, established pursuant to section two hundred forty-four of this title] COMMISSIONER OF HEALTH shall, subject to the approval of the director of the budget, enter into a contract with one or more contractors to assist in carrying out the provisions of this title. Such contractual arrangements shall be made subject to a competitive process pursuant to the state finance law and shall ensure that state payments for the contractor's necessary and legitimate expenses for the administration of this program are limited to the amount specified in advance, and that such payments shall not exceed the amount appropriated therefor in any fiscal year. The [panel] COMMISSIONER shall[, at each of its regularly scheduled meetings,] review the contract pricing provisions to assure that the level of contract payments are in the best interest of the state, giving consideration to the total level of participant enrollment achieved, the volume of claims processed, and such other factors as may be relevant in order to contain state expenditures. In the event that the [panel] COMMISSIONER determines that the contract payment provisions do not protect the interest of the state, the [executive director] COMMISSIONER shall initiate contract negotiations for the purpose of modifying contract payments and/or scope requirements.

2. The responsibilities of the contractor or contractors shall include, but need not be limited to:

(a) providing for a method of determining, on an annual basis and upon their application therefor, the eligibility of persons pursuant to section two hundred forty-two of this title within a reasonable period of time, including alternative methods for such determination of eligibility, such as through the mail or home visits, where reasonable and/or

1 necessary, and for notifying applicants of such eligibility determi-
2 nations;

3 (b) notifying each eligible program participant in writing upon the
4 commencement of the annual coverage period of such participant's cost-
5 sharing responsibilities pursuant to [sections] SECTION two hundred
6 forty-seven [and two hundred forty-eight] of this title. The contractor
7 shall also notify each eligible program participant of any adjustment of
8 the co-payment schedule by mail no less than thirty days prior to the
9 effective date of such adjustments and shall inform such eligible
10 program participants of the date such adjustments shall take effect;

11 (c) issuing an identification card to each ELIGIBLE program partic-
12 ipant [who is eligible to purchase prescribed covered drugs for an
13 amount specified pursuant to subdivision three of section two hundred
14 forty-seven or subdivision three of section two hundred forty-eight of
15 this title. The dates of the annual coverage period shall be imprinted
16 on the card. When an eligible program participant meets the annual
17 limits on point of sale co-payments set forth in subdivision four of
18 section two hundred forty-seven or subdivision four of section two
19 hundred forty-eight of this title, either new identification cards shall
20 be issued to such participant indicating waiver of such co-payment
21 requirements for the remainder of the annual coverage period or the
22 contractor shall develop and implement an alternative method to permit
23 the purchase of covered drugs without a co-payment requirement];

24 (d) [developing and implementing the system for those individuals
25 electing the deductible option to record their personal covered drug
26 expenditures in accordance with subdivision three of section two hundred
27 forty-eight of this title. Such recordkeeping system shall be provided
28 to each such participant at a nominal charge which shall be subject to
29 the approval of the panel. The contractor shall also reimburse partic-
30 ipants for personal covered drug expenditures made in excess of their
31 deductible requirements, less the co-payments required by subdivision
32 four of section two hundred forty-eight of this title, made prior to
33 their receipt of an identification card issued in accordance with para-
34 graph (c) of this subdivision;

35 (e)] processing of claims for reimbursement to participating provider
36 pharmacies pursuant to section two hundred fifty of this title;

37 [(f)] (E) performing or causing to be performed utilization reviews
38 for such purposes as may be required by the [elderly pharmaceutical
39 insurance coverage panel] COMMISSIONER OF HEALTH;

40 [(g)] (F) conducting audits and surveys of participating provider
41 pharmacies as specified pursuant to the terms and conditions of the
42 contract; and

43 [(h)] (G) coordinating coverage with insurance companies and other
44 public and private organizations offering such coverage for those eligi-
45 ble program participants having partial coverage for covered drugs
46 through third-party sources, and providing for recoupment of any dupli-
47 cate reimbursement paid by the state on behalf of such eligible program
48 participants.

49 3. The contractor or contractors shall be required to provide such
50 reports as may be deemed necessary by the [elderly pharmaceutical insur-
51 ance coverage panel] COMMISSIONER OF HEALTH and shall maintain files in
52 a manner and format approved by the [executive director] COMMISSIONER.

53 4. The contractor or contractors may contract with private not-for-
54 profit or proprietary corporations, or with entities of local government
55 within the state of New York, to perform such obligations of the

1 contractor or contractors as the [elderly pharmaceutical insurance
2 coverage panel] COMMISSIONER OF HEALTH shall permit.

3 S 3-h. Section 244 of the elder law is REPEALED and a new section 244
4 is added to read as follows:

5 S 244. POWERS OF THE COMMISSIONER OF HEALTH. THE POWERS OF THE
6 COMMISSIONER OF HEALTH IN ADMINISTERING THE ELDERLY PHARMACEUTICAL
7 INSURANCE COVERAGE PROGRAM SHALL INCLUDE BUT NOT BE LIMITED TO THE
8 FOLLOWING:

9 1. SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE BUDGET, PROMULGATING
10 PROGRAM REGULATIONS PURSUANT TO SECTION TWO HUNDRED FORTY-SIX OF THIS
11 TITLE;

12 2. DETERMINING THE ANNUAL SCHEDULE OF COST-SHARING RESPONSIBILITIES OF
13 ELIGIBLE PROGRAM PARTICIPANTS PURSUANT TO SECTION TWO HUNDRED FORTY-SEV-
14 EN OF THIS TITLE;

15 3. ENTERING INTO CONTRACTS PURSUANT TO SECTION TWO HUNDRED FORTY-THREE
16 OF THIS TITLE;

17 4. IMPLEMENTING ALTERNATIVE PROGRAM IMPROVEMENTS FOR THE EFFICIENT AND
18 EFFECTIVE OPERATION OF THE PROGRAM IN ACCORDANCE WITH THE PROVISIONS OF
19 THIS TITLE;

20 5. ESTABLISHING OR CONTRACTING FOR A THERAPEUTIC DRUG MONITORING
21 PROGRAM, FOR THE PURPOSE OF MONITORING THERAPEUTIC DRUG USE BY ELIGIBLE
22 PROGRAM PARTICIPANTS IN AN EFFORT TO PREVENT THE INCORRECT OR UNNECES-
23 SARY CONSUMPTION OF SUCH THERAPEUTIC DRUGS.

24 S 3-i. The section heading of section 247 of the elder law is amended
25 to read as follows:

26 Cost-sharing responsibilities of eligible program participants [for
27 comprehensive coverage].

28 S 3-j. Subdivision 1 of section 247 of the elder law is REPEALED and a
29 new subdivision 1 is added to read as follows:

30 1. AS A CONDITION OF ELIGIBILITY FOR BENEFITS UNDER THIS TITLE,
31 PARTICIPANTS MUST MAINTAIN MEDICARE PART D COVERAGE AND PAY MONTHLY
32 PREMIUMS TO THEIR MEDICARE PART D DRUG PLAN.

33 S 3-k. Subdivisions 2 and 4 of section 247 of the elder law are
34 REPEALED and subdivision 3 is renumbered subdivision 2 and paragraph (a)
35 is amended to read as follows:

36 (a) [Upon satisfaction of the registration fee pursuant to this
37 section an eligible] A program participant must pay a point of sale
38 co-payment as set forth in paragraph (b) of this subdivision at the time
39 of each purchase of a [covered] drug prescribed for such individual THAT
40 IS DESCRIBED IN PARAGRAPH (C) OF SUBDIVISION THREE OF SECTION TWO
41 HUNDRED FORTY-TWO OF THIS TITLE. [Such co-payment shall not be waived
42 or reduced in whole or in part, subject to the limits provided by subdi-
43 vision four of this section.]

44 S 3-l. Section 248 of the elder law is REPEALED.

45 S 3-m. Section 250 of the elder law, paragraph (a) of subdivision 1 as
46 amended by section 6-a and subparagraph 1 of paragraph (b) of subdivi-
47 sion 1 as amended by section 1 of part A of chapter 58 of the laws of
48 2008, paragraph (b) of subdivision 1 as amended by section 17 of part A
49 of chapter 58 of the laws of 2004, subparagraph 1 of paragraph (a) of
50 subdivision 3 and subdivision 5 as amended by section 19 of part B of
51 chapter 57 of the laws of 2006, subdivision 6 as amended by section 19-a
52 of part A of chapter 109 of the laws of 2010, is amended to read as
53 follows:

54 S 250. Reimbursement to participating provider pharmacies. 1. The
55 amount of reimbursement which shall be paid by the state to a partic-
56 ipating provider pharmacy [for any covered drug filled or refilled for

any eligible program participant] FILLING OR REFILLING A PRESCRIPTION FOR A DRUG THAT IS DESCRIBED IN PARAGRAPH (C) OF SUBDIVISION THREE OF SECTION TWO HUNDRED FORTY-TWO OF THIS TITLE shall be equal to the allowed amount defined as follows, minus the point of sale co-payment as required by [sections] SECTION two hundred forty-seven [and two hundred forty-eight] of this title:

(a) Multiple source covered drugs. Except for brand name drugs that are required by the prescriber to be dispensed as written, the allowed amount for a multiple source covered drug shall equal the lower of:

(1) The pharmacy's usual and customary charge to the general public, taking into consideration any quantity and promotional discounts to the general public at the time of purchase, or

(2) The upper limit, if any, set by the centers for medicare and medicated services for such multiple source drug, or

(3) Average wholesale price discounted by twenty-five percent, or

(4) The maximum allowable cost, if any, established by the commissioner of health pursuant to paragraph (e) of subdivision nine of section three hundred sixty-seven-a of the social services law.

Plus a dispensing fee for drugs reimbursed pursuant to subparagraphs two, three, and four of this paragraph, as defined in paragraph (c) of this subdivision.

(b) Other covered drugs. The allowed amount for brand name drugs required by the prescriber to be dispensed as written and for covered drugs other than multiple source drugs shall be determined by applying the lower of:

(1) Average wholesale price discounted by sixteen and twenty-five one hundredths percent, plus a dispensing fee as defined in paragraph (c) of this subdivision, or

(2) The pharmacy's usual and customary charge to the general public, taking into consideration any quantity and promotional discounts to the general public at the time of purchase.

(c) As required by paragraphs (a) and (b) of this subdivision, a dispensing fee of four dollars fifty cents will apply to generic drugs and a dispensing fee of three dollars fifty cents will apply to brand name drugs.

2. For purposes of determining the amount of reimbursement which shall be paid to a participating provider pharmacy, the [panel] COMMISSIONER OF HEALTH shall determine or cause to be determined, through a statistically valid survey, the quantities of each covered drug that participating provider pharmacies buy most frequently. Using the result of this survey, the contractor shall update every thirty days the list of average wholesale prices upon which such reimbursement is determined using nationally recognized and most recently revised sources. Such price revisions shall be made available to all participating provider pharmacies. The pharmacist shall be reimbursed based on the price in effect at the time the covered drug is dispensed.

3. [(a) Notwithstanding any inconsistent provision of law, the program for elderly pharmaceutical insurance coverage shall reimburse for covered drugs which are dispensed under the program by a provider pharmacy only pursuant to the terms of a rebate agreement between the program and the manufacturer (as defined under section 1927 of the federal social security act) of such covered drugs; provided, however, that:

(1) any agreement between the program and a manufacturer entered into before August first, nineteen hundred ninety-one, shall be deemed to have been entered into on April first, nineteen hundred ninety-one; and

1 provided further, that if a manufacturer has not entered into an agree-
2 ment with the department before August first, nineteen hundred ninety-
3 one, such agreement shall not be effective until April first, nineteen
4 hundred ninety-two, unless such agreement provides that rebates will be
5 retroactively calculated as if the agreement had been in effect on April
6 first, nineteen hundred ninety-one; and

7 (2) the program may reimburse for any covered drugs pursuant to subdi-
8 visions one and two of this section, for which a rebate agreement does
9 not exist and which are determined by the elderly pharmaceutical insur-
10 ance coverage panel to be essential to the health of persons participat-
11 ing in the program; and likely to provide effective therapy or diagnosis
12 for a disease not adequately treated or diagnosed by any other covered
13 drug; and which are recommended for reimbursement by the panel and
14 approved by the commissioner of health.

15 (b) The rebate agreement between such manufacturer and the program for
16 elderly pharmaceutical insurance coverage shall utilize for covered
17 drugs the identical formula used to determine the rebate for federal
18 financial participation for drugs, pursuant to section 1927(c) of the
19 federal social security act, to determine the amount of the rebate
20 pursuant to this subdivision.

21 (c) The amount of rebate pursuant to paragraph (b) of this subdivision
22 shall be calculated by multiplying the required rebate formulas by the
23 total number of units of each dosage form and strength dispensed. The
24 rebate agreement shall also provide for periodic payment of the rebate,
25 provision of information to the program, audits, verification of data,
26 damages to the program for any delay or non-production of necessary data
27 by the manufacturer and for the confidentiality of information.

28 (d) The program in providing utilization data to a manufacturer (as
29 provided for under section 1927 (b) of the federal social security act)
30 shall provide such data by zip code, if requested, for the top three
31 hundred most commonly used drugs by volume covered under a rebate agree-
32 ment.

33 (e) Any funds collected pursuant to any rebate agreements entered into
34 with a manufacturer pursuant to this subdivision, shall be deposited
35 into the elderly pharmaceutical insurance coverage program premium
36 account.

37 4.] Notwithstanding any other provision of law, entities which offer
38 insurance coverage for provision of and/or reimbursement for pharmaceu-
39 tical expenses, including but not limited to, entities
40 licensed/certified pursuant to article thirty-two, forty-two, forty-
41 three or forty-four of the insurance law (employees welfare funds) or
42 article forty-four of the public health law, shall participate in a
43 benefit recovery program with the elderly pharmaceutical insurance
44 coverage (EPIC) program which includes, but is not limited to, a semi-
45 annual match of EPIC's file of enrollees against the entity's file of
46 insured to identify individuals enrolled in both plans with claims paid
47 within the twenty-four months preceding the date the entity receives the
48 match request information from EPIC. Such entity shall indicate if phar-
49 maceutical coverage is available from the entity for the insured
50 persons, list the copayment or other payment obligations of the insured
51 persons applicable to the pharmaceutical coverage, and (after receiving
52 necessary claim information from EPIC) list the amounts which the entity
53 would have paid for the pharmaceutical claims for those identified indi-
54 viduals and the entity shall reimburse EPIC for pharmaceutical expenses
55 paid by EPIC that are covered under the contract between the entity and
56 its insured in only those instances where the entity has not already

1 made payment of the claim. Reimbursement of the net amount payable
2 (after rebates and discounts) that would have been paid under the cover-
3 age issued by the entity will be made by the entity to EPIC within sixty
4 days of receipt from EPIC of the standard data in electronic format
5 necessary for the entity to adjudicate the claim and if the standard
6 data is provided to the entity by EPIC in paper format payment by the
7 entity shall be made within one hundred eighty days. After completing
8 at least one match process with EPIC in electronic format, an entity
9 shall be entitled to elect a monthly or bi-monthly match process rather
10 than a semi-annual match process.

11 [5.] 4. Notwithstanding any other provision of law, the [panel]
12 COMMISSIONER OF HEALTH shall maximize the coordination of benefits for
13 persons enrolled under Title XVIII of the federal social security act
14 (medicare) and enrolled under this title in order to facilitate medicare
15 payment of claims. The [panel] COMMISSIONER OF HEALTH may select an
16 independent contractor, through a request-for-proposal process, to
17 implement a centralized coordination of benefits system under this
18 subdivision for individuals qualified in both the elderly pharmaceutical
19 insurance coverage (EPIC) program and medicare programs who receive
20 medications or other covered products from a pharmacy provider currently
21 enrolled in the elderly pharmaceutical insurance coverage (EPIC)
22 program.

23 [6. (a)] 5. The EPIC program shall be the payor of last resort for
24 individuals qualified in both the EPIC program and title XVIII of the
25 federal social security act (Medicare). [For such individuals, no
26 reimbursement shall be available under EPIC for covered drug expenses
27 except:

28 (i) where a prescription drug plan authorized by Part D of the federal
29 social security act (referred to in this subdivision as a Medicare Part
30 D plan) has approved coverage and EPIC has an obligation under this
31 title to pay a portion of the participant's cost-sharing responsibility
32 under Medicare Part D; or

33 (ii) where the provider pharmacy has certified that a Medicare Part D
34 plan has denied coverage.

35 (b) If the provider pharmacy certifies as set forth in subparagraph
36 (ii) of paragraph (a) of this subdivision, the EPIC program shall pay
37 for the drug as the primary payor upon a showing of compliance with the
38 notification and appeal provisions of subparagraph two of paragraph (c)
39 of subdivision three of section two hundred forty-two of this title.]

40 S 3-n. Section 254 of the elder law is amended to read as follows:

41 S 254. Cost of living adjustment. [1.] Within amounts appropriated,
42 the [panel] COMMISSIONER OF HEALTH shall adjust the program eligibility
43 standards set forth in subdivision [two] ONE of section two hundred
44 forty-two of this title to account for increases in the cost of living.

45 [2. The panel shall further adjust individual and joint income catego-
46 ries set forth in subdivisions two and four of section two hundred
47 forty-eight of this title to conform to the adjustments made pursuant to
48 subdivision one of this section.]

49 S 4. Notwithstanding any contrary provision of law, rates established
50 pursuant to section 69-4.30 of Title 10 of the New York Codes, Rules and
51 Regulations for approved services rendered on and after April 1, 2011
52 shall be reduced by five percent.

53 S 5. Intentionally omitted.

54 S 6. Intentionally omitted.

55 S 7. Intentionally omitted.

56 S 8. Intentionally omitted.

1 S 9. Intentionally omitted.

2 S 10. Intentionally omitted.

3 S 11. Intentionally omitted.

4 S 12. Subdivisions 4 and 5 of section 2545 of the public health law,
5 as added by section 2 of chapter 428 of the laws of 1992, are amended to
6 read as follows:

7 4. If the IFSP TEAM MEMBERS, INCLUDING THE early intervention official
8 and the parent agree on the IFSP, the IFSP shall be deemed final and the
9 service coordinator shall be authorized to implement the plan.

10 5. If the IFSP TEAM MEMBERS, INCLUDING THE early intervention official
11 and the parent do not agree on an IFSP, the service coordinator shall
12 implement the sections of the proposed IFSP that are not in dispute, and
13 the parent shall have the due process rights set forth in section twen-
14 ty-five hundred forty-nine of this title.

15 S 13. Subdivision 2 of section 605 of the public health law, as
16 amended by section 7 of part B of chapter 57 of the laws of 2006, is
17 amended to read as follows:

18 2. State aid reimbursement for public health services provided by a
19 municipality under this title, shall be made [as follows:

20 (a)] if the municipality is providing some or all of the basic public
21 health services identified in paragraph (b) of subdivision three of
22 section six hundred two of this title, pursuant to an approved plan, at
23 a rate of no less than thirty-six per centum of the difference between
24 the amount of moneys expended by the municipality for public health
25 services required by paragraph (b) of subdivision three of section six
26 hundred two of this title during the fiscal year and the base grant
27 provided pursuant to subdivision one of this section. No such reimburse-
28 ment shall be provided for services if they are not approved in a plan
29 or if no plan is submitted for such services.

30 [(b) if the municipality is providing other public health services
31 within limits to be prescribed by regulation by the commissioner in
32 addition to some or all of the public health services required in para-
33 graph (b) of subdivision three of section six hundred two of this title,
34 pursuant to an approved plan, at a rate of not less than thirty-six per
35 centum of the moneys expended by the municipality for such other
36 services. No such reimbursement shall be provided for services if they
37 are not approved in a plan or if no plan is submitted for such
38 services.]

39 S 14. Intentionally omitted.

40 S 15. Intentionally omitted.

41 S 16. Paragraph (fff) of subdivision 1 of section 2807-v of the public
42 health law, as amended by section 5 of part B of chapter 58 of the laws
43 of 2008, is amended to read as follows:

44 (fff) Funds shall be made available to the empire state stem cell fund
45 established by section ninety-nine-p of the state finance law [from the
46 public asset as defined in section four thousand three hundred one of
47 the insurance law and accumulated from the conversion of one or more
48 article forty-three corporations and its or their not-for-profit subsid-
49 iaries occurring on or after January first, two thousand seven. Such
50 funds shall be made available] within amounts appropriated up to fifty
51 million dollars annually and shall not exceed five hundred million
52 dollars in total.

53 S 17. Subdivision 2 of section 2407 of the public health law, as
54 amended by chapter 430 of the laws of 2005, is amended to read as
55 follows:

1 2. The advisory council shall be responsible for advising the commis-
2 sioner with respect to the implementation of this article and shall make
3 recommendations as to [the selection of approved organizations and] the
4 standards to be established by the commissioner pursuant to section
5 twenty-four hundred six of this title. [The commissioner shall consult
6 with the advisory council prior to developing standards for approved
7 organizations, selecting approved organizations, making grants to such
8 organizations and implementing the breast and cervical cancer detection
9 and education program.]

10 S 18. Subdivision 3 of section 571 of the public health law, as
11 amended by chapter 436 of the laws of 1993, is amended to read as
12 follows:

13 3. "Reference system" means a system of [periodic testing] ASSESSMENT
14 of methods, procedures and materials of clinical laboratories and blood
15 banks, including, but not limited to, ONGOING VALIDATION WHICH MAY
16 INCLUDE DIRECT TESTING AND EXPERIMENTATION BY THE DEPARTMENT OF SUCH
17 METHODS, PROCEDURES AND MATERIALS, the distribution of [manuals of
18 approved methods] STANDARDS AND GUIDELINES, inspection of facilities,
19 [cooperative research, and] periodic submission of test specimens for
20 examination, AND RESEARCH CONDUCTED BY THE DEPARTMENT THAT INVOLVES THE
21 STUDY OF NEW OR EXISTING METHODS, PROCEDURES AND MATERIALS RELATED TO
22 THE QUALITY OF CLINICAL LABORATORY MEDICINE.

23 S 19. Subdivisions 1, 2 and 6 of section 575 of the public health law,
24 as amended by chapter 436 of the laws of 1993, are amended to read as
25 follows:

26 1. Application for a permit shall be made by the owner and the direc-
27 tor of the clinical laboratory or blood bank [upon forms provided by the
28 department] IN A MANNER AND FORMAT PRESCRIBED BY THE DEPARTMENT. The
29 application shall contain the name of the owner, the name of the direc-
30 tor, the procedures or categories of procedures or services for which
31 the permit is sought, the location or locations and physical description
32 of the facility or location or locations at which tests are to be
33 performed or at which a blood bank is to be operated, and such other
34 information as the department may require.

35 2. A permit OR PERMIT CATEGORY shall not be issued unless a valid
36 certificate of qualification in the category of procedures for which the
37 permit is sought has been issued to the director pursuant to the
38 provisions of section five hundred seventy-three of this title, [and]
39 unless ALL FEES AND OUTSTANDING PENALTIES, IF ANY, HAVE BEEN PAID, AND
40 the department finds that the clinical laboratory or blood bank is
41 competently staffed and properly equipped, and will be operated in the
42 manner required by this title.

43 6. A permit shall become void by a change in the director, owner, or
44 location. A CATEGORY ON A PERMIT SHALL BECOME VOID BY A CHANGE IN THE
45 DIRECTOR FOR THAT CATEGORY. The department may, pursuant to regulations
46 adopted under this title, extend the date on which a permit OR CATEGORY
47 ON A PERMIT shall become void for a period not to exceed sixty days from
48 the date of a change of the director, owner or location. An application
49 for a NEW permit [may] MUST be made [at any time,] in the manner
50 provided by this section.

51 S 20. Subdivision 3 and paragraphs (a), (b), (c) and (e) of subdivi-
52 sion 4 of section 576 of the public health law, as amended by chapter
53 436 of the laws of 1993, are amended to read as follows:

54 3. The department shall operate a reference system and shall prescribe
55 standards for the PROPER OPERATION OF CLINICAL LABORATORIES AND BLOOD
56 BANKS AND FOR THE examination of specimens. As part of such reference

1 system, the department may REVIEW AND APPROVE TESTING METHODS DEVELOPED
2 OR MODIFIED BY CLINICAL LABORATORIES AND BLOOD BANKS PRIOR TO THE TEST-
3 ING METHODS BEING OFFERED IN THIS STATE, AND MAY require clinical labo-
4 ratories and blood banks to analyze test samples submitted by the
5 department and to report on the results of such analyses. The rules and
6 regulations of the department shall prescribe the REQUIREMENTS FOR THE
7 PROPER OPERATION OF A CLINICAL LABORATORY OR BLOOD BANK, FOR THE
8 APPROVAL OF METHODS AND THE manner in which proficiency testing or
9 analyses of samples shall be performed and reports submitted. Failure to
10 meet department standards FOR THE PROPER OPERATION OF A CLINICAL LABORA-
11 TORY OR BLOOD BANK, INCLUDING THE CRITERIA FOR APPROVAL OF METHODS, OR
12 FAILURE TO MAINTAIN SATISFACTORY PERFORMANCE in proficiency testing
13 shall result in termination of the permit in the category or categories
14 of testing established by the department in regulation until remediation
15 is achieved. Such standards shall be at least as stringent as federal
16 standards promulgated under the federal clinical laboratory improvement
17 [act] AMENDMENTS of nineteen hundred eighty-eight. Such failure and
18 termination shall be subject to review in accordance with regulations
19 adopted by the department.

20 (a) The department may adopt and amend rules and regulations to effec-
21 tuate the provisions and purposes of this title. Such rules and regu-
22 lations shall establish [inspection and reference] fees for clinical
23 laboratories and blood banks in amounts not exceeding the cost of the
24 [inspection and] reference [program] SYSTEM for clinical laboratories
25 and blood banks and shall be subject to the approval of the director of
26 the budget. FOR THE PURPOSES OF THIS SUBDIVISION, STANDARD FEDERALLY
27 ESTABLISHED GOVERNMENTAL COST ALLOCATION PRACTICES SHALL BE USED BY THE
28 COMMISSIONER TO DETERMINE THE COST OF THE REFERENCE SYSTEM. THE DEPART-
29 MENT SHALL MAKE AVAILABLE, ON THE DEPARTMENT'S WEBSITE, INFORMATION ON
30 THE COSTS INCLUDED IN DETERMINING THE PERMITTED LABORATORIES' FEES. THE
31 DEPARTMENT SHALL NOT DEEM AS COSTS OF THE REFERENCE SYSTEM, COSTS ASSO-
32 CIATED WITH FEDERAL GRANTS AND PATENTS WHICH ARE NOT RELATED TO THE
33 REFERENCE SYSTEM. THE FEE PAID BY THE DEPARTMENT TO MAINTAIN AN
34 EXEMPTION FOR CLINICAL LABORATORIES AND BLOOD BANKS FROM THE REQUIRE-
35 MENTS OF THE FEDERAL CLINICAL LABORATORY IMPROVEMENT AMENDMENTS OF NINE-
36 TEEN HUNDRED EIGHTY-EIGHT SHALL BE DEEMED A COST OF THE REFERENCE
37 SYSTEM.

38 (b) In determining the fee charges to be assessed, the department
39 shall, on or before May first of each year, compute the [total actual]
40 costs for the preceding state fiscal year which were expended to operate
41 and administer the duties of the department pursuant to this title. The
42 department shall, at such time or times and pursuant to such procedure
43 as it shall determine by regulation, bill and collect from each clinical
44 laboratory and blood bank an amount computed by multiplying such total
45 computed operating expenses of the department by a fraction the numera-
46 tor of which is the gross annual receipts of such clinical laboratory or
47 blood bank during such twelve month period preceding the date of compu-
48 tation as the department shall designate by regulation, and the denomi-
49 nator of which is the total gross annual receipts of all clinical labo-
50 ratories or blood banks operating in the state during such period.

51 (c) Each such clinical laboratory and blood bank shall submit to the
52 department, in such form and at such times as the department may
53 require, a report containing information regarding its gross annual
54 receipts [from the performance of tests or examination of specimens] FOR
55 ALL ACTIVITIES PERFORMED pursuant to a permit issued by the department
56 in accordance with the provisions of section five hundred seventy-five

1 of this title. The department may require additional information and
2 audit and review such information to verify its accuracy.

3 (e) On or before September fifteenth of each year, the department
4 shall [recompute the actual] RECONCILE ITS costs and expenses [of the
5 department] FOR THE REFERENCE SYSTEM for the preceding state fiscal year
6 and shall, on or before October fifteenth send to each clinical labora-
7 tory and blood bank, a statement setting forth the amount due and paya-
8 ble by, or the amount computed to the credit of, such clinical laborato-
9 ry or blood bank, computed on the basis of the above stated formula,
10 except that for the purposes of such computation the fraction shall be
11 multiplied against the total recomputed [actual] expenses of the depart-
12 ment for such fiscal year. Any amount due shall be payable not later
13 than thirty days following the date of such statement. Any credit shall
14 be applied against any succeeding payment due.

15 S 21. Subdivision 1 of section 577 of the public health law is amended
16 by adding a new paragraph (i) to read as follows:

17 (I) HAS BEEN FOUND UPON INSPECTION BY THE DEPARTMENT TO BE IN NONCOM-
18 PLIANCE WITH A PROVISION OR PROVISIONS OF THIS TITLE OR THE RULES AND
19 REGULATIONS PROMULGATED HEREUNDER, AND HAS FAILED TO ADDRESS SUCH FIND-
20 INGS AS REQUIRED BY THE DEPARTMENT.

21 S 22. Intentionally Omitted.

22 S 23. Intentionally Omitted.

23 S 24. Intentionally Omitted.

24 S 25. Intentionally Omitted.

25 S 25-a. Section 2818 of the public health law is amended by adding a
26 new subdivision 6 to read as follows:

27 6. NOTWITHSTANDING ANY CONTRARY PROVISION OF THIS SECTION, SECTIONS
28 ONE HUNDRED TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW,
29 OR ANY OTHER CONTRARY PROVISION OF LAW, SUBJECT TO AVAILABLE APPROPRI-
30 ATIONS, FUNDS AVAILABLE FOR EXPENDITURE PURSUANT TO THIS SECTION MAY BE
31 DISTRIBUTED BY THE COMMISSIONER WITHOUT A COMPETITIVE BID OR REQUEST FOR
32 PROPOSAL PROCESS FOR GRANTS TO GENERAL HOSPITALS AND RESIDENTIAL HEALTH
33 CARE FACILITIES FOR THE PURPOSE OF FACILITATING CLOSURES, MERGERS AND
34 RESTRUCTURING OF SUCH FACILITIES IN ORDER TO STRENGTHEN AND PROTECT
35 CONTINUED ACCESS TO ESSENTIAL HEALTH CARE RESOURCES. PRIOR TO AN
36 AWARDED BEING GRANTED TO AN ELIGIBLE APPLICANT WITHOUT A COMPETITIVE BID
37 OR REQUEST FOR PROPOSAL PROCESS, THE COMMISSIONER SHALL NOTIFY THE CHAIR
38 OF THE SENATE FINANCE COMMITTEE, THE CHAIR OF THE ASSEMBLY WAYS AND
39 MEANS COMMITTEE AND THE DIRECTOR OF THE DIVISION OF BUDGET OF THE INTENT
40 TO GRANT SUCH AN AWARD. SUCH NOTICE SHALL INCLUDE INFORMATION REGARDING
41 HOW THE ELIGIBLE APPLICANT MEETS CRITERIA ESTABLISHED PURSUANT TO THIS
42 SECTION.

43 S 26. Section 32 of part A of chapter 58 of the laws of 2008, amending
44 the elder law and other laws relating to reimbursement to particular
45 provider pharmacies and prescription drug coverage, as amended by
46 section 20 of part 00 of chapter 57 of the laws of 2008, is amended to
47 read as follows:

48 S 32. This act shall take effect immediately and shall be deemed to
49 have been in full force and effect on and after April 1, 2008; provided
50 however, that sections one, six-a, nineteen, twenty, twenty-four, and
51 twenty-five of this act shall take effect July 1, 2008; provided however
52 that sections sixteen, seventeen and eighteen of this act shall expire
53 April 1, [2011] 2014; provided, however, that the amendments made by
54 section twenty-eight of this act shall take effect on the same date as
55 section 1 of chapter 281 of the laws of 2007 takes effect; provided
56 further, that sections twenty-nine, thirty, and thirty-one of this act

1 shall take effect October 1, 2008; provided further, that section twen-
2 ty-seven of this act shall take effect January 1, 2009; and provided
3 further, that section twenty-seven of this act shall expire and be
4 deemed repealed March 31, [2011] 2014; and provided, further, however,
5 that the amendments to subdivision 1 of section 241 of the education law
6 made by section twenty-nine of this act shall not affect the expiration
7 of such subdivision and shall be deemed to expire therewith and provided
8 that the amendments to section 272 of the public health law made by
9 section thirty of this act shall not affect the repeal of such section
10 and shall be deemed repealed therewith.

11 S 27. Section 4 of part X2 of chapter 62 of the laws of 2003, amending
12 the public health law relating to allowing for the use of funds of the
13 office of professional medical conduct for activities of the patient
14 health information and quality improvement act of 2000, as amended by
15 chapter 21 of the laws of 2010, is amended to read as follows:

16 S 4. This act shall take effect immediately; provided that the
17 provisions of section one of this act shall be deemed to have been in
18 full force and effect on and after April 1, 2003, and shall expire March
19 31, [2011] 2013 when upon such date the provisions of such section shall
20 be deemed repealed.

21 S 28. Paragraph (b) of subdivision 1 of section 76 of chapter 731 of
22 the laws of 1993, amending the public health law and other laws relating
23 to reimbursement, delivery and capital cost of ambulatory health care
24 services and inpatient hospital services, as amended by section 14 of
25 part A of chapter 58 of the laws of 2007, is amended to read as follows:

26 (b) sections fifteen through nineteen and subdivision 3 of section
27 2807-e of the public health law as added by section twenty of this act
28 shall expire on [July 1, 2011] JULY 1, 2014, and section seventy-four of
29 this act shall expire on July 1, 2007;

30 S 29. Section 4 of chapter 505 of the laws of 1995, amending the
31 public health law relating to the operation of department of health
32 facilities, as amended by chapter 609 of the laws of 2007, is amended to
33 read as follows:

34 S 4. This act shall take effect immediately; provided, however, that
35 the provisions of paragraph (b) of subdivision 4 of section 409-c of the
36 public health law, as added by section three of this act, shall take
37 effect January 1, 1996 and shall expire and be deemed repealed [sixteen]
38 TWENTY years from the effective date thereof.

39 S 30. Section 3 of chapter 303 of the laws of 1999, amending the New
40 York state medical care facilities finance agency act relating to
41 financing health facilities, as amended by chapter 607 of the laws of
42 2007, is amended to read as follows:

43 S 3. This act shall take effect immediately, provided, however, that
44 subdivision 15-a of section 5 of section 1 of chapter 392 of the laws of
45 1973, as added by section one of this act, shall expire and be deemed
46 repealed June 30, [2011] 2015; and provided further, however, that the
47 expiration and repeal of such subdivision 15-a shall not affect or
48 impair in any manner any health facilities bonds issued, or any lease or
49 purchase of a health facility executed, pursuant to such subdivision
50 15-a prior to its expiration and repeal and that, with respect to any
51 such bonds issued and outstanding as of June 30, [2011] 2015, the
52 provisions of such subdivision 15-a as they existed immediately prior to
53 such expiration and repeal shall continue to apply through the latest
54 maturity date of any such bonds, or their earlier retirement or redemp-
55 tion, for the sole purpose of authorizing the issuance of refunding
56 bonds to refund bonds previously issued pursuant thereto.

1 S 31. This act shall take effect April 1, 2011, provided, however
2 that:

3 (a) section one of this act shall take effect July 1, 2011;

4 (b) sections two through three-n of this act shall take effect January
5 1, 2012;

6 (c) section thirteen of this act shall take effect July 1, 2011; and

7 (d) related to sections eighteen, nineteen, twenty and twenty-one of
8 this act, the commissioner of health is authorized to promulgate, on an
9 emergency basis, any regulations necessary to implement any provision of
10 such sections upon their effective date.

11 PART B

12 Section 1. (a) Notwithstanding any inconsistent provision of law,
13 rule or regulation to the contrary, and subject to the availability of
14 federal financial participation, effective for the period April 1, 2011
15 through March 31, 2012, and each state fiscal year thereafter, the
16 department of health is authorized to make supplemental Medicaid
17 payments for professional services provided by physicians, nurse practi-
18 tioners and physician assistants who are participating in a plan for the
19 management of clinical practice at the State University of New York, in
20 accordance with title 11 of article 5 of the social services law for
21 patients eligible for federal financial participation under title XIX of
22 the federal social security act, in amounts that will increase fees for
23 such professional services to an amount equal to the average commercial
24 or Medicare rate that would otherwise be received for such services
25 rendered by such physicians, nurse practitioners and physician assist-
26 ants. The calculation of such supplemental fee payments shall be made in
27 accordance with applicable federal law and regulation and subject to the
28 approval of the division of the budget. Such supplemental Medicaid fee
29 payments may be added to the professional fees paid under the fee sched-
30 ule or made as aggregate lump sum payments to eligible clinical practice
31 plans authorized to receive professional fees.

32 (b) The affiliated State University of New York health science centers
33 shall be responsible for payment of one hundred percent of the non-fed-
34 eral share of such supplemental Medicaid payments for all services
35 provided by physicians, nurse practitioners and physician assistants who
36 are participating in a plan for the management of clinical practice, in
37 accordance with section 365-a of the social services law, regardless of
38 whether another social services district or the department of health may
39 otherwise be responsible for furnishing medical assistance to the eligi-
40 ble persons receiving such services.

41 S 2. Subdivision 21 of section 2807-c of the public health law is
42 amended by adding a new paragraph (e-1) to read as follows:

43 (E-1) FOR PERIODS ON AND AFTER JANUARY FIRST, TWO THOUSAND ELEVEN, FOR
44 PURPOSES OF CALCULATIONS PURSUANT TO PARAGRAPHS (B) AND (C) OF THIS
45 SUBDIVISION OF MAXIMUM DISPROPORTIONATE SHARE PAYMENT DISTRIBUTIONS FOR
46 A RATE YEAR OR PART THEREOF, COSTS INCURRED OF FURNISHING HOSPITAL
47 SERVICES NET OF MEDICAL ASSISTANCE PAYMENTS, OTHER THAN DISPROPORTIONATE
48 SHARE PAYMENTS, AND PAYMENTS BY UNINSURED PATIENTS SHALL FOR THE TWO
49 THOUSAND ELEVEN CALENDAR YEAR, SHALL BE DETERMINED INITIALLY BASED ON
50 EACH HOSPITAL'S SUBMISSION OF A FULLY COMPLETED TWO THOUSAND EIGHT
51 DISPROPORTIONATE SHARE HOSPITAL DATA COLLECTION TOOL, WHICH IS REQUIRED
52 TO BE SUBMITTED TO THE DEPARTMENT BY MARCH THIRTY-FIRST, TWO THOUSAND
53 ELEVEN, AND SHALL BE SUBSEQUENTLY REVISED TO REFLECT EACH HOSPITAL'S
54 SUBMISSION OF A FULLY COMPLETED TWO THOUSAND NINE DISPROPORTIONATE SHARE

HOSPITAL DATA COLLECTION TOOL, WHICH IS REQUIRED TO BE SUBMITTED TO THE DEPARTMENT BY OCTOBER FIRST, TWO THOUSAND ELEVEN.

FOR CALENDAR YEARS ON AND AFTER TWO THOUSAND TWELVE, SUCH INITIAL DETERMINATIONS SHALL REFLECT SUBMISSION OF DATA AS REQUIRED BY THE COMMISSIONER ON A SPECIFIED DATE. ALL SUCH INITIAL DETERMINATIONS SHALL SUBSEQUENTLY BE REVISED TO REFLECT ACTUAL RATE PERIOD DATA AND STATISTICS. INDIGENT CARE PAYMENTS WILL BE WITHHELD IN INSTANCES WHEN A HOSPITAL HAS NOT SUBMITTED REQUIRED INFORMATION BY THE DUE DATES PRESCRIBED IN THIS PARAGRAPH, PROVIDED, HOWEVER, THAT SUCH PAYMENTS SHALL BE MADE UPON SUBMISSION OF SUCH REQUIRED DATA. FOR PURPOSES OF CALCULATIONS PURSUANT TO PARAGRAPH (D) OF THIS SUBDIVISION OF ELIGIBILITY TO RECEIVE DISPROPORTIONATE SHARE PAYMENTS FOR A RATE YEAR OR PART THEREOF, THE HOSPITAL INPATIENT UTILIZATION RATE SHALL BE DETERMINED BASED ON THE BASE YEAR STATISTICS IN ACCORDANCE WITH THE METHODOLOGY ESTABLISHED BY THE COMMISSIONER, AND COSTS INCURRED OF FURNISHING HOSPITAL SERVICES SHALL BE DETERMINED IN ACCORDANCE WITH A METHODOLOGY ESTABLISHED BY THE COMMISSIONER CONSISTENT WITH REQUIREMENTS OF THE SECRETARY OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES FOR PURPOSES OF FEDERAL FINANCIAL PARTICIPATION PURSUANT TO THE TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT IN DISPROPORTIONATE SHARE PAYMENTS.

S 3. Intentionally omitted.

S 4. Intentionally omitted.

S4-a. Intentionally omitted.

S 5. Notwithstanding any contrary provision of law and subject to the availability of federal financial participation, for periods on and after July 1, 2011, Medicaid rates of payments for inpatient services provided by residential health care facilities which, as of the effective date of this section, operate discrete units for treatment of residents with huntington's disease, shall be increased by a rate add-on amount. The aggregate amount of such rate add-ons for the period July 1, 2011 through December 31, 2011 shall be eight hundred fifty thousand dollars (\$850,000), and shall be one million seven hundred thousand dollars (\$1,700,000) for the 2012 calendar year and each year thereafter and such amounts shall be allocated to each eligible residential health care facility proportionally, based on the number of beds in each facility's discrete unit for treatment of huntington's disease relative to the total number of such beds in all such units. Such rate add-ons shall be computed utilizing reported Medicaid days from certified cost reports as submitted to the department of health for the calendar year period two years prior to the applicable rate year and, further, such rate add-ons shall not be subject to subsequent adjustment or reconciliation.

S 6. Notwithstanding section 448 of chapter 170 of the laws of 1994 and section 4 of chapter 81 of the laws of 1995, as amended, and any other inconsistent provision of law or regulation and subject to the availability of federal financial participation, for the period April 1, 2011 through June 30, 2011, medical assistance rates of payment to residential health care facilities and diagnostic treatment centers licensed under article 28 of the public health law for adult day health care services provided to registrants with acquired immunodeficiency syndrome (AIDS) or other human immunodeficiency virus (HIV) related illnesses, shall be increased by an aggregate amount of one million eight hundred sixty-seven thousand dollars (\$1,867,000). Such amount shall be allocated proportionally among such providers based on the medical assistance visits reported by each provider in the most recently available cost report, as submitted to the department of health by January 1, 2011, and shall be included as adjustments to each provider's daily rate

1 of payment for such services. Such adjustments shall not be subject to
2 subsequent adjustment or reconciliation.

3 S 7. Notwithstanding any contrary provision of law or regulation and
4 subject to availability of federal financial participation, for the
5 period April 1, 2011 through June 30, 2011, rates of payment by govern-
6 mental agencies to residential health care facilities and diagnostic and
7 treatment centers licensed under article 28 of the public health law for
8 adult day health care services provided to registrants with acquired
9 immunodeficiency syndrome (AIDS) or other human immunodeficiency virus
10 (HIV) related illnesses, shall reflect an adjustment to such rates of
11 payments in an aggregate amount of two hundred thirty-six thousand
12 dollars (\$236,000) and distributed proportionally as rate add-ons, based
13 on each eligible providers' Medicaid visits as reported in such provid-
14 er's most recently available cost report as submitted to the department
15 of health prior to January 1, 2011, and provided further, however, that
16 such adjustments shall not be subject to subsequent adjustment or recon-
17 ciliation.

18 S 8. Intentionally omitted.

19 S 9. Intentionally omitted.

20 S 10. Notwithstanding any inconsistent provision of law, rule or regu-
21 lation, for purposes of implementing the provisions of the public health
22 law and the social services law, references to titles XIX and XXI of the
23 federal social security act in the public health law and the social
24 services law shall be deemed to include and also to mean any successor
25 titles thereto under the federal social security act.

26 S 11. Notwithstanding any inconsistent provision of law, rule or regu-
27 lation, the effectiveness of the provisions of sections 2807 and 3614 of
28 the public health law, section 18 of chapter 2 of the laws of 1988, and
29 18 NYCRR 505.14(h), as they relate to time frames for notice, approval
30 or certification of rates of payment, are hereby suspended and without
31 force or effect for purposes of implementing the provisions of this act.

32 S 12. Severability clause. If any clause, sentence, paragraph, subdi-
33 vision, section or part of this act shall be adjudged by any court of
34 competent jurisdiction to be invalid, such judgment shall not affect,
35 impair or invalidate the remainder thereof, but shall be confined in its
36 operation to the clause, sentence, paragraph, subdivision, section or
37 part thereof directly involved in the controversy in which such judg-
38 ment shall have been rendered. It is hereby declared to be the intent of
39 the legislature that this act would have been enacted even if such
40 invalid provisions had not been included herein.

41 S 13. This act shall take effect immediately and shall be deemed to
42 have been in full force and effect on and after April 1, 2011; provided,
43 however, that:

44 (a) any rules or regulations necessary to implement the provisions of
45 this act may be promulgated and any procedures, forms, or instructions
46 necessary for such implementation may be adopted and issued on or after
47 the date this act shall have become a law;

48 (b) this act shall not be construed to alter, change, affect, impair
49 or defeat any rights, obligations, duties or interests accrued, incurred
50 or conferred prior to the effective date of this act;

51 (c) the commissioner of health and the superintendent of insurance and
52 any appropriate council may take any steps necessary to implement this
53 act prior to its effective date;

54 (d) notwithstanding any inconsistent provision of the state adminis-
55 trative procedure act or any other provision of law, rule or regulation,
56 the commissioner of health and the superintendent of insurance and any

1 appropriate council is authorized to adopt or amend or promulgate on an
2 emergency basis any regulation he or she or such council determines
3 necessary to implement any provision of this act on its effective date;
4 and

5 (e) the provisions of this act shall become effective notwithstanding
6 the failure of the commissioner of health or the superintendent of
7 insurance or any council to adopt or amend or promulgate regulations
8 implementing this act.

9

PART C

10 Section 1. Subdivision 5 of section 168 of chapter 639 of the laws of
11 1996, constituting the New York Health Care Reform Act of 1996, as
12 amended by section 1 of part B of chapter 58 of the laws of 2008, is
13 amended to read as follows:

14 5. sections 2807-c, 2807-j, 2807-s and 2807-t of the public health
15 law, as amended or as added by this act, shall expire on December 31,
16 [2011] 2014, and shall be thereafter effective only in respect to any
17 act done on or before such date or action or proceeding arising out of
18 such act including continued collections of funds from assessments and
19 allowances and surcharges established pursuant to sections 2807-c,
20 2807-j, 2807-s and 2807-t of the public health law, and administration
21 and distributions of funds from pools established pursuant to sections
22 2807-c, 2807-j, 2807-k, 2807-l, 2807-m, 2807-s and 2807-t of the public
23 health law related to patient services provided before December 31,
24 [2011] 2014, and continued expenditure of funds authorized for programs
25 and grants until the exhaustion of funds therefor;

26 S 2. Subdivision 1 of section 138 of chapter 1 of the laws of 1999,
27 constituting the New York Health Care Reform Act of 2000, as amended by
28 section 1-a of part B of chapter 58 of the laws of 2008, is amended to
29 read as follows:

30 1. sections 2807-c, 2807-j, 2807-s, and 2807-t of the public health
31 law, as amended by this act, shall expire on December 31, [2011] 2014,
32 and shall be thereafter effective only in respect to any act done before
33 such date or action or proceeding arising out of such act including
34 continued collections of funds from assessments and allowances and
35 surcharges established pursuant to sections 2807-c, 2807-j, 2807-s and
36 2807-t of the public health law, and administration and distributions of
37 funds from pools established pursuant to sections 2807-c, 2807-j,
38 2807-k, 2807-l, 2807-m, 2807-s, 2807-t, 2807-v and 2807-w of the public
39 health law, as amended or added by this act, related to patient services
40 provided before December 31, [2011] 2014, and continued expenditure of
41 funds authorized for programs and grants until the exhaustion of funds
42 therefor;

43 S 3. Paragraph (a) of subdivision 9 of section 2807-j of the public
44 health law, as amended by section 2 of part B of chapter 58 of the laws
45 of 2008, is amended to read as follows:

46 (a) funds shall be deposited and credited to a special revenue-other
47 fund to be established by the comptroller or to the health care reform
48 act (HCRA) resources fund established pursuant to section ninety-two-dd
49 of the state finance law, whichever is applicable. To the extent of
50 funds appropriated therefore, the commissioner shall make payments to
51 general hospitals related to bad debt and charity care pursuant to
52 section twenty-eight hundred seven-k of this article. Funds shall be
53 deposited in the following amounts:

1 (i) fifty-seven and thirty-three-hundredths percent of the funds accu-
2 mulated for the period January first, nineteen hundred ninety-seven
3 through December thirty-first, nineteen hundred ninety-seven,

4 (ii) fifty-seven and one-hundredths percent of the funds accumulated
5 for the period January first, nineteen hundred ninety-eight through
6 December thirty-first, nineteen hundred ninety-eight,

7 (iii) fifty-five and thirty-two-hundredths percent of the funds accu-
8 mulated for the period January first, nineteen hundred ninety-nine
9 through December thirty-first, nineteen hundred ninety-nine, and

10 (iv) seven hundred sixty-five million dollars annually of the funds
11 accumulated for the periods January first, two thousand through December
12 thirty-first, two thousand [ten] THIRTEEN, and

13 (v) one hundred ninety-one million two hundred fifty thousand dollars
14 of the funds accumulated for the period January first, two thousand
15 [eleven] FOURTEEN through March thirty-first, two thousand [eleven]
16 FOURTEEN.

17 S 4. Section 34 of part A3 of chapter 62 of the laws of 2003, amending
18 the general business law and other laws relating to enacting major
19 components necessary to implement the state fiscal plan for the 2003-04
20 state fiscal year, as amended by section 3 of part B of chapter 58 of
21 the laws of 2008, is amended to read as follows:

22 S 34. (1) Notwithstanding any inconsistent provision of law, rule or
23 regulation and effective April 1, 2008 through March 31, [2011] 2014,
24 the commissioner of health is authorized to transfer and the state comp-
25 troller is authorized and directed to receive for deposit to the credit
26 of the department of health's special revenue fund - other, health care
27 reform act (HCRA) resources fund - 061, provider collection monitoring
28 account, within amounts appropriated each year, those funds collected
29 and accumulated pursuant to section 2807-v of the public health law,
30 including income from invested funds, for the purpose of payment for
31 administrative costs of the department of health related to adminis-
32 tration of statutory duties for the collections and distributions
33 authorized by section 2807-v of the public health law.

34 (2) Notwithstanding any inconsistent provision of law, rule or regu-
35 lation and effective April 1, 2008 through March 31, [2011] 2014, the
36 commissioner of health is authorized to transfer and the state comp-
37 troller is authorized and directed to receive for deposit to the credit
38 of the department of health's special revenue fund - other, health care
39 reform act (HCRA) resources fund - 061, provider collection monitoring
40 account, within amounts appropriated each year, those funds collected
41 and accumulated and interest earned through surcharges on payments for
42 health care services pursuant to section 2807-s of the public health law
43 and from assessments pursuant to section 2807-t of the public health law
44 for the purpose of payment for administrative costs of the department of
45 health related to administration of statutory duties for the collections
46 and distributions authorized by sections 2807-s, 2807-t, and 2807-m of
47 the public health law.

48 (3) Notwithstanding any inconsistent provision of law, rule or regu-
49 lation and effective April 1, 2008 through March 31, [2011] 2014, the
50 commissioner of health is authorized to transfer and the comptroller is
51 authorized to deposit, within amounts appropriated each year, those
52 funds authorized for distribution in accordance with the provisions of
53 paragraph (a) of subdivision 1 of section 2807-l of the public health
54 law for the purposes of payment for administrative costs of the depart-
55 ment of health related to the child health insurance plan program
56 authorized pursuant to title 1-A of article 25 of the public health law

1 into the special revenue funds - other, health care reform act (HCRA)
2 resources fund - 061, child health insurance account, established within
3 the department of health.

4 (4) Notwithstanding any inconsistent provision of law, rule or regu-
5 lation and effective April 1, 2008 through March 31, [2011] 2014, the
6 commissioner of health is authorized to transfer and the comptroller is
7 authorized to deposit, within amounts appropriated each year, those
8 funds authorized for distribution in accordance with the provisions of
9 paragraph (e) of subdivision 1 of section 2807-1 of the public health
10 law for the purpose of payment for administrative costs of the depart-
11 ment of health related to the health occupation development and work-
12 place demonstration program established pursuant to section 2807-h and
13 the health workforce retraining program established pursuant to section
14 2807-g of the public health law into the special revenue funds - other,
15 health care reform act (HCRA) resources fund - 061, health occupation
16 development and workplace demonstration program account, established
17 within the department of health.

18 (5) Notwithstanding any inconsistent provision of law, rule or regu-
19 lation and effective April 1, 2008 through March 31, [2011] 2014, the
20 commissioner of health is authorized to transfer and the comptroller is
21 authorized to deposit, within amounts appropriated each year, those
22 funds allocated pursuant to paragraph (j) of subdivision 1 of section
23 2807-v of the public health law for the purpose of payment for adminis-
24 trative costs of the department of health related to administration of
25 the state's tobacco control programs and cancer services provided pursu-
26 ant to sections 2807-r and 1399-ii of the public health law into such
27 accounts established within the department of health for such purposes.

28 (6) Notwithstanding any inconsistent provision of law, rule or regu-
29 lation and effective April 1, 2008 through March 31, [2011] 2014, the
30 commissioner of health is authorized to transfer and the comptroller is
31 authorized to deposit, within amounts appropriated each year, the funds
32 authorized for distribution in accordance with the provisions of section
33 2807-1 of the public health law for the purposes of payment for adminis-
34 trative costs of the department of health related to the programs funded
35 pursuant to section 2807-1 of the public health law into the special
36 revenue funds - other, health care reform act (HCRA) resources fund -
37 061, pilot health insurance account, established within the department
38 of health.

39 (7) Notwithstanding any inconsistent provision of law, rule or regu-
40 lation and effective April 1, 2008 through March 31, [2011] 2014, the
41 commissioner of health is authorized to transfer and the comptroller is
42 authorized to deposit, within amounts appropriated each year, those
43 funds authorized for distribution in accordance with the provisions of
44 subparagraph (ii) of paragraph (f) of subdivision 19 of section 2807-c
45 of the public health law from monies accumulated and interest earned in
46 the bad debt and charity care and capital statewide pools through an
47 assessment charged to general hospitals pursuant to the provisions of
48 subdivision 18 of section 2807-c of the public health law and those
49 funds authorized for distribution in accordance with the provisions of
50 section 2807-1 of the public health law for the purposes of payment for
51 administrative costs of the department of health related to programs
52 funded under section 2807-1 of the public health law into the special
53 revenue funds - other, health care reform act (HCRA) resources fund -
54 061, primary care initiatives account, established within the department
55 of health.

1 (8) Notwithstanding any inconsistent provision of law, rule or regu-
2 lation and effective April 1, 2008 through March 31, [2011] 2014, the
3 commissioner of health is authorized to transfer and the comptroller is
4 authorized to deposit, within amounts appropriated each year, those
5 funds authorized for distribution in accordance with section 2807-l of
6 the public health law for the purposes of payment for administrative
7 costs of the department of health related to programs funded under
8 section 2807-l of the public health law into the special revenue funds -
9 other, health care reform act (HCRA) resources fund - 061, health care
10 delivery administration account, established within the department of
11 health.

12 (9) Notwithstanding any inconsistent provision of law, rule or regu-
13 lation and effective April 1, 2008 through March 31, [2011] 2014, the
14 commissioner of health is authorized to transfer and the comptroller is
15 authorized to deposit, within amounts appropriated each year, those
16 funds authorized pursuant to sections 2807-d, 3614-a and 3614-b of the
17 public health law and section 367-i of the social services law and for
18 distribution in accordance with the provisions of subdivision 9 of
19 section 2807-j of the public health law for the purpose of payment for
20 administration of statutory duties for the collections and distributions
21 authorized by sections 2807-c, 2807-d, 2807-j, 2807-k, 2807-l, 3614-a
22 and 3614-b of the public health law and section 367-i of the social
23 services law into the special revenue funds - other, health care reform
24 act (HCRA) resources fund - 061, provider collection monitoring account,
25 established within the department of health.

26 S 5. Subparagraphs (xiv) and (xv) of paragraph (a) of subdivision 6 of
27 section 2807-s of the public health law, as amended by section 4 of part
28 I of chapter 2 of the laws of 2009, are amended to read as follows:

29 (xiv) A gross annual statewide amount for the period January first,
30 two thousand nine through December thirty-first, two thousand [ten]
31 THIRTEEN, shall be nine hundred [thirty-nine] FORTY-FOUR million
32 dollars.

33 (xv) A gross statewide amount for the period January first, two thou-
34 sand [eleven] FOURTEEN through March thirty-first, two thousand [eleven]
35 FOURTEEN, shall be two hundred [thirty-four] THIRTY-SIX million [seven
36 hundred fifty thousand] dollars.

37 S 5-a. Subparagraphs (iv) and (v) of paragraph (c) of subdivision 6 of
38 section 2807-s of the public health law, as amended by section 12 of
39 part B of chapter 58 of the laws of 2008, are amended to read as
40 follows:

41 (iv) A further gross annual statewide amount for two thousand, two
42 thousand one, two thousand two, two thousand three, two thousand four,
43 two thousand five, two thousand six, two thousand seven, two thousand
44 eight, two thousand nine [and], two thousand ten, TWO THOUSAND ELEVEN,
45 TWO THOUSAND TWELVE AND TWO THOUSAND THIRTEEN shall be eighty-nine
46 million dollars.

47 (v) A further gross statewide amount for the period January first, two
48 thousand [eleven] FOURTEEN through March thirty-first, two thousand
49 [eleven] FOURTEEN, shall be twenty-two million two hundred fifty thou-
50 sand dollars.

51 S 5-b. Subparagraphs (i) and (ii) of paragraph (e) of subdivision 6 of
52 section 2807-s of the public health law, as amended by section 13 of
53 part B of chapter 58 of the laws of 2008, are amended to read as
54 follows:

1 (i) A further gross annual statewide amount shall be twelve million
2 dollars for each period prior to January first, two thousand [eleven]
3 FOURTEEN.

4 (ii) A further gross statewide amount for the period January first,
5 two thousand [eleven] FOURTEEN through March thirty-first, two thousand
6 [eleven] FOURTEEN shall be three million dollars.

7 S 6. Intentionally omitted.

8 S 7. Section 2807-1 of the public health law, as amended by section 4
9 of part B of chapter 58 of the laws of 2008, clause (A) of subparagraph
10 (i) of paragraph (b) of subdivision 1 as amended by section 51 of part B
11 and paragraph (n) of subdivision 1 as amended by section 9 of part C of
12 chapter 58 of the laws of 2009, subparagraph (iv) of paragraph (c) of
13 subdivision 1 as amended by section 13 of part B of chapter 109 of the
14 laws of 2010, is amended to read as follows:

15 S 2807-1. Health care initiatives pool distributions. 1. Funds accumu-
16 lated in the health care initiatives pools pursuant to paragraph (b) of
17 subdivision nine of section twenty-eight hundred seven-j of this arti-
18 cle, or the health care reform act (HCRA) resources fund established
19 pursuant to section ninety-two-dd of the state finance law, whichever is
20 applicable, including income from invested funds, shall be distributed
21 or retained by the commissioner or by the state comptroller, as applica-
22 ble, in accordance with the following.

23 (a) Funds shall be reserved and accumulated from year to year and
24 shall be available, including income from invested funds, for purposes
25 of distributions to programs to provide health care coverage for unin-
26 sured or underinsured children pursuant to sections twenty-five hundred
27 ten and twenty-five hundred eleven of this chapter from the respective
28 health care initiatives pools established for the following periods in
29 the following amounts:

30 (i) from the pool for the period January first, nineteen hundred nine-
31 ty-seven through December thirty-first, nineteen hundred ninety-seven,
32 up to one hundred twenty million six hundred thousand dollars;

33 (ii) from the pool for the period January first, nineteen hundred
34 ninety-eight through December thirty-first, nineteen hundred ninety-
35 eight, up to one hundred sixty-four million five hundred thousand
36 dollars;

37 (iii) from the pool for the period January first, nineteen hundred
38 ninety-nine through December thirty-first, nineteen hundred ninety-nine,
39 up to one hundred eighty-one million dollars;

40 (iv) from the pool for the period January first, two thousand through
41 December thirty-first, two thousand, two hundred seven million dollars;

42 (v) from the pool for the period January first, two thousand one
43 through December thirty-first, two thousand one, two hundred thirty-five
44 million dollars;

45 (vi) from the pool for the period January first, two thousand two
46 through December thirty-first, two thousand two, three hundred twenty-
47 four million dollars;

48 (vii) from the pool for the period January first, two thousand three
49 through December thirty-first, two thousand three, up to four hundred
50 fifty million three hundred thousand dollars;

51 (viii) from the pool for the period January first, two thousand four
52 through December thirty-first, two thousand four, up to four hundred
53 sixty million nine hundred thousand dollars;

54 (ix) from the pool or the health care reform act (HCRA) resources
55 fund, whichever is applicable, for the period January first, two thou-

1 sand five through December thirty-first, two thousand five, up to one
2 hundred fifty-three million eight hundred thousand dollars;

3 (x) from the health care reform act (HCRA) resources fund for the
4 period January first, two thousand six through December thirty-first,
5 two thousand six, up to three hundred twenty-five million four hundred
6 thousand dollars;

7 (xi) from the health care reform act (HCRA) resources fund for the
8 period January first, two thousand seven through December thirty-first,
9 two thousand seven, up to four hundred twenty-eight million fifty-nine
10 thousand dollars;

11 (xii) from the health care reform act (HCRA) resources fund for the
12 period January first, two thousand eight through December thirty-first,
13 two thousand ten, up to four hundred fifty-three million six hundred
14 seventy-four thousand dollars annually; [and]

15 (xiii) from the health care reform act (HCRA) resources fund for the
16 period January first, two thousand eleven, through March thirty-first,
17 two thousand eleven, up to one hundred thirteen million four hundred
18 eighteen thousand dollars[.];

19 (XIV) FROM THE HEALTH CARE REFORM ACT (HCRA) RESOURCES FUND FOR THE
20 PERIOD APRIL FIRST, TWO THOUSAND ELEVEN, THROUGH MARCH THIRTY-FIRST, TWO
21 THOUSAND TWELVE, UP TO THREE HUNDRED TWENTY-FOUR MILLION SEVEN HUNDRED
22 FORTY-FOUR THOUSAND DOLLARS;

23 (XV) FROM THE HEALTH CARE REFORM ACT (HCRA) RESOURCES FUND FOR THE
24 PERIOD APRIL FIRST, TWO THOUSAND TWELVE, THROUGH MARCH THIRTY-FIRST, TWO
25 THOUSAND THIRTEEN, UP TO THREE HUNDRED FORTY-SIX MILLION FOUR HUNDRED
26 FORTY-FOUR THOUSAND DOLLARS; AND

27 (XVI) FROM THE HEALTH CARE REFORM ACT (HCRA) RESOURCES FUND FOR THE
28 PERIOD APRIL FIRST, TWO THOUSAND THIRTEEN, THROUGH MARCH THIRTY-FIRST,
29 TWO THOUSAND FOURTEEN, UP TO THREE HUNDRED SEVENTY MILLION SIX HUNDRED
30 NINETY-FIVE THOUSAND DOLLARS.

31 (b) Funds shall be reserved and accumulated from year to year and
32 shall be available, including income from invested funds, for purposes
33 of distributions for health insurance programs under the individual
34 subsidy programs established pursuant to the expanded health care cover-
35 age act of nineteen hundred eighty-eight as amended, and for evaluation
36 of such programs from the respective health care initiatives pools or
37 the health care reform act (HCRA) resources fund, whichever is applica-
38 ble, established for the following periods in the following amounts:

39 (i) (A) an amount not to exceed six million dollars on an annualized
40 basis for the periods January first, nineteen hundred ninety-seven
41 through December thirty-first, nineteen hundred ninety-nine; up to six
42 million dollars for the period January first, two thousand through
43 December thirty-first, two thousand; up to five million dollars for the
44 period January first, two thousand one through December thirty-first,
45 two thousand one; up to four million dollars for the period January
46 first, two thousand two through December thirty-first, two thousand two;
47 up to two million six hundred thousand dollars for the period January
48 first, two thousand three through December thirty-first, two thousand
49 three; up to one million three hundred thousand dollars for the period
50 January first, two thousand four through December thirty-first, two
51 thousand four; up to six hundred seventy thousand dollars for the period
52 January first, two thousand five through June thirtieth, two thousand
53 five; up to one million three hundred thousand dollars for the period
54 April first, two thousand six through March thirty-first, two thousand
55 seven; and up to one million three hundred thousand dollars annually for
56 the period April first, two thousand seven through March thirty-first,

1 two thousand nine, shall be allocated to individual subsidy programs;
2 and

3 (B) an amount not to exceed seven million dollars on an annualized
4 basis for the periods during the period January first, nineteen hundred
5 ninety-seven through December thirty-first, nineteen hundred ninety-nine
6 and four million dollars annually for the periods January first, two
7 thousand through December thirty-first, two thousand two, and three
8 million dollars for the period January first, two thousand three through
9 December thirty-first, two thousand three, and two million dollars for
10 the period January first, two thousand four through December thirty-
11 first, two thousand four, and two million dollars for the period January
12 first, two thousand five through June thirtieth, two thousand five shall
13 be allocated to the catastrophic health care expense program.

14 (ii) Notwithstanding any law to the contrary, the characterizations of
15 the New York state small business health insurance partnership program
16 as in effect prior to June thirtieth, two thousand three, voucher
17 program as in effect prior to December thirty-first, two thousand one,
18 individual subsidy program as in effect prior to June thirtieth, two
19 thousand five, and catastrophic health care expense program, as in
20 effect prior to June thirtieth, two thousand five, may, for the purposes
21 of identifying matching funds for the community health care conversion
22 demonstration project described in a waiver of the provisions of title
23 XIX of the federal social security act granted to the state of New York
24 and dated July fifteenth, nineteen hundred ninety-seven, may continue to
25 be used to characterize the insurance programs in sections four thousand
26 three hundred twenty-one-a, four thousand three hundred twenty-two-a,
27 four thousand three hundred twenty-six and four thousand three hundred
28 twenty-seven of the insurance law, which are successor programs to these
29 programs.

30 (c) Up to seventy-eight million dollars shall be reserved and accumu-
31 lated from year to year from the pool for the period January first,
32 nineteen hundred ninety-seven through December thirty-first, nineteen
33 hundred ninety-seven, for purposes of public health programs, up to
34 seventy-six million dollars shall be reserved and accumulated from year
35 to year from the pools for the periods January first, nineteen hundred
36 ninety-eight through December thirty-first, nineteen hundred ninety-
37 eight and January first, nineteen hundred ninety-nine through December
38 thirty-first, nineteen hundred ninety-nine, up to eighty-four million
39 dollars shall be reserved and accumulated from year to year from the
40 pools for the period January first, two thousand through December thir-
41 ty-first, two thousand, up to eighty-five million dollars shall be
42 reserved and accumulated from year to year from the pools for the period
43 January first, two thousand one through December thirty-first, two thou-
44 sand one, up to eighty-six million dollars shall be reserved and accumu-
45 lated from year to year from the pools for the period January first, two
46 thousand two through December thirty-first, two thousand two, up to
47 eighty-six million one hundred fifty thousand dollars shall be reserved
48 and accumulated from year to year from the pools for the period January
49 first, two thousand three through December thirty-first, two thousand
50 three, up to fifty-eight million seven hundred eighty thousand dollars
51 shall be reserved and accumulated from year to year from the pools for
52 the period January first, two thousand four through December thirty-
53 first, two thousand four, up to sixty-eight million seven hundred thirty
54 thousand dollars shall be reserved and accumulated from year to year
55 from the pools or the health care reform act (HCRA) resources fund,
56 whichever is applicable, for the period January first, two thousand five

1 through December thirty-first, two thousand five, up to ninety-four
2 million three hundred fifty thousand dollars shall be reserved and accu-
3 mulated from year to year from the health care reform act (HCRA)
4 resources fund for the period January first, two thousand six through
5 December thirty-first, two thousand six, up to seventy million nine
6 hundred thirty-nine thousand dollars shall be reserved and accumulated
7 from year to year from the health care reform act (HCRA) resources fund
8 for the period January first, two thousand seven through December thir-
9 ty-first, two thousand seven, up to fifty-five million six hundred
10 eighty-nine thousand dollars annually shall be reserved and accumulated
11 from year to year from the health care reform act (HCRA) resources fund
12 for the period January first, two thousand eight through December thir-
13 ty-first, two thousand ten, [and] up to thirteen million nine hundred
14 twenty-two thousand dollars shall be reserved and accumulated from year
15 to year from the health care reform act (HCRA) resources fund for the
16 period January first, two thousand eleven through March thirty-first,
17 two thousand eleven, AND FOR PERIODS ON AND AFTER APRIL FIRST, TWO THOU-
18 SAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN, UP TO
19 FUNDING AMOUNTS SPECIFIED BELOW and shall be available, including income
20 from invested funds, for:

21 (i) deposit by the commissioner, within amounts appropriated, and the
22 state comptroller is hereby authorized and directed to receive for
23 deposit to, to the credit of the department of health's special revenue
24 fund - other, hospital based grants program account or the health care
25 reform act (HCRA) resources fund, whichever is applicable, for purposes
26 of services and expenses related to general hospital based grant
27 programs, up to twenty-two million dollars annually from the nineteen
28 hundred ninety-seven pool, nineteen hundred ninety-eight pool, nineteen
29 hundred ninety-nine pool, two thousand pool, two thousand one pool and
30 two thousand two pool, respectively, up to twenty-two million dollars
31 from the two thousand three pool, up to ten million dollars for the
32 period January first, two thousand four through December thirty-first,
33 two thousand four, up to eleven million dollars for the period January
34 first, two thousand five through December thirty-first, two thousand
35 five, up to twenty-two million dollars for the period January first, two
36 thousand six through December thirty-first, two thousand six, up to
37 twenty-two million ninety-seven thousand dollars annually for the period
38 January first, two thousand seven through December thirty-first, two
39 thousand ten, [and] up to five million five hundred twenty-four thousand
40 dollars for the period January first, two thousand eleven through March
41 thirty-first, two thousand eleven, UP TO THIRTEEN MILLION FOUR HUNDRED
42 FORTY-FIVE THOUSAND DOLLARS FOR THE PERIOD APRIL FIRST, TWO THOUSAND
43 ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND TWELVE, AND UP TO THIR-
44 TEEN MILLION THREE HUNDRED SEVENTY-FIVE THOUSAND DOLLARS EACH STATE
45 FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND TWELVE THROUGH
46 MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN;

47 (ii) deposit by the commissioner, within amounts appropriated, and the
48 state comptroller is hereby authorized and directed to receive for
49 deposit to, to the credit of the emergency medical services training
50 account established in section ninety-seven-q of the state finance law
51 or the health care reform act (HCRA) resources fund, whichever is appli-
52 cable, up to sixteen million dollars on an annualized basis for the
53 periods January first, nineteen hundred ninety-seven through December
54 thirty-first, nineteen hundred ninety-nine, up to twenty million dollars
55 for the period January first, two thousand through December thirty-
56 first, two thousand, up to twenty-one million dollars for the period

1 January first, two thousand one through December thirty-first, two thou-
2 sand one, up to twenty-two million dollars for the period January first,
3 two thousand two through December thirty-first, two thousand two, up to
4 twenty-two million five hundred fifty thousand dollars for the period
5 January first, two thousand three through December thirty-first, two
6 thousand three, up to nine million six hundred eighty thousand dollars
7 for the period January first, two thousand four through December thir-
8 ty-first, two thousand four, up to twelve million one hundred thirty
9 thousand dollars for the period January first, two thousand five through
10 December thirty-first, two thousand five, up to twenty-four million two
11 hundred fifty thousand dollars for the period January first, two thou-
12 sand six through December thirty-first, two thousand six, up to twenty
13 million four hundred ninety-two thousand dollars annually for the period
14 January first, two thousand seven through December thirty-first, two
15 thousand ten, [and] up to five million one hundred twenty-three thousand
16 dollars for the period January first, two thousand eleven through March
17 thirty-first, two thousand eleven, UP TO EIGHTEEN MILLION THREE HUNDRED
18 FIFTY THOUSAND DOLLARS FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN
19 THROUGH MARCH THIRTY-FIRST, TWO THOUSAND TWELVE, UP TO EIGHTEEN MILLION
20 NINE HUNDRED FIFTY THOUSAND DOLLARS FOR THE PERIOD APRIL FIRST, TWO
21 THOUSAND TWELVE THROUGH MARCH THIRTY-FIRST, TWO THOUSAND THIRTEEN, AND
22 UP TO NINETEEN MILLION FOUR HUNDRED NINETEEN THOUSAND DOLLARS FOR THE
23 PERIOD APRIL FIRST, TWO THOUSAND THIRTEEN THROUGH MARCH THIRTY-FIRST,
24 TWO THOUSAND FOURTEEN;

25 (iii) priority distributions by the commissioner up to thirty-two
26 million dollars on an annualized basis for the period January first, two
27 thousand through December thirty-first, two thousand four, up to thir-
28 ty-eight million dollars on an annualized basis for the period January
29 first, two thousand five through December thirty-first, two thousand
30 six, up to eighteen million two hundred fifty thousand dollars for the
31 period January first, two thousand seven through December thirty-first,
32 two thousand seven, up to three million dollars annually for the period
33 January first, two thousand eight through December thirty-first, two
34 thousand ten, [and] up to seven hundred fifty thousand dollars for the
35 period January first, two thousand eleven through March thirty-first,
36 two thousand eleven, AND UP TO TWO MILLION NINE HUNDRED THOUSAND DOLLARS
37 EACH STATE FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN
38 THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN to be allocated (A)
39 for the purposes established pursuant to subparagraph (ii) of paragraph
40 (f) of subdivision nineteen of section twenty-eight hundred seven-c of
41 this article as in effect on December thirty-first, nineteen hundred
42 ninety-six and as may thereafter be amended, up to fifteen million
43 dollars annually for the periods January first, two thousand through
44 December thirty-first, two thousand four, up to twenty-one million
45 dollars annually for the period January first, two thousand five through
46 December thirty-first, two thousand six, and up to seven million five
47 hundred thousand dollars for the period January first, two thousand
48 seven through March thirty-first, two thousand seven;

49 (B) pursuant to a memorandum of understanding entered into by the
50 commissioner, the majority leader of the senate and the speaker of the
51 assembly, for the purposes outlined in such memorandum upon the recom-
52 mendation of the majority leader of the senate, up to eight million
53 five hundred thousand dollars annually for the period January first, two
54 thousand through December thirty-first, two thousand six, and up to four
55 million two hundred fifty thousand dollars for the period January first,
56 two thousand seven through June thirtieth, two thousand seven, and for

1 the purposes outlined in such memorandum upon the recommendation of the
2 speaker of the assembly, up to eight million five hundred thousand
3 dollars annually for the periods January first, two thousand through
4 December thirty-first, two thousand six, and up to four million two
5 hundred fifty thousand dollars for the period January first, two thou-
6 sand seven through June thirtieth, two thousand seven; and

7 (C) for services and expenses, including grants, related to emergency
8 assistance distributions as designated by the commissioner. Notwith-
9 standing section one hundred twelve or one hundred sixty-three of the
10 state finance law or any other contrary provision of law, such distrib-
11 utions shall be limited to providers or programs where, as determined by
12 the commissioner, emergency assistance is vital to protect the life or
13 safety of patients, to ensure the retention of facility caregivers or
14 other staff, or in instances where health facility operations are jeop-
15 ardized, or where the public health is jeopardized or other emergency
16 situations exist, up to three million dollars annually for the period
17 April first, two thousand seven through March thirty-first, two thousand
18 eleven, AND UP TO TWO MILLION NINE HUNDRED THOUSAND DOLLARS EACH STATE
19 FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH
20 MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN. Upon any distribution of
21 such funds, the commissioner shall immediately notify the chair and
22 ranking minority member of the senate finance committee, the assembly
23 ways and means committee, the senate committee on health, and the assem-
24 bly committee on health;

25 (iv) distributions by the commissioner related to poison control
26 centers pursuant to subdivision seven of section twenty-five hundred-d
27 of this chapter, up to five million dollars for the period January
28 first, nineteen hundred ninety-seven through December thirty-first,
29 nineteen hundred ninety-seven, up to three million dollars on an annual-
30 ized basis for the periods during the period January first, nineteen
31 hundred ninety-eight through December thirty-first, nineteen hundred
32 ninety-nine, up to five million dollars annually for the periods January
33 first, two thousand through December thirty-first, two thousand two, up
34 to four million six hundred thousand dollars annually for the periods
35 January first, two thousand three through December thirty-first, two
36 thousand four, up to five million one hundred thousand dollars for the
37 period January first, two thousand five through December thirty-first,
38 two thousand six annually, up to five million one hundred thousand
39 dollars annually for the period January first, two thousand seven
40 through December thirty-first, two thousand nine, up to three million
41 six hundred thousand dollars for the period January first, two thousand
42 ten through December thirty-first, two thousand ten, [and] up to seven
43 hundred seventy-five thousand dollars for the period January first, two
44 thousand eleven through March thirty-first, two thousand eleven, AND UP
45 TO TWO MILLION FIVE HUNDRED THOUSAND DOLLARS EACH STATE FISCAL YEAR FOR
46 THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST,
47 TWO THOUSAND FOURTEEN; and

48 (v) deposit by the commissioner, within amounts appropriated, and the
49 state comptroller is hereby authorized and directed to receive for
50 deposit to, to the credit of the department of health's special revenue
51 fund - other, miscellaneous special revenue fund - 339 maternal and
52 child HIV services account or the health care reform act (HCRA)
53 resources fund, whichever is applicable, for purposes of a special
54 program for HIV services for [infants and pregnant] women AND CHILDREN,
55 INCLUDING ADOLESCENTS pursuant to section [seventy-one of chapter seven
56 hundred thirty-one of the laws of nineteen hundred ninety-three, amend-

1 ing] TWENTY-FIVE HUNDRED-F-ONE OF the public health law [and other laws
2 relating to reimbursement, delivery and capital costs of ambulatory
3 health care services and inpatient hospital services], up to five
4 million dollars annually for the periods January first, two thousand
5 through December thirty-first, two thousand two, up to five million
6 dollars for the period January first, two thousand three through Decem-
7 ber thirty-first, two thousand three, up to two million five hundred
8 thousand dollars for the period January first, two thousand four through
9 December thirty-first, two thousand four, up to two million five hundred
10 thousand dollars for the period January first, two thousand five through
11 December thirty-first, two thousand five, up to five million dollars for
12 the period January first, two thousand six through December thirty-
13 first, two thousand six, up to five million dollars annually for the
14 period January first, two thousand seven through December thirty-first,
15 two thousand ten, [and] up to one million two hundred fifty thousand
16 dollars for the period January first, two thousand eleven through March
17 thirty-first, two thousand eleven, AND UP TO FIVE MILLION DOLLARS EACH
18 STATE FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN
19 THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN;

20 (d) (i) An amount of up to twenty million dollars annually for the
21 period January first, two thousand through December thirty-first, two
22 thousand six, up to ten million dollars for the period January first,
23 two thousand seven through June thirtieth, two thousand seven, up to
24 twenty million dollars annually for the period January first, two thou-
25 sand eight through December thirty-first, two thousand ten, [and] up to
26 five million dollars for the period January first, two thousand eleven
27 through March thirty-first, two thousand eleven, AND UP TO NINETEEN
28 MILLION SIX HUNDRED THOUSAND DOLLARS EACH STATE FISCAL YEAR FOR THE
29 PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO
30 THOUSAND FOURTEEN, shall be transferred to the health facility restruc-
31 turing pool established pursuant to section twenty-eight hundred fifteen
32 of this article;

33 (ii) provided, however, amounts transferred pursuant to subparagraph
34 (i) of this paragraph may be reduced in an amount to be approved by the
35 director of the budget to reflect the amount received from the federal
36 government under the state's 1115 waiver which is directed under its
37 terms and conditions to the health facility restructuring program.

38 (e) Funds shall be reserved and accumulated from year to year and
39 shall be available, including income from invested funds, for purposes
40 of distributions to organizations to support the health workforce
41 retraining program established pursuant to section twenty-eight hundred
42 seven-g of this article from the respective health care initiatives
43 pools established for the following periods in the following amounts
44 from the pools or the health care reform act (HCRA) resources fund,
45 whichever is applicable, during the period January first, nineteen
46 hundred ninety-seven through December thirty-first, nineteen hundred
47 ninety-nine, up to fifty million dollars on an annualized basis, up to
48 thirty million dollars for the period January first, two thousand
49 through December thirty-first, two thousand, up to forty million dollars
50 for the period January first, two thousand one through December thirty-
51 first, two thousand one, up to fifty million dollars for the period
52 January first, two thousand two through December thirty-first, two thou-
53 sand two, up to forty-one million one hundred fifty thousand dollars for
54 the period January first, two thousand three through December thirty-
55 first, two thousand three, up to forty-one million one hundred fifty
56 thousand dollars for the period January first, two thousand four through

1 December thirty-first, two thousand four, up to fifty-eight million
2 three hundred sixty thousand dollars for the period January first, two
3 thousand five through December thirty-first, two thousand five, up to
4 fifty-two million three hundred sixty thousand dollars for the period
5 January first, two thousand six through December thirty-first, two thou-
6 sand six, up to thirty-five million four hundred thousand dollars annu-
7 ally for the period January first, two thousand seven through December
8 thirty-first, two thousand ten [and], up to eight million eight hundred
9 fifty thousand dollars for the period January first, two thousand eleven
10 through March thirty-first, two thousand eleven, AND UP TO TWENTY-EIGHT
11 MILLION FOUR HUNDRED THOUSAND DOLLARS EACH STATE FISCAL YEAR FOR THE
12 PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO
13 THOUSAND FOURTEEN, less the amount of funds available for allocations
14 for rate adjustments for workforce training programs for payments by
15 state governmental agencies for inpatient hospital services.

16 (f) Funds shall be accumulated and transferred from as follows:

17 (i) from the pool for the period January first, nineteen hundred nine-
18 ty-seven through December thirty-first, nineteen hundred ninety-seven,
19 (A) thirty-four million six hundred thousand dollars shall be trans-
20 ferred to funds reserved and accumulated pursuant to paragraph (b) of
21 subdivision nineteen of section twenty-eight hundred seven-c of this
22 article, and (B) eighty-two million dollars shall be transferred and
23 deposited and credited to the credit of the state general fund medical
24 assistance local assistance account;

25 (ii) from the pool for the period January first, nineteen hundred
26 ninety-eight through December thirty-first, nineteen hundred ninety-
27 eight, eighty-two million dollars shall be transferred and deposited and
28 credited to the credit of the state general fund medical assistance
29 local assistance account;

30 (iii) from the pool for the period January first, nineteen hundred
31 ninety-nine through December thirty-first, nineteen hundred ninety-nine,
32 eighty-two million dollars shall be transferred and deposited and cred-
33 ited to the credit of the state general fund medical assistance local
34 assistance account;

35 (iv) from the pool or the health care reform act (HCRA) resources
36 fund, whichever is applicable, for the period January first, two thou-
37 sand through December thirty-first, two thousand four, eighty-two
38 million dollars annually, and for the period January first, two thousand
39 five through December thirty-first, two thousand five, eighty-two
40 million dollars, and for the period January first, two thousand six
41 through December thirty-first, two thousand six, eighty-two million
42 dollars, and for the period January first, two thousand seven through
43 December thirty-first, two thousand seven, eighty-two million dollars,
44 and for the period January first, two thousand eight through December
45 thirty-first, two thousand eight, ninety million seven hundred thousand
46 dollars shall be deposited by the commissioner, and the state comp-
47 troller is hereby authorized and directed to receive for deposit to the
48 credit of the state special revenue fund - other, HCRA transfer fund,
49 medical assistance account;

50 (v) from the health care reform act (HCRA) resources fund for the
51 period January first, two thousand nine through December thirty-first,
52 two thousand nine, one hundred eight million nine hundred seventy-five
53 thousand dollars, and for the period January first, two thousand ten
54 through December thirty-first, two thousand ten, one hundred twenty-six
55 million one hundred thousand dollars, [and] for the period January
56 first, two thousand eleven through March thirty-first, two thousand

eleven, twenty million five hundred thousand dollars, AND FOR EACH STATE FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN, ONE HUNDRED FORTY-SIX MILLION FOUR HUNDRED THOUSAND DOLLARS, shall be deposited by the commissioner, and the state comptroller is hereby authorized and directed to receive for deposit, to the credit of the state special revenue fund - other, HCRA transfer fund, medical assistance account.

(g) Funds shall be transferred to primary health care services pools created by the commissioner, and shall be available, including income from invested funds, for distributions in accordance with former section twenty-eight hundred seven-bb of this article from the respective health care initiatives pools for the following periods in the following percentage amounts of funds remaining after allocations in accordance with paragraphs (a) through (f) of this subdivision:

(i) from the pool for the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-seven, fifteen and eighty-seven-hundredths percent;

(ii) from the pool for the period January first, nineteen hundred ninety-eight through December thirty-first, nineteen hundred ninety-eight, fifteen and eighty-seven-hundredths percent; and

(iii) from the pool for the period January first, nineteen hundred ninety-nine through December thirty-first, nineteen hundred ninety-nine, sixteen and thirteen-hundredths percent.

(h) Funds shall be reserved and accumulated from year to year by the commissioner and shall be available, including income from invested funds, for purposes of primary care education and training pursuant to article nine of this chapter from the respective health care initiatives pools established for the following periods in the following percentage amounts of funds remaining after allocations in accordance with paragraphs (a) through (f) of this subdivision and shall be available for distributions as follows:

(i) funds shall be reserved and accumulated:

(A) from the pool for the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-seven, six and thirty-five-hundredths percent;

(B) from the pool for the period January first, nineteen hundred ninety-eight through December thirty-first, nineteen hundred ninety-eight, six and thirty-five-hundredths percent; and

(C) from the pool for the period January first, nineteen hundred ninety-nine through December thirty-first, nineteen hundred ninety-nine, six and forty-five-hundredths percent;

(ii) funds shall be available for distributions including income from invested funds as follows:

(A) for purposes of the primary care physician loan repayment program in accordance with section nine hundred three of this chapter, up to five million dollars on an annualized basis;

(B) for purposes of the primary care practitioner scholarship program in accordance with section nine hundred four of this chapter, up to two million dollars on an annualized basis;

(C) for purposes of minority participation in medical education grants in accordance with section nine hundred six of this chapter, up to one million dollars on an annualized basis; and

(D) provided, however, that the commissioner may reallocate any funds remaining or unallocated for distributions for the primary care practitioner scholarship program in accordance with section nine hundred four of this chapter.

1 (i) Funds shall be reserved and accumulated from year to year and
2 shall be available, including income from invested funds, for distrib-
3 utions in accordance with section twenty-nine hundred fifty-two and
4 section twenty-nine hundred fifty-eight of this chapter for rural health
5 care delivery development and rural health care access development,
6 respectively, from the respective health care initiatives pools or the
7 health care reform act (HCRA) resources fund, whichever is applicable,
8 for the following periods in the following percentage amounts of funds
9 remaining after allocations in accordance with paragraphs (a) through
10 (f) of this subdivision, and for periods on and after January first, two
11 thousand, in the following amounts:

12 (i) from the pool for the period January first, nineteen hundred nine-
13 ty-seven through December thirty-first, nineteen hundred ninety-seven,
14 thirteen and forty-nine-hundredths percent;

15 (ii) from the pool for the period January first, nineteen hundred
16 ninety-eight through December thirty-first, nineteen hundred ninety-
17 eight, thirteen and forty-nine-hundredths percent;

18 (iii) from the pool for the period January first, nineteen hundred
19 ninety-nine through December thirty-first, nineteen hundred ninety-nine,
20 thirteen and seventy-one-hundredths percent;

21 (iv) from the pool for the periods January first, two thousand through
22 December thirty-first, two thousand two, seventeen million dollars annu-
23 ally, and for the period January first, two thousand three through
24 December thirty-first, two thousand three, up to fifteen million eight
25 hundred fifty thousand dollars;

26 (v) from the pool or the health care reform act (HCRA) resources fund,
27 whichever is applicable, for the period January first, two thousand four
28 through December thirty-first, two thousand four, up to fifteen million
29 eight hundred fifty thousand dollars, and for the period January first,
30 two thousand five through December thirty-first, two thousand five, up
31 to nineteen million two hundred thousand dollars, and for the period
32 January first, two thousand six through December thirty-first, two thou-
33 sand six, up to nineteen million two hundred thousand dollars, for the
34 period January first, two thousand seven through December thirty-first,
35 two thousand ten, up to eighteen million one hundred fifty thousand
36 dollars annually, [and] for the period January first, two thousand elev-
37 en through March thirty-first, two thousand eleven, up to four million
38 five hundred thirty-eight thousand dollars, AND FOR EACH STATE FISCAL
39 YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIR-
40 TY-FIRST, TWO THOUSAND FOURTEEN, UP TO SIXTEEN MILLION TWO HUNDRED THOU-
41 SAND DOLLARS.

42 (j) Funds shall be reserved and accumulated from year to year and
43 shall be available, including income from invested funds, for purposes
44 of distributions related to health information and health care quality
45 improvement pursuant to former section twenty-eight hundred seven-n of
46 this article from the respective health care initiatives pools estab-
47 lished for the following periods in the following percentage amounts of
48 funds remaining after allocations in accordance with paragraphs (a)
49 through (f) of this subdivision:

50 (i) from the pool for the period January first, nineteen hundred nine-
51 ty-seven through December thirty-first, nineteen hundred ninety-seven,
52 six and thirty-five-hundredths percent;

53 (ii) from the pool for the period January first, nineteen hundred
54 ninety-eight through December thirty-first, nineteen hundred ninety-
55 eight, six and thirty-five-hundredths percent; and

1 (iii) from the pool for the period January first, nineteen hundred
2 ninety-nine through December thirty-first, nineteen hundred ninety-nine,
3 six and forty-five-hundredths percent.

4 (k) Funds shall be reserved and accumulated from year to year and
5 shall be available, including income from invested funds, for allo-
6 cations and distributions in accordance with section twenty-eight
7 hundred seven-p of this article for diagnostic and treatment center
8 uncompensated care from the respective health care initiatives pools or
9 the health care reform act (HCRA) resources fund, whichever is applica-
10 ble, for the following periods in the following percentage amounts of
11 funds remaining after allocations in accordance with paragraphs (a)
12 through (f) of this subdivision, and for periods on and after January
13 first, two thousand, in the following amounts:

14 (i) from the pool for the period January first, nineteen hundred nine-
15 ty-seven through December thirty-first, nineteen hundred ninety-seven,
16 thirty-eight and one-tenth percent;

17 (ii) from the pool for the period January first, nineteen hundred
18 ninety-eight through December thirty-first, nineteen hundred ninety-
19 eight, thirty-eight and one-tenth percent;

20 (iii) from the pool for the period January first, nineteen hundred
21 ninety-nine through December thirty-first, nineteen hundred ninety-nine,
22 thirty-eight and seventy-one-hundredths percent;

23 (iv) from the pool for the periods January first, two thousand through
24 December thirty-first, two thousand two, forty-eight million dollars
25 annually, and for the period January first, two thousand three through
26 June thirtieth, two thousand three, twenty-four million dollars;

27 (v) (A) from the pool or the health care reform act (HCRA) resources
28 fund, whichever is applicable, for the period July first, two thousand
29 three through December thirty-first, two thousand three, up to six
30 million dollars, for the period January first, two thousand four through
31 December thirty-first, two thousand six, up to twelve million dollars
32 annually, for the period January first, two thousand seven through
33 December thirty-first, two thousand [ten] THIRTEEN, up to forty-eight
34 million dollars annually, and for the period January first, two thousand
35 [eleven] FOURTEEN through March thirty-first, two thousand [eleven]
36 FOURTEEN, up to twelve million dollars;

37 (B) from the health care reform act (HCRA) resources fund for the
38 period January first, two thousand six through December thirty-first,
39 two thousand six, an additional seven million five hundred thousand
40 dollars, for the period January first, two thousand seven through Decem-
41 ber thirty-first, two thousand [ten] THIRTEEN, an additional seven
42 million five hundred thousand dollars annually, and for the period Janu-
43 ary first, two thousand [eleven] FOURTEEN through March thirty-first,
44 two thousand [eleven] FOURTEEN, an additional one million eight hundred
45 seventy-five thousand dollars, for voluntary non-profit diagnostic and
46 treatment center uncompensated care in accordance with subdivision
47 four-c of section twenty-eight hundred seven-p of this article; and

48 (vi) funds reserved and accumulated pursuant to this paragraph for
49 periods on and after July first, two thousand three, shall be deposited
50 by the commissioner, within amounts appropriated, and the state comp-
51 troller is hereby authorized and directed to receive for deposit to the
52 credit of the state special revenue funds - other, HCRA transfer fund,
53 medical assistance account, for purposes of funding the state share of
54 rate adjustments made pursuant to section twenty-eight hundred seven-p
55 of this article, provided, however, that in the event federal financial
56 participation is not available for rate adjustments made pursuant to

paragraph (b) of subdivision one of section twenty-eight hundred seven-p of this article, funds shall be distributed pursuant to paragraph (a) of subdivision one of section twenty-eight hundred seven-p of this article from the respective health care initiatives pools or the health care reform act (HCRA) resources fund, whichever is applicable.

(l) Funds shall be reserved and accumulated from year to year by the commissioner and shall be available, including income from invested funds, for transfer to and allocation for services and expenses for the payment of benefits to recipients of drugs under the AIDS drug assistance program (ADAP) - HIV uninsured care program as administered by Health Research Incorporated from the respective health care initiatives pools or the health care reform act (HCRA) resources fund, whichever is applicable, established for the following periods in the following percentage amounts of funds remaining after allocations in accordance with paragraphs (a) through (f) of this subdivision, and for periods on and after January first, two thousand, in the following amounts:

(i) from the pool for the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-seven, nine and fifty-two-hundredths percent;

(ii) from the pool for the period January first, nineteen hundred ninety-eight through December thirty-first, nineteen hundred ninety-eight, nine and fifty-two-hundredths percent;

(iii) from the pool for the period January first, nineteen hundred ninety-nine and December thirty-first, nineteen hundred ninety-nine, nine and sixty-eight-hundredths percent;

(iv) from the pool for the periods January first, two thousand through December thirty-first, two thousand two, up to twelve million dollars annually, and for the period January first, two thousand three through December thirty-first, two thousand three, up to forty million dollars; and

(v) from the pool or the health care reform act (HCRA) resources fund, whichever is applicable, for the periods January first, two thousand four through December thirty-first, two thousand four, up to fifty-six million dollars, for the period January first, two thousand five through December thirty-first, two thousand six, up to sixty million dollars annually, for the period January first, two thousand seven through December thirty-first, two thousand ten, up to sixty million dollars annually, [and] for the period January first, two thousand eleven through March thirty-first, two thousand eleven, up to fifteen million dollars, AND EACH STATE FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN, UP TO FORTY-TWO MILLION THREE HUNDRED THOUSAND DOLLARS.

(m) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of distributions pursuant to section twenty-eight hundred seven-r of this article for cancer related services from the respective health care initiatives pools or the health care reform act (HCRA) resources fund, whichever is applicable, established for the following periods in the following percentage amounts of funds remaining after allocations in accordance with paragraphs (a) through (f) of this subdivision, and for periods on and after January first, two thousand, in the following amounts:

(i) from the pool for the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-seven, seven and ninety-four-hundredths percent;

1 (ii) from the pool for the period January first, nineteen hundred
2 ninety-eight through December thirty-first, nineteen hundred ninety-
3 eight, seven and ninety-four-hundredths percent;

4 (iii) from the pool for the period January first, nineteen hundred
5 ninety-nine and December thirty-first, nineteen hundred ninety-nine, six
6 and forty-five-hundredths percent;

7 (iv) from the pool for the period January first, two thousand through
8 December thirty-first, two thousand two, up to ten million dollars on an
9 annual basis;

10 (v) from the pool for the period January first, two thousand three
11 through December thirty-first, two thousand four, up to eight million
12 nine hundred fifty thousand dollars on an annual basis;

13 (vi) from the pool or the health care reform act (HCRA) resources
14 fund, whichever is applicable, for the period January first, two thou-
15 sand five through December thirty-first, two thousand six, up to ten
16 million fifty thousand dollars on an annual basis, for the period Janu-
17 ary first, two thousand seven through December thirty-first, two thou-
18 sand ten, up to nineteen million dollars annually, and for the period
19 January first, two thousand eleven through March thirty-first, two thou-
20 sand eleven, up to four million seven hundred fifty thousand dollars.

21 (n) Funds shall be accumulated and transferred from the health care
22 reform act (HCRA) resources fund as follows: for the period April first,
23 two thousand seven through March thirty-first, two thousand eight, and
24 on an annual basis for the periods April first, two thousand eight
25 through November thirtieth, two thousand nine, funds within amounts
26 appropriated shall be transferred and deposited and credited to the
27 credit of the state special revenue funds - other, HCRA transfer fund,
28 medical assistance account, for purposes of funding the state share of
29 rate adjustments made to public and voluntary hospitals in accordance
30 with paragraphs (i) and (j) of subdivision one of section twenty-eight
31 hundred seven-c of this article.

32 2. Notwithstanding any inconsistent provision of law, rule or regu-
33 lation, any funds accumulated in the health care initiatives pools
34 pursuant to paragraph (b) of subdivision nine of section twenty-eight
35 hundred seven-j of this article, as a result of surcharges, assessments
36 or other obligations during the periods January first, nineteen hundred
37 ninety-seven through December thirty-first, nineteen hundred ninety-
38 nine, which are unused or uncommitted for distributions pursuant to this
39 section shall be reserved and accumulated from year to year by the
40 commissioner and, within amounts appropriated, transferred and deposited
41 into the special revenue funds - other, miscellaneous special revenue
42 fund - 339, child health insurance account or any successor fund or
43 account, for purposes of distributions to implement the child health
44 insurance program established pursuant to sections twenty-five hundred
45 ten and twenty-five hundred eleven of this chapter for periods on and
46 after January first, two thousand one; provided, however, funds reserved
47 and accumulated for priority distributions pursuant to subparagraph
48 (iii) of paragraph (c) of subdivision one of this section shall not be
49 transferred and deposited into such account pursuant to this subdivi-
50 sion; and provided further, however, that any unused or uncommitted pool
51 funds accumulated and allocated pursuant to paragraph (j) of subdivision
52 one of this section shall be distributed for purposes of the health
53 information and quality improvement act of 2000.

54 3. Revenue from distributions pursuant to this section shall not be
55 included in gross revenue received for purposes of the assessments
56 pursuant to subdivision eighteen of section twenty-eight hundred seven-c

1 of this article, subject to the provisions of paragraph (e) of subdivi-
2 sion eighteen of section twenty-eight hundred seven-c of this article,
3 and shall not be included in gross revenue received for purposes of the
4 assessments pursuant to section twenty-eight hundred seven-d of this
5 article, subject to the provisions of subdivision twelve of section
6 twenty-eight hundred seven-d of this article.

7 S 8. Subdivision 1 of section 2807-v of the public health law, as
8 amended by section 5 of part B of chapter 58 of the laws of 2008, para-
9 graphs (g), (h), (i) and (i-1) as amended by section 5 of part I of
10 chapter 2 of the laws of 2009, subparagraphs (xi) and (xii) of paragraph
11 (j) as amended by section 12, paragraph (jj) as amended by section 10,
12 subparagraph (vii) of paragraph (qq) as amended by section 11 and
13 subparagraph (vii) of paragraph (uu) as amended by section 9 of part B
14 of chapter 109 of the laws of 2010, paragraph (s) as amended by section
15 8, paragraphs (x) and (y) as amended by section 6, paragraph (kk) as
16 amended by section 124, subparagraph (vi) of paragraph (uu) as amended
17 by section 120, paragraph (xx) as amended by section 10 and paragraphs
18 (ggg) and (hhh) as amended by section 7 of part C of chapter 58 of the
19 laws of 2009, is amended to read as follows:

20 1. Funds accumulated in the tobacco control and insurance initiatives
21 pool or in the health care reform act (HCRA) resources fund established
22 pursuant to section ninety-two-dd of the state finance law, whichever is
23 applicable, including income from invested funds, shall be distributed
24 or retained by the commissioner or by the state comptroller, as applica-
25 ble, in accordance with the following:

26 (a) Funds shall be deposited by the commissioner, within amounts
27 appropriated, and the state comptroller is hereby authorized and
28 directed to receive for deposit to the credit of the state special
29 revenue funds - other, HCRA transfer fund, medicaid fraud hotline and
30 medicaid administration account, or any successor fund or account, for
31 purposes of services and expenses related to the toll-free medicaid
32 fraud hotline established pursuant to section one hundred eight of chap-
33 ter one of the laws of nineteen hundred ninety-nine from the tobacco
34 control and insurance initiatives pool established for the following
35 periods in the following amounts: four hundred thousand dollars annually
36 for the periods January first, two thousand through December thirty-
37 first, two thousand two, up to four hundred thousand dollars for the
38 period January first, two thousand three through December thirty-first,
39 two thousand three, up to four hundred thousand dollars for the period
40 January first, two thousand four through December thirty-first, two
41 thousand four, up to four hundred thousand dollars for the period Janu-
42 ary first, two thousand five through December thirty-first, two thousand
43 five, up to four hundred thousand dollars for the period January first,
44 two thousand six through December thirty-first, two thousand six, up to
45 four hundred thousand dollars for the period January first, two thousand
46 seven through December thirty-first, two thousand seven, up to four
47 hundred thousand dollars for the period January first, two thousand
48 eight through December thirty-first, two thousand eight, up to four
49 hundred thousand dollars for the period January first, two thousand nine
50 through December thirty-first, two thousand nine, up to four hundred
51 thousand dollars for the period January first, two thousand ten through
52 December thirty-first, two thousand ten, [and] up to one hundred thou-
53 sand dollars for the period January first, two thousand eleven through
54 March thirty-first, two thousand eleven AND WITHIN AMOUNTS APPROPRIATED
55 ON AND AFTER APRIL FIRST, TWO THOUSAND ELEVEN.

1 (b) Funds shall be reserved and accumulated from year to year and
2 shall be available, including income from invested funds, for purposes
3 of payment of audits or audit contracts necessary to determine payor and
4 provider compliance with requirements set forth in sections twenty-eight
5 hundred seven-j, twenty-eight hundred seven-s and twenty-eight hundred
6 seven-t of this article [and hospital compliance with paragraph six of
7 subdivision (a) of section 405.4 of title 10 of the official compilation
8 of codes, rules and regulations of the state of New York in accordance
9 with subdivision nine of section twenty-eight hundred three of this
10 article] from the tobacco control and insurance initiatives pool estab-
11 lished for the following periods in the following amounts: five million
12 six hundred thousand dollars annually for the periods January first, two
13 thousand through December thirty-first, two thousand two, up to five
14 million dollars for the period January first, two thousand three through
15 December thirty-first, two thousand three, up to five million dollars
16 for the period January first, two thousand four through December thir-
17 ty-first, two thousand four, up to five million dollars for the period
18 January first, two thousand five through December thirty first, two
19 thousand five, up to five million dollars for the period January first,
20 two thousand six through December thirty-first, two thousand six, up to
21 seven million eight hundred thousand dollars for the period January
22 first, two thousand seven through December thirty-first, two thousand
23 seven, and up to eight million three hundred twenty-five thousand
24 dollars for the period January first, two thousand eight through Decem-
25 ber thirty-first, two thousand eight, up to eight million five hundred
26 thousand dollars for the period January first, two thousand nine through
27 December thirty-first, two thousand nine, up to eight million five
28 hundred thousand dollars for the period January first, two thousand ten
29 through December thirty-first, two thousand ten, [and] up to two million
30 one hundred twenty-five thousand dollars for the period January first,
31 two thousand eleven through March thirty-first, two thousand eleven, AND
32 UP TO FOURTEEN MILLION SEVEN HUNDRED THOUSAND DOLLARS EACH STATE FISCAL
33 YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIR-
34 TY-FIRST, TWO THOUSAND FOURTEEN.

35 (c) Funds shall be deposited by the commissioner, within amounts
36 appropriated, and the state comptroller is hereby authorized and
37 directed to receive for deposit to the credit of the state special
38 revenue funds - other, HCRA transfer fund, enhanced community services
39 account, or any successor fund or account, for mental health services
40 programs for case management services for adults and children; supported
41 housing; home and community based waiver services; family based treat-
42 ment; family support services; mobile mental health teams; transitional
43 housing; and community oversight, established pursuant to articles seven
44 and forty-one of the mental hygiene law and subdivision nine of section
45 three hundred sixty-six of the social services law; and for comprehen-
46 sive care centers for eating disorders pursuant to THE FORMER section
47 twenty-seven hundred ninety-nine-l of this chapter, provided however
48 that, for such centers, funds in the amount of five hundred thousand
49 dollars on an annualized basis shall be transferred from the enhanced
50 community services account, or any successor fund or account, and depos-
51 ited into the fund established by section ninety-five-e of the state
52 finance law; from the tobacco control and insurance initiatives pool
53 established for the following periods in the following amounts:

54 (i) forty-eight million dollars to be reserved, to be retained or for
55 distribution pursuant to a chapter of the laws of two thousand, for the

1 period January first, two thousand through December thirty-first, two
2 thousand;

3 (ii) eighty-seven million dollars to be reserved, to be retained or
4 for distribution pursuant to a chapter of the laws of two thousand one,
5 for the period January first, two thousand one through December thirty-
6 first, two thousand one;

7 (iii) eighty-seven million dollars to be reserved, to be retained or
8 for distribution pursuant to a chapter of the laws of two thousand two,
9 for the period January first, two thousand two through December thirty-
10 first, two thousand two;

11 (iv) eighty-eight million dollars to be reserved, to be retained or
12 for distribution pursuant to a chapter of the laws of two thousand
13 three, for the period January first, two thousand three through December
14 thirty-first, two thousand three;

15 (v) eighty-eight million dollars, plus five hundred thousand dollars,
16 to be reserved, to be retained or for distribution pursuant to a chapter
17 of the laws of two thousand four, and pursuant to THE FORMER section
18 twenty-seven hundred ninety-nine-1 of this chapter, for the period Janu-
19 ary first, two thousand four through December thirty-first, two thousand
20 four;

21 (vi) eighty-eight million dollars, plus five hundred thousand dollars,
22 to be reserved, to be retained or for distribution pursuant to a chapter
23 of the laws of two thousand five, and pursuant to THE FORMER section
24 twenty-seven hundred ninety-nine-1 of this chapter, for the period Janu-
25 ary first, two thousand five through December thirty-first, two thousand
26 five;

27 (vii) eighty-eight million dollars, plus five hundred thousand
28 dollars, to be reserved, to be retained or for distribution pursuant to
29 a chapter of the laws of two thousand six, and pursuant to section twen-
30 ty-seven hundred ninety-nine-1 of this chapter, for the period January
31 first, two thousand six through December thirty-first, two thousand six;

32 (viii) eighty-six million four hundred thousand dollars, plus five
33 hundred thousand dollars, to be reserved, to be retained or for distrib-
34 ution pursuant to a chapter of the laws of two thousand seven and pursu-
35 ant to THE FORMER section twenty-seven hundred ninety-nine-1 of this
36 chapter, for the period January first, two thousand seven through Decem-
37 ber thirty-first, two thousand seven; and

38 (ix) twenty-two million nine hundred thirteen thousand dollars, plus
39 one hundred twenty-five thousand dollars, to be reserved, to be retained
40 or for distribution pursuant to a chapter of the laws of two thousand
41 eight and pursuant to THE FORMER section twenty-seven hundred ninety-
42 nine-1 of this chapter, for the period January first, two thousand eight
43 through March thirty-first, two thousand eight.

44 (d) Funds shall be deposited by the commissioner, within amounts
45 appropriated, and the state comptroller is hereby authorized and
46 directed to receive for deposit to the credit of the state special
47 revenue funds - other, HCRA transfer fund, medical assistance account,
48 or any successor fund or account, for purposes of funding the state
49 share of services and expenses related to the family health plus program
50 including up to two and one-half million dollars annually for the period
51 January first, two thousand through December thirty-first, two thousand
52 two, for administration and marketing costs associated with such program
53 established pursuant to clause (A) of subparagraph (v) of paragraph (a)
54 of subdivision two of section three hundred sixty-nine-ee of the social
55 services law from the tobacco control and insurance initiatives pool
56 established for the following periods in the following amounts:

1 (i) three million five hundred thousand dollars for the period January
2 first, two thousand through December thirty-first, two thousand;

3 (ii) twenty-seven million dollars for the period January first, two
4 thousand one through December thirty-first, two thousand one; and

5 (iii) fifty-seven million dollars for the period January first, two
6 thousand two through December thirty-first, two thousand two.

7 (e) Funds shall be deposited by the commissioner, within amounts
8 appropriated, and the state comptroller is hereby authorized and
9 directed to receive for deposit to the credit of the state special
10 revenue funds - other, HCRA transfer fund, medical assistance account,
11 or any successor fund or account, for purposes of funding the state
12 share of services and expenses related to the family health plus program
13 including up to two and one-half million dollars annually for the period
14 January first, two thousand through December thirty-first, two thousand
15 two for administration and marketing costs associated with such program
16 established pursuant to clause (B) of subparagraph (v) of paragraph (a)
17 of subdivision two of section three hundred sixty-nine-ee of the social
18 services law from the tobacco control and insurance initiatives pool
19 established for the following periods in the following amounts:

20 (i) two million five hundred thousand dollars for the period January
21 first, two thousand through December thirty-first, two thousand;

22 (ii) thirty million five hundred thousand dollars for the period Janu-
23 ary first, two thousand one through December thirty-first, two thousand
24 one; and

25 (iii) sixty-six million dollars for the period January first, two
26 thousand two through December thirty-first, two thousand two.

27 (f) Funds shall be deposited by the commissioner, within amounts
28 appropriated, and the state comptroller is hereby authorized and
29 directed to receive for deposit to the credit of the state special
30 revenue funds - other, HCRA transfer fund, medicaid fraud hotline and
31 medicaid administration account, or any successor fund or account, for
32 purposes of payment of administrative expenses of the department related
33 to the family health plus program established pursuant to section three
34 hundred sixty-nine-ee of the social services law from the tobacco
35 control and insurance initiatives pool established for the following
36 periods in the following amounts: five hundred thousand dollars on an
37 annual basis for the periods January first, two thousand through Decem-
38 ber thirty-first, two thousand six, five hundred thousand dollars for
39 the period January first, two thousand seven through December thirty-
40 first, two thousand seven, and five hundred thousand dollars for the
41 period January first, two thousand eight through December thirty-first,
42 two thousand eight, five hundred thousand dollars for the period January
43 first, two thousand nine through December thirty-first, two thousand
44 nine, five hundred thousand dollars for the period January first, two
45 thousand ten through December thirty-first, two thousand ten, [and] one
46 hundred twenty-five thousand dollars for the period January first, two
47 thousand eleven through March thirty-first, two thousand eleven AND
48 WITHIN AMOUNTS APPROPRIATED ON AND AFTER APRIL FIRST, TWO THOUSAND ELEV-
49 EN.

50 (g) Funds shall be reserved and accumulated from year to year and
51 shall be available, including income from invested funds, for purposes
52 of services and expenses related to the health maintenance organization
53 direct pay market program established pursuant to sections forty-three
54 hundred twenty-one-a and forty-three hundred twenty-two-a of the insur-
55 ance law from the tobacco control and insurance initiatives pool estab-
56 lished for the following periods in the following amounts:

1 (i) up to thirty-five million dollars for the period January first,
2 two thousand through December thirty-first, two thousand of which fifty
3 percentum shall be allocated to the program pursuant to section four
4 thousand three hundred twenty-one-a of the insurance law and fifty
5 percentum to the program pursuant to section four thousand three hundred
6 twenty-two-a of the insurance law;

7 (ii) up to thirty-six million dollars for the period January first,
8 two thousand one through December thirty-first, two thousand one of
9 which fifty percentum shall be allocated to the program pursuant to
10 section four thousand three hundred twenty-one-a of the insurance law
11 and fifty percentum to the program pursuant to section four thousand
12 three hundred twenty-two-a of the insurance law;

13 (iii) up to thirty-nine million dollars for the period January first,
14 two thousand two through December thirty-first, two thousand two of
15 which fifty percentum shall be allocated to the program pursuant to
16 section four thousand three hundred twenty-one-a of the insurance law
17 and fifty percentum to the program pursuant to section four thousand
18 three hundred twenty-two-a of the insurance law;

19 (iv) up to forty million dollars for the period January first, two
20 thousand three through December thirty-first, two thousand three of
21 which fifty percentum shall be allocated to the program pursuant to
22 section four thousand three hundred twenty-one-a of the insurance law
23 and fifty percentum to the program pursuant to section four thousand
24 three hundred twenty-two-a of the insurance law;

25 (v) up to forty million dollars for the period January first, two
26 thousand four through December thirty-first, two thousand four of which
27 fifty percentum shall be allocated to the program pursuant to section
28 four thousand three hundred twenty-one-a of the insurance law and fifty
29 percentum to the program pursuant to section four thousand three hundred
30 twenty-two-a of the insurance law;

31 (vi) up to forty million dollars for the period January first, two
32 thousand five through December thirty-first, two thousand five of which
33 fifty percentum shall be allocated to the program pursuant to section
34 four thousand three hundred twenty-one-a of the insurance law and fifty
35 percentum to the program pursuant to section four thousand three hundred
36 twenty-two-a of the insurance law;

37 (vii) up to forty million dollars for the period January first, two
38 thousand six through December thirty-first, two thousand six of which
39 fifty percentum shall be allocated to the program pursuant to section
40 four thousand three hundred twenty-one-a of the insurance law and fifty
41 percentum shall be allocated to the program pursuant to section four
42 thousand three hundred twenty-two-a of the insurance law;

43 (viii) up to forty million dollars for the period January first, two
44 thousand seven through December thirty-first, two thousand seven of
45 which fifty percentum shall be allocated to the program pursuant to
46 section four thousand three hundred twenty-one-a of the insurance law
47 and fifty percentum shall be allocated to the program pursuant to
48 section four thousand three hundred twenty-two-a of the insurance law;
49 and

50 (ix) up to forty million dollars for the period January first, two
51 thousand eight through December thirty-first, two thousand eight of
52 which fifty per centum shall be allocated to the program pursuant to
53 section four thousand three hundred twenty-one-a of the insurance law
54 and fifty per centum shall be allocated to the program pursuant to
55 section four thousand three hundred twenty-two-a of the insurance law.

(h) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of services and expenses related to the healthy New York individual program established pursuant to sections four thousand three hundred twenty-six and four thousand three hundred twenty-seven of the insurance law from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) up to six million dollars for the period January first, two thousand one through December thirty-first, two thousand one;

(ii) up to twenty-nine million dollars for the period January first, two thousand two through December thirty-first, two thousand two;

(iii) up to five million one hundred thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(iv) up to twenty-four million six hundred thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(v) up to thirty-four million six hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(vi) up to fifty-four million eight hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vii) up to sixty-one million seven hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven; and

(viii) up to one hundred three million seven hundred fifty thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight.

(i) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of services and expenses related to the healthy New York group program established pursuant to sections four thousand three hundred twenty-six and four thousand three hundred twenty-seven of the insurance law from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) up to thirty-four million dollars for the period January first, two thousand one through December thirty-first, two thousand one;

(ii) up to seventy-seven million dollars for the period January first, two thousand two through December thirty-first, two thousand two;

(iii) up to ten million five hundred thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(iv) up to twenty-four million six hundred thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(v) up to thirty-four million six hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(vi) up to fifty-four million eight hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vii) up to sixty-one million seven hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven; and

(viii) up to one hundred three million seven hundred fifty thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight.

(i-1) Notwithstanding the provisions of paragraphs (h) and (i) of this subdivision, the commissioner shall reserve and accumulate up to two million five hundred thousand dollars annually for the periods January first, two thousand four through December thirty-first, two thousand six, one million four hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven, two million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, from funds otherwise available for distribution under such paragraphs for the services and expenses related to the pilot program for entertainment industry employees included in subsection (b) of section one thousand one hundred twenty-two of the insurance law, and an additional seven hundred thousand dollars annually for the periods January first, two thousand four through December thirty-first, two thousand six, an additional three hundred thousand dollars for the period January first, two thousand seven through June thirtieth, two thousand seven for services and expenses related to the pilot program for displaced workers included in subsection (c) of section one thousand one hundred twenty-two of the insurance law.

(j) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for purposes of services and expenses related to the tobacco use prevention and control program established pursuant to sections thirteen hundred ninety-nine-ii and thirteen hundred ninety-nine-jj of this chapter, from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) up to thirty million dollars for the period January first, two thousand through December thirty-first, two thousand;

(ii) up to forty million dollars for the period January first, two thousand one through December thirty-first, two thousand one;

(iii) up to forty million dollars for the period January first, two thousand two through December thirty-first, two thousand two;

(iv) up to thirty-six million nine hundred fifty thousand dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(v) up to thirty-six million nine hundred fifty thousand dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(vi) up to forty million six hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(vii) up to eighty-one million nine hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six, provided, however, that within amounts appropriated, a portion of such funds may be transferred to the Roswell Park Cancer Institute Corporation to support costs associated with cancer research;

(viii) up to ninety-four million one hundred fifty thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven, provided, however, that within amounts appropriated, a portion of such funds may be transferred to the Roswell Park Cancer Institute Corporation to support costs associated with cancer research;

1 (ix) up to ninety-four million one hundred fifty thousand dollars for
2 the period January first, two thousand eight through December thirty-
3 first, two thousand eight;

4 (x) up to ninety-four million one hundred fifty thousand dollars for
5 the period January first, two thousand nine through December thirty-
6 first, two thousand nine;

7 (xi) up to eighty-seven million seven hundred seventy-five thousand
8 dollars for the period January first, two thousand ten through December
9 thirty-first, two thousand ten; [and]

10 (xii) up to twenty-one million four hundred twelve thousand dollars
11 for the period January first, two thousand eleven through March thirty-
12 first, two thousand eleven[.]; AND

13 (XIII) UP TO FIFTY-TWO MILLION ONE HUNDRED THOUSAND DOLLARS EACH STATE
14 FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH
15 MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN.

16 (k) Funds shall be deposited by the commissioner, within amounts
17 appropriated, and the state comptroller is hereby authorized and
18 directed to receive for deposit to the credit of the state special
19 revenue fund - other, HCRA transfer fund, health care services account,
20 or any successor fund or account, for purposes of services and expenses
21 related to public health programs, including comprehensive care centers
22 for eating disorders pursuant to THE FORMER section twenty-seven hundred
23 ninety-nine-1 of this chapter, provided however that, for such centers,
24 funds in the amount of five hundred thousand dollars on an annualized
25 basis shall be transferred from the health care services account, or any
26 successor fund or account, and deposited into the fund established by
27 section ninety-five-e of the state finance law FOR PERIODS PRIOR TO
28 MARCH THIRTY-FIRST, TWO THOUSAND ELEVEN, from the tobacco control and
29 insurance initiatives pool established for the following periods in the
30 following amounts:

31 (i) up to thirty-one million dollars for the period January first, two
32 thousand through December thirty-first, two thousand;

33 (ii) up to forty-one million dollars for the period January first, two
34 thousand one through December thirty-first, two thousand one;

35 (iii) up to eighty-one million dollars for the period January first,
36 two thousand two through December thirty-first, two thousand two;

37 (iv) one hundred twenty-two million five hundred thousand dollars for
38 the period January first, two thousand three through December thirty-
39 first, two thousand three;

40 (v) one hundred eight million five hundred seventy-five thousand
41 dollars, plus an additional five hundred thousand dollars, for the peri-
42 od January first, two thousand four through December thirty-first, two
43 thousand four;

44 (vi) ninety-one million eight hundred thousand dollars, plus an addi-
45 tional five hundred thousand dollars, for the period January first, two
46 thousand five through December thirty-first, two thousand five;

47 (vii) one hundred fifty-six million six hundred thousand dollars, plus
48 an additional five hundred thousand dollars, for the period January
49 first, two thousand six through December thirty-first, two thousand six;

50 (viii) one hundred fifty-one million four hundred thousand dollars,
51 plus an additional five hundred thousand dollars, for the period January
52 first, two thousand seven through December thirty-first, two thousand
53 seven;

54 (ix) one hundred sixteen million nine hundred forty-nine thousand
55 dollars, plus an additional five hundred thousand dollars, for the peri-

1 od January first, two thousand eight through December thirty-first, two
2 thousand eight;

3 (x) one hundred sixteen million nine hundred forty-nine thousand
4 dollars, plus an additional five hundred thousand dollars, for the peri-
5 od January first, two thousand nine through December thirty-first, two
6 thousand nine;

7 (xi) one hundred sixteen million nine hundred forty-nine thousand
8 dollars, plus an additional five hundred thousand dollars, for the peri-
9 od January first, two thousand ten through December thirty-first, two
10 thousand ten; [and]

11 (xii) twenty-nine million two hundred thirty-seven thousand two
12 hundred fifty dollars, plus an additional one hundred twenty-five thou-
13 sand dollars, for the period January first, two thousand eleven through
14 March thirty-first, two thousand eleven[.];

15 (XIII) ONE HUNDRED TWENTY MILLION THIRTY-EIGHT THOUSAND DOLLARS FOR
16 THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST,
17 TWO THOUSAND TWELVE; AND

18 (XIV) ONE HUNDRED NINETEEN MILLION FOUR HUNDRED SEVEN THOUSAND DOLLARS
19 EACH STATE FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND TWELVE
20 THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN.

21 (1) Funds shall be deposited by the commissioner, within amounts
22 appropriated, and the state comptroller is hereby authorized and
23 directed to receive for deposit to the credit of the state special
24 revenue funds - other, HCRA transfer fund, medical assistance account,
25 or any successor fund or account, for purposes of funding the state
26 share of the personal care and certified home health agency rate or fee
27 increases established pursuant to subdivision three of section three
28 hundred sixty-seven-o of the social services law from the tobacco
29 control and insurance initiatives pool established for the following
30 periods in the following amounts:

31 (i) twenty-three million two hundred thousand dollars for the period
32 January first, two thousand through December thirty-first, two thousand;

33 (ii) twenty-three million two hundred thousand dollars for the period
34 January first, two thousand one through December thirty-first, two thou-
35 sand one;

36 (iii) twenty-three million two hundred thousand dollars for the period
37 January first, two thousand two through December thirty-first, two thou-
38 sand two;

39 (iv) up to sixty-five million two hundred thousand dollars for the
40 period January first, two thousand three through December thirty-first,
41 two thousand three;

42 (v) up to sixty-five million two hundred thousand dollars for the
43 period January first, two thousand four through December thirty-first,
44 two thousand four;

45 (vi) up to sixty-five million two hundred thousand dollars for the
46 period January first, two thousand five through December thirty-first,
47 two thousand five;

48 (vii) up to sixty-five million two hundred thousand dollars for the
49 period January first, two thousand six through December thirty-first,
50 two thousand six;

51 (viii) up to sixty-five million two hundred thousand dollars for the
52 period January first, two thousand seven through December thirty-first,
53 two thousand seven; and

54 (ix) up to sixteen million three hundred thousand dollars for the
55 period January first, two thousand eight through March thirty-first, two
56 thousand eight.

1 (m) Funds shall be deposited by the commissioner, within amounts
2 appropriated, and the state comptroller is hereby authorized and
3 directed to receive for deposit to the credit of the state special
4 revenue funds - other, HCRA transfer fund, medical assistance account,
5 or any successor fund or account, for purposes of funding the state
6 share of services and expenses related to home care workers insurance
7 pilot demonstration programs established pursuant to subdivision two of
8 section three hundred sixty-seven-o of the social services law from the
9 tobacco control and insurance initiatives pool established for the
10 following periods in the following amounts:

11 (i) three million eight hundred thousand dollars for the period Janu-
12 ary first, two thousand through December thirty-first, two thousand;

13 (ii) three million eight hundred thousand dollars for the period Janu-
14 ary first, two thousand one through December thirty-first, two thousand
15 one;

16 (iii) three million eight hundred thousand dollars for the period
17 January first, two thousand two through December thirty-first, two thou-
18 sand two;

19 (iv) up to three million eight hundred thousand dollars for the period
20 January first, two thousand three through December thirty-first, two
21 thousand three;

22 (v) up to three million eight hundred thousand dollars for the period
23 January first, two thousand four through December thirty-first, two
24 thousand four;

25 (vi) up to three million eight hundred thousand dollars for the period
26 January first, two thousand five through December thirty-first, two
27 thousand five;

28 (vii) up to three million eight hundred thousand dollars for the peri-
29 od January first, two thousand six through December thirty-first, two
30 thousand six;

31 (viii) up to three million eight hundred thousand dollars for the
32 period January first, two thousand seven through December thirty-first,
33 two thousand seven; and

34 (ix) up to nine hundred fifty thousand dollars for the period January
35 first, two thousand eight through March thirty-first, two thousand
36 eight.

37 (n) Funds shall be transferred by the commissioner and shall be depos-
38 ited to the credit of the special revenue funds - other, miscellaneous
39 special revenue fund - 339, elderly pharmaceutical insurance coverage
40 program premium account authorized pursuant to the provisions of title
41 three of article two of the elder law, or any successor fund or account,
42 for funding state expenses relating to the program from the tobacco
43 control and insurance initiatives pool established for the following
44 periods in the following amounts:

45 (i) one hundred seven million dollars for the period January first,
46 two thousand through December thirty-first, two thousand;

47 (ii) one hundred sixty-four million dollars for the period January
48 first, two thousand one through December thirty-first, two thousand one;

49 (iii) three hundred twenty-two million seven hundred thousand dollars
50 for the period January first, two thousand two through December thirty-
51 first, two thousand two;

52 (iv) four hundred thirty-three million three hundred thousand dollars
53 for the period January first, two thousand three through December thir-
54 ty-first, two thousand three;

1 (v) five hundred four million one hundred fifty thousand dollars for
2 the period January first, two thousand four through December thirty-
3 first, two thousand four;
4 (vi) five hundred sixty-six million eight hundred thousand dollars for
5 the period January first, two thousand five through December thirty-
6 first, two thousand five;
7 (vii) six hundred three million one hundred fifty thousand dollars for
8 the period January first, two thousand six through December thirty-
9 first, two thousand six;
10 (viii) six hundred sixty million eight hundred thousand dollars for
11 the period January first, two thousand seven through December thirty-
12 first, two thousand seven;
13 (ix) three hundred sixty-seven million four hundred sixty-three thou-
14 sand dollars for the period January first, two thousand eight through
15 December thirty-first, two thousand eight;
16 (x) three hundred thirty-four million eight hundred twenty-five thou-
17 sand dollars for the period January first, two thousand nine through
18 December thirty-first, two thousand nine;
19 (xi) three hundred forty-four million nine hundred thousand dollars
20 for the period January first, two thousand ten through December thirty-
21 first, two thousand ten; [and]
22 (xii) eighty-seven million seven hundred eighty-eight thousand dollars
23 for the period January first, two thousand eleven through March thirty-
24 first, two thousand eleven[.];
25 (XIII) ONE HUNDRED FORTY-THREE MILLION ONE HUNDRED FIFTY THOUSAND
26 DOLLARS FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH
27 THIRTY-FIRST, TWO THOUSAND TWELVE;
28 (XIV) ONE HUNDRED TWENTY MILLION NINE HUNDRED FIFTY THOUSAND DOLLARS
29 FOR THE PERIOD APRIL FIRST, TWO THOUSAND TWELVE THROUGH MARCH
30 THIRTY-FIRST, TWO THOUSAND THIRTEEN; AND
31 (XV) ONE HUNDRED TWENTY-EIGHT MILLION EIGHT HUNDRED FIFTY THOUSAND
32 DOLLARS FOR THE PERIOD APRIL FIRST, TWO THOUSAND THIRTEEN THROUGH MARCH
33 THIRTY-FIRST, TWO THOUSAND FOURTEEN.
34 (o) Funds shall be reserved and accumulated and shall be transferred
35 to the Roswell Park Cancer Institute Corporation, from the tobacco
36 control and insurance initiatives pool established for the following
37 periods in the following amounts:
38 (i) up to ninety million dollars for the period January first, two
39 thousand through December thirty-first, two thousand;
40 (ii) up to sixty million dollars for the period January first, two
41 thousand one through December thirty-first, two thousand one;
42 (iii) up to eighty-five million dollars for the period January first,
43 two thousand two through December thirty-first, two thousand two;
44 (iv) eighty-five million two hundred fifty thousand dollars for the
45 period January first, two thousand three through December thirty-first,
46 two thousand three;
47 (v) seventy-eight million dollars for the period January first, two
48 thousand four through December thirty-first, two thousand four;
49 (vi) seventy-eight million dollars for the period January first, two
50 thousand five through December thirty-first, two thousand five;
51 (vii) ninety-one million dollars for the period January first, two
52 thousand six through December thirty-first, two thousand six;
53 (viii) seventy-eight million dollars for the period January first, two
54 thousand seven through December thirty-first, two thousand seven;
55 (ix) seventy-eight million dollars for the period January first, two
56 thousand eight through December thirty-first, two thousand eight;

1 (x) seventy-eight million dollars for the period January first, two
2 thousand nine through December thirty-first, two thousand nine;

3 (xi) seventy-eight million dollars for the period January first, two
4 thousand ten through December thirty-first, two thousand ten; [and]

5 (xii) nineteen million five hundred thousand dollars for the period
6 January first, two thousand eleven through March thirty-first, two thou-
7 sand eleven[.]; AND

8 (XIII) SIXTY-NINE MILLION EIGHT HUNDRED FORTY THOUSAND DOLLARS EACH
9 STATE FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN
10 THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN.

11 (p) Funds shall be deposited by the commissioner, within amounts
12 appropriated, and the state comptroller is hereby authorized and
13 directed to receive for deposit to the credit of the state special
14 revenue funds - other, indigent care fund - 068, indigent care account,
15 or any successor fund or account, for purposes of providing a medicaid
16 disproportionate share payment from the high need indigent care adjust-
17 ment pool established pursuant to section twenty-eight hundred seven-w
18 of this article, from the tobacco control and insurance initiatives pool
19 established for the following periods in the following amounts:

20 (i) eighty-two million dollars annually for the periods January first,
21 two thousand through December thirty-first, two thousand two;

22 (ii) up to eighty-two million dollars for the period January first,
23 two thousand three through December thirty-first, two thousand three;

24 (iii) up to eighty-two million dollars for the period January first,
25 two thousand four through December thirty-first, two thousand four;

26 (iv) up to eighty-two million dollars for the period January first,
27 two thousand five through December thirty-first, two thousand five;

28 (v) up to eighty-two million dollars for the period January first, two
29 thousand six through December thirty-first, two thousand six;

30 (vi) up to eighty-two million dollars for the period January first,
31 two thousand seven through December thirty-first, two thousand seven;

32 (vii) up to eighty-two million dollars for the period January first,
33 two thousand eight through December thirty-first, two thousand eight;

34 (viii) up to eighty-two million dollars for the period January first,
35 two thousand nine through December thirty-first, two thousand nine;

36 (ix) up to eighty-two million dollars for the period January first,
37 two thousand ten through December thirty-first, two thousand ten; [and]

38 (x) up to twenty million five hundred thousand dollars for the period
39 January first, two thousand eleven through March thirty-first, two thou-
40 sand eleven; AND

41 (XI) UP TO EIGHTY-TWO MILLION DOLLARS EACH STATE FISCAL YEAR FOR THE
42 PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO
43 THOUSAND FOURTEEN.

44 (q) Funds shall be reserved and accumulated from year to year and
45 shall be available, including income from invested funds, for purposes
46 of providing distributions to eligible school based health centers
47 established pursuant to section eighty-eight of chapter one of the laws
48 of nineteen hundred ninety-nine, from the tobacco control and insurance
49 initiatives pool established for the following periods in the following
50 amounts:

51 (i) seven million dollars annually for the period January first, two
52 thousand through December thirty-first, two thousand two;

53 (ii) up to seven million dollars for the period January first, two
54 thousand three through December thirty-first, two thousand three;

55 (iii) up to seven million dollars for the period January first, two
56 thousand four through December thirty-first, two thousand four;

1 (iv) up to seven million dollars for the period January first, two
2 thousand five through December thirty-first, two thousand five;
3 (v) up to seven million dollars for the period January first, two
4 thousand six through December thirty-first, two thousand six;
5 (vi) up to seven million dollars for the period January first, two
6 thousand seven through December thirty-first, two thousand seven;
7 (vii) up to seven million dollars for the period January first, two
8 thousand eight through December thirty-first, two thousand eight;
9 (viii) up to seven million dollars for the period January first, two
10 thousand nine through December thirty-first, two thousand nine;
11 (ix) up to seven million dollars for the period January first, two
12 thousand ten through December thirty-first, two thousand ten; [and]
13 (x) up to one million seven hundred fifty thousand dollars for the
14 period January first, two thousand eleven through March thirty-first,
15 two thousand eleven; AND
16 (XI) UP TO FIVE MILLION SIX HUNDRED THOUSAND DOLLARS EACH STATE FISCAL
17 YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIR-
18 TY-FIRST, TWO THOUSAND FOURTEEN.
19 (r) Funds shall be deposited by the commissioner within amounts appro-
20 priated, and the state comptroller is hereby authorized and directed to
21 receive for deposit to the credit of the state special revenue funds -
22 other, HCRA transfer fund, medical assistance account, or any successor
23 fund or account, for purposes of providing distributions for supplemen-
24 tary medical insurance for Medicare part B premiums, physicians
25 services, outpatient services, medical equipment, supplies and other
26 health services, from the tobacco control and insurance initiatives pool
27 established for the following periods in the following amounts:
28 (i) forty-three million dollars for the period January first, two
29 thousand through December thirty-first, two thousand;
30 (ii) sixty-one million dollars for the period January first, two thou-
31 sand one through December thirty-first, two thousand one;
32 (iii) sixty-five million dollars for the period January first, two
33 thousand two through December thirty-first, two thousand two;
34 (iv) sixty-seven million five hundred thousand dollars for the period
35 January first, two thousand three through December thirty-first, two
36 thousand three;
37 (v) sixty-eight million dollars for the period January first, two
38 thousand four through December thirty-first, two thousand four;
39 (vi) sixty-eight million dollars for the period January first, two
40 thousand five through December thirty-first, two thousand five;
41 (vii) sixty-eight million dollars for the period January first, two
42 thousand six through December thirty-first, two thousand six;
43 (viii) seventeen million five hundred thousand dollars for the period
44 January first, two thousand seven through December thirty-first, two
45 thousand seven;
46 (ix) sixty-eight million dollars for the period January first, two
47 thousand eight through December thirty-first, two thousand eight;
48 (x) sixty-eight million dollars for the period January first, two
49 thousand nine through December thirty-first, two thousand nine;
50 (xi) sixty-eight million dollars for the period January first, two
51 thousand ten through December thirty-first, two thousand ten; [and]
52 (xii) seventeen million dollars for the period January first, two
53 thousand eleven through March thirty-first, two thousand eleven[.]; AND
54 (XIII) SIXTY-EIGHT MILLION DOLLARS EACH STATE FISCAL YEAR FOR THE
55 PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO
56 THOUSAND FOURTEEN.

(s) Funds shall be deposited by the commissioner within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of providing distributions pursuant to paragraphs (s-5), (s-6), (s-7) and (s-8) of subdivision eleven of section twenty-eight hundred seven-c of this article from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) eighteen million dollars for the period January first, two thousand sand through December thirty-first, two thousand;

(ii) twenty-four million dollars annually for the periods January first, two thousand one through December thirty-first, two thousand two;

(iii) up to twenty-four million dollars for the period January first, two thousand three through December thirty-first, two thousand three;

(iv) up to twenty-four million dollars for the period January first, two thousand four through December thirty-first, two thousand four;

(v) up to twenty-four million dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(vi) up to twenty-four million dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vii) up to twenty-four million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(viii) up to twenty-four million dollars for the period January first, two thousand eight through December thirty-first, two thousand eight; and

(ix) up to twenty-two million dollars for the period January first, two thousand nine through November thirtieth, two thousand nine.

(t) Funds shall be reserved and accumulated from year to year by the commissioner and shall be made available, including income from invested funds:

(i) For the purpose of making grants to a state owned and operated medical school which does not have a state owned and operated hospital on site and available for teaching purposes. Notwithstanding sections one hundred twelve and one hundred sixty-three of the state finance law, such grants shall be made in the amount of up to five hundred thousand dollars for the period January first, two thousand through December thirty-first, two thousand;

(ii) For the purpose of making grants to medical schools pursuant to section eighty-six-a of chapter one of the laws of nineteen hundred ninety-nine in the sum of up to four million dollars for the period January first, two thousand through December thirty-first, two thousand; and

(iii) The funds disbursed pursuant to subparagraphs (i) and (ii) of this paragraph from the tobacco control and insurance initiatives pool are contingent upon meeting all funding amounts established pursuant to paragraphs (a), (b), (c), (d), (e), (f), (l), (m), (n), (p), (q), (r) and (s) of this subdivision, paragraph (a) of subdivision nine of section twenty-eight hundred seven-j of this article, and paragraphs (a), (i) and (k) of subdivision one of section twenty-eight hundred seven-l of this article.

(u) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state

1 share of services and expenses related to the nursing home quality
2 improvement demonstration program established pursuant to section twen-
3 ty-eight hundred eight-d of this article from the tobacco control and
4 insurance initiatives pool established for the following periods in the
5 following amounts:

6 (i) up to twenty-five million dollars for the period beginning April
7 first, two thousand two and ending December thirty-first, two thousand
8 two, and on an annualized basis, for each annual period thereafter
9 beginning January first, two thousand three and ending December thirty-
10 first, two thousand four;

11 (ii) up to eighteen million seven hundred fifty thousand dollars for
12 the period January first, two thousand five through December thirty-
13 first, two thousand five; and

14 (iii) up to fifty-six million five hundred thousand dollars for the
15 period January first, two thousand six through December thirty-first,
16 two thousand six.

17 (v) Funds shall be transferred by the commissioner and shall be depos-
18 ited to the credit of the hospital excess liability pool created pursu-
19 ant to section eighteen of chapter two hundred sixty-six of the laws of
20 nineteen hundred eighty-six, or any successor fund or account, for
21 purposes of expenses related to the purchase of excess medical malprac-
22 tice insurance and the cost of administering the pool, including costs
23 associated with the risk management program established pursuant to
24 section forty-two of part A of chapter one of the laws of two thousand
25 two required by paragraph (a) of subdivision one of section eighteen of
26 chapter two hundred sixty-six of the laws of nineteen hundred eighty-six
27 as may be amended from time to time, from the tobacco control and insur-
28 ance initiatives pool established for the following periods in the
29 following amounts:

30 (i) up to fifty million dollars or so much as is needed for the period
31 January first, two thousand two through December thirty-first, two thou-
32 sand two;

33 (ii) up to seventy-six million seven hundred thousand dollars for the
34 period January first, two thousand three through December thirty-first,
35 two thousand three;

36 (iii) up to sixty-five million dollars for the period January first,
37 two thousand four through December thirty-first, two thousand four;

38 (iv) up to sixty-five million dollars for the period January first,
39 two thousand five through December thirty-first, two thousand five;

40 (v) up to one hundred thirteen million eight hundred thousand dollars
41 for the period January first, two thousand six through December thirty-
42 first, two thousand six;

43 (vi) up to one hundred thirty million dollars for the period January
44 first, two thousand seven through December thirty-first, two thousand
45 seven;

46 (vii) up to one hundred thirty million dollars for the period January
47 first, two thousand eight through December thirty-first, two thousand
48 eight;

49 (viii) up to one hundred thirty million dollars for the period January
50 first, two thousand nine through December thirty-first, two thousand
51 nine;

52 (ix) up to one hundred thirty million dollars for the period January
53 first, two thousand ten through December thirty-first, two thousand ten;

54 [and]

1 (x) up to thirty-two million five hundred thousand dollars for the
2 period January first, two thousand eleven through March thirty-first,
3 two thousand eleven[.]; AND

4 (XI) UP TO ONE HUNDRED TWENTY-SEVEN MILLION FOUR HUNDRED THOUSAND
5 DOLLARS EACH STATE FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND
6 ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN.

7 (w) Funds shall be deposited by the commissioner, within amounts
8 appropriated, and the state comptroller is hereby authorized and
9 directed to receive for deposit to the credit of the state special
10 revenue funds - other, HCRA transfer fund, medical assistance account,
11 or any successor fund or account, for purposes of funding the state
12 share of the treatment of breast and cervical cancer pursuant to para-
13 graph (v) of subdivision four of section three hundred sixty-six of the
14 social services law, from the tobacco control and insurance initiatives
15 pool established for the following periods in the following amounts:

16 (i) up to four hundred fifty thousand dollars for the period January
17 first, two thousand two through December thirty-first, two thousand two;

18 (ii) up to two million one hundred thousand dollars for the period
19 January first, two thousand three through December thirty-first, two
20 thousand three;

21 (iii) up to two million one hundred thousand dollars for the period
22 January first, two thousand four through December thirty-first, two
23 thousand four;

24 (iv) up to two million one hundred thousand dollars for the period
25 January first, two thousand five through December thirty-first, two
26 thousand five;

27 (v) up to two million one hundred thousand dollars for the period
28 January first, two thousand six through December thirty-first, two thou-
29 sand six;

30 (vi) up to two million one hundred thousand dollars for the period
31 January first, two thousand seven through December thirty-first, two
32 thousand seven;

33 (vii) up to two million one hundred thousand dollars for the period
34 January first, two thousand eight through December thirty-first, two
35 thousand eight;

36 (viii) up to two million one hundred thousand dollars for the period
37 January first, two thousand nine through December thirty-first, two
38 thousand nine;

39 (ix) up to two million one hundred thousand dollars for the period
40 January first, two thousand ten through December thirty-first, two thou-
41 sand ten; [and]

42 (x) up to five hundred twenty-five thousand dollars for the period
43 January first, two thousand eleven through March thirty-first, two thou-
44 sand eleven[.]; AND

45 (XI) UP TO TWO MILLION ONE HUNDRED THOUSAND DOLLARS EACH STATE FISCAL
46 YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIR-
47 TY-FIRST, TWO THOUSAND FOURTEEN.

48 (x) Funds shall be deposited by the commissioner, within amounts
49 appropriated, and the state comptroller is hereby authorized and
50 directed to receive for deposit to the credit of the state special
51 revenue funds - other, HCRA transfer fund, medical assistance account,
52 or any successor fund or account, for purposes of funding the state
53 share of the non-public general hospital rates increases for recruitment
54 and retention of health care workers from the tobacco control and insur-
55 ance initiatives pool established for the following periods in the
56 following amounts:

1 (i) twenty-seven million one hundred thousand dollars on an annualized
2 basis for the period January first, two thousand two through December
3 thirty-first, two thousand two;
4 (ii) fifty million eight hundred thousand dollars on an annualized
5 basis for the period January first, two thousand three through December
6 thirty-first, two thousand three;
7 (iii) sixty-nine million three hundred thousand dollars on an annual-
8 ized basis for the period January first, two thousand four through
9 December thirty-first, two thousand four;
10 (iv) sixty-nine million three hundred thousand dollars for the period
11 January first, two thousand five through December thirty-first, two
12 thousand five;
13 (v) sixty-nine million three hundred thousand dollars for the period
14 January first, two thousand six through December thirty-first, two thou-
15 sand six;
16 (vi) sixty-five million three hundred thousand dollars for the period
17 January first, two thousand seven through December thirty-first, two
18 thousand seven;
19 (vii) sixty-one million one hundred fifty thousand dollars for the
20 period January first, two thousand eight through December thirty-first,
21 two thousand eight; and
22 (viii) forty-eight million seven hundred twenty-one thousand dollars
23 for the period January first, two thousand nine through November thirti-
24 eth, two thousand nine.
25 (y) Funds shall be reserved and accumulated from year to year and
26 shall be available, including income from invested funds, for purposes
27 of grants to public general hospitals for recruitment and retention of
28 health care workers pursuant to paragraph (b) of subdivision thirty of
29 section twenty-eight hundred seven-c of this article from the tobacco
30 control and insurance initiatives pool established for the following
31 periods in the following amounts:
32 (i) eighteen million five hundred thousand dollars on an annualized
33 basis for the period January first, two thousand two through December
34 thirty-first, two thousand two;
35 (ii) thirty-seven million four hundred thousand dollars on an annual-
36 ized basis for the period January first, two thousand three through
37 December thirty-first, two thousand three;
38 (iii) fifty-two million two hundred thousand dollars on an annualized
39 basis for the period January first, two thousand four through December
40 thirty-first, two thousand four;
41 (iv) fifty-two million two hundred thousand dollars for the period
42 January first, two thousand five through December thirty-first, two
43 thousand five;
44 (v) fifty-two million two hundred thousand dollars for the period
45 January first, two thousand six through December thirty-first, two thou-
46 sand six;
47 (vi) forty-nine million dollars for the period January first, two
48 thousand seven through December thirty-first, two thousand seven;
49 (vii) forty-nine million dollars for the period January first, two
50 thousand eight through December thirty-first, two thousand eight; and
51 (viii) twelve million two hundred fifty thousand dollars for the peri-
52 od January first, two thousand nine through March thirty-first, two
53 thousand nine.
54 Provided, however, amounts pursuant to this paragraph may be reduced
55 in an amount to be approved by the director of the budget to reflect
56 amounts received from the federal government under the state's 1115

1 waiver which are directed under its terms and conditions to the health
2 workforce recruitment and retention program.

3 (z) Funds shall be deposited by the commissioner, within amounts
4 appropriated, and the state comptroller is hereby authorized and
5 directed to receive for deposit to the credit of the state special
6 revenue funds - other, HCRA transfer fund, medical assistance account,
7 or any successor fund or account, for purposes of funding the state
8 share of the non-public residential health care facility rate increases
9 for recruitment and retention of health care workers pursuant to para-
10 graph (a) of subdivision eighteen of section twenty-eight hundred eight
11 of this article from the tobacco control and insurance initiatives pool
12 established for the following periods in the following amounts:

13 (i) twenty-one million five hundred thousand dollars on an annualized
14 basis for the period January first, two thousand two through December
15 thirty-first, two thousand two;

16 (ii) thirty-three million three hundred thousand dollars on an annual-
17 ized basis for the period January first, two thousand three through
18 December thirty-first, two thousand three;

19 (iii) forty-six million three hundred thousand dollars on an annual-
20 ized basis for the period January first, two thousand four through
21 December thirty-first, two thousand four;

22 (iv) forty-six million three hundred thousand dollars for the period
23 January first, two thousand five through December thirty-first, two
24 thousand five;

25 (v) forty-six million three hundred thousand dollars for the period
26 January first, two thousand six through December thirty-first, two thou-
27 sand six;

28 (vi) thirty million nine hundred thousand dollars for the period Janu-
29 ary first, two thousand seven through December thirty-first, two thou-
30 sand seven;

31 (vii) twenty-four million seven hundred thousand dollars for the peri-
32 od January first, two thousand eight through December thirty-first, two
33 thousand eight;

34 (viii) twelve million three hundred seventy-five thousand dollars for
35 the period January first, two thousand nine through December thirty-
36 first, two thousand nine;

37 (ix) nine million three hundred thousand dollars for the period Janu-
38 ary first, two thousand ten through December thirty-first, two thousand
39 ten; and

40 (x) two million three hundred twenty-five thousand dollars for the
41 period January first, two thousand eleven through March thirty-first,
42 two thousand eleven.

43 (aa) Funds shall be reserved and accumulated from year to year and
44 shall be available, including income from invested funds, for purposes
45 of grants to public residential health care facilities for recruitment
46 and retention of health care workers pursuant to paragraph (b) of subdi-
47 vision eighteen of section twenty-eight hundred eight of this article
48 from the tobacco control and insurance initiatives pool established for
49 the following periods in the following amounts:

50 (i) seven million five hundred thousand dollars on an annualized basis
51 for the period January first, two thousand two through December thirty-
52 first, two thousand two;

53 (ii) eleven million seven hundred thousand dollars on an annualized
54 basis for the period January first, two thousand three through December
55 thirty-first, two thousand three;

1 (iii) sixteen million two hundred thousand dollars on an annualized
2 basis for the period January first, two thousand four through December
3 thirty-first, two thousand four;
4 (iv) sixteen million two hundred thousand dollars for the period Janu-
5 ary first, two thousand five through December thirty-first, two thousand
6 five;
7 (v) sixteen million two hundred thousand dollars for the period Janu-
8 ary first, two thousand six through December thirty-first, two thousand
9 six;
10 (vi) ten million eight hundred thousand dollars for the period January
11 first, two thousand seven through December thirty-first, two thousand
12 seven;
13 (vii) six million seven hundred fifty thousand dollars for the period
14 January first, two thousand eight through December thirty-first, two
15 thousand eight; and
16 (viii) one million three hundred fifty thousand dollars for the period
17 January first, two thousand nine through December thirty-first, two
18 thousand nine.
19 (bb)(i) Funds shall be deposited by the commissioner, within amounts
20 appropriated, and subject to the availability of federal financial
21 participation, and the state comptroller is hereby authorized and
22 directed to receive for deposit to the credit of the state special
23 revenue funds - other, HCRA transfer fund, medical assistance account,
24 or any successor fund or account, for the purpose of supporting the
25 state share of adjustments to Medicaid rates of payment for personal
26 care services provided pursuant to paragraph (e) of subdivision two of
27 section three hundred sixty-five-a of the social services law, for local
28 social service districts which include a city with a population of over
29 one million persons and computed and distributed in accordance with
30 memorandums of understanding to be entered into between the state of New
31 York and such local social service districts for the purpose of support-
32 ing the recruitment and retention of personal care service workers or
33 any worker with direct patient care responsibility, from the tobacco
34 control and insurance initiatives pool established for the following
35 periods and the following amounts:
36 (A) forty-four million dollars, on an annualized basis, for the period
37 April first, two thousand two through December thirty-first, two thou-
38 sand two;
39 (B) seventy-four million dollars, on an annualized basis, for the
40 period January first, two thousand three through December thirty-first,
41 two thousand three;
42 (C) one hundred four million dollars, on an annualized basis, for the
43 period January first, two thousand four through December thirty-first,
44 two thousand four;
45 (D) one hundred thirty-six million dollars, on an annualized basis,
46 for the period January first, two thousand five through December thir-
47 ty-first, two thousand five;
48 (E) one hundred thirty-six million dollars, on an annualized basis,
49 for the period January first, two thousand six through December thirty-
50 first, two thousand six;
51 (F) one hundred thirty-six million dollars for the period January
52 first, two thousand seven through December thirty-first, two thousand
53 seven;
54 (G) one hundred thirty-six million dollars for the period January
55 first, two thousand eight through December thirty-first, two thousand
56 eight;

1 (H) one hundred thirty-six million dollars for the period January
2 first, two thousand nine through December thirty-first, two thousand
3 nine;

4 (I) one hundred thirty-six million dollars for the period January
5 first, two thousand ten through December thirty-first, two thousand ten;
6 [and]

7 (J) thirty-four million dollars for the period January first, two
8 thousand eleven through March thirty-first, two thousand eleven[.]; AND

9 (K) ONE HUNDRED THIRTY-SIX MILLION DOLLARS EACH STATE FISCAL YEAR FOR
10 THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST,
11 TWO THOUSAND FOURTEEN.

12 (ii) Adjustments to Medicaid rates made pursuant to this paragraph
13 shall not, in aggregate, exceed the following amounts for the following
14 periods:

15 (A) for the period April first, two thousand two through December
16 thirty-first, two thousand two, one hundred ten million dollars;

17 (B) for the period January first, two thousand three through December
18 thirty-first, two thousand three, one hundred eighty-five million
19 dollars;

20 (C) for the period January first, two thousand four through December
21 thirty-first, two thousand four, two hundred sixty million dollars;

22 (D) for the period January first, two thousand five through December
23 thirty-first, two thousand five, three hundred forty million dollars;

24 (E) for the period January first, two thousand six through December
25 thirty-first, two thousand six, three hundred forty million dollars;

26 (F) for the period January first, two thousand seven through December
27 thirty-first, two thousand seven, three hundred forty million dollars;

28 (G) for the period January first, two thousand eight through December
29 thirty-first, two thousand eight, three hundred forty million dollars;

30 (H) for the period January first, two thousand nine through December
31 thirty-first, two thousand nine, three hundred forty million dollars;

32 (I) for the period January first, two thousand ten through December
33 thirty-first, two thousand ten, three hundred forty million dollars;

34 [and]

35 (J) for the period January first, two thousand eleven through March
36 thirty-first, two thousand eleven, eighty-five million dollars[.]; AND

37 (K) FOR EACH STATE FISCAL YEAR WITHIN THE PERIOD APRIL FIRST, TWO
38 THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN, THREE
39 HUNDRED FORTY MILLION DOLLARS.

40 (iii) Personal care service providers which have their rates adjusted
41 pursuant to this paragraph shall use such funds for the purpose of
42 recruitment and retention of non-supervisory personal care services
43 workers or any worker with direct patient care responsibility only and
44 are prohibited from using such funds for any other purpose. Each such
45 personal care services provider shall submit, at a time and in a manner
46 to be determined by the commissioner, a written certification attesting
47 that such funds will be used solely for the purpose of recruitment and
48 retention of non-supervisory personal care services workers or any work-
49 er with direct patient care responsibility. The commissioner is author-
50 ized to audit each such provider to ensure compliance with the written
51 certification required by this subdivision and shall recoup any funds
52 determined to have been used for purposes other than recruitment and
53 retention of non-supervisory personal care services workers or any work-
54 er with direct patient care responsibility. Such recoupment shall be in
55 addition to any other penalties provided by law.

1 (cc) Funds shall be deposited by the commissioner, within amounts
2 appropriated, and the state comptroller is hereby authorized and
3 directed to receive for deposit to the credit of the state special
4 revenue funds - other, HCRA transfer fund, medical assistance account,
5 or any successor fund or account, for the purpose of supporting the
6 state share of adjustments to Medicaid rates of payment for personal
7 care services provided pursuant to paragraph (e) of subdivision two of
8 section three hundred sixty-five-a of the social services law, for local
9 social service districts which shall not include a city with a popu-
10 lation of over one million persons for the purpose of supporting the
11 personal care services worker recruitment and retention program as
12 established pursuant to section three hundred sixty-seven-q of the
13 social services law, from the tobacco control and insurance initiatives
14 pool established for the following periods and the following amounts:

15 (i) two million eight hundred thousand dollars for the period April
16 first, two thousand two through December thirty-first, two thousand two;

17 (ii) five million six hundred thousand dollars, on an annualized
18 basis, for the period January first, two thousand three through December
19 thirty-first, two thousand three;

20 (iii) eight million four hundred thousand dollars, on an annualized
21 basis, for the period January first, two thousand four through December
22 thirty-first, two thousand four;

23 (iv) ten million eight hundred thousand dollars, on an annualized
24 basis, for the period January first, two thousand five through December
25 thirty-first, two thousand five;

26 (v) ten million eight hundred thousand dollars, on an annualized
27 basis, for the period January first, two thousand six through December
28 thirty-first, two thousand six;

29 (vi) eleven million two hundred thousand dollars for the period Janu-
30 ary first, two thousand seven through December thirty-first, two thou-
31 sand seven;

32 (vii) eleven million two hundred thousand dollars for the period Janu-
33 ary first, two thousand eight through December thirty-first, two thou-
34 sand eight;

35 (viii) eleven million two hundred thousand dollars for the period
36 January first, two thousand nine through December thirty-first, two
37 thousand nine;

38 (ix) eleven million two hundred thousand dollars for the period Janu-
39 ary first, two thousand ten through December thirty-first, two thousand
40 ten; [and]

41 (x) two million eight hundred thousand dollars for the period January
42 first, two thousand eleven through March thirty-first, two thousand
43 eleven[.]; AND

44 (XI) ELEVEN MILLION TWO HUNDRED THOUSAND DOLLARS EACH STATE FISCAL
45 YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIR-
46 TY-FIRST, TWO THOUSAND FOURTEEN.

47 (dd) Funds shall be deposited by the commissioner, within amounts
48 appropriated, and the state comptroller is hereby authorized and
49 directed to receive for deposit to the credit of the state special
50 revenue fund - other, HCRA transfer fund, medical assistance account, or
51 any successor fund or account, for purposes of funding the state share
52 of Medicaid expenditures for physician services from the tobacco control
53 and insurance initiatives pool established for the following periods in
54 the following amounts:

55 (i) up to fifty-two million dollars for the period January first, two
56 thousand two through December thirty-first, two thousand two;

1 (ii) eighty-one million two hundred thousand dollars for the period
2 January first, two thousand three through December thirty-first, two
3 thousand three;
4 (iii) eighty-five million two hundred thousand dollars for the period
5 January first, two thousand four through December thirty-first, two
6 thousand four;
7 (iv) eighty-five million two hundred thousand dollars for the period
8 January first, two thousand five through December thirty-first, two
9 thousand five;
10 (v) eighty-five million two hundred thousand dollars for the period
11 January first, two thousand six through December thirty-first, two thou-
12 sand six;
13 (vi) [eight-five] EIGHTY-FIVE million two hundred thousand dollars for
14 the period January first, two thousand seven through December thirty-
15 first, two thousand seven;
16 (vii) eighty-five million two hundred thousand dollars for the period
17 January first, two thousand eight through December thirty-first, two
18 thousand eight;
19 (viii) eighty-five million two hundred thousand dollars for the period
20 January first, two thousand nine through December thirty-first, two
21 thousand nine;
22 (ix) eighty-five million two hundred thousand dollars for the period
23 January first, two thousand ten through December thirty-first, two thou-
24 sand ten; [and]
25 (x) twenty-one million three hundred thousand dollars for the period
26 January first, two thousand eleven through March thirty-first, two thou-
27 sand eleven[.]; AND
28 (XI) EIGHTY-FIVE MILLION TWO HUNDRED THOUSAND DOLLARS EACH STATE
29 FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH
30 MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN.
31 (ee) Funds shall be deposited by the commissioner, within amounts
32 appropriated, and the state comptroller is hereby authorized and
33 directed to receive for deposit to the credit of the state special
34 revenue fund - other, HCRA transfer fund, medical assistance account, or
35 any successor fund or account, for purposes of funding the state share
36 of the free-standing diagnostic and treatment center rate increases for
37 recruitment and retention of health care workers pursuant to subdivision
38 seventeen of section twenty-eight hundred seven of this article from the
39 tobacco control and insurance initiatives pool established for the
40 following periods in the following amounts:
41 (i) three million two hundred fifty thousand dollars for the period
42 April first, two thousand two through December thirty-first, two thou-
43 sand two;
44 (ii) three million two hundred fifty thousand dollars on an annualized
45 basis for the period January first, two thousand three through December
46 thirty-first, two thousand three;
47 (iii) three million two hundred fifty thousand dollars on an annual-
48 ized basis for the period January first, two thousand four through
49 December thirty-first, two thousand four;
50 (iv) three million two hundred fifty thousand dollars for the period
51 January first, two thousand five through December thirty-first, two
52 thousand five;
53 (v) three million two hundred fifty thousand dollars for the period
54 January first, two thousand six through December thirty-first, two thou-
55 sand six;

1 (vi) three million two hundred fifty thousand dollars for the period
2 January first, two thousand seven through December thirty-first, two
3 thousand seven;
4 (vii) three million four hundred thirty-eight thousand dollars for the
5 period January first, two thousand eight through December thirty-first,
6 two thousand eight;
7 (viii) two million four hundred fifty thousand dollars for the period
8 January first, two thousand nine through December thirty-first, two
9 thousand nine;
10 (ix) one million five hundred thousand dollars for the period January
11 first, two thousand ten through December thirty-first, two thousand ten;
12 and
13 (x) three hundred twenty-five thousand dollars for the period January
14 first, two thousand eleven through March thirty-first, two thousand
15 eleven.
16 (ff) Funds shall be deposited by the commissioner, within amounts
17 appropriated, and the state comptroller is hereby authorized and
18 directed to receive for deposit to the credit of the state special
19 revenue fund - other, HCRA transfer fund, medical assistance account, or
20 any successor fund or account, for purposes of funding the state share
21 of Medicaid expenditures for disabled persons as authorized pursuant to
22 subparagraphs twelve and thirteen of paragraph (a) of subdivision one of
23 section three hundred sixty-six of the social services law from the
24 tobacco control and insurance initiatives pool established for the
25 following periods in the following amounts:
26 (i) one million eight hundred thousand dollars for the period April
27 first, two thousand two through December thirty-first, two thousand two;
28 (ii) sixteen million four hundred thousand dollars on an annualized
29 basis for the period January first, two thousand three through December
30 thirty-first, two thousand three;
31 (iii) eighteen million seven hundred thousand dollars on an annualized
32 basis for the period January first, two thousand four through December
33 thirty-first, two thousand four;
34 (iv) thirty million six hundred thousand dollars for the period Janu-
35 ary first, two thousand five through December thirty-first, two thousand
36 five;
37 (v) thirty million six hundred thousand dollars for the period January
38 first, two thousand six through December thirty-first, two thousand six;
39 (vi) thirty million six hundred thousand dollars for the period Janu-
40 ary first, two thousand seven through December thirty-first, two thou-
41 sand seven;
42 (vii) fifteen million dollars for the period January first, two thou-
43 sand eight through December thirty-first, two thousand eight;
44 (viii) fifteen million dollars for the period January first, two thou-
45 sand nine through December thirty-first, two thousand nine;
46 (ix) fifteen million dollars for the period January first, two thou-
47 sand ten through December thirty-first, two thousand ten; [and]
48 (x) three million seven hundred fifty thousand dollars for the period
49 January first, two thousand eleven through March thirty-first, two thou-
50 sand eleven[.]; AND
51 (XI) FIFTEEN MILLION DOLLARS EACH STATE FISCAL YEAR FOR THE PERIOD
52 APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOU-
53 SAND FOURTEEN.
54 (gg) Funds shall be reserved and accumulated from year to year and
55 shall be available, including income from invested funds, for purposes
56 of grants to non-public general hospitals pursuant to paragraph (c) of

subdivision thirty of section twenty-eight hundred seven-c of this article from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) up to one million three hundred thousand dollars on an annualized basis for the period January first, two thousand two through December thirty-first, two thousand two;

(ii) up to three million two hundred thousand dollars on an annualized basis for the period January first, two thousand three through December thirty-first, two thousand three;

(iii) up to five million six hundred thousand dollars on an annualized basis for the period January first, two thousand four through December thirty-first, two thousand four;

(iv) up to eight million six hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) up to eight million six hundred thousand dollars on an annualized basis for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) up to two million six hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

(vii) up to two million six hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight;

(viii) up to two million six hundred thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine;

(ix) up to two million six hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten; and

(x) up to six hundred fifty thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven.

(hh) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the special revenue fund - other, HCRA transfer fund, medical assistance account for purposes of providing financial assistance to residential health care facilities pursuant to subdivisions nineteen and twenty-one of section twenty-eight hundred eight of this article, from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) for the period April first, two thousand two through December thirty-first, two thousand two, ten million dollars;

(ii) for the period January first, two thousand three through December thirty-first, two thousand three, nine million four hundred fifty thousand dollars;

(iii) for the period January first, two thousand four through December thirty-first, two thousand four, nine million three hundred fifty thousand dollars;

(iv) up to fifteen million dollars for the period January first, two thousand five through December thirty-first, two thousand five;

(v) up to fifteen million dollars for the period January first, two thousand six through December thirty-first, two thousand six;

(vi) up to fifteen million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven;

1 (vii) up to fifteen million dollars for the period January first, two
2 thousand eight through December thirty-first, two thousand eight;
3 (viii) up to fifteen million dollars for the period January first, two
4 thousand nine through December thirty-first, two thousand nine;
5 (ix) up to fifteen million dollars for the period January first, two
6 thousand ten through December thirty-first, two thousand ten; [and]
7 (x) up to three million seven hundred fifty thousand dollars for the
8 period January first, two thousand eleven through March thirty-first,
9 two thousand eleven[.]; AND
10 (XI) FIFTEEN MILLION DOLLARS EACH STATE FISCAL YEAR FOR THE PERIOD
11 APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOU-
12 SAND FOURTEEN.
13 (ii) Funds shall be deposited by the commissioner, within amounts
14 appropriated, and the state comptroller is hereby authorized and
15 directed to receive for deposit to the credit of the state special
16 revenue funds - other, HCRA transfer fund, medical assistance account,
17 or any successor fund or account, for the purpose of supporting the
18 state share of Medicaid expenditures for disabled persons as authorized
19 by sections 1619 (a) and (b) of the federal social security act pursuant
20 to the tobacco control and insurance initiatives pool established for
21 the following periods in the following amounts:
22 (i) six million four hundred thousand dollars for the period April
23 first, two thousand two through December thirty-first, two thousand two;
24 (ii) eight million five hundred thousand dollars, for the period Janu-
25 ary first, two thousand three through December thirty-first, two thou-
26 sand three;
27 (iii) eight million five hundred thousand dollars for the period Janu-
28 ary first, two thousand four through December thirty-first, two thousand
29 four;
30 (iv) eight million five hundred thousand dollars for the period Janu-
31 ary first, two thousand five through December thirty-first, two thousand
32 five;
33 (v) eight million five hundred thousand dollars for the period January
34 first, two thousand six through December thirty-first, two thousand six;
35 (vi) eight million six hundred thousand dollars for the period January
36 first, two thousand seven through December thirty-first, two thousand
37 seven;
38 (vii) eight million five hundred thousand dollars for the period Janu-
39 ary first, two thousand eight through December thirty-first, two thou-
40 sand eight;
41 (viii) eight million five hundred thousand dollars for the period
42 January first, two thousand nine through December thirty-first, two
43 thousand nine;
44 (ix) eight million five hundred thousand dollars for the period Janu-
45 ary first, two thousand ten through December thirty-first, two thousand
46 ten; [and]
47 (x) two million one hundred twenty-five thousand dollars for the peri-
48 od January first, two thousand eleven through March thirty-first, two
49 thousand eleven; AND
50 (XI) EIGHT MILLION FIVE HUNDRED THOUSAND DOLLARS EACH STATE FISCAL
51 YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIR-
52 TY-FIRST, TWO THOUSAND FOURTEEN.
53 (jj) Funds shall be reserved and accumulated from year to year and
54 shall be available, including income from invested funds, for the
55 purposes of a grant program to improve access to infertility services,
56 treatments and procedures, from the tobacco control and insurance initi-

1 atives pool established for the period January first, two thousand two
2 through December thirty-first, two thousand two in the amount of nine
3 million one hundred seventy-five thousand dollars, for the period April
4 first, two thousand six through March thirty-first, two thousand seven
5 in the amount of five million dollars, for the period April first, two
6 thousand seven through March thirty-first, two thousand eight in the
7 amount of five million dollars, for the period April first, two thousand
8 eight through March thirty-first, two thousand nine in the amount of
9 five million dollars, and for the period April first, two thousand nine
10 through March thirty-first, two thousand ten in the amount of five
11 million dollars, [and] for the period April first, two thousand ten
12 through March thirty-first, two thousand eleven in the amount of two
13 million two hundred thousand dollars, AND FOR THE PERIOD APRIL FIRST,
14 TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND TWELVE UP
15 TO ONE MILLION ONE HUNDRED THOUSAND DOLLARS.

16 (kk) Funds shall be deposited by the commissioner, within amounts
17 appropriated, and the state comptroller is hereby authorized and
18 directed to receive for deposit to the credit of the state special
19 revenue funds -- other, HCRA transfer fund, medical assistance account,
20 or any successor fund or account, for purposes of funding the state
21 share of Medical Assistance Program expenditures from the tobacco
22 control and insurance initiatives pool established for the following
23 periods in the following amounts:

24 (i) thirty-eight million eight hundred thousand dollars for the period
25 January first, two thousand two through December thirty-first, two thou-
26 sand two;

27 (ii) up to two hundred ninety-five million dollars for the period
28 January first, two thousand three through December thirty-first, two
29 thousand three;

30 (iii) up to four hundred seventy-two million dollars for the period
31 January first, two thousand four through December thirty-first, two
32 thousand four;

33 (iv) up to nine hundred million dollars for the period January first,
34 two thousand five through December thirty-first, two thousand five;

35 (v) up to eight hundred sixty-six million three hundred thousand
36 dollars for the period January first, two thousand six through December
37 thirty-first, two thousand six;

38 (vi) up to six hundred sixteen million seven hundred thousand dollars
39 for the period January first, two thousand seven through December thir-
40 ty-first, two thousand seven;

41 (vii) up to five hundred seventy-eight million nine hundred twenty-
42 five thousand dollars for the period January first, two thousand eight
43 through December thirty-first, two thousand eight; and

44 (viii) within amounts appropriated on and after January first, two
45 thousand nine.

46 (ll) Funds shall be deposited by the commissioner, within amounts
47 appropriated, and the state comptroller is hereby authorized and
48 directed to receive for deposit to the credit of the state special
49 revenue funds -- other, HCRA transfer fund, medical assistance account,
50 or any successor fund or account, for purposes of funding the state
51 share of Medicaid expenditures related to the city of New York from the
52 tobacco control and insurance initiatives pool established for the
53 following periods in the following amounts:

54 (i) eighty-two million seven hundred thousand dollars for the period
55 January first, two thousand two through December thirty-first, two thou-
56 sand two;

1 (ii) one hundred twenty-four million six hundred thousand dollars for
2 the period January first, two thousand three through December thirty-
3 first, two thousand three;

4 (iii) one hundred twenty-four million seven hundred thousand dollars
5 for the period January first, two thousand four through December thir-
6 ty-first, two thousand four;

7 (iv) one hundred twenty-four million seven hundred thousand dollars
8 for the period January first, two thousand five through December thir-
9 ty-first, two thousand five;

10 (v) one hundred twenty-four million seven hundred thousand dollars for
11 the period January first, two thousand six through December thirty-
12 first, two thousand six;

13 (vi) one hundred twenty-four million seven hundred thousand dollars
14 for the period January first, two thousand seven through December thir-
15 ty-first, two thousand seven;

16 (vii) one hundred twenty-four million seven hundred thousand dollars
17 for the period January first, two thousand eight through December thir-
18 ty-first, two thousand eight;

19 (viii) one hundred twenty-four million seven hundred thousand dollars
20 for the period January first, two thousand nine through December thir-
21 ty-first, two thousand nine;

22 (ix) one hundred twenty-four million seven hundred thousand dollars
23 for the period January first, two thousand ten through December thirty-
24 first, two thousand ten; [and]

25 (x) thirty-one million one hundred seventy-five thousand dollars for
26 the period January first, two thousand eleven through March thirty-
27 first, two thousand eleven[.]; AND

28 (XI) ONE HUNDRED TWENTY-FOUR MILLION SEVEN HUNDRED THOUSAND DOLLARS
29 EACH STATE FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN
30 THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN.

31 (mm) Funds shall be deposited by the commissioner, within amounts
32 appropriated, and the state comptroller is hereby authorized and
33 directed to receive for deposit to the credit of the state special
34 revenue funds - other, HCRA transfer fund, medical assistance account,
35 or any successor fund or account, for purposes of funding specified
36 percentages of the state share of services and expenses related to the
37 family health plus program in accordance with the following schedule:

38 (i) (A) for the period January first, two thousand three through
39 December thirty-first, two thousand four, one hundred percent of the
40 state share;

41 (B) for the period January first, two thousand five through December
42 thirty-first, two thousand five, seventy-five percent of the state
43 share; and,

44 (C) for periods beginning on and after January first, two thousand
45 six, fifty percent of the state share.

46 (ii) Funding for the family health plus program will include up to
47 five million dollars annually for the period January first, two thousand
48 three through December thirty-first, two thousand six, up to five
49 million dollars for the period January first, two thousand seven through
50 December thirty-first, two thousand seven, up to seven million two
51 hundred thousand dollars for the period January first, two thousand
52 eight through December thirty-first, two thousand eight, up to seven
53 million two hundred thousand dollars for the period January first, two
54 thousand nine through December thirty-first, two thousand nine, up to
55 seven million two hundred thousand dollars for the period January first,
56 two thousand ten through December thirty-first, two thousand ten, [and]

1 up to one million eight hundred thousand dollars for the period January
2 first, two thousand eleven through March thirty-first, two thousand
3 eleven, UP TO SIX MILLION FORTY-NINE THOUSAND DOLLARS FOR THE PERIOD
4 APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOU-
5 SAND TWELVE, UP TO SIX MILLION TWO HUNDRED EIGHTY-NINE THOUSAND DOLLARS
6 FOR THE PERIOD APRIL FIRST, TWO THOUSAND TWELVE THROUGH MARCH
7 THIRTY-FIRST, TWO THOUSAND THIRTEEN, AND UP TO SIX MILLION FOUR HUNDRED
8 SIXTY-ONE THOUSAND DOLLARS FOR THE PERIOD APRIL FIRST, TWO THOUSAND
9 THIRTEEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN, for adminis-
10 tration and marketing costs associated with such program established
11 pursuant to clauses (A) and (B) of subparagraph (v) of paragraph (a) of
12 subdivision two of section three hundred sixty-nine-ee of the social
13 services law from the tobacco control and insurance initiatives pool
14 established for the following periods in the following amounts:

15 (A) one hundred ninety million six hundred thousand dollars for the
16 period January first, two thousand three through December thirty-first,
17 two thousand three;

18 (B) three hundred seventy-four million dollars for the period January
19 first, two thousand four through December thirty-first, two thousand
20 four;

21 (C) five hundred thirty-eight million four hundred thousand dollars
22 for the period January first, two thousand five through December thir-
23 ty-first, two thousand five;

24 (D) three hundred eighteen million seven hundred seventy-five thousand
25 dollars for the period January first, two thousand six through December
26 thirty-first, two thousand six;

27 (E) four hundred eighty-two million eight hundred thousand dollars for
28 the period January first, two thousand seven through December thirty-
29 first, two thousand seven;

30 (F) five hundred seventy million twenty-five thousand dollars for the
31 period January first, two thousand eight through December thirty-first,
32 two thousand eight;

33 (G) six hundred ten million seven hundred twenty-five thousand dollars
34 for the period January first, two thousand nine through December thir-
35 ty-first, two thousand nine;

36 (H) six hundred twenty-seven million two hundred seventy-five thousand
37 dollars for the period January first, two thousand ten through December
38 thirty-first, two thousand ten; [and]

39 (I) one hundred fifty-seven million eight hundred seventy-five thou-
40 sand dollars for the period January first, two thousand eleven through
41 March thirty-first, two thousand eleven[.];

42 (J) SIX HUNDRED TWENTY-EIGHT MILLION FOUR HUNDRED THOUSAND DOLLARS FOR
43 THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST,
44 TWO THOUSAND TWELVE;

45 (K) SIX HUNDRED FIFTY MILLION FOUR HUNDRED THOUSAND DOLLARS FOR THE
46 PERIOD APRIL FIRST, TWO THOUSAND TWELVE THROUGH MARCH THIRTY-FIRST, TWO
47 THOUSAND THIRTEEN; AND

48 (L) SIX HUNDRED FIFTY MILLION FOUR HUNDRED THOUSAND DOLLARS FOR THE
49 PERIOD APRIL FIRST, TWO THOUSAND THIRTEEN THROUGH MARCH THIRTY-FIRST,
50 TWO THOUSAND FOURTEEN.

51 (nn) Funds shall be deposited by the commissioner, within amounts
52 appropriated, and the state comptroller is hereby authorized and
53 directed to receive for deposit to the credit of the state special
54 revenue fund - other, HCRA transfer fund, health care services account,
55 or any successor fund or account, for purposes related to adult home
56 initiatives for medicaid eligible residents of residential facilities

1 licensed pursuant to section four hundred sixty-b of the social services
2 law from the tobacco control and insurance initiatives pool established
3 for the following periods in the following amounts:

4 (i) up to four million dollars for the period January first, two thou-
5 sand three through December thirty-first, two thousand three;

6 (ii) up to six million dollars for the period January first, two thou-
7 sand four through December thirty-first, two thousand four;

8 (iii) up to eight million dollars for the period January first, two
9 thousand five through December thirty-first, two thousand five,
10 provided, however, that up to five million two hundred fifty thousand
11 dollars of such funds shall be received by the comptroller and deposited
12 to the credit of the special revenue fund - other / aid to localities,
13 HCRA transfer fund - 061, enhanced community services account - 05, or
14 any successor fund or account, for the purposes set forth in this para-
15 graph;

16 (iv) up to eight million dollars for the period January first, two
17 thousand six through December thirty-first, two thousand six, provided,
18 however, that up to five million two hundred fifty thousand dollars of
19 such funds shall be received by the comptroller and deposited to the
20 credit of the special revenue fund - other / aid to localities, HCRA
21 transfer fund - 061, enhanced community services account - 05, or any
22 successor fund or account, for the purposes set forth in this paragraph;

23 (v) up to eight million dollars for the period January first, two
24 thousand seven through December thirty-first, two thousand seven,
25 provided, however, that up to five million two hundred fifty thousand
26 dollars of such funds shall be received by the comptroller and deposited
27 to the credit of the special revenue fund - other / aid to localities,
28 HCRA transfer fund - 061, enhanced community services account - 05, or
29 any successor fund or account, for the purposes set forth in this para-
30 graph;

31 (vi) up to two million seven hundred fifty thousand dollars for the
32 period January first, two thousand eight through December thirty-first,
33 two thousand eight;

34 (vii) up to two million seven hundred fifty thousand dollars for the
35 period January first, two thousand nine through December thirty-first,
36 two thousand nine;

37 (viii) up to two million seven hundred fifty thousand dollars for the
38 period January first, two thousand ten through December thirty-first,
39 two thousand ten; and

40 (ix) up to six hundred eighty-eight thousand dollars for the period
41 January first, two thousand eleven through March thirty-first, two thou-
42 sand eleven.

43 (oo) Funds shall be reserved and accumulated from year to year and
44 shall be available, including income from invested funds, for purposes
45 of grants to non-public general hospitals pursuant to paragraph (e) of
46 subdivision twenty-five of section twenty-eight hundred seven-c of this
47 article from the tobacco control and insurance initiatives pool estab-
48 lished for the following periods in the following amounts:

49 (i) up to five million dollars on an annualized basis for the period
50 January first, two thousand four through December thirty-first, two
51 thousand four;

52 (ii) up to five million dollars for the period January first, two
53 thousand five through December thirty-first, two thousand five;

54 (iii) up to five million dollars for the period January first, two
55 thousand six through December thirty-first, two thousand six;

1 (iv) up to five million dollars for the period January first, two
2 thousand seven through December thirty-first, two thousand seven; and
3 (v) up to five million dollars for the period January first, two thou-
4 sand eight through December thirty-first, two thousand eight;
5 (vi) up to five million dollars for the period January first, two
6 thousand nine through December thirty-first, two thousand nine;
7 (vii) up to five million dollars for the period January first, two
8 thousand ten through December thirty-first, two thousand ten; and
9 (viii) up to one million two hundred fifty thousand dollars for the
10 period January first, two thousand eleven through March thirty-first,
11 two thousand eleven.
12 (pp) Funds shall be reserved and accumulated from year to year and
13 shall be available, including income from invested funds, for the
14 purpose of supporting the provision of tax credits for long term care
15 insurance pursuant to subdivision one of section one hundred ninety of
16 the tax law, paragraph (a) of subdivision twenty-five-a of section two
17 hundred ten of such law, subsection (aa) of section six hundred six of
18 such law, paragraph one of subsection (k) of section fourteen hundred
19 fifty-six of such law and paragraph one of subdivision (m) of section
20 fifteen hundred eleven of such law, in the following amounts:
21 (i) ten million dollars for the period January first, two thousand
22 four through December thirty-first, two thousand four;
23 (ii) ten million dollars for the period January first, two thousand
24 five through December thirty-first, two thousand five;
25 (iii) ten million dollars for the period January first, two thousand
26 six through December thirty-first, two thousand six; and
27 (iv) five million dollars for the period January first, two thousand
28 seven through June thirtieth, two thousand seven.
29 (qq) Funds shall be reserved and accumulated from year to year and
30 shall be available, including income from invested funds, for the
31 purpose of supporting the long-term care insurance education and
32 outreach program established pursuant to section two hundred seventeen-a
33 of the elder law for the following periods in the following amounts:
34 (i) up to five million dollars for the period January first, two thou-
35 sand four through December thirty-first, two thousand four; of such
36 funds one million nine hundred fifty thousand dollars shall be made
37 available to the department for the purpose of developing, implementing
38 and administering the long-term care insurance education and outreach
39 program and three million fifty thousand dollars shall be deposited by
40 the commissioner, within amounts appropriated, and the comptroller is
41 hereby authorized and directed to receive for deposit to the credit of
42 the special revenue funds - other, HCRA transfer fund, long term care
43 insurance resource center account of the state office for the aging or
44 any future account designated for the purpose of implementing the long
45 term care insurance education and outreach program and providing the
46 long term care insurance resource centers with the necessary resources
47 to carry out their operations;
48 (ii) up to five million dollars for the period January first, two
49 thousand five through December thirty-first, two thousand five; of such
50 funds one million nine hundred fifty thousand dollars shall be made
51 available to the department for the purpose of developing, implementing
52 and administering the long-term care insurance education and outreach
53 program and three million fifty thousand dollars shall be deposited by
54 the commissioner, within amounts appropriated, and the comptroller is
55 hereby authorized and directed to receive for deposit to the credit of
56 the special revenue funds - other, HCRA transfer fund, long term care

1 insurance resource center account of the state office for the aging or
2 any future account designated for the purpose of implementing the long
3 term care insurance education and outreach program and providing the
4 long term care insurance resource centers with the necessary resources
5 to carry out their operations;

6 (iii) up to five million dollars for the period January first, two
7 thousand six through December thirty-first, two thousand six; of such
8 funds one million nine hundred fifty thousand dollars shall be made
9 available to the department for the purpose of developing, implementing
10 and administering the long-term care insurance education and outreach
11 program and three million fifty thousand dollars shall be made available
12 to the office for the aging for the purpose of providing the long term
13 care insurance resource centers with the necessary resources to carry
14 out their operations;

15 (iv) up to five million dollars for the period January first, two
16 thousand seven through December thirty-first, two thousand seven; of
17 such funds one million nine hundred fifty thousand dollars shall be made
18 available to the department for the purpose of developing, implementing
19 and administering the long-term care insurance education and outreach
20 program and three million fifty thousand dollars shall be made available
21 to the office for the aging for the purpose of providing the long term
22 care insurance resource centers with the necessary resources to carry
23 out their operations;

24 (v) up to five million dollars for the period January first, two thou-
25 sand eight through December thirty-first, two thousand eight; of such
26 funds one million nine hundred fifty thousand dollars shall be made
27 available to the department for the purpose of developing, implementing
28 and administering the long term care insurance education and outreach
29 program and three million fifty thousand dollars shall be made available
30 to the office for the aging for the purpose of providing the long term
31 care insurance resource centers with the necessary resources to carry
32 out their operations;

33 (vi) up to five million dollars for the period January first, two
34 thousand nine through December thirty-first, two thousand nine; of such
35 funds one million nine hundred fifty thousand dollars shall be made
36 available to the department for the purpose of developing, implementing
37 and administering the long-term care insurance education and outreach
38 program and three million fifty thousand dollars shall be made available
39 to the office for the aging for the purpose of providing the long-term
40 care insurance resource centers with the necessary resources to carry
41 out their operations;

42 (vii) up to four hundred eighty-eight thousand dollars for the period
43 January first, two thousand ten through March thirty-first, two thousand
44 ten; of such funds four hundred eighty-eight thousand dollars shall be
45 made available to the department for the purpose of developing, imple-
46 menting and administering the long-term care insurance education and
47 outreach program.

48 (rr) Funds shall be reserved and accumulated from the tobacco control
49 and insurance initiatives pool and shall be available, including income
50 from invested funds, for the purpose of supporting expenses related to
51 implementation of the provisions of title III of article twenty-nine-D
52 of this chapter, for the following periods and in the following amounts:

53 (i) up to ten million dollars for the period January first, two thou-
54 sand six through December thirty-first, two thousand six;

55 (ii) up to ten million dollars for the period January first, two thou-
56 sand seven through December thirty-first, two thousand seven;

1 (iii) up to ten million dollars for the period January first, two
2 thousand eight through December thirty-first, two thousand eight;

3 (iv) up to ten million dollars for the period January first, two thou-
4 sand nine through December thirty-first, two thousand nine;

5 (v) up to ten million dollars for the period January first, two thou-
6 sand ten through December thirty-first, two thousand ten; and

7 (vi) up to two million five hundred thousand dollars for the period
8 January first, two thousand eleven through March thirty-first, two thou-
9 sand eleven.

10 (ss) Funds shall be reserved and accumulated from the tobacco control
11 and insurance initiatives pool and used for a health care stabilization
12 program established by the commissioner for the purposes of stabilizing
13 critical health care providers and health care programs whose ability to
14 continue to provide appropriate services are threatened by financial or
15 other challenges, in the amount of up to twenty-eight million dollars
16 for the period July first, two thousand four through June thirtieth, two
17 thousand five. Notwithstanding the provisions of section one hundred
18 twelve of the state finance law or any other inconsistent provision of
19 the state finance law or any other law, funds available for distribution
20 pursuant to this paragraph may be allocated and distributed by the
21 commissioner, or the state comptroller as applicable without a compet-
22 itive bid or request for proposal process. Considerations relied upon by
23 the commissioner in determining the allocation and distribution of these
24 funds shall include, but not be limited to, the following: (i) the
25 importance of the provider or program in meeting critical health care
26 needs in the community in which it operates; (ii) the provider or
27 program provision of care to under-served populations; (iii) the quality
28 of the care or services the provider or program delivers; (iv) the abil-
29 ity of the provider or program to continue to deliver an appropriate
30 level of care or services if additional funding is made available; (v)
31 the ability of the provider or program to access, in a timely manner,
32 alternative sources of funding, including other sources of government
33 funding; (vi) the ability of other providers or programs in the communi-
34 ty to meet the community health care needs; (vii) whether the provider
35 or program has an appropriate plan to improve its financial condition;
36 and (viii) whether additional funding would permit the provider or
37 program to consolidate, relocate, or close programs or services where
38 such actions would result in greater stability and efficiency in the
39 delivery of needed health care services or programs.

40 (tt) Funds shall be reserved and accumulated from year to year and
41 shall be available, including income from invested funds, for purposes
42 of providing grants for two long term care demonstration projects
43 designed to test new models for the delivery of long term care services
44 established pursuant to section twenty-eight hundred seven-x of this
45 chapter, for the following periods and in the following amounts:

46 (i) up to five hundred thousand dollars for the period January first,
47 two thousand four through December thirty-first, two thousand four;

48 (ii) up to five hundred thousand dollars for the period January first,
49 two thousand five through December thirty-first, two thousand five;

50 (iii) up to five hundred thousand dollars for the period January
51 first, two thousand six through December thirty-first, two thousand six;

52 (iv) up to one million dollars for the period January first, two thou-
53 sand seven through December thirty-first, two thousand seven; and

54 (v) up to two hundred fifty thousand dollars for the period January
55 first, two thousand eight through March thirty-first, two thousand
56 eight.

(uu) Funds shall be reserved and accumulated from year to year and shall be available, including income from invested funds, for the purpose of supporting disease management and telemedicine demonstration programs authorized pursuant to [sections] SECTION twenty-one hundred eleven [and thirty-six hundred twenty-one] of this chapter[, respectively,] for the following periods in the following amounts:

(i) five million dollars for the period January first, two thousand four through December thirty-first, two thousand four, of which three million dollars shall be available for disease management demonstration programs and two million dollars shall be available for telemedicine demonstration programs;

(ii) five million dollars for the period January first, two thousand five through December thirty-first, two thousand five, of which three million dollars shall be available for disease management demonstration programs and two million dollars shall be available for telemedicine demonstration programs;

(iii) nine million five hundred thousand dollars for the period January first, two thousand six through December thirty-first, two thousand six, of which seven million five hundred thousand dollars shall be available for disease management demonstration programs and two million dollars shall be available for telemedicine demonstration programs;

(iv) nine million five hundred thousand dollars for the period January first, two thousand seven through December thirty-first, two thousand seven, of which seven million five hundred thousand dollars shall be available for disease management demonstration programs and one million dollars shall be available for telemedicine demonstration programs;

(v) nine million five hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, of which seven million five hundred thousand dollars shall be available for disease management demonstration programs and two million dollars shall be available for telemedicine demonstration programs;

(vi) seven million eight hundred thirty-three thousand three hundred thirty-three dollars for the period January first, two thousand nine through December thirty-first, two thousand nine, of which seven million five hundred thousand dollars shall be available for disease management demonstration programs and three hundred thirty-three thousand three hundred thirty-three dollars shall be available for telemedicine demonstration programs for the period January first, two thousand nine through March first, two thousand nine;

(vii) one million eight hundred seventy-five thousand dollars for the period January first, two thousand ten through March thirty-first, two thousand ten shall be available for disease management demonstration programs.

(ww) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for the deposit to the credit of the state special revenue funds - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for purposes of funding the state share of the general hospital rates increases for recruitment and retention of health care workers pursuant to paragraph (e) of subdivision thirty of section twenty-eight hundred seven-c of this article from the tobacco control and insurance initiatives pool established for the following periods in the following amounts:

(i) sixty million five hundred thousand dollars for the period January first, two thousand five through December thirty-first, two thousand five; and

1 (ii) sixty million five hundred thousand dollars for the period Janu-
2 ary first, two thousand six through December thirty-first, two thousand
3 six.

4 (xx) Funds shall be deposited by the commissioner, within amounts
5 appropriated, and the state comptroller is hereby authorized and
6 directed to receive for the deposit to the credit of the state special
7 revenue funds - other, HCRA transfer fund, medical assistance account,
8 or any successor fund or account, for purposes of funding the state
9 share of the general hospital rates increases for rural hospitals pursu-
10 ant to subdivision thirty-two of section twenty-eight hundred seven-c of
11 this article from the tobacco control and insurance initiatives pool
12 established for the following periods in the following amounts:

13 (i) three million five hundred thousand dollars for the period January
14 first, two thousand five through December thirty-first, two thousand
15 five;

16 (ii) three million five hundred thousand dollars for the period Janu-
17 ary first, two thousand six through December thirty-first, two thousand
18 six;

19 (iii) three million five hundred thousand dollars for the period Janu-
20 ary first, two thousand seven through December thirty-first, two thou-
21 sand seven;

22 (iv) three million five hundred thousand dollars for the period Janu-
23 ary first, two thousand eight through December thirty-first, two thou-
24 sand eight; and

25 (v) three million two hundred eight thousand dollars for the period
26 January first, two thousand nine through November thirtieth, two thou-
27 sand nine.

28 (yy) Funds shall be reserved and accumulated from year to year and
29 shall be available, within amounts appropriated and notwithstanding
30 section one hundred twelve of the state finance law and any other
31 contrary provision of law, for the purpose of supporting grants not to
32 exceed five million dollars to be made by the commissioner without a
33 competitive bid or request for proposal process, in support of the
34 delivery of critically needed health care services, to health care
35 providers located in the counties of Erie and Niagara which executed a
36 memorandum of closing and conducted a merger closing in escrow on Novem-
37 ber twenty-fourth, nineteen hundred ninety-seven and which entered into
38 a settlement dated December thirtieth, two thousand four for a loss on
39 disposal of assets under the provisions of title XVIII of the federal
40 social security act applicable to mergers occurring prior to December
41 first, nineteen hundred ninety-seven.

42 (zz) Funds shall be reserved and accumulated from year to year and
43 shall be available, within amounts appropriated, for the purpose of
44 supporting expenditures authorized pursuant to section twenty-eight
45 hundred eighteen of this article from the tobacco control and insurance
46 initiatives pool established for the following periods in the following
47 amounts:

48 (i) six million five hundred thousand dollars for the period January
49 first, two thousand five through December thirty-first, two thousand
50 five;

51 (ii) one hundred eight million three hundred thousand dollars for the
52 period January first, two thousand six through December thirty-first,
53 two thousand six, provided, however, that within amounts appropriated in
54 the two thousand six through two thousand seven state fiscal year, a
55 portion of such funds may be transferred to the Roswell Park Cancer
56 Institute Corporation to fund capital costs;

1 (iii) one hundred seventy-one million dollars for the period January
2 first, two thousand seven through December thirty-first, two thousand
3 seven, provided, however, that within amounts appropriated in the two
4 thousand six through two thousand seven state fiscal year, a portion of
5 such funds may be transferred to the Roswell Park Cancer Institute
6 Corporation to fund capital costs;

7 (iv) one hundred seventy-one million five hundred thousand dollars for
8 the period January first, two thousand eight through December thirty-
9 first, two thousand eight;

10 (v) one hundred twenty-eight million seven hundred fifty thousand
11 dollars for the period January first, two thousand nine through December
12 thirty-first, two thousand nine;

13 (vi) one hundred thirty-one million three hundred seventy-five thou-
14 sand dollars for the period January first, two thousand ten through
15 December thirty-first, two thousand ten; [and]

16 (vii) thirty-four million two hundred fifty thousand dollars for the
17 period January first, two thousand eleven through March thirty-first,
18 two thousand eleven[.];

19 (VIII) FOUR HUNDRED THIRTY-THREE MILLION THREE HUNDRED SIXTY-SIX THOU-
20 SAND DOLLARS FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH
21 MARCH THIRTY-FIRST, TWO THOUSAND TWELVE;

22 (IX) ONE HUNDRED FIFTY MILLION EIGHT HUNDRED SIX THOUSAND DOLLARS FOR
23 THE PERIOD APRIL FIRST, TWO THOUSAND TWELVE THROUGH MARCH THIRTY-FIRST,
24 TWO THOUSAND THIRTEEN; AND

25 (X) SEVENTY-EIGHT MILLION SEVENTY-ONE THOUSAND DOLLARS FOR THE PERIOD
26 APRIL FIRST, TWO THOUSAND THIRTEEN THROUGH MARCH THIRTY-FIRST, TWO THOU-
27 SAND FOURTEEN.

28 (aaa) Funds shall be reserved and accumulated from year to year and
29 shall be available, including income from invested funds, for services
30 and expenses related to school based health centers, in an amount up to
31 three million five hundred thousand dollars for the period April first,
32 two thousand six through March thirty-first, two thousand seven, up to
33 three million five hundred thousand dollars for the period April first,
34 two thousand seven through March thirty-first, two thousand eight, up to
35 three million five hundred thousand dollars for the period April first,
36 two thousand eight through March thirty-first, two thousand nine, up to
37 three million five hundred thousand dollars for the period April first,
38 two thousand nine through March thirty-first, two thousand ten, [and] up
39 to three million five hundred thousand dollars for the period April
40 first, two thousand ten through March thirty-first, two thousand eleven,
41 AND UP TO TWO MILLION EIGHT HUNDRED THOUSAND DOLLARS EACH STATE FISCAL
42 YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIR-
43 TY-FIRST, TWO THOUSAND FOURTEEN. The total amount of funds provided
44 herein shall be distributed as grants based on the ratio of each provid-
45 er's total enrollment for all sites to the total enrollment of all
46 providers. This formula shall be applied to the total amount provided
47 herein.

48 (bbb) Funds shall be reserved and accumulated from year to year and
49 shall be available, including income from invested funds, for purposes
50 of awarding grants to operators of adult homes, enriched housing
51 programs and residences through the enhancing abilities and life experi-
52 ence (EnAbLe) program to provide for the installation, operation and
53 maintenance of air conditioning in resident rooms, consistent with this
54 paragraph, in an amount up to two million dollars for the period April
55 first, two thousand six through March thirty-first, two thousand seven,
56 up to three million eight hundred thousand dollars for the period April

1 first, two thousand seven through March thirty-first, two thousand
2 eight, up to three million eight hundred thousand dollars for the period
3 April first, two thousand eight through March thirty-first, two thousand
4 nine, up to three million eight hundred thousand dollars for the period
5 April first, two thousand nine through March thirty-first, two thousand
6 ten, and up to three million eight hundred thousand dollars for the
7 period April first, two thousand ten through March thirty-first, two
8 thousand eleven. Residents shall not be charged utility cost for the use
9 of air conditioners supplied under the EnAbLe program. All such air
10 conditioners must be operated in occupied resident rooms consistent with
11 requirements applicable to common areas.

12 (ccc) Funds shall be deposited by the commissioner, within amounts
13 appropriated, and the state comptroller is hereby authorized and
14 directed to receive for the deposit to the credit of the state special
15 revenue funds - other, HCRA transfer fund, medical assistance account,
16 or any successor fund or account, for purposes of funding the state
17 share of increases in the rates for certified home health agencies, long
18 term home health care programs, AIDS home care programs, hospice
19 programs and managed long term care plans and approved managed long term
20 care operating demonstrations as defined in section forty-four hundred
21 three-f of this chapter for recruitment and retention of health care
22 workers pursuant to subdivisions nine and ten of section thirty-six
23 hundred fourteen of this chapter from the tobacco control and insurance
24 initiatives pool established for the following periods in the following
25 amounts:

26 (i) twenty-five million dollars for the period June first, two thou-
27 sand six through December thirty-first, two thousand six;

28 (ii) fifty million dollars for the period January first, two thousand
29 seven through December thirty-first, two thousand seven;

30 (iii) fifty million dollars for the period January first, two thousand
31 eight through December thirty-first, two thousand eight;

32 (iv) fifty million dollars for the period January first, two thousand
33 nine through December thirty-first, two thousand nine;

34 (v) fifty million dollars for the period January first, two thousand
35 ten through December thirty-first, two thousand ten; [and]

36 (vi) twelve million five hundred thousand dollars for the period Janu-
37 ary first, two thousand eleven through March thirty-first, two thousand
38 eleven[.]; AND

39 (VII) FIFTY MILLION DOLLARS EACH STATE FISCAL YEAR FOR THE PERIOD
40 APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOU-
41 SAND FOURTEEN.

42 (ddd) Funds shall be deposited by the commissioner, within amounts
43 appropriated, and the state comptroller is hereby authorized and
44 directed to receive for the deposit to the credit of the state special
45 revenue funds - other, HCRA transfer fund, medical assistance account,
46 or any successor fund or account, for purposes of funding the state
47 share of increases in the medical assistance rates for providers for
48 purposes of enhancing the provision, quality and/or efficiency of home
49 care services pursuant to subdivision eleven of section thirty-six
50 hundred fourteen of this chapter from the tobacco control and insurance
51 initiatives pool established for the following period in the amount of
52 eight million dollars for the period April first, two thousand six
53 through December thirty-first, two thousand six.

54 (eee) Funds shall be reserved and accumulated from year to year and
55 shall be available, including income from invested funds, to the Center
56 for Functional Genomics at the State University of New York at Albany,

for the purposes of the Adirondack network for cancer education and research in rural communities grant program to improve access to health care and shall be made available from the tobacco control and insurance initiatives pool established for the following period in the amount of up to five million dollars for the period January first, two thousand six through December thirty-first, two thousand six.

(fff) Funds shall be made available to the empire state stem cell fund established by section ninety-nine-p of the state finance law from the public asset as defined in section four thousand three hundred one of the insurance law and accumulated from the conversion of one or more article forty-three corporations and its or their not-for-profit subsidiaries occurring on or after January first, two thousand seven. Such funds shall be made available within amounts appropriated up to fifty million dollars annually and shall not exceed five hundred million dollars in total.

(ggg) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue fund - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for the purpose of supporting the state share of Medicaid expenditures for hospital translation services as authorized pursuant to paragraph (k) of subdivision one of section twenty-eight hundred seven-c of this article from the tobacco control and initiatives pool established for the following periods in the following amounts:

(i) sixteen million dollars for the period July first, two thousand eight through December thirty-first, two thousand eight; and

(ii) fourteen million seven hundred thousand dollars for the period January first, two thousand nine through November thirtieth, two thousand nine.

(hhh) Funds shall be deposited by the commissioner, within amounts appropriated, and the state comptroller is hereby authorized and directed to receive for deposit to the credit of the state special revenue fund - other, HCRA transfer fund, medical assistance account, or any successor fund or account, for the purpose of supporting the state share of Medicaid expenditures for adjustments to inpatient rates of payment for general hospitals located in the counties of Nassau and Suffolk as authorized pursuant to paragraph (l) of subdivision one of section twenty-eight hundred seven-c of this article from the tobacco control and initiatives pool established for the following periods in the following amounts:

(i) two million five hundred thousand dollars for the period April first, two thousand eight through December thirty-first, two thousand eight; and

(ii) two million two hundred ninety-two thousand dollars for the period January first, two thousand nine through November thirtieth, two thousand nine.

S 9. Subdivision 3 of section 1680-j of the public authorities law, as amended by section 34 of part C of chapter 58 of the laws of 2009, is amended to read as follows:

3. Notwithstanding any law to the contrary, and in accordance with section four of the state finance law, the comptroller is hereby authorized and directed to transfer from the health care reform act (HCRA) resources fund (061) to the general fund, upon the request of the director of the budget, up to \$6,500,000 on or before March 31, 2006, and the comptroller is further hereby authorized and directed to transfer from

1 the healthcare reform act (HCRA); Resources fund (061) to the Capital
2 Projects Fund, upon the request of the director of budget, up to
3 \$139,000,000 for the period April 1, 2006 through March 31, 2007, up to
4 \$171,100,000 for the period April 1, 2007 through March 31, 2008, up to
5 \$208,100,000 for the period April 1, 2008 through March 31, 2009, up to
6 \$151,600,000 for the period April 1, 2009 through March 31, 2010, [and]
7 up to [\$238,000,000] \$215,743,000 for the period April 1, 2010 through
8 March 31, 2011, UP TO \$433,366,000 FOR THE PERIOD APRIL 1, 2011 THROUGH
9 MARCH 31, 2012, UP TO \$150,806,000 FOR THE PERIOD APRIL 1, 2012 THROUGH
10 MARCH 31, 2013, UP TO \$78,071,000 FOR THE PERIOD APRIL 1, 2013 THROUGH
11 MARCH 31, 2014, AND UP TO \$86,005,000 FOR THE PERIOD APRIL 1, 2014
12 THROUGH MARCH 31, 2015.

13 S 10. Paragraph (a) of subdivision 12 of section 367-b of the social
14 services law, as amended by section 8 of part B of chapter 58 of the
15 laws of 2008, is amended to read as follows:

16 (a) For the purpose of regulating cash flow for general hospitals, the
17 department shall develop and implement a payment methodology to provide
18 for timely payments for inpatient hospital services eligible for case
19 based payments per discharge based on diagnosis-related groups provided
20 during the period January first, nineteen hundred eighty-eight through
21 March thirty-first two thousand [eleven] FOURTEEN, by such hospitals
22 which elect to participate in the system.

23 S 11. Section 2 of chapter 600 of the laws of 1986, amending the
24 public health law relating to the development of pilot reimbursement
25 programs for ambulatory care services, as amended by section 9 of part B
26 of chapter 58 of the laws of 2008, is amended to read as follows:

27 S 2. This act shall take effect immediately, except that this act
28 shall expire and be of no further force and effect on and after April 1,
29 [2011] 2014; provided, however, that the commissioner of health shall
30 submit a report to the governor and the legislature detailing the objec-
31 tive, impact, design and computation of any pilot reimbursement program
32 established pursuant to this act, on or before March 31, 1994 and annu-
33 ally thereafter. Such report shall include an assessment of the finan-
34 cial impact of such payment system on providers, as well as the impact
35 of such system on access to care.

36 S 12. Paragraph (i) of subdivision (b) of section 1 of chapter 520 of
37 the laws of 1978, relating to providing for a comprehensive survey of
38 health care financing, education and illness prevention and creating
39 councils for the conduct thereof, as amended by section 11 of part B of
40 chapter 58 of the laws of 2008, is amended to read as follows:

41 (i) oversight and evaluation of the inpatient financing system in
42 place for 1988 through March 31, [2011] 2014, and the appropriateness
43 and effectiveness of the bad debt and charity care financing provisions;

44 S 13. The opening paragraph of section 2952 of the public health law,
45 as amended by section 21 of part B of chapter 58 of the laws of 2008, is
46 amended to read as follows:

47 To the extent of funds available therefor, the sum of seven million
48 dollars shall annually be available for periods prior to January first,
49 two thousand three, and up to six million five hundred thirty thousand
50 dollars annually for the period January first, two thousand three
51 through December thirty-first, two thousand four, up to seven million
52 sixty-two thousand dollars for the period January first, two thousand
53 five through December thirty-first, two thousand six annually, up to
54 seven million sixty-two thousand dollars annually for the period January
55 first, two thousand seven through December thirty-first, two thousand
56 ten, [and] up to one million seven hundred sixty-six thousand dollars

1 for the period January first, two thousand eleven through March thirty-
2 first, two thousand eleven, AND WITHIN AMOUNTS APPROPRIATED FOR EACH
3 STATE FISCAL YEAR ON AND AFTER APRIL FIRST, TWO THOUSAND ELEVEN, shall
4 be available to the commissioner from funds made available pursuant to
5 section twenty-eight hundred seven-1 of this chapter for grants pursuant
6 to this section.

7 S 14. Subdivision 1 of section 2958 of the public health law, as
8 amended by section 22 of part B of chapter 58 of the laws of 2008, is
9 amended to read as follows:

10 1. To the extent of funds available therefor, the sum of ten million
11 dollars shall annually be made available for periods prior to January
12 first, two thousand three, and up to nine million three hundred twenty
13 thousand dollars for the period January first, two thousand three
14 through December thirty-first, two thousand three, up to nine million
15 three hundred twenty thousand dollars for the period January first, two
16 thousand four through December thirty-first, two thousand four, up to
17 twelve million eighty-eight thousand dollars for the period January
18 first, two thousand five through December thirty-first, two thousand
19 five, up to twelve million eighty-eight thousand dollars for the period
20 January first, two thousand six through December thirty-first, two thou-
21 sand six, up to eleven million eighty-eight thousand dollars annually
22 for the period January first, two thousand seven through December thir-
23 ty-first, two thousand ten, [and] up to two million seven hundred seven-
24 ty-two thousand dollars for the period January first, two thousand elev-
25 en through March thirty-first, two thousand eleven, AND WITHIN AMOUNTS
26 APPROPRIATED FOR EACH STATE FISCAL YEAR ON AND AFTER APRIL FIRST, TWO
27 THOUSAND ELEVEN, shall be available to the commissioner from funds
28 pursuant to section twenty-eight hundred seven-1 of this chapter to
29 provide assistance to general hospitals classified as a rural hospital
30 for purposes of determining payment for inpatient services provided to
31 beneficiaries of title XVIII of the federal social security act (Medi-
32 care) or under state regulations, in recognition of the unique costs
33 incurred by these facilities to provide hospital services in remote or
34 sparsely populated areas pursuant to subdivision two of this section.

35 S 15. Paragraph (a) of subdivision 1 of section 18 of chapter 266 of
36 the laws of 1986, amending the civil practice law and rules and other
37 laws relating to malpractice and professional medical conduct, as
38 amended by section 23 of part B of chapter 58 of the laws of 2008, is
39 amended to read as follows:

40 (a) The superintendent of insurance and the commissioner of health or
41 their designee shall, from funds available in the hospital excess
42 liability pool created pursuant to subdivision [(5)] 5 of this section,
43 purchase a policy or policies for excess insurance coverage, as author-
44 ized by paragraph [(1)] 1 of subsection (e) of section 5502 of the
45 insurance law; or from an insurer, other than an insurer described in
46 section 5502 of the insurance law, duly authorized to write such cover-
47 age and actually writing medical malpractice insurance in this state; or
48 shall purchase equivalent excess coverage in a form previously approved
49 by the superintendent of insurance for purposes of providing equivalent
50 excess coverage in accordance with section 19 of chapter 294 of the laws
51 of 1985, for medical or dental malpractice occurrences between July 1,
52 1986 and June 30, 1987, between July 1, 1987 and June 30, 1988, between
53 July 1, 1988 and June 30, 1989, between July 1, 1989 and June 30, 1990,
54 between July 1, 1990 and June 30, 1991, between July 1, 1991 and June
55 30, 1992, between July 1, 1992 and June 30, 1993, between July 1, 1993
56 and June 30, 1994, between July 1, 1994 and June 30, 1995, between July

1 1, 1995 and June 30, 1996, between July 1, 1996 and June 30, 1997,
2 between July 1, 1997 and June 30, 1998, between July 1, 1998 and June
3 30, 1999, between July 1, 1999 and June 30, 2000, between July 1, 2000
4 and June 30, 2001, between July 1, 2001 and June 30, 2002, between July
5 1, 2002 and June 30, 2003, between July 1, 2003 and June 30, 2004,
6 between July 1, 2004 and June 30, 2005, between July 1, 2005 and June
7 30, 2006, between July 1, 2006 and June 30, 2007, between July 1, 2007
8 and June 30, 2008, between July 1, 2008 and June 30, 2009, between July
9 1, 2009 and June 30, 2010, [and] between July 1, 2010 and June 30, 2011,
10 BETWEEN JULY 1, 2011 AND JUNE 30, 2012, BETWEEN JULY 1, 2012 AND JUNE
11 30, 2013 AND BETWEEN JULY 1, 2013 AND JUNE 30, 2014 or reimburse the
12 hospital where the hospital purchases equivalent excess coverage as
13 defined in subparagraph (i) of paragraph (a) of subdivision [(1-a)] 1-A
14 of this section for medical or dental malpractice occurrences between
15 July 1, 1987 and June 30, 1988, between July 1, 1988 and June 30, 1989,
16 between July 1, 1989 and June 30, 1990, between July 1, 1990 and June
17 30, 1991, between July 1, 1991 and June 30, 1992, between July 1, 1992
18 and June 30, 1993, between July 1, 1993 and June 30, 1994, between July
19 1, 1994 and June 30, 1995, between July 1, 1995 and June 30, 1996,
20 between July 1, 1996 and June 30, 1997, between July 1, 1997 and June
21 30, 1998, between July 1, 1998 and June 30, 1999, between July 1, 1999
22 and June 30, 2000, between July 1, 2000 and June 30, 2001, between July
23 1, 2001 and June 30, 2002, between July 1, 2002 and June 30, 2003,
24 between July 1, 2003 and June 30, 2004, between July 1, 2004 and June
25 30, 2005, between July 1, 2005 and June 30, 2006, between July 1, 2006
26 and June 30, 2007, between July 1, 2007 and June 30, 2008, between July
27 1, 2008 and June 30, 2009, between July 1, 2009 and June 30, 2010, [and]
28 between July 1, 2010 and June 30, 2011, BETWEEN JULY 1, 2011 AND JUNE
29 30, 2012, BETWEEN JULY 1, 2012 AND JUNE 30, 2013 AND BETWEEN JULY 1,
30 2013 AND JUNE 30, 2014 for physicians or dentists certified as eligible
31 for each such period or periods pursuant to subdivision [(2)] 2 of this
32 section by a general hospital licensed pursuant to article 28 of the
33 public health law; provided that no single insurer shall write more than
34 fifty percent of the total excess premium for a given policy year; and
35 provided, however, that such eligible physicians or dentists must have
36 in force an individual policy, from an insurer licensed in this state of
37 primary malpractice insurance coverage in amounts of no less than one
38 million three hundred thousand dollars for each claimant and three
39 million nine hundred thousand dollars for all claimants under that poli-
40 cy during the period of such excess coverage for such occurrences or be
41 endorsed as additional insureds under a hospital professional liability
42 policy which is offered through a voluntary attending physician ("chan-
43 neling") program previously permitted by the superintendent of insurance
44 during the period of such excess coverage for such occurrences. During
45 such period, such policy for excess coverage or such equivalent excess
46 coverage shall, when combined with the physician's or dentist's primary
47 malpractice insurance coverage or coverage provided through a voluntary
48 attending physician ("channeling") program, total an aggregate level of
49 two million three hundred thousand dollars for each claimant and six
50 million nine hundred thousand dollars for all claimants from all such
51 policies with respect to occurrences in each of such years provided,
52 however, if the cost of primary malpractice insurance coverage in excess
53 of one million dollars, but below the excess medical malpractice insur-
54 ance coverage provided pursuant to this act, exceeds the rate of nine
55 percent per annum, then the required level of primary malpractice insur-
56 ance coverage in excess of one million dollars for each claimant shall

1 be in an amount of not less than the dollar amount of such coverage
2 available at nine percent per annum; the required level of such coverage
3 for all claimants under that policy shall be in an amount not less than
4 three times the dollar amount of coverage for each claimant; and excess
5 coverage, when combined with such primary malpractice insurance cover-
6 age, shall increase the aggregate level for each claimant by one million
7 dollars and three million dollars for all claimants; and provided
8 further, that, with respect to policies of primary medical malpractice
9 coverage that include occurrences between April 1, 2002 and June 30,
10 2002, such requirement that coverage be in amounts no less than one
11 million three hundred thousand dollars for each claimant and three
12 million nine hundred thousand dollars for all claimants for such occur-
13 rences shall be effective April 1, 2002.

14 S 16. Subdivision 3 of section 18 of chapter 266 of the laws of 1986,
15 amending the civil practice law and rules and other laws relating to
16 malpractice and professional medical conduct, as amended by section 24
17 of part B of chapter 58 of the laws of 2008, is amended to read as
18 follows:

19 (3)(a) The superintendent of insurance shall determine and certify to
20 each general hospital and to the commissioner of health the cost of
21 excess malpractice insurance for medical or dental malpractice occur-
22 rences between July 1, 1986 and June 30, 1987, between July 1, 1988 and
23 June 30, 1989, between July 1, 1989 and June 30, 1990, between July 1,
24 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992, between
25 July 1, 1992 and June 30, 1993, between July 1, 1993 and June 30, 1994,
26 between July 1, 1994 and June 30, 1995, between July 1, 1995 and June
27 30, 1996, between July 1, 1996 and June 30, 1997, between July 1, 1997
28 and June 30, 1998, between July 1, 1998 and June 30, 1999, between July
29 1, 1999 and June 30, 2000, between July 1, 2000 and June 30, 2001,
30 between July 1, 2001 and June 30, 2002, between July 1, 2002 and June
31 30, 2003, between July 1, 2003 and June 30, 2004, between July 1, 2004
32 and June 30, 2005, between July 1, 2005 and June 30, 2006, between July
33 1, 2006 and June 30, 2007, between July 1, 2007 and June 30, 2008,
34 between July 1, 2008 and June 30, 2009, between July 1, 2009 and June
35 30, 2010, [and] between July 1, 2010 and June 30, 2011, BETWEEN JULY 1,
36 2011 AND JUNE 30, 2012, BETWEEN JULY 1, 2012 AND JUNE 30, 2013, AND
37 BETWEEN JULY 1, 2013 AND JUNE 30, 2014 allocable to each general hospi-
38 tal for physicians or dentists certified as eligible for purchase of a
39 policy for excess insurance coverage by such general hospital in accord-
40 ance with subdivision [(2)] 2 of this section, and may amend such deter-
41 mination and certification as necessary.

42 (b) The superintendent of insurance shall determine and certify to
43 each general hospital and to the commissioner of health the cost of
44 excess malpractice insurance or equivalent excess coverage for medical
45 or dental malpractice occurrences between July 1, 1987 and June 30,
46 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989 and
47 June 30, 1990, between July 1, 1990 and June 30, 1991, between July 1,
48 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993, between
49 July 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995,
50 between July 1, 1995 and June 30, 1996, between July 1, 1996 and June
51 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998
52 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July
53 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002,
54 between July 1, 2002 and June 30, 2003, between July 1, 2003 and June
55 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005
56 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July

1 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009,
2 between July 1, 2009 and June 30, 2010, [and] between July 1, 2010 and
3 June 30, 2011, BETWEEN JULY 1, 2011 AND JUNE 30, 2012, BETWEEN JULY 1,
4 2012 AND JUNE 30, 2013, AND BETWEEN JULY 1, 2013 AND JUNE 30, 2014 allo-
5 cable to each general hospital for physicians or dentists certified as
6 eligible for purchase of a policy for excess insurance coverage or
7 equivalent excess coverage by such general hospital in accordance with
8 subdivision [(2)] 2 of this section, and may amend such determination
9 and certification as necessary. The superintendent of insurance shall
10 determine and certify to each general hospital and to the commissioner
11 of health the ratable share of such cost allocable to the period July 1,
12 1987 to December 31, 1987, to the period January 1, 1988 to June 30,
13 1988, to the period July 1, 1988 to December 31, 1988, to the period
14 January 1, 1989 to June 30, 1989, to the period July 1, 1989 to December
15 31, 1989, to the period January 1, 1990 to June 30, 1990, to the period
16 July 1, 1990 to December 31, 1990, to the period January 1, 1991 to June
17 30, 1991, to the period July 1, 1991 to December 31, 1991, to the period
18 January 1, 1992 to June 30, 1992, to the period July 1, 1992 to December
19 31, 1992, to the period January 1, 1993 to June 30, 1993, to the period
20 July 1, 1993 to December 31, 1993, to the period January 1, 1994 to June
21 30, 1994, to the period July 1, 1994 to December 31, 1994, to the period
22 January 1, 1995 to June 30, 1995, to the period July 1, 1995 to December
23 31, 1995, to the period January 1, 1996 to June 30, 1996, to the period
24 July 1, 1996 to December 31, 1996, to the period January 1, 1997 to June
25 30, 1997, to the period July 1, 1997 to December 31, 1997, to the period
26 January 1, 1998 to June 30, 1998, to the period July 1, 1998 to December
27 31, 1998, to the period January 1, 1999 to June 30, 1999, to the period
28 July 1, 1999 to December 31, 1999, to the period January 1, 2000 to June
29 30, 2000, to the period July 1, 2000 to December 31, 2000, to the period
30 January 1, 2001 to June 30, 2001, to the period July 1, 2001 to June 30,
31 2002, to the period July 1, 2002 to June 30, 2003, to the period July 1,
32 2003 to June 30, 2004, to the period July 1, 2004 to June 30, 2005, to
33 the period July 1, 2005 and June 30, 2006, to the period July 1, 2006
34 and June 30, 2007, to the period July 1, 2007 and June 30, 2008, to the
35 period July 1, 2008 and June 30, 2009, to the period July 1, 2009 and
36 June 30, 2010, [and] to the period July 1, 2010 and June 30, 2011, TO
37 THE PERIOD JULY 1, 2011 AND JUNE 30, 2012, TO THE PERIOD JULY 1, 2012
38 AND JUNE 30, 2013, AND TO THE PERIOD JULY 1, 2013 AND JUNE 30, 2014.

39 S 17. Paragraphs (a), (b), (c), (d) and (e) of subdivision 8 of
40 section 18 of chapter 266 of the laws of 1986, amending the civil prac-
41 tice law and rules and other laws relating to malpractice and profes-
42 sional medical conduct, as amended by section 25 of part B of chapter 58
43 of the laws of 2008, are amended to read as follows:

44 (a) To the extent funds available to the hospital excess liability
45 pool pursuant to subdivision [(5)] 5 of this section as amended, and
46 pursuant to section 6 of part J of chapter 63 of the laws of 2001, as
47 may from time to time be amended, which amended this subdivision, are
48 insufficient to meet the costs of excess insurance coverage or equiv-
49 alent excess coverage for coverage periods during the period July 1,
50 1992 to June 30, 1993, during the period July 1, 1993 to June 30, 1994,
51 during the period July 1, 1994 to June 30, 1995, during the period July
52 1, 1995 to June 30, 1996, during the period July 1, 1996 to June 30,
53 1997, during the period July 1, 1997 to June 30, 1998, during the period
54 July 1, 1998 to June 30, 1999, during the period July 1, 1999 to June
55 30, 2000, during the period July 1, 2000 to June 30, 2001, during the
56 period July 1, 2001 to October 29, 2001, during the period April 1, 2002

1 to June 30, 2002, during the period July 1, 2002 to June 30, 2003,
2 during the period July 1, 2003 to June 30, 2004, during the period July
3 1, 2004 to June 30, 2005, during the period July 1, 2005 to June 30,
4 2006, during the period July 1, 2006 to June 30, 2007, during the period
5 July 1, 2007 to June 30, 2008, during the period July 1, 2008 to June
6 30, 2009, during the period July 1, 2009 to June 30, 2010 [and], during
7 the period July 1, 2010 to June 30, 2011, DURING THE PERIOD JULY 1, 2011
8 TO JUNE 30, 2012, DURING THE PERIOD JULY 1, 2012 TO JUNE 30, 2013, AND
9 DURING THE PERIOD JULY 1, 2013 TO JUNE 30, 2014 allocated or reallocated
10 in accordance with paragraph (a) of subdivision [(4-a)] 4-A of this
11 section to rates of payment applicable to state governmental agencies,
12 each physician or dentist for whom a policy for excess insurance cover-
13 age or equivalent excess coverage is purchased for such period shall be
14 responsible for payment to the provider of excess insurance coverage or
15 equivalent excess coverage of an allocable share of such insufficiency,
16 based on the ratio of the total cost of such coverage for such physician
17 to the sum of the total cost of such coverage for all physicians applied
18 to such insufficiency.

19 (b) Each provider of excess insurance coverage or equivalent excess
20 coverage covering the period July 1, 1992 to June 30, 1993, or covering
21 the period July 1, 1993 to June 30, 1994, or covering the period July 1,
22 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30,
23 1996, or covering the period July 1, 1996 to June 30, 1997, or covering
24 the period July 1, 1997 to June 30, 1998, or covering the period July 1,
25 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30,
26 2000, or covering the period July 1, 2000 to June 30, 2001, or covering
27 the period July 1, 2001 to October 29, 2001, or covering the period
28 April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to
29 June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or
30 covering the period July 1, 2004 to June 30, 2005, or covering the peri-
31 od July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to
32 June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or
33 covering the period July 1, 2008 to June 30, 2009, or covering the peri-
34 od July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to
35 June 30, 2011, OR COVERING THE PERIOD JULY 1, 2011 TO JUNE 30, 2012, OR
36 COVERING THE PERIOD JULY 1, 2012 TO JUNE 30, 2013, OR COVERING THE PERI-
37 OD JULY 1, 2013 TO JUNE 30, 2014 shall notify a covered physician or
38 dentist by mail, mailed to the address shown on the last application for
39 excess insurance coverage or equivalent excess coverage, of the amount
40 due to such provider from such physician or dentist for such coverage
41 period determined in accordance with paragraph (a) of this subdivision.
42 Such amount shall be due from such physician or dentist to such provider
43 of excess insurance coverage or equivalent excess coverage in a time and
44 manner determined by the superintendent of insurance.

45 (c) If a physician or dentist liable for payment of a portion of the
46 costs of excess insurance coverage or equivalent excess coverage cover-
47 ing the period July 1, 1992 to June 30, 1993, or covering the period
48 July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to
49 June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or
50 covering the period July 1, 1996 to June 30, 1997, or covering the peri-
51 od July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to
52 June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or
53 covering the period July 1, 2000 to June 30, 2001, or covering the peri-
54 od July 1, 2001 to October 29, 2001, or covering the period April 1,
55 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30,
56 2003, or covering the period July 1, 2003 to June 30, 2004, or covering

1 the period July 1, 2004 to June 30, 2005, or covering the period July 1,
2 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30,
3 2007, or covering the period July 1, 2007 to June 30, 2008, or covering
4 the period July 1, 2008 to June 30, 2009, or covering the period July 1,
5 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30,
6 2011, OR COVERING THE PERIOD JULY 1, 2011 TO JUNE 30, 2012, OR COVERING
7 THE PERIOD JULY 1, 2012 TO JUNE 30, 2013, OR COVERING THE PERIOD JULY 1,
8 2013 TO JUNE 30, 2014 determined in accordance with paragraph (a) of
9 this subdivision fails, refuses or neglects to make payment to the
10 provider of excess insurance coverage or equivalent excess coverage in
11 such time and manner as determined by the superintendent of insurance
12 pursuant to paragraph (b) of this subdivision, excess insurance coverage
13 or equivalent excess coverage purchased for such physician or dentist in
14 accordance with this section for such coverage period shall be cancelled
15 and shall be null and void as of the first day on or after the commence-
16 ment of a policy period where the liability for payment pursuant to this
17 subdivision has not been met.

18 (d) Each provider of excess insurance coverage or equivalent excess
19 coverage shall notify the superintendent of insurance and the commis-
20 sioner of health or their designee of each physician and dentist eligi-
21 ble for purchase of a policy for excess insurance coverage or equivalent
22 excess coverage covering the period July 1, 1992 to June 30, 1993, or
23 covering the period July 1, 1993 to June 30, 1994, or covering the peri-
24 od July 1, 1994 to June 30, 1995, or covering the period July 1, 1995 to
25 June 30, 1996, or covering the period July 1, 1996 to June 30, 1997, or
26 covering the period July 1, 1997 to June 30, 1998, or covering the peri-
27 od July 1, 1998 to June 30, 1999, or covering the period July 1, 1999 to
28 June 30, 2000, or covering the period July 1, 2000 to June 30, 2001, or
29 covering the period July 1, 2001 to October 29, 2001, or covering the
30 period April 1, 2002 to June 30, 2002, or covering the period July 1,
31 2002 to June 30, 2003, or covering the period July 1, 2003 to June 30,
32 2004, or covering the period July 1, 2004 to June 30, 2005, or covering
33 the period July 1, 2005 to June 30, 2006, or covering the period July 1,
34 2006 to June 30, 2007, or covering the period July 1, 2007 to June 30,
35 2008, or covering the period July 1, 2008 to June 30, 2009, or covering
36 the period July 1, 2009 to June 30, 2010, or covering the period July 1,
37 2010 to June 30, 2011, OR COVERING THE PERIOD JULY 1, 2011 TO JUNE 30,
38 2012, OR COVERING THE PERIOD JULY 1, 2012 TO JUNE 30, 2013, OR COVERING
39 THE PERIOD JULY 1, 2013 TO JUNE 30, 2014 that has made payment to such
40 provider of excess insurance coverage or equivalent excess coverage in
41 accordance with paragraph (b) of this subdivision and of each physician
42 and dentist who has failed, refused or neglected to make such payment.

43 (e) A provider of excess insurance coverage or equivalent excess
44 coverage shall refund to the hospital excess liability pool any amount
45 allocable to the period July 1, 1992 to June 30, 1993, and to the period
46 July 1, 1993 to June 30, 1994, and to the period July 1, 1994 to June
47 30, 1995, and to the period July 1, 1995 to June 30, 1996, and to the
48 period July 1, 1996 to June 30, 1997, and to the period July 1, 1997 to
49 June 30, 1998, and to the period July 1, 1998 to June 30, 1999, and to
50 the period July 1, 1999 to June 30, 2000, and to the period July 1, 2000
51 to June 30, 2001, and to the period July 1, 2001 to October 29, 2001,
52 and to the period April 1, 2002 to June 30, 2002, and to the period July
53 1, 2002 to June 30, 2003, and to the period July 1, 2003 to June 30,
54 2004, and to the period July 1, 2004 to June 30, 2005, and to the period
55 July 1, 2005 to June 30, 2006, and to the period July 1, 2006 to June
56 30, 2007, and to the period July 1, 2007 to June 30, 2008, and to the

1 period July 1, 2008 to June 30, 2009, and to the period July 1, 2009 to
2 June 30, 2010, and to the period July 1, 2010 to June 30, 2011, AND TO
3 THE PERIOD JULY 1, 2011 TO JUNE 30, 2012, AND TO THE PERIOD JULY 1, 2012
4 TO JUNE 30, 2013, AND TO THE PERIOD JULY 1, 2013 TO JUNE 30, 2014
5 received from the hospital excess liability pool for purchase of excess
6 insurance coverage or equivalent excess coverage covering the period
7 July 1, 1992 to June 30, 1993, and covering the period July 1, 1993 to
8 June 30, 1994, and covering the period July 1, 1994 to June 30, 1995,
9 and covering the period July 1, 1995 to June 30, 1996, and covering the
10 period July 1, 1996 to June 30, 1997, and covering the period July 1,
11 1997 to June 30, 1998, and covering the period July 1, 1998 to June 30,
12 1999, and covering the period July 1, 1999 to June 30, 2000, and cover-
13 ing the period July 1, 2000 to June 30, 2001, and covering the period
14 July 1, 2001 to October 29, 2001, and covering the period April 1, 2002
15 to June 30, 2002, and covering the period July 1, 2002 to June 30, 2003,
16 and covering the period July 1, 2003 to June 30, 2004, and covering the
17 period July 1, 2004 to June 30, 2005, and covering the period July 1,
18 2005 to June 30, 2006, and covering the period July 1, 2006 to June 30,
19 2007, and covering the period July 1, 2007 to June 30, 2008, and cover-
20 ing the period July 1, 2008 to June 30, 2009, and covering the period
21 July 1, 2009 to June 30, 2010, and covering the period July 1, 2010 to
22 June 30, 2011, AND COVERING THE PERIOD JULY 1, 2011 TO JUNE 30, 2012,
23 AND COVERING THE PERIOD JULY 1, 2012 TO JUNE 30, 2013, AND COVERING THE
24 PERIOD JULY 1, 2013 TO JUNE 30, 2014 for a physician or dentist where
25 such excess insurance coverage or equivalent excess coverage is
26 cancelled in accordance with paragraph (c) of this subdivision.

27 S 18. Section 40 of chapter 266 of the laws of 1986, amending the
28 civil practice law and rules and other laws relating to malpractice and
29 professional medical conduct, as amended by chapter 216 of the laws of
30 2009, is amended to read as follows:

31 S 40. The superintendent of insurance shall establish rates for poli-
32 cies providing coverage for physicians and surgeons medical malpractice
33 for the periods commencing July 1, 1985 and ending June 30, [2011] 2014;
34 provided, however, that notwithstanding any other provision of law, the
35 superintendent shall not establish or approve any increase in rates for
36 the period commencing July 1, 2009 and ending June 30, 2010. The super-
37 intendent shall direct insurers to establish segregated accounts for
38 premiums, payments, reserves and investment income attributable to such
39 premium periods and shall require periodic reports by the insurers
40 regarding claims and expenses attributable to such periods to monitor
41 whether such accounts will be sufficient to meet incurred claims and
42 expenses. On or after July 1, 1989, the superintendent shall impose a
43 surcharge on premiums to satisfy a projected deficiency that is attrib-
44 utable to the premium levels established pursuant to this section for
45 such periods; provided, however, that such annual surcharge shall not
46 exceed eight percent of the established rate until July 1, [2011] 2014,
47 at which time and thereafter such surcharge shall not exceed twenty-five
48 percent of the approved adequate rate, and that such annual surcharges
49 shall continue for such period of time as shall be sufficient to satisfy
50 such deficiency. The superintendent shall not impose such surcharge
51 during the period commencing July 1, 2009 and ending June 30, 2010. On
52 and after July 1, 1989, the surcharge prescribed by this section shall
53 be retained by insurers to the extent that they insured physicians and
54 surgeons during the July 1, 1985 through June 30, [2011] 2014 policy
55 periods; in the event and to the extent physicians and surgeons were
56 insured by another insurer during such periods, all or a pro rata share

1 of the surcharge, as the case may be, shall be remitted to such other
2 insurer in accordance with rules and regulations to be promulgated by
3 the superintendent. Surcharges collected from physicians and surgeons
4 who were not insured during such policy periods shall be apportioned
5 among all insurers in proportion to the premium written by each insurer
6 during such policy periods; if a physician or surgeon was insured by an
7 insurer subject to rates established by the superintendent during such
8 policy periods, and at any time thereafter a hospital, health mainte-
9 nance organization, employer or institution is responsible for respond-
10 ing in damages for liability arising out of such physician's or
11 surgeon's practice of medicine, such responsible entity shall also remit
12 to such prior insurer the equivalent amount that would then be collected
13 as a surcharge if the physician or surgeon had continued to remain
14 insured by such prior insurer. In the event any insurer that provided
15 coverage during such policy periods is in liquidation, the
16 property/casualty insurance security fund shall receive the portion of
17 surcharges to which the insurer in liquidation would have been entitled.
18 The surcharges authorized herein shall be deemed to be income earned for
19 the purposes of section 2303 of the insurance law. The superintendent,
20 in establishing adequate rates and in determining any projected defi-
21 ciency pursuant to the requirements of this section and the insurance
22 law, shall give substantial weight, determined in his discretion and
23 judgment, to the prospective anticipated effect of any regulations
24 promulgated and laws enacted and the public benefit of stabilizing
25 malpractice rates and minimizing rate level fluctuation during the peri-
26 od of time necessary for the development of more reliable statistical
27 experience as to the efficacy of such laws and regulations affecting
28 medical, dental or podiatric malpractice enacted or promulgated in 1985,
29 1986, by this act and at any other time. Notwithstanding any provision
30 of the insurance law, rates already established and to be established by
31 the superintendent pursuant to this section are deemed adequate if such
32 rates would be adequate when taken together with the maximum authorized
33 annual surcharges to be imposed for a reasonable period of time whether
34 or not any such annual surcharge has been actually imposed as of the
35 establishment of such rates.

36 S 19. Subsection (c) of section 2343 of the insurance law, as amended
37 by section 27 of part B of chapter 58 of the laws of 2008, is amended to
38 read as follows:

39 (c) Notwithstanding any other provision of this chapter, no applica-
40 tion for an order of rehabilitation or liquidation of a domestic insurer
41 whose primary liability arises from the business of medical malpractice
42 insurance, as that term is defined in subsection (b) of section five
43 thousand five hundred one of this chapter, shall be made on the grounds
44 specified in subsection (a) or (c) of section seven thousand four
45 hundred two of this chapter at any time prior to June thirtieth, two
46 thousand [eleven] FOURTEEN.

47 S 20. Section 5 and subdivisions (a) and (e) of section 6 of part J of
48 chapter 63 of the laws of 2001, amending chapter 20 of the laws of 2001
49 amending the military law and other laws relating to making appropri-
50 ations for the support of government, as amended by section 28 of part B
51 of chapter 58 of the laws of 2008, are amended to read as follows:

52 S 5. The superintendent of insurance and the commissioner of health
53 shall determine, no later than June 15, 2002, June 15, 2003, June 15,
54 2004, June 15, 2005, June 15, 2006, June 15, 2007, June 15, 2008, June
55 15, 2009, June 15, 2010, [and] June 15, 2011, JUNE 15, 2012, JUNE 15,
56 2013, AND JUNE 15, 2014, the amount of funds available in the hospital

1 excess liability pool, created pursuant to section 18 of chapter 266 of
2 the laws of 1986, and whether such funds are sufficient for purposes of
3 purchasing excess insurance coverage for eligible participating physi-
4 cians and dentists during the period July 1, 2001 to June 30, 2002, or
5 July 1, 2002 to June 30, 2003, or July 1, 2003 to June 30, 2004, or July
6 1, 2004 to June 30, 2005, or July 1, 2005 to June 30, 2006, or July 1,
7 2006 to June 30, 2007, or July 1, 2007 to June 30, 2008, or July 1, 2008
8 to June 30, 2009, or July 1, 2009 to June 30, 2010, or July 1, 2010 to
9 June 30, 2011, OR JULY 1, 2011 TO JUNE 30, 2012, OR JULY 1, 2012 TO JUNE
10 30, 2013, OR JULY 1, 2013 TO JUNE 30, 2014, as applicable.

11 (a) This section shall be effective only upon a determination, pursu-
12 ant to section five of this act, by the superintendent of insurance and
13 the commissioner of health, and a certification of such determination to
14 the state director of the budget, the chair of the senate committee on
15 finance and the chair of the assembly committee on ways and means, that
16 the amount of funds in the hospital excess liability pool, created
17 pursuant to section 18 of chapter 266 of the laws of 1986, is insuffi-
18 cient for purposes of purchasing excess insurance coverage for eligible
19 participating physicians and dentists during the period July 1, 2001 to
20 June 30, 2002, or July 1, 2002 to June 30, 2003, or July 1, 2003 to June
21 30, 2004, or July 1, 2004 to June 30, 2005, or July 1, 2005 to June 30,
22 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007 to June 30,
23 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to June 30,
24 2010, or July 1, 2010 to June 30, 2011, OR JULY 1, 2011 TO JUNE 30,
25 2012, OR JULY 1, 2012 TO JUNE 30, 2013, OR JULY 1, 2013 TO JUNE 30,
26 2014, as applicable.

27 (e) The commissioner of health shall transfer for deposit to the
28 hospital excess liability pool created pursuant to section 18 of chapter
29 266 of the laws of 1986 such amounts as directed by the superintendent
30 of insurance for the purchase of excess liability insurance coverage for
31 eligible participating physicians and dentists for the policy year July
32 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July 1,
33 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1, 2005
34 to June 30, 2006, or July 1, 2006 to June 30, 2007, as applicable, and
35 the cost of administering the hospital excess liability pool for such
36 applicable policy year, pursuant to the program established in chapter
37 266 of the laws of 1986, as amended, no later than June 15, 2002, June
38 15, 2003, June 15, 2004, June 15, 2005, June 15, 2006, June 15, 2007,
39 June 15, 2008, June 15, 2009, June 15, 2010, [and] June 15, 2011, JUNE
40 15, 2012, JUNE 15, 2013, AND JUNE 15, 2014, as applicable.

41 S 21. Section 18 of chapter 904 of the laws of 1984, amending the
42 public health law and the social services law relating to encouraging
43 comprehensive health services, as amended by section 64 of part C of
44 chapter 58 of the laws of 2008, is amended to read as follows:

45 S 18. This act shall take effect immediately, except that sections
46 six, nine, ten and eleven of this act shall take effect on the sixtieth
47 day after it shall have become a law, sections two, three, four and nine
48 of this act shall expire and be of no further force or effect on or
49 after March 31, [2012] 2014, section two of this act shall take effect
50 on April 1, 1985 or seventy-five days following the submission of the
51 report required by section one of this act, whichever is later, and
52 sections eleven and thirteen of this act shall expire and be of no
53 further force or effect on or after March 31, 1988.

54 S 22. Paragraphs (i) and (j) of subdivision 1 of section 367-q of the
55 social services law, as added by section 22-d of part B of chapter 58 of

1 the laws of 2008, are amended and three new paragraphs (k), (l) and (m)
2 are added to read as follows:

3 (i) for the period April first, two thousand nine through March thir-
4 ty-first, two thousand ten, twenty-eight million five hundred thousand
5 dollars; [and]

6 (j) for the period April first, two thousand ten through March thir-
7 ty-first, two thousand eleven, twenty-eight million five hundred thou-
8 sand dollars[.];

9 (K) FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH
10 THIRTY-FIRST, TWO THOUSAND TWELVE, TWENTY-EIGHT MILLION FIVE HUNDRED
11 THOUSAND DOLLARS;

12 (L) FOR THE PERIOD APRIL FIRST, TWO THOUSAND TWELVE THROUGH MARCH
13 THIRTY-FIRST, TWO THOUSAND THIRTEEN, TWENTY-EIGHT MILLION FIVE HUNDRED
14 THOUSAND DOLLARS; AND

15 (M) FOR THE PERIOD APRIL FIRST, TWO THOUSAND THIRTEEN THROUGH MARCH
16 THIRTY-FIRST, TWO THOUSAND FOURTEEN, TWENTY-EIGHT MILLION FIVE HUNDRED
17 THOUSAND DOLLARS.

18 S 23. Paragraph (f) of subdivision 9 of section 3614 of the public
19 health law, as added by section 22-e of part B of chapter 58 of the laws
20 of 2008, is amended and three new paragraphs (g), (h) and (i) are added
21 to read as follows:

22 (f) for the period April first, two thousand ten through March thir-
23 ty-first, two thousand eleven, up to one hundred million dollars[.];

24 (G) FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH
25 THIRTY-FIRST, TWO THOUSAND TWELVE, UP TO ONE HUNDRED MILLION DOLLARS;

26 (H) FOR THE PERIOD APRIL FIRST, TWO THOUSAND TWELVE THROUGH MARCH
27 THIRTY-FIRST, TWO THOUSAND THIRTEEN, UP TO ONE HUNDRED MILLION DOLLARS;

28 (I) FOR THE PERIOD APRIL FIRST, TWO THOUSAND THIRTEEN THROUGH MARCH
29 THIRTY-FIRST, TWO THOUSAND FOURTEEN, UP TO ONE HUNDRED MILLION DOLLARS.

30 S 24. Paragraph (a) of subdivision 10 of section 3614 of the public
31 health law, as amended by section 5 of part C of chapter 109 of the laws
32 of 2006, is amended to read as follows:

33 (a) Such adjustments to rates of payments shall be allocated propor-
34 tionally based on each certified home health agency's, long term home
35 health care program, AIDS home care and hospice program's home health
36 aide or other direct care services total annual hours of service
37 provided to medicaid patients, as reported in each such agency's most
38 [recent] RECENTLY AVAILABLE cost report as submitted to the department
39 [prior to November first, two thousand five] or for the purpose of the
40 managed long term care program a suitable proxy developed by the depart-
41 ment in consultation with the interested parties. Payments made pursuant
42 to this section shall not be subject to subsequent adjustment or recon-
43 ciliation.

44 S 25. Section 4 of chapter 495 of the laws of 2004, amending the
45 insurance law and the public health law relating to the New York state
46 health insurance continuation assistance demonstration project, as
47 amended by section 29 of part B of chapter 58 of the laws of 2008, is
48 amended to read as follows:

49 S 4. This act shall take effect on the sixtieth day after it shall
50 have become a law; provided, however, that this act shall remain in
51 effect until July 1, [2011] 2014 when upon such date the provisions of
52 this act shall expire and be deemed repealed; provided, further, that a
53 displaced worker shall be eligible for continuation assistance retroac-
54 tive to July 1, 2004.

55 S 26. The opening paragraph and clauses (C), (D) and (G) of subpara-
56 graph (i) of paragraph (b) and paragraphs (c), (d), (e), (f) and (g) of

subdivision 5-a of section 2807-m of the public health law, the opening paragraph and clauses (C), (D) and (G) of subparagraph (i) of paragraph (b) as amended by section 4 of part B of chapter 109 of the laws of 2010, paragraphs (c), (f) and (g) and the opening paragraphs of paragraphs (d) and (e) as amended by section 98 of part C of chapter 58 of the laws of 2009 and paragraphs (d) and (e) as added by section 75-c of part C of chapter 58 of the laws of 2008, are amended to read as follows:

Nine million one hundred twenty thousand dollars annually for the period January first, two thousand nine through December thirty-first, two thousand ten, and two million two hundred eighty thousand dollars for the period January first, two thousand eleven, AND NINE MILLION ONE HUNDRED TWENTY THOUSAND DOLLARS EACH STATE FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN, through March thirty-first, two thousand eleven, shall be set aside and reserved by the commissioner from the regional pools established pursuant to subdivision two of this section to be allocated regionally with two-thirds of the available funding going to New York city and one-third of the available funding going to the rest of the state and shall be available for distribution as follows:

(C) If the dollar amount for the total number of clinical research positions in the region calculated pursuant to clause (B) of this subparagraph exceeds [thirty percent of the funding available pursuant to] THE TOTAL AMOUNT APPROPRIATED FOR PURPOSES OF this paragraph, [or an amount equal to the sum of one clinical research position per teaching general hospital in the region, whichever is greater,] including clinical research positions that continue from and were funded in prior distribution periods, the commissioner shall eliminate one-half of the clinical research positions submitted by each consortium or teaching general hospital rounded down to the nearest one position. Such reduction shall be repeated until the dollar amount for the total number of clinical research positions in the region does not exceed [thirty percent of the regional pool, or an amount equal to the sum of one clinical research position per teaching general hospital in the region, whichever is greater] THE TOTAL AMOUNT APPROPRIATED FOR PURPOSES OF THIS PARAGRAPH. IF THE REPEATED REDUCTION OF THE TOTAL NUMBER OF CLINICAL RESEARCH POSITIONS IN THE REGION BY ONE-HALF DOES NOT RENDER A TOTAL FUNDING AMOUNT THAT IS EQUAL TO OR LESS THAN THE TOTAL AMOUNT RESERVED FOR THAT REGION WITHIN THE APPROPRIATION, THE FUNDING FOR EACH CLINICAL RESEARCH POSITION IN THAT REGION SHALL BE REDUCED PROPORTIONALLY IN ONE THOUSAND DOLLAR INCREMENTS UNTIL THE TOTAL DOLLAR AMOUNT FOR THE TOTAL NUMBER OF CLINICAL RESEARCH POSITIONS IN THAT REGION DOES NOT EXCEED THE TOTAL AMOUNT RESERVED FOR THAT REGION WITHIN THE APPROPRIATION. ANY REDUCTION IN FUNDING WILL BE EFFECTIVE FOR THE DURATION OF THE AWARD. No clinical research positions that continue from and were funded in prior distribution periods shall be eliminated OR REDUCED by such [reduction] METHODOLOGY.

(D) Each consortium or teaching general hospital shall receive [fifty percent of its annual distribution amount calculated pursuant to this subparagraph once the requirements set forth in clause (G) of this subparagraph have been met. The remaining distribution amount shall be disbursed subsequent to the submission of information required pursuant to clause (G) of this subparagraph] ITS ANNUAL DISTRIBUTION AMOUNT IN ACCORDANCE WITH THE FOLLOWING:

(I) EACH CONSORTIUM OR TEACHING GENERAL HOSPITAL WITH A ONE-YEAR ECRIP AWARD SHALL RECEIVE ITS ANNUAL DISTRIBUTION AMOUNT IN FULL UPON

COMPLETION OF THE REQUIREMENTS SET FORTH IN ITEMS (I) AND (II) OF CLAUSE (G) OF THIS SUBPARAGRAPH. THE REQUIREMENTS SET FORTH IN ITEMS (IV) AND (V) OF CLAUSE (G) OF THIS SUBPARAGRAPH MUST BE COMPLETED BY THE CONSORTIUM OR TEACHING GENERAL HOSPITAL IN ORDER FOR THE CONSORTIUM OR TEACHING GENERAL HOSPITAL TO BE ELIGIBLE TO APPLY FOR ECRIP FUNDING IN ANY SUBSEQUENT FUNDING CYCLE.

(II) EACH CONSORTIUM OR TEACHING GENERAL HOSPITAL WITH A TWO-YEAR ECRIP AWARD SHALL RECEIVE ITS FIRST ANNUAL DISTRIBUTION AMOUNT IN FULL UPON COMPLETION OF THE REQUIREMENTS SET FORTH IN ITEMS (I) AND (II) OF CLAUSE (G) OF THIS SUBPARAGRAPH. EACH CONSORTIUM OR TEACHING GENERAL HOSPITAL WILL RECEIVE ITS SECOND ANNUAL DISTRIBUTION AMOUNT IN FULL UPON COMPLETION OF THE REQUIREMENTS SET FORTH IN ITEM (III) OF CLAUSE (G) OF THIS SUBPARAGRAPH. THE REQUIREMENTS SET FORTH IN ITEMS (IV) AND (V) OF CLAUSE (G) OF THIS SUBPARAGRAPH MUST BE COMPLETED BY THE CONSORTIUM OR TEACHING GENERAL HOSPITAL IN ORDER FOR THE CONSORTIUM OR TEACHING GENERAL HOSPITAL TO BE ELIGIBLE TO APPLY FOR ECRIP FUNDING IN ANY SUBSEQUENT FUNDING CYCLE.

(G) In order to be eligible for distributions pursuant to this subparagraph, each consortium and teaching general hospital shall provide to the commissioner by July first of each distribution period, the following data and information on a hospital-specific basis. Such data and information shall be certified as to accuracy and completeness by the chief executive officer, chief financial officer or chair of the consortium governing body of each consortium or teaching general hospital and shall be maintained by each consortium and teaching general hospital for five years from the date of submission:

(I) For each clinical research position, information on the type, scope, training objectives, institutional support, clinical research experience of the sponsor-mentor, plans for submitting research outcomes to peer reviewed journals and at scientific meetings, including a meeting sponsored by the department, the name of a principal contact person responsible for tracking the career development of researchers placed in clinical research positions, as defined in paragraph (c) of subdivision one of this section, and who is authorized to certify to the commissioner that all the requirements of the clinical research training objectives set forth in this subparagraph shall be met. Such certification shall be provided by July first of each distribution period;

(II) For each clinical research position, information on the name, citizenship status, medical education and training, and medical license number of the researcher, if applicable, shall be provided by December thirty-first of the calendar year following the distribution period;

(III) Information on the status of the clinical research plan, accomplishments, changes in research activities, progress, and performance of the researcher shall be provided [six months after the clinical research position has commenced and every six months thereafter for a full-time position and for a half-time position, one year after the clinical research position has commenced and every year thereafter] UPON COMPLETION OF ONE-HALF OF THE AWARD TERM;

(IV) A final report detailing training experiences, accomplishments, activities and performance of the clinical researcher, and data, methods, results and analyses of the clinical research plan shall be provided three months after the clinical research position ends; and

(V) TRACKING INFORMATION CONCERNING PAST RESEARCHERS, INCLUDING BUT NOT LIMITED TO (A) BACKGROUND INFORMATION, (B) EMPLOYMENT HISTORY, (C) RESEARCH STATUS, (D) CURRENT RESEARCH ACTIVITIES, (E) PUBLICATIONS AND

PRESENTATIONS, (F) RESEARCH SUPPORT, AND (G) ANY OTHER INFORMATION NECESSARY TO TRACK THE RESEARCHER; AND

(VI) Any other data or information required by the commissioner to implement this subparagraph.

(c) Ambulatory care training. Four million nine hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, four million nine hundred thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine, four million nine hundred thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten, [and] one million two hundred twenty-five thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, AND FOUR MILLION THREE HUNDRED THOUSAND DOLLARS EACH STATE FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN, shall be set aside and reserved by the commissioner from the regional pools established pursuant to subdivision two of this section and shall be available for distributions to sponsoring institutions to be directed to support clinical training of medical students and residents in free-standing ambulatory care settings, including community health centers and private practices. Such funding shall be allocated regionally with two-thirds of the available funding going to New York city and one-third of the available funding going to the rest of the state and shall be distributed to sponsoring institutions in each region pursuant to a request for application or request for proposal process with preference being given to sponsoring institutions which provide training in sites located in underserved rural or inner-city areas and those that include medical students in such training.

(d) Physician loan repayment program. One million nine hundred sixty thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight, one million nine hundred sixty thousand dollars for the period January first, two thousand nine through December thirty-first, two thousand nine, one million nine hundred sixty thousand dollars for the period January first, two thousand ten through December thirty-first, two thousand ten, [and] four hundred ninety thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven, AND ONE MILLION SEVEN HUNDRED THOUSAND DOLLARS EACH STATE FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN, shall be set aside and reserved by the commissioner from the regional pools established pursuant to subdivision two of this section and shall be available for purposes of physician loan repayment in accordance with subdivision ten of this section. Such funding shall be allocated regionally with one-third of available funds going to New York city and two-thirds of available funds going to the rest of the state and shall be distributed in a manner to be determined by the commissioner as follows:

(i) Funding shall first be awarded to repay loans of up to twenty-five physicians who train in primary care or specialty tracks in teaching general hospitals, and who enter and remain in primary care or specialty practices in underserved communities, as determined by the commissioner.

(ii) After distributions in accordance with subparagraph (i) of this paragraph, all remaining funds shall be awarded to repay loans of physicians who enter and remain in primary care or specialty practices in underserved communities, as determined by the commissioner, including

1 but not limited to physicians working in general hospitals, or other
2 health care facilities.

3 (iii) In no case shall less than fifty percent of the funds available
4 pursuant to this paragraph be distributed in accordance with subpara-
5 graphs (i) and (ii) of this paragraph to physicians identified by gener-
6 al hospitals.

7 (e) Physician practice support. Four million nine hundred thousand
8 dollars for the period January first, two thousand eight through Decem-
9 ber thirty-first, two thousand eight, four million nine hundred thousand
10 dollars annually for the period January first, two thousand nine through
11 December thirty-first, two thousand ten, [and] one million two hundred
12 twenty-five thousand dollars for the period January first, two thousand
13 eleven through March thirty-first, two thousand eleven, AND FOUR MILLION
14 THREE HUNDRED THOUSAND DOLLARS EACH STATE FISCAL YEAR FOR THE PERIOD
15 APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOU-
16 SAND FOURTEEN, shall be set aside and reserved by the commissioner from
17 the regional pools established pursuant to subdivision two of this
18 section and shall be available for purposes of physician practice
19 support. Such funding shall be allocated regionally with one-third of
20 available funds going to New York city and two-thirds of available funds
21 going to the rest of the state and shall be distributed in a manner to
22 be determined by the commissioner as follows:

23 (i) Preference in funding shall first be accorded to teaching general
24 hospitals for up to twenty-five awards, to support costs incurred by
25 physicians trained in primary or specialty tracks who thereafter estab-
26 lish or join practices in underserved communities, as determined by the
27 commissioner.

28 (ii) After distributions in accordance with subparagraph (i) of this
29 paragraph, all remaining funds shall be awarded to physicians to support
30 the cost of establishing or joining practices in underserved communi-
31 ties, as determined by the commissioner, and to hospitals and other
32 health care providers to recruit new physicians to provide services in
33 underserved communities, as determined by the commissioner.

34 (iii) In no case shall less than fifty percent of the funds available
35 pursuant to this paragraph be distributed to general hospitals in
36 accordance with subparagraphs (i) and (ii) of this paragraph.

37 (f) Study on physician workforce. Five hundred ninety thousand dollars
38 annually for the period January first, two thousand eight through Decem-
39 ber thirty-first, two thousand ten, [and] one hundred forty-eight thou-
40 sand dollars for the period January first, two thousand eleven through
41 March thirty-first, two thousand eleven, AND FIVE HUNDRED SIXTEEN THOU-
42 SAND DOLLARS EACH STATE FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO
43 THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN, shall
44 be set aside and reserved by the commissioner from the regional pools
45 established pursuant to subdivision two of this section and shall be
46 available to fund a study of physician workforce needs and solutions
47 including, but not limited to, an analysis of residency programs and
48 projected physician workforce and community needs. The commissioner
49 shall enter into agreements with one or more organizations to conduct
50 such study based on a request for proposal process.

51 (g) Diversity in medicine/post-baccalaureate program. Notwithstanding
52 any inconsistent provision of section one hundred twelve or one hundred
53 sixty-three of the state finance law or any other law, one million nine
54 hundred sixty thousand dollars annually for the period January first,
55 two thousand eight through December thirty-first, two thousand ten,
56 [and] four hundred ninety thousand dollars for the period January first,

1 two thousand eleven through March thirty-first, two thousand eleven, AND
2 ONE MILLION SEVEN HUNDRED THOUSAND DOLLARS EACH STATE FISCAL YEAR FOR
3 THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST,
4 TWO THOUSAND FOURTEEN, shall be set aside and reserved by the commis-
5 sioner from the regional pools established pursuant to subdivision two
6 of this section and shall be available for distributions to the Associ-
7 ated Medical Schools of New York to fund its diversity program including
8 existing and new post-baccalaureate programs for minority and econom-
9 ically disadvantaged students and encourage participation from all
10 medical schools in New York. The associated medical schools of New York
11 shall report to the commissioner on an annual basis regarding the use of
12 funds for such purpose in such form and manner as specified by the
13 commissioner.

14 S 26-a. Subdivision 7 of section 2807-m of the public health law, as
15 amended by section 99 of part C of chapter 58 of the laws of 2009, is
16 amended to read as follows:

17 7. Notwithstanding any inconsistent provision of section one hundred
18 twelve or one hundred sixty-three of the state finance law or any other
19 law, up to one million dollars for the period January first, two thou-
20 sand through December thirty-first, two thousand, one million six
21 hundred thousand dollars annually for the periods January first, two
22 thousand one through December thirty-first, two thousand eight, one
23 million five hundred thousand dollars annually for the periods January
24 first, two thousand nine through December thirty-first, two thousand
25 ten, [and] three hundred seventy-five thousand dollars for the period
26 January first, two thousand eleven through March thirty-first, two thou-
27 sand eleven, AND ONE MILLION THREE HUNDRED TWENTY THOUSAND DOLLARS EACH
28 STATE FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN
29 THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN, shall be set aside
30 and reserved by the commissioner from the regional pools established
31 pursuant to subdivision two of this section and shall be available for
32 distributions to the New York state area health education center program
33 for the purpose of expanding community-based training of medical
34 students. In addition, one million dollars annually for the period Janu-
35 ary first, two thousand eight through December thirty-first, two thou-
36 sand ten, [and] two hundred fifty thousand dollars for the period Janu-
37 ary first, two thousand eleven through March thirty-first, two thousand
38 eleven, AND EIGHT HUNDRED EIGHTY THOUSAND DOLLARS EACH STATE FISCAL YEAR
39 FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH
40 THIRTY-FIRST, TWO THOUSAND FOURTEEN, shall be set aside and reserved by
41 the commissioner from the regional pools established pursuant to subdi-
42 vision two of this section and shall be available for distributions to
43 the New York state area health education center program for the purpose
44 of post-secondary training of health care professionals who will achieve
45 specific program outcomes within the New York state area health educa-
46 tion center program. The New York state area health education center
47 program shall report to the commissioner on an annual basis regarding
48 the use of funds for each purpose in such form and manner as specified
49 by the commissioner.

50 S 27. Subdivision 4-c of section 2807-p of the public health law, as
51 amended by section 13-c of Part C of chapter 58 of the laws of 2009, is
52 amended to read as follows:

53 4-c. Notwithstanding any provision of law to the contrary, the commis-
54 sioner shall make additional payments for uncompensated care to volun-
55 tary non-profit diagnostic and treatment centers that are eligible for
56 distributions under subdivision four of this section in the following

1 amounts: for the period June first, two thousand six through December
2 thirty-first, two thousand six, in the amount of seven million five
3 hundred thousand dollars, for the period January first, two thousand
4 seven through December thirty-first, two thousand seven, seven million
5 five hundred thousand dollars, for the period January first, two thou-
6 sand eight through December thirty-first, two thousand eight, seven
7 million five hundred thousand dollars, for the period January first, two
8 thousand nine through December thirty-first, two thousand nine, fifteen
9 million five hundred thousand dollars, for the period January first, two
10 thousand ten through December thirty-first, two thousand ten, seven
11 million five hundred thousand dollars, FOR THE PERIOD JANUARY FIRST, TWO
12 THOUSAND ELEVEN THOUGH DECEMBER THIRTY-FIRST, TWO THOUSAND ELEVEN, SEVEN
13 MILLION FIVE HUNDRED THOUSAND DOLLARS, FOR THE PERIOD JANUARY FIRST, TWO
14 THOUSAND TWELVE THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND TWELVE,
15 SEVEN MILLION FIVE HUNDRED THOUSAND DOLLARS, FOR THE PERIOD JANUARY
16 FIRST, TWO THOUSAND THIRTEEN THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND
17 THIRTEEN, SEVEN MILLION FIVE HUNDRED THOUSAND DOLLARS, and for the peri-
18 od January first, two thousand [eleven] FOURTEEN through March thirty-
19 first, two thousand [eleven] FOURTEEN, in the amount of one million
20 eight hundred seventy-five thousand dollars, provided, however, that for
21 periods on and after January first, two thousand eight, such additional
22 payments shall be distributed to voluntary, non-profit diagnostic and
23 treatment centers and to public diagnostic and treatment centers in
24 accordance with paragraph (g) of subdivision four of this section. In
25 the event that federal financial participation is available for rate
26 adjustments pursuant to this section, the commissioner shall make such
27 payments as additional adjustments to rates of payment for voluntary
28 non-profit diagnostic and treatment centers that are eligible for
29 distributions under subdivision four-a of this section in the following
30 amounts: for the period June first, two thousand six through December
31 thirty-first, two thousand six, fifteen million dollars in the aggre-
32 gate, and for the period January first, two thousand seven through June
33 thirtieth, two thousand seven, seven million five hundred thousand
34 dollars in the aggregate. The amounts allocated pursuant to this para-
35 graph shall be aggregated with and distributed pursuant to the same
36 methodology applicable to the amounts allocated to such diagnostic and
37 treatment centers for such periods pursuant to subdivision four of this
38 section if federal financial participation is not available, or pursuant
39 to subdivision four-a of this section if federal financial participation
40 is available. Notwithstanding section three hundred sixty-eight-a of
41 the social services law, there shall be no local share in a medical
42 assistance payment adjustment under this subdivision.

43 S 28. Subdivision 3 and paragraph (a) of subdivision 4 of section
44 2807-k of the public health law, as amended by section 15 of part C of
45 chapter 58 of the laws of 2010, are amended to read as follows:

46 3. Each major public general hospital shall be allocated for distrib-
47 ution from the pools established pursuant to this section for each year
48 through December thirty-first, two thousand [eleven] FOURTEEN, an amount
49 equal to the amount allocated to such major public general hospital from
50 the regional pool established pursuant to subdivision seventeen of
51 section twenty-eight hundred seven-c of this article for the period
52 January first, nineteen hundred ninety-six through December thirty-
53 first, nineteen hundred ninety-six, provided, however, that payments on
54 and after January first, two thousand nine shall be subject to the
55 provisions of subdivision five-a of this section.

1 (a) From funds in the pool for each year, thirty-six million dollars
2 shall be reserved on an annual basis through December thirty-first, two
3 thousand [eleven] FOURTEEN, for distribution as high need adjustments in
4 accordance with subdivision six of this section, provided, however, that
5 payments on and after January first, two thousand nine shall be subject
6 to the provisions of subdivision five-a of this section.

7 S 29. The opening paragraph, paragraph (a) of subdivision 1 and subdi-
8 vision 2 of section 2807-w of the public health law, as amended by
9 section 14 of part C of chapter 58 of the laws of 2010, are amended to
10 read as follows:

11 Funds allocated pursuant to paragraph (p) of subdivision one of
12 section twenty-eight hundred seven-v of this article, shall be deposited
13 as authorized and used for the purpose of making medicaid dispropor-
14 tionate share payments of up to eighty-two million dollars on an annual-
15 ized basis pursuant to subdivision twenty-one of section twenty-eight
16 hundred seven-c of this article, for the period January first, two thou-
17 sand through March thirty-first, two thousand [eleven] FOURTEEN, in
18 accordance with the following:

19 (a) Each eligible rural hospital shall receive one hundred forty thou-
20 sand dollars on an annualized basis for the periods January first, two
21 thousand through December thirty-first, two thousand [eleven] FOURTEEN,
22 provided as a disproportionate share payment; provided, however, that if
23 such payment pursuant to this paragraph exceeds a hospital's applicable
24 disproportionate share limit, then the total amount in excess of such
25 limit shall be provided as a nondisproportionate share payment in the
26 form of a grant directly from this pool without allocation to the
27 special revenue funds - other, indigent care fund - 068, or any succes-
28 sor fund or account, and provided further that payments for periods on
29 and after January first, two thousand nine shall be subject to the
30 provisions of subdivision five-a of section twenty-eight hundred seven-k
31 of this article;

32 2. From the funds in the pool each year, thirty-six million dollars on
33 an annualized basis for the periods January first, two thousand through
34 December thirty-first, two thousand [eleven] FOURTEEN, of the funds not
35 distributed in accordance with subdivision one of this section, shall be
36 distributed in accordance with the formula set forth in subdivision six
37 of section twenty-eight hundred seven-k of this article, provided,
38 however, that payments for periods on and after January first, two thou-
39 sand nine shall be subject to the provisions of subdivision five-a of
40 section twenty-eight hundred seven-k of this article.

41 S 30. Subparagraph (v) of paragraph (a) of subdivision 3 of section
42 2807-j of the public health law, as added by chapter 639 of the laws of
43 1996, is amended to read as follows:

44 (v) revenue received from physician practice or faculty practice plan
45 discrete billings for [private practicing] physician services;

46 S 31. Clause (D) of subparagraph (ii) of paragraph (b) of subdivision
47 3 of section 2807-j of the public health law, as added by chapter 639 of
48 the laws of 1996, is amended to read as follows:

49 (D) revenue received from physician practice or faculty practice plan
50 discrete billings for [private practicing] physician services;

51 S 32. Notwithstanding any inconsistent provision of law, rule or regu-
52 lation, for purposes of implementing the provisions of the public health
53 law and the social services law, references to titles XIX and XXI of the
54 federal social security act in the public health law and the social
55 services law shall be deemed to include and also to mean any successor
56 titles thereto under the federal social security act.

1 S 33. Notwithstanding any inconsistent provision of law, rule or regu-
2 lation, the effectiveness of the provisions of sections 2807 and 3614 of
3 the public health law, section 18 of chapter 2 of the laws of 1988, and
4 18 NYCRR 505.14(h), as they relate to time frames for notice, approval
5 or certification of rates of payment, are hereby suspended and without
6 force or effect for purposes of implementing the provisions of this act.

7 S 34. Severability clause. If any clause, sentence, paragraph, subdi-
8 vision, section or part of this act shall be adjudged by any court of
9 competent jurisdiction to be invalid, such judgement shall not affect,
10 impair or invalidate the remainder thereof, but shall be confined in its
11 operation to the clause, sentence, paragraph, subdivision, section or
12 part thereof directly involved in the controversy in which such judge-
13 ment shall have been rendered. It is hereby declared to be the intent of
14 the legislature that this act would have been enacted even if such
15 invalid provisions had not been included herein.

16 S 35. This act shall take effect immediately and shall be deemed to
17 have been in full force and effect on and after April 1, 2011, provided
18 that:

19 (a) any rules or regulations necessary to implement the provisions of
20 this act may be promulgated and any procedures, forms, or instructions
21 necessary for such implementation may be adopted and issued on or after
22 the date this act shall have become a law;

23 (b) this act shall not be construed to alter, change, affect, impair
24 or defeat any rights, obligations, duties or interests accrued, incurred
25 or conferred prior to the effective date of this act;

26 (c) the commissioner of health and the superintendent of insurance and
27 any appropriate council may take any steps necessary to implement this
28 act prior to its effective date;

29 (d) notwithstanding any inconsistent provision of the state adminis-
30 trative procedure act or any other provision of law, rule or regulation,
31 the commissioner of health and the superintendent of insurance and any
32 appropriate council is authorized to adopt or amend or promulgate on an
33 emergency basis any regulation he or she or such council determines
34 necessary to implement any provision of this act on its effective date;

35 (e) the provisions of this act shall become effective notwithstanding
36 the failure of the commissioner of health or the superintendent of
37 insurance or any council to adopt or amend or promulgate regulations
38 implementing this act;

39 (f) the amendments to sections 2807-j and 2807-s of the public health
40 law made by sections three, five, five-a, five-b, six, thirty and thir-
41 ty-one, respectively, of this act shall not affect the expiration of
42 such sections and shall expire therewith; and

43 (g) the amendments to paragraph (i-1) of subdivision 1 of section
44 2807-v of the public health law made by section eight of this act shall
45 not affect the repeal of such paragraph and shall be deemed repealed
46 therewith.

47 PART D

48 Section 1. Paragraph (e-1) of subdivision 12 of section 2808 of the
49 public health law, as separately amended by section 11 of part B and
50 section 21 of part D of chapter 58 of the laws of 2009, is amended to
51 read as follows:

52 (e-1) Notwithstanding any inconsistent provision of law or regulation,
53 the commissioner shall provide, in addition to payments established
54 pursuant to this article prior to application of this section, addi-

1 tional payments under the medical assistance program pursuant to title
2 eleven of article five of the social services law for non-state operated
3 public residential health care facilities, including public residential
4 health care facilities located in the county of Nassau, the county of
5 Westchester and the county of Erie, but excluding public residential
6 health care facilities operated by a town or city within a county, in
7 aggregate annual amounts of up to one hundred fifty million dollars in
8 additional payments for the state fiscal year beginning April first, two
9 thousand six and for the state fiscal year beginning April first, two
10 thousand seven and for the state fiscal year beginning April first, two
11 thousand eight and of up to three hundred million dollars in such aggre-
12 gate annual additional payments for the state fiscal year beginning
13 April first, two thousand nine, and for the state fiscal year beginning
14 April first, two thousand ten and for the state fiscal year beginning
15 April first, two thousand eleven, AND FOR THE STATE FISCAL YEARS BEGIN-
16 NING APRIL FIRST, TWO THOUSAND TWELVE AND APRIL FIRST, TWO THOUSAND
17 THIRTEEN. The amount allocated to each eligible public residential
18 health care facility for this period shall be computed in accordance
19 with the provisions of paragraph (f) of this subdivision, provided,
20 however, that patient days shall be utilized for such computation
21 reflecting actual reported data for two thousand three and each repre-
22 sentative succeeding year as applicable.

23 S. 2. Paragraph (a) of subdivision 1 of section 212 of chapter 474 of
24 the laws of 1996, amending the education law and other laws relating to
25 rates for residential healthcare facilities, as amended by section 2 of
26 part B of chapter 58 of the laws of 2010, is amended to read as follows:

27 (a) Notwithstanding any inconsistent provision of law or regulation to
28 the contrary, effective beginning August 1, 1996, for the period April
29 1, 1997 through March 31, 1998, April 1, 1998 for the period April 1,
30 1998 through March 31, 1999, August 1, 1999, for the period April 1,
31 1999 through March 31, 2000, April 1, 2000, for the period April 1, 2000
32 through March 31, 2001, April 1, 2001, for the period April 1, 2001
33 through March 31, 2002, April 1, 2002, for the period April 1, 2002
34 through March 31, 2003, and for the state fiscal year beginning April 1,
35 2005 through March 31, 2006, and for the state fiscal year beginning
36 April 1, 2006 through March 31, 2007, and for the state fiscal year
37 beginning April 1, 2007 through March 31, 2008, and for the state fiscal
38 year beginning April 1, 2008 through March 31, 2009, and for the state
39 fiscal year beginning April 1, 2009 through March 31, 2010, and for the
40 state fiscal year beginning April 1, 2010 through March 31, [2011] 2013,
41 the department of health is authorized to pay public general hospitals,
42 as defined in subdivision 10 of section 2801 of the public health law,
43 operated by the state of New York or by the state university of New York
44 or by a county, which shall not include a city with a population of over
45 one million, of the state of New York, and those public general hospi-
46 tals located in the county of Westchester, the county of Erie or the
47 county of Nassau, additional payments for inpatient hospital services as
48 medical assistance payments pursuant to title 11 of article 5 of the
49 social services law for patients eligible for federal financial partic-
50 ipation under title XIX of the federal social security act in medical
51 assistance pursuant to the federal laws and regulations governing
52 disproportionate share payments to hospitals up to one hundred percent
53 of each such public general hospital's medical assistance and uninsured
54 patient losses after all other medical assistance, including dispropor-
55 tionate share payments to such public general hospital for 1996, 1997,
56 1998, and 1999, based initially for 1996 on reported 1994 reconciled

1 data as further reconciled to actual reported 1996 reconciled data, and
2 for 1997 based initially on reported 1995 reconciled data as further
3 reconciled to actual reported 1997 reconciled data, for 1998 based
4 initially on reported 1995 reconciled data as further reconciled to
5 actual reported 1998 reconciled data, for 1999 based initially on
6 reported 1995 reconciled data as further reconciled to actual reported
7 1999 reconciled data, for 2000 based initially on reported 1995 recon-
8 ciled data as further reconciled to actual reported 2000 data, for 2001
9 based initially on reported 1995 reconciled data as further reconciled
10 to actual reported 2001 data, for 2002 based initially on reported 2000
11 reconciled data as further reconciled to actual reported 2002 data, and
12 for state fiscal years beginning on April 1, 2005, based initially on
13 reported 2000 reconciled data as further reconciled to actual reported
14 data for 2005, and for state fiscal years beginning on April 1, 2006,
15 based initially on reported 2000 reconciled data as further reconciled
16 to actual reported data for 2006, for state fiscal years beginning on
17 and after April 1, 2007 through March 31, 2009, based initially on
18 reported 2000 reconciled data as further reconciled to actual reported
19 data for 2007 and 2008, respectively, for state fiscal years beginning
20 on and after April 1, 2009, based initially on reported 2007 reconciled
21 data, adjusted for authorized Medicaid rate changes applicable to the
22 state fiscal year, and as further reconciled to actual reported data for
23 2009, for state fiscal years beginning on and after April 1, 2010, based
24 initially on reported reconciled data from the base year two years prior
25 to the payment year, adjusted for authorized Medicaid rate changes
26 applicable to the state fiscal year, and further reconciled to actual
27 reported data from such payment year, and to actual reported data for
28 each respective succeeding year. The payments may be added to rates of
29 payment or made as aggregate payments to an eligible public general
30 hospital.

31 S 3. Section 11 of chapter 884 of the laws of 1990, amending the
32 public health law relating to authorizing bad debt and charity care
33 allowances for certified home health agencies, as amended by section 14
34 of part B of chapter 58 of the laws of 2009, is amended to read as
35 follows:

36 S 11. This act shall take effect immediately and:

37 (a) sections one and three shall expire on December 31, 1996,

38 (b) sections four through ten shall expire on June 30, [2011] 2013,
39 and

40 (c) provided that the amendment to section 2807-b of the public health
41 law by section two of this act shall not affect the expiration of such
42 section 2807-b as otherwise provided by law and shall be deemed to
43 expire therewith.

44 S 4. Subdivision 2 of section 246 of chapter 81 of the laws of 1995,
45 amending the public health law and other laws relating to medical
46 reimbursement and welfare reform, as amended by section 15 of part B of
47 chapter 58 of the laws of 2009, is amended to read as follows:

48 2. Sections five, seven through nine, twelve through fourteen, and
49 eighteen of this act shall be deemed to have been in full force and
50 effect on and after April 1, 1995 through March 31, 1999 and on and
51 after July 1, 1999 through March 31, 2000 and on and after April 1, 2000
52 through March 31, 2003 and on and after April 1, 2003 through March 31,
53 2006 and on and after April 1, 2006 through March 31, 2007 and on and
54 after April 1, 2007 through March 31, 2009 and on and after April 1,
55 2009 through March 31, 2011 AND SECTIONS TWELVE, THIRTEEN AND FOURTEEN

1 OF THIS ACT SHALL BE DEEMED TO BE IN FULL FORCE AND EFFECT ON AND AFTER
2 APRIL 1, 2011 THROUGH MARCH 31, 2013;

3 S 5. Intentionally omitted.

4 S 6. Intentionally omitted.

5 S 7. Paragraphs (a) and (e) of subdivision 8 of section 2807-c of the
6 public health law, paragraph (a) as amended by chapter 731 of the laws
7 of 1993 and paragraph (e) as added by chapter 81 of the laws of 1995,
8 are amended to read as follows:

9 (a) Capital related inpatient expenses including but not limited to
10 straight line depreciation on buildings and non-movable equipment,
11 accelerated depreciation on major movable equipment if requested by the
12 hospital, rentals and interest on capital debt (or for hospitals
13 financed pursuant to article twenty-eight-B of this chapter, such
14 expenses, including amortization in lieu of depreciation, as determined
15 pursuant to the reimbursement regulations promulgated pursuant to such
16 article and article twenty-eight of this chapter), [and excluding costs
17 related to services provided to beneficiaries of title XVIII of the
18 federal social security act (medicare),] shall be included in rates of
19 payment determined pursuant to this section based on a budget for capi-
20 tal related inpatient expenses and subsequently reconciled to actual
21 expenses and statistics through appropriate audit procedures. General
22 hospitals shall submit to the commissioner, at least one hundred twenty
23 days prior to the commencement of each year, a schedule of capital
24 related inpatient expenses for the forthcoming year. Any capital expend-
25 iture which requires or required approval pursuant to this article must
26 have received such approval for any capital related expense generated by
27 such capital expenditure to be included in rates of payment. The basis
28 for determining capital related inpatient expenses shall be the lesser
29 of actual cost or the final amount specifically approved for the
30 construction of the capital asset. The submitted budget may include the
31 capital related inpatient expenses for all existing capital assets as
32 well as estimates of capital related inpatient expenses for capital
33 assets to be acquired or placed in use prior to the commencement of the
34 rate year or during the rate year provided all required approvals have
35 been obtained.

36 The council shall adopt, with the approval of the commissioner, regu-
37 lations to:

38 (i) identify by type the eligible capital related inpatient expenses;

39 (ii) safeguard the future financial viability of voluntary, non-profit
40 general hospitals by requiring funding of inpatient depreciation on
41 building and fixed and movable equipment;

42 (iii) provide authorization to adjust inpatient rates by advancing
43 payment of depreciation as needed, in instances of capital debt related
44 financial distress of voluntary, non-profit general hospitals; and

45 (iv) provide a methodology for the reimbursement treatment of sales.

46 (e) Notwithstanding any inconsistent provision of this subdivision,
47 commencing April first, nineteen hundred ninety-five, when a factor for
48 reconciliation of budgeted capital related inpatient expenses to actual
49 capital related inpatient expenses [excluding costs related to services
50 provided to beneficiaries of title XVIII of the federal social security
51 act (medicare)] for a prior year is included in the capital related
52 inpatient expenses component of rates of payment, such capital related
53 inpatient expenses component of rates of payment shall be reduced by the
54 commissioner by the difference between the reconciled capital related
55 inpatient expenses included in rates of payment determined in accordance
56 with paragraphs (a), (b) and (c) of this subdivision for such prior year

1 and capital related inpatient expenses for such prior year calculated
2 [based on a determination of costs related to services provided to bene-
3 ficiaries of title XVIII of the federal social security act (medicare)]
4 based on the hospital's average capital related inpatient expenses
5 computed on a per diem basis.

6 S 8. Paragraph (d) of subdivision 8 of section 2807-c of the public
7 health law is REPEALED.

8 S 9. Section 194 of chapter 474 of the laws of 1996, amending the
9 education law and other laws relating to rates for residential health
10 care facilities, as amended by section 24 of part B of chapter 58 of the
11 laws of 2009, is amended to read as follows:

12 S 194. 1. Notwithstanding any inconsistent provision of law or regu-
13 lation, the trend factors used to project reimbursable operating costs
14 to the rate period for purposes of determining rates of payment pursuant
15 to article 28 of the public health law for residential health care
16 facilities for reimbursement of inpatient services provided to patients
17 eligible for payments made by state governmental agencies on and after
18 April 1, 1996 through March 31, 1999 and for payments made on and after
19 July 1, 1999 through March 31, 2000 and on and after April 1, 2000
20 through March 31, 2003 and on and after April 1, 2003 through March 31,
21 2007 and on and after April 1, 2007 through March 31, 2009 and on and
22 after April 1, 2009 through March 31, 2011 AND ON AND AFTER APRIL 1,
23 2011 THROUGH MARCH 31, 2013 shall reflect no trend factor projections or
24 adjustments for the period April 1, 1996, through March 31, 1997.

25 2. The commissioner of health shall adjust such rates of payment to
26 reflect the exclusion pursuant to this section of such specified trend
27 factor projections or adjustments.

28 S 10. Subdivision 1 of section 89-a of part C of chapter 58 of the
29 laws of 2007, amending the social services law and other laws relating
30 to enacting the major components of legislation necessary to implement
31 the health and mental hygiene budget for the 2007-2008 state fiscal
32 year, as amended by section 25 of part B of chapter 58 of the laws of
33 2009, is amended to read as follows:

34 1. Notwithstanding paragraph (c) of subdivision 10 of section 2807-c
35 of the public health law and section 21 of chapter 1 of the laws of
36 1999, as amended, and any other inconsistent provision of law or regu-
37 lation to the contrary, in determining rates of payments by state
38 governmental agencies effective for services provided beginning April 1,
39 2006, through March 31, 2009, and on and after April 1, 2009 through
40 March 31, 2011, AND ON AND AFTER APRIL 1, 2011 THROUGH MARCH 31, 2013
41 for inpatient and outpatient services provided by general hospitals and
42 for inpatient services and outpatient adult day health care services
43 provided by residential health care facilities pursuant to article 28 of
44 the public health law, the commissioner of health shall apply a trend
45 factor projection of two and twenty-five hundredths percent attributable
46 to the period January 1, 2006 through December 31, 2006, and on and
47 after January 1, 2007, provided, however, that on reconciliation of such
48 trend factor for the period January 1, 2006 through December 31, 2006
49 pursuant to paragraph (c) of subdivision 10 of section 2807-c of the
50 public health law, such trend factor shall be the final US Consumer
51 Price Index (CPI) for all urban consumers, as published by the US
52 Department of Labor, Bureau of Labor Statistics less twenty-five
53 hundredths of a percentage point.

54 S 11. Paragraph (f) of subdivision 1 of section 64 of chapter 81 of
55 the laws of 1995, amending the public health law and other laws relating

1 to medical reimbursement and welfare reform, as amended by section 26 of
2 part B of chapter 58 of the laws of 2009, is amended to read as follows:

3 (f) Prior to February 1, 2001, February 1, 2002, February 1, 2003,
4 February 1, 2004, February 1, 2005, February 1, 2006, February 1, 2007,
5 February 1, 2008, February 1, 2009, February 1, 2010, [and] February 1,
6 2011, FEBRUARY 1, 2012, AND FEBRUARY 1, 2013 the commissioner of health
7 shall calculate the result of the statewide total of residential health
8 care facility days of care provided to beneficiaries of title XVIII of
9 the federal social security act (medicare), divided by the sum of such
10 days of care plus days of care provided to residents eligible for
11 payments pursuant to title 11 of article 5 of the social services law
12 minus the number of days provided to residents receiving hospice care,
13 expressed as a percentage, for the period commencing January 1, through
14 November 30, of the prior year respectively, based on such data for such
15 period. This value shall be called the 2000, 2001, 2002, 2003, 2004,
16 2005, 2006, 2007, 2008, 2009, 2010 [and], 2011, 2012, AND 2013 statewide
17 target percentage respectively.

18 S 12. Subparagraph (ii) of paragraph (b) of subdivision 3 of section
19 64 of chapter 81 of the laws of 1995, amending the public health law and
20 other laws relating to medical reimbursement and welfare reform, as
21 amended by section 27 of part B of chapter 58 of the laws of 2009, is
22 amended to read as follows:

23 (ii) If the 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006,
24 2007, 2008, 2009, 2010 [and], 2011, 2012, AND 2013 statewide target
25 percentages are not for each year at least three percentage points high-
26 er than the statewide base percentage, the commissioner of health shall
27 determine the percentage by which the statewide target percentage for
28 each year is not at least three percentage points higher than the state-
29 wide base percentage. The percentage calculated pursuant to this para-
30 graph shall be called the 1997, 1998, 2000, 2001, 2002, 2003, 2004,
31 2005, 2006, 2007, 2008, 2009, 2010 [and], 2011, 2012, AND 2013 statewide
32 reduction percentage respectively. If the 1997, 1998, 2000, 2001, 2002,
33 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010 [and], 2011, 2012, AND
34 2013 statewide target percentage for the respective year is at least
35 three percentage points higher than the statewide base percentage, the
36 statewide reduction percentage for the respective year shall be zero.

37 S 13. Subparagraph (iii) of paragraph (b) of subdivision 4 of section
38 64 of chapter 81 of the laws of 1995, amending the public health law and
39 other laws relating to medical reimbursement and welfare reform, as
40 amended by section 28 of part B of chapter 58 of the laws of 2009, is
41 amended to read as follows:

42 (iii) The 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008,
43 2009, 2010 [and], 2011, 2012, AND 2013 statewide reduction percentage
44 shall be multiplied by one hundred two million dollars respectively to
45 determine the 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007,
46 2008, 2009, 2010 [and], 2011, 2012, AND 2013 statewide aggregate
47 reduction amount. If the 1998 and the 2000, 2001, 2002, 2003, 2004,
48 2005, 2006, 2007, 2008, 2009, 2010 [and], 2011, 2012, AND 2013 statewide
49 reduction percentage shall be zero respectively, there shall be no 1998,
50 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010 [and],
51 2011, 2012, AND 2013 reduction amount.

52 S 14. Paragraph (b) of subdivision 5 of section 64 of chapter 81 of
53 the laws of 1995, amending the public health law and other laws relating
54 to medical reimbursement and welfare reform, as amended by section 29 of
55 part B of chapter 58 of the laws of 2009, is amended to read as follows:

1 (b) The 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005,
2 2006, 2007, 2008, 2009, 2010 [and], 2011, 2012, AND 2013 statewide
3 aggregate reduction amounts shall for each year be allocated by the
4 commissioner of health among residential health care facilities that are
5 eligible to provide services to beneficiaries of title XVIII of the
6 federal social security act (medicare) and residents eligible for
7 payments pursuant to title 11 of article 5 of the social services law on
8 the basis of the extent of each facility's failure to achieve a two
9 percentage points increase in the 1996 target percentage, a three
10 percentage point increase in the 1997, 1998, 2000, 2001, 2002, 2003,
11 2004, 2005, 2006, 2007, 2008, 2009, 2010 [and], 2011, 2012, AND 2013
12 target percentage and a two and one-quarter percentage point increase in
13 the 1999 target percentage for each year, compared to the base percent-
14 age, calculated on a facility specific basis for this purpose, compared
15 to the statewide total of the extent of each facility's failure to
16 achieve a two percentage points increase in the 1996 and a three
17 percentage point increase in the 1997 and a three percentage point
18 increase in the 1998 and a two and one-quarter percentage point increase
19 in the 1999 target percentage and a three percentage point increase in
20 the 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010
21 [and], 2011, 2012, AND 2013 target percentage compared to the base
22 percentage. These amounts shall be called the 1996, 1997, 1998, 1999,
23 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010 [and],
24 2011, 2012, AND 2013 facility specific reduction amounts respectively.

25 S 14-a. Section 228 of chapter 474 of the laws of 1996, amending the
26 education law and other laws relating to rates for residential health
27 care facilities, as amended by section 30 of part B of chapter 58 of the
28 laws of 2009, is amended to read as follows:

29 S 228. 1. Definitions. (a) Regions, for purposes of this section,
30 shall mean a downstate region to consist of Kings, New York, Richmond,
31 Queens, Bronx, Nassau and Suffolk counties and an upstate region to
32 consist of all other New York state counties. A certified home health
33 agency or long term home health care program shall be located in the
34 same county utilized by the commissioner of health for the establishment
35 of rates pursuant to article 36 of the public health law.

36 (b) Certified home health agency (CHHA) shall mean such term as
37 defined in section 3602 of the public health law.

38 (c) Long term home health care program (LTHHCP) shall mean such term
39 as defined in subdivision 8 of section 3602 of the public health law.

40 (d) Regional group shall mean all those CHHAs and LTHHCPs, respective-
41 ly, located within a region.

42 (e) Medicaid revenue percentage, for purposes of this section, shall
43 mean CHHA and LTHHCP revenues attributable to services provided to
44 persons eligible for payments pursuant to title 11 of article 5 of the
45 social services law divided by such revenues plus CHHA and LTHHCP reven-
46 ues attributable to services provided to beneficiaries of Title XVIII of
47 the federal social security act (medicare).

48 (f) Base period, for purposes of this section, shall mean calendar
49 year 1995.

50 (g) Target period. For purposes of this section, the 1996 target peri-
51 od shall mean August 1, 1996 through March 31, 1997, the 1997 target
52 period shall mean January 1, 1997 through November 30, 1997, the 1998
53 target period shall mean January 1, 1998 through November 30, 1998, the
54 1999 target period shall mean January 1, 1999 through November 30, 1999,
55 the 2000 target period shall mean January 1, 2000 through November 30,
56 2000, the 2001 target period shall mean January 1, 2001 through November

1 30, 2001, the 2002 target period shall mean January 1, 2002 through
2 November 30, 2002, the 2003 target period shall mean January 1, 2003
3 through November 30, 2003, the 2004 target period shall mean January 1,
4 2004 through November 30, 2004, and the 2005 target period shall mean
5 January 1, 2005 through November 30, 2005, the 2006 target period shall
6 mean January 1, 2006 through November 30, 2006, and the 2007 target
7 period shall mean January 1, 2007 through November 30, 2007 and the 2008
8 target period shall mean January 1, 2008 through November 30, 2008, and
9 the 2009 target period shall mean January 1, 2009 through November 30,
10 2009 and the 2010 target period shall mean January 1, 2010 through
11 November 30, 2010 and the 2011 target period shall mean January 1, 2011
12 through November 30, 2011 AND THE 2012 TARGET PERIOD SHALL MEAN JANUARY
13 1, 2012 THROUGH NOVEMBER 30, 2012 AND THE 2013 TARGET PERIOD SHALL MEAN
14 JANUARY 1, 2013 THROUGH NOVEMBER 30, 2013.

15 2. (a) Prior to February 1, 1997, for each regional group the commis-
16 sioner of health shall calculate the 1996 medicaid revenue percentages
17 for the period commencing August 1, 1996 to the last date for which such
18 data is available and reasonably accurate.

19 (b) Prior to February 1, 1998, prior to February 1, 1999, prior to
20 February 1, 2000, prior to February 1, 2001, prior to February 1, 2002,
21 prior to February 1, 2003, prior to February 1, 2004, prior to February
22 1, 2005, prior to February 1, 2006, prior to February 1, 2007, prior to
23 February 1, 2008, prior to February 1, 2009, prior to February 1, 2010
24 [and], prior to February 1, 2011, PRIOR TO FEBRUARY 1, 2012 AND PRIOR TO
25 FEBRUARY 1, 2013 for each regional group the commissioner of health
26 shall calculate the prior year's medicaid revenue percentages for the
27 period commencing January 1 through November 30 of such prior year.

28 3. By September 15, 1996, for each regional group the commissioner of
29 health shall calculate the base period medicaid revenue percentage.

30 4. (a) For each regional group, the 1996 target medicaid revenue
31 percentage shall be calculated by subtracting the 1996 medicaid revenue
32 reduction percentages from the base period medicaid revenue percentages.
33 The 1996 medicaid revenue reduction percentage, taking into account
34 regional and program differences in utilization of medicaid and medicare
35 services, for the following regional groups shall be equal to:

36 (i) one and one-tenth percentage points for CHHAs located within the
37 downstate region;

38 (ii) six-tenths of one percentage point for CHHAs located within the
39 upstate region;

40 (iii) one and eight-tenths percentage points for LTHHCPs located with-
41 in the downstate region; and

42 (iv) one and seven-tenths percentage points for LTHHCPs located within
43 the upstate region.

44 (b) For 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007,
45 2008, 2009, 2010 [and], 2011, 2012, AND 2013 for each regional group,
46 the target medicaid revenue percentage for the respective year shall be
47 calculated by subtracting the respective year's medicaid revenue
48 reduction percentage from the base period medicaid revenue percentage.
49 The medicaid revenue reduction percentages for 1997, 1998, 2000, 2001,
50 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010 [and], 2011, 2012,
51 AND 2013 taking into account regional and program differences in utili-
52 zation of medicaid and medicare services, for the following regional
53 groups shall be equal to for each such year:

54 (i) one and one-tenth percentage points for CHHAs located within the
55 downstate region;

(ii) six-tenths of one percentage point for CHHAs located within the upstate region;

(iii) one and eight-tenths percentage points for LTHHCPs located within the downstate region; and

(iv) one and seven-tenths percentage points for LTHHCPs located within the upstate region.

(c) For each regional group, the 1999 target medicaid revenue percentage shall be calculated by subtracting the 1999 medicaid revenue reduction percentage from the base period medicaid revenue percentage. The 1999 medicaid revenue reduction percentages, taking into account regional and program differences in utilization of medicaid and medicare services, for the following regional groups shall be equal to:

(i) eight hundred twenty-five thousandths (.825) of one percentage point for CHHAs located within the downstate region;

(ii) forty-five hundredths (.45) of one percentage point for CHHAs located within the upstate region;

(iii) one and thirty-five hundredths percentage points (1.35) for LTHHCPs located within the downstate region; and

(iv) one and two hundred seventy-five thousandths percentage points (1.275) for LTHHCPs located within the upstate region.

5. (a) For each regional group, if the 1996 medicaid revenue percentage is not equal to or less than the 1996 target medicaid revenue percentage, the commissioner of health shall compare the 1996 medicaid revenue percentage to the 1996 target medicaid revenue percentage to determine the amount of the shortfall which, when divided by the 1996 medicaid revenue reduction percentage, shall be called the 1996 reduction factor. These amounts, expressed as a percentage, shall not exceed one hundred percent. If the 1996 medicaid revenue percentage is equal to or less than the 1996 target medicaid revenue percentage, the 1996 reduction factor shall be zero.

(b) For 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010 [and], 2011, 2012, AND 2013 for each regional group, if the medicaid revenue percentage for the respective year is not equal to or less than the target medicaid revenue percentage for such respective year, the commissioner of health shall compare such respective year's medicaid revenue percentage to such respective year's target medicaid revenue percentage to determine the amount of the shortfall which, when divided by the respective year's medicaid revenue reduction percentage, shall be called the reduction factor for such respective year. These amounts, expressed as a percentage, shall not exceed one hundred percent. If the medicaid revenue percentage for a particular year is equal to or less than the target medicaid revenue percentage for that year, the reduction factor for that year shall be zero.

6. (a) For each regional group, the 1996 reduction factor shall be multiplied by the following amounts to determine each regional group's applicable 1996 state share reduction amount:

(i) two million three hundred ninety thousand dollars (\$2,390,000) for CHHAs located within the downstate region;

(ii) seven hundred fifty thousand dollars (\$750,000) for CHHAs located within the upstate region;

(iii) one million two hundred seventy thousand dollars (\$1,270,000) for LTHHCPs located within the downstate region; and

(iv) five hundred ninety thousand dollars (\$590,000) for LTHHCPs located within the upstate region.

For each regional group reduction, if the 1996 reduction factor shall be zero, there shall be no 1996 state share reduction amount.

(b) For 1997, 1998, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010 [and], 2011, 2012, AND 2013 for each regional group, the reduction factor for the respective year shall be multiplied by the following amounts to determine each regional group's applicable state share reduction amount for such respective year:

(i) two million three hundred ninety thousand dollars (\$2,390,000) for CHHAs located within the downstate region;

(ii) seven hundred fifty thousand dollars (\$750,000) for CHHAs located within the upstate region;

(iii) one million two hundred seventy thousand dollars (\$1,270,000) for LTHHCPS located within the downstate region; and

(iv) five hundred ninety thousand dollars (\$590,000) for LTHHCPS located within the upstate region.

For each regional group reduction, if the reduction factor for a particular year shall be zero, there shall be no state share reduction amount for such year.

(c) For each regional group, the 1999 reduction factor shall be multiplied by the following amounts to determine each regional group's applicable 1999 state share reduction amount:

(i) one million seven hundred ninety-two thousand five hundred dollars (\$1,792,500) for CHHAs located within the downstate region;

(ii) five hundred sixty-two thousand five hundred dollars (\$562,500) for CHHAs located within the upstate region;

(iii) nine hundred fifty-two thousand five hundred dollars (\$952,500) for LTHHCPS located within the downstate region; and

(iv) four hundred forty-two thousand five hundred dollars (\$442,500) for LTHHCPS located within the upstate region.

For each regional group reduction, if the 1999 reduction factor shall be zero, there shall be no 1999 state share reduction amount.

7. (a) For each regional group, the 1996 state share reduction amount shall be allocated by the commissioner of health among CHHAs and LTHHCPS on the basis of the extent of each CHHA's and LTHHCP's failure to achieve the 1996 target medicaid revenue percentage, calculated on a provider specific basis utilizing revenues for this purpose, expressed as a proportion of the total of each CHHA's and LTHHCP's failure to achieve the 1996 target medicaid revenue percentage within the applicable regional group. This proportion shall be multiplied by the applicable 1996 state share reduction amount calculation pursuant to paragraph (a) of subdivision 6 of this section. This amount shall be called the 1996 provider specific state share reduction amount.

(b) For 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010 [and], 2011, 2012, AND 2013 for each regional group, the state share reduction amount for the respective year shall be allocated by the commissioner of health among CHHAs and LTHHCPS on the basis of the extent of each CHHA's and LTHHCP's failure to achieve the target medicaid revenue percentage for the applicable year, calculated on a provider specific basis utilizing revenues for this purpose, expressed as a proportion of the total of each CHHA's and LTHHCP's failure to achieve the target medicaid revenue percentage for the applicable year within the applicable regional group. This proportion shall be multiplied by the applicable year's state share reduction amount calculation pursuant to paragraph (b) or (c) of subdivision 6 of this section. This amount shall be called the provider specific state share reduction amount for the applicable year.

8. (a) The 1996 provider specific state share reduction amount shall be due to the state from each CHHA and LTHHCP and may be recouped by the

1 state by March 31, 1997 in a lump sum amount or amounts from payments
2 due to the CHHA and LTHHCP pursuant to title 11 of article 5 of the
3 social services law.

4 (b) The provider specific state share reduction amount for 1997, 1998,
5 1999, 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010
6 [and], 2011, 2012, AND 2013 respectively, shall be due to the state from
7 each CHHA and LTHHCP and each year the amount due for such year may be
8 recouped by the state by March 31 of the following year in a lump sum
9 amount or amounts from payments due to the CHHA and LTHHCP pursuant to
10 title 11 of article 5 of the social services law.

11 9. CHHAs and LTHHCPs shall submit such data and information at such
12 times as the commissioner of health may require for purposes of this
13 section. The commissioner of health may use data available from third-
14 party payors.

15 10. On or about June 1, 1997, for each regional group the commissioner
16 of health shall calculate for the period August 1, 1996 through March
17 31, 1997 a medicaid revenue percentage, a reduction factor, a state
18 share reduction amount, and a provider specific state share reduction
19 amount in accordance with the methodology provided in paragraph (a) of
20 subdivision 2, paragraph (a) of subdivision 5, paragraph (a) of subdivi-
21 sion 6 and paragraph (a) of subdivision 7 of this section. The provider
22 specific state share reduction amount calculated in accordance with this
23 subdivision shall be compared to the 1996 provider specific state share
24 reduction amount calculated in accordance with paragraph (a) of subdivi-
25 sion 7 of this section. Any amount in excess of the amount determined in
26 accordance with paragraph (a) of subdivision 7 of this section shall be
27 due to the state from each CHHA and LTHHCP and may be recouped in
28 accordance with paragraph (a) of subdivision 8 of this section. If the
29 amount is less than the amount determined in accordance with paragraph
30 (a) of subdivision 7 of this section, the difference shall be refunded
31 to the CHHA and LTHHCP by the state no later than July 15, 1997. CHHAs
32 and LTHHCPs shall submit data for the period August 1, 1996 through
33 March 31, 1997 to the commissioner of health by April 15, 1997.

34 11. If a CHHA or LTHHCP fails to submit data and information as
35 required for purposes of this section:

36 (a) such CHHA or LTHHCP shall be presumed to have no decrease in medi-
37 caid revenue percentage between the applicable base period and the
38 applicable target period for purposes of the calculations pursuant to
39 this section; and

40 (b) the commissioner of health shall reduce the current rate paid to
41 such CHHA and such LTHHCP by state governmental agencies pursuant to
42 article 36 of the public health law by one percent for a period begin-
43 ning on the first day of the calendar month following the applicable due
44 date as established by the commissioner of health and continuing until
45 the last day of the calendar month in which the required data and infor-
46 mation are submitted.

47 12. The commissioner of health shall inform in writing the director of
48 the budget and the chair of the senate finance committee and the chair
49 of the assembly ways and means committee of the results of the calcu-
50 lations pursuant to this section.

51 S 15. Subdivision 5-a of section 246 of chapter 81 of the laws of
52 1995, amending the public health law and other laws relating to medical
53 reimbursement and welfare reform, as amended by section 32 of part B of
54 chapter 58 of the laws of 2009, is amended to read as follows:

55 5-a. Section sixty-four-a of this act shall be deemed to have been in
56 full force and effect on and after April 1, 1995 through March 31, 1999

1 and on and after July 1, 1999 through March 31, 2000 and on and after
2 April 1, 2000 through March 31, 2003 and on and after April 1, 2003
3 through March 31, 2007, and on and after April 1, 2007 through March 31,
4 2009, and on and after April 1, 2009 through March 31, 2011, AND ON AND
5 AFTER APRIL 1, 2011 THROUGH MARCH 31, 2013;

6 S 16. Section 64-b of chapter 81 of the laws of 1995, amending the
7 public health law and other laws relating to medical reimbursement and
8 welfare reform, as amended by section 33 of part B of chapter 58 of the
9 laws of 2009, is amended to read as follows:

10 S 64-b. Notwithstanding any inconsistent provision of law, the
11 provisions of subdivision 7 of section 3614 of the public health law, as
12 amended, shall remain and be in full force and effect on April 1, 1995
13 through March 31, 1999 and on July 1, 1999 through March 31, 2000 and on
14 and after April 1, 2000 through March 31, 2003 and on and after April 1,
15 2003 through March 31, 2007, and on and after April 1, 2007 through
16 March 31, 2009, and on and after April 1, 2009 through March 31, 2011,
17 AND ON AND AFTER APRIL 1, 2011 THROUGH MARCH 31, 2013.

18 S 17. Subdivision 1 of section 20 of chapter 451 of the laws of 2007,
19 amending the public health law, the social services law and the insur-
20 ance law, relating to providing enhanced consumer and provider
21 protections, as amended by section 38 of part B of chapter 58 of the
22 laws of 2009, is amended to read as follows:

23 1. sections four, eleven and thirteen of this act shall take effect
24 immediately and shall expire and be deemed repealed June 30, [2011]
25 2013;

26 S 18. The opening paragraph of subdivision 7-a of section 3614 of the
27 public health law, as amended by section 46 of part B of chapter 58 of
28 the laws of 2009, is amended to read as follows:

29 Notwithstanding any inconsistent provision of law or regulation, for
30 the purposes of establishing rates of payment by governmental agencies
31 for long term home health care programs for the period April first, two
32 thousand five, through December thirty-first, two thousand five, and for
33 the period January first, two thousand six through March thirty-first,
34 two thousand seven, and on and after April first, two thousand seven
35 through March thirty-first, two thousand nine, and on and after April
36 first, two thousand nine through March thirty-first, two thousand elev-
37 en, AND ON AND AFTER APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH
38 THIRTY-FIRST, TWO THOUSAND THIRTEEN, the reimbursable base year adminis-
39 trative and general costs of a provider of services shall not exceed the
40 statewide average of total reimbursable base year administrative and
41 general costs of such providers of services.

42 S 19. Subdivisions 3, 4 and 5 of section 47 of chapter 2 of the laws
43 of 1998, amending the public health law and other laws relating to
44 expanding the child health insurance plan, as amended by section 24 of
45 part A of chapter 58 of the laws of 2007, are amended to read as
46 follows:

47 3. section six of this act shall take effect January 1, 1999;
48 provided, however, that subparagraph (iii) of paragraph (c) of subdivi-
49 sion 9 of section 2510 of the public health law, as added by this act,
50 shall expire on July 1, [2011] 2014;

51 4. sections two, three, four, seven, eight, nine, fourteen, fifteen,
52 sixteen, eighteen, eighteen-a, twenty-three, twenty-four, and twenty-
53 nine of this act shall take effect January 1, 1999 and shall expire on
54 July 1, [2011] 2014; section twenty-five of this act shall take effect
55 on January 1, 1999 and shall expire on April 1, 2005;

1 5. section twelve of this act shall take effect January 1, 1999;
2 provided, however, paragraphs (g) and (h) of subdivision 2 of section
3 2511 of the public health law, as added by such section, shall expire on
4 July 1, [2011] 2014;

5 S 20. Section 10 of chapter 649 of the laws of 1996, amending the
6 public health law, the mental hygiene law and the social services law
7 relating to authorizing the establishment of special needs plans, as
8 amended by section 63 of part C of chapter 58 of the laws of 2008, is
9 amended to read as follows:

10 S 10. This act shall take effect immediately and shall be deemed to
11 have been in full force and effect on and after July 1, 1996; provided,
12 however, that sections one, two and three of this act shall expire and
13 be deemed repealed on March 31, [2012] 2016 provided, however that the
14 amendments to section 364-j of the social services law made by section
15 four of this act shall not affect the expiration of such section and
16 shall be deemed to expire therewith and provided, further, that the
17 provisions of subdivisions 8, 9 and 10 of section 4401 of the public
18 health law, as added by section one of this act; section 4403-d of the
19 public health law as added by section two of this act and the provisions
20 of section seven of this act, except for the provisions relating to the
21 establishment of no more than twelve comprehensive HIV special needs
22 plans, shall expire and be deemed repealed on July 1, 2000.

23 S 21. Subdivision (i-1) of section 79 of part C of chapter 58 of the
24 laws of 2008, amending the social services law and the public health law
25 relating to adjustments of rates, is amended to read as follows:

26 (i-1) section thirty-one-a of this act shall be deemed repealed July
27 1, [2011] 2014;

28 S 22. Section 2 of chapter 535 of the laws of 1983, amending the
29 social services law relating to eligibility of certain enrollees for
30 medical assistance, as amended by section 69 of part C of chapter 58 of
31 the laws of 2008, is amended to read as follows:

32 S 2. This act shall take effect immediately and shall remain in full
33 force and effect through March 31, [2012] 2016.

34 S 23. Subdivision 12 of section 246 of chapter 81 of the laws of 1995,
35 amending the public health law and other laws relating to medical
36 reimbursement and welfare reform, as amended by section 56 of part C of
37 chapter 58 of the laws of 2008, is amended to read as follows:

38 12. Sections one hundred five-b through one hundred five-f of this act
39 shall expire March 31, [2011] 2013.

40 S 24. Intentionally omitted.

41 S 25. Section 11 of chapter 710 of the laws of 1988, amending the
42 social services law and the education law relating to medical assistance
43 eligibility of certain persons and providing for managed medical care
44 demonstration programs, as amended by section 66 of part C of chapter 58
45 of the laws of 2008, is amended to read as follows:

46 S 11. This act shall take effect immediately; except that the
47 provisions of sections one, two, three, four, eight and ten of this act
48 shall take effect on the ninetieth day after it shall have become a law;
49 and except that the provisions of sections five, six and seven of this
50 act shall take effect January 1, 1989; and except that effective imme-
51 diately, the addition, amendment and/or repeal of any rule or regulation
52 necessary for the implementation of this act on its effective date are
53 authorized and directed to be made and completed on or before such
54 effective date; provided, however, that the provisions of section 364-j
55 of the social services law, as added by section one of this act shall
56 expire and be deemed repealed on and after March 31, [2012] 2016, the

provisions of section 364-k of the social services law, as added by section two of this act, except subdivision 10 of such section, shall expire and be deemed repealed on and after January 1, 1994, and the provisions of subdivision 10 of section 364-k of the social services law, as added by section two of this act, shall expire and be deemed repealed on January 1, 1995.

S 26. Subdivision (c) of section 62 of chapter 165 of the laws of 1991, amending the public health law and other laws relating to establishing payments for medical assistance, as amended by section 67 of part C of chapter 58 of the laws of 2008, is amended to read as follows:

(c) section 364-j of the social services law, as amended by section eight of this act and subdivision 6 of section 367-a of the social services law as added by section twelve of this act shall expire and be deemed repealed on March 31, [2012] 2015 and provided further, that the amendments to the provisions of section 364-j of the social services law MADE BY SECTION EIGHT OF THIS ACT shall only apply to managed care programs approved on or after the effective date of this act;

S 26-a. Subdivision (x) of section 165 of chapter 41 of the laws of 1992, amending the public health law and other laws relating to health care providers, is REPEALED.

S 27. Notwithstanding any inconsistent provision of law, rule or regulation, for purposes of implementing the provisions of the public health law and the social services law, references to titles XIX and XXI of the federal social security act in the public health law and the social services law shall be deemed to include and also to mean any successor titles thereto under the federal social security act.

S 28. Notwithstanding any inconsistent provision of law, rule or regulation, the effectiveness of the provisions of sections 2807 and 3614 of the public health law, section 18 of chapter 2 of the laws of 1988, and 18 NYCRR 505.14(h), as they relate to time frames for notice, approval or certification of rates of payment, are hereby suspended and without force or effect for purposes of implementing the provisions of this act.

S 29. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 30. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2011; provided, however, that the amendments to paragraph (e) of subdivision 8 of section 2807-c of the public health law made by section seven of this act shall not affect the expiration of such paragraph and shall be deemed to expire therewith.

PART E

Section 1. Section 366 of the social services law is amended by adding a new subdivision 1-b to read as follows:

1-B. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN THE EVENT THAT A PERSON WHO IS AN INPATIENT IN AN INSTITUTION FOR MENTAL DISEASES, AS DEFINED BY FEDERAL LAW AND REGULATIONS, AND WHO WAS IN RECEIPT OF MEDICAL ASSISTANCE PURSUANT TO THIS TITLE IMMEDIATELY PRIOR TO BEING

1 ADMITTED TO SUCH FACILITY, OR WHO WAS DIRECTLY ADMITTED TO SUCH FACILITY
2 AFTER BEING AN INPATIENT IN ANOTHER INSTITUTION FOR MENTAL DISEASES AND
3 WHO WAS IN RECEIPT OF MEDICAL ASSISTANCE PRIOR TO ADMISSION TO SUCH
4 TRANSFERRING INSTITUTION, SUCH PERSON SHALL REMAIN ELIGIBLE FOR MEDICAL
5 ASSISTANCE WHILE AN INPATIENT IN SUCH FACILITY; PROVIDED, HOWEVER, THAT
6 NO MEDICAL ASSISTANCE SHALL BE FURNISHED PURSUANT TO THIS TITLE FOR ANY
7 CARE, SERVICES, OR SUPPLIES PROVIDED DURING THE TIME THAT SUCH PERSON IS
8 AN INPATIENT, EXCEPT TO THE EXTENT THAT FEDERAL FINANCIAL PARTICIPATION
9 IS AVAILABLE FOR THE COSTS OF SUCH CARE, SERVICES, OR SUPPLIES. UPON
10 RELEASE FROM SUCH FACILITY, SUCH PERSON SHALL CONTINUE TO BE ELIGIBLE
11 FOR RECEIPT OF MEDICAL ASSISTANCE FURNISHED PURSUANT TO THIS TITLE UNTIL
12 SUCH TIME AS THE PERSON IS DETERMINED TO NO LONGER BE ELIGIBLE FOR
13 RECEIPT OF SUCH ASSISTANCE. TO THE EXTENT PERMITTED BY FEDERAL LAW, THE
14 TIME DURING WHICH SUCH PERSON IS AN INPATIENT IN AN INSTITUTION FOR
15 MENTAL DISEASES SHALL NOT BE INCLUDED IN ANY CALCULATION OF WHEN THE
16 PERSON MUST RECERTIFY HIS OR HER ELIGIBILITY FOR MEDICAL ASSISTANCE IN
17 ACCORDANCE WITH THIS ARTICLE.

18 S 2. Paragraph (c) of subdivision 1 of section 366 of the social
19 services law, as amended by chapter 355 of the laws of 2007, is amended
20 to read as follows:

21 (c) except as provided in subparagraph six of paragraph (a) of this
22 subdivision or subdivision one-a OR SUBDIVISION ONE-B of this section,
23 is not an inmate or patient in an institution or facility wherein
24 medical assistance for needy persons may not be provided in accordance
25 with applicable federal or state requirements; and

26 S 3. This act shall take effect April 1, 2011; provided that all
27 actions necessary for the timely implementation of this act, including
28 revisions to information, eligibility and benefit computer systems
29 utilized by social services districts and administered by the department
30 of health of the state of New York, shall be taken prior to such effec-
31 tive date so that the provisions of this act may be implemented on such
32 date.

33 PART F

34 Section 1. Subdivisions 3-b and 3-c of section 1 of part C of chapter
35 57 of the laws of 2006, relating to establishing a cost of living
36 adjustment for designated human services programs, as amended by section
37 1 of part F of chapter 111 of the laws of 2010, are amended to read as
38 follows:

39 3-b. Notwithstanding any inconsistent provision of law, beginning
40 April 1, 2009 and ending March 31, [2011] 2012, the commissioners shall
41 not include a COLA for the purpose of establishing rates of payments,
42 contracts or any other form of reimbursement.

43 3-c. Notwithstanding any inconsistent provision of law, beginning
44 April 1, [2011] 2012 and ending March 31, [2014] 2015, the commissioners
45 shall develop the COLA under this section using the actual U.S. consumer
46 price index for all urban consumers (CPI-U) published by the United
47 States department of labor, bureau of labor statistics for the twelve
48 month period ending in July of the budget year prior to such state
49 fiscal year, for the purpose of establishing rates of payments,
50 contracts or any other form of reimbursement.

51 S 2. Section 4 of part C of chapter 57 of the laws of 2006, relating
52 to establishing a cost of living adjustment for designated human
53 services programs, as amended by section 2 of part F of chapter 111 of
54 the laws of 2010, is amended to read as follows:

1 S 4. This act shall take effect immediately and shall be deemed to
2 have been in full force and effect on and after April 1, 2006; provided
3 section one of this act shall expire and be deemed repealed April 1,
4 [2014] 2015; provided, further, that sections two and three of this act
5 shall expire and be deemed repealed December 31, 2009.

6 S 3. This act shall take effect immediately and shall be deemed to
7 have been in full force and effect on and after April 1, 2011; provided,
8 however, that the amendments to section 1 of part C of chapter 57 of the
9 laws of 2006 made by section one of this act shall not affect the repeal
10 of such section and shall be deemed repealed therewith.

11 PART G

12 Section 1. Subdivision (b) of section 7.17 of the mental hygiene law,
13 as amended by section 1 of part J of chapter 58 of the laws of 2005, is
14 amended to read as follows:

15 (b) There shall be in the office the hospitals named below for the
16 care, treatment and rehabilitation of [the mentally disabled] PERSONS
17 WITH MENTAL ILLNESS and for research and teaching in the science and
18 skills required for the care, treatment and rehabilitation of such
19 [mentally disabled] PERSONS WITH MENTAL ILLNESS.

20 Greater Binghamton Health Center
21 Bronx Psychiatric Center
22 Buffalo Psychiatric Center
23 Capital District Psychiatric Center
24 Central New York Psychiatric Center
25 Creedmoor Psychiatric Center
26 Elmira Psychiatric Center
27 Hudson River Psychiatric Center
28 Kingsboro Psychiatric Center
29 Kirby Forensic Psychiatric Center
30 Manhattan Psychiatric Center
31 Mid-Hudson Forensic Psychiatric Center
32 Mohawk Valley Psychiatric Center
33 Nathan S. Kline Institute for Psychiatric Research
34 New York State Psychiatric Institute
35 Pilgrim Psychiatric Center
36 Richard H. Hutchings Psychiatric Center
37 Rochester Psychiatric Center
38 Rockland Psychiatric Center
39 St. Lawrence Psychiatric Center
40 South Beach Psychiatric Center
41 Bronx Children's Psychiatric Center
42 Brooklyn Children's [Psychiatric] Center
43 Queens Children's Psychiatric Center
44 Rockland Children's Psychiatric Center
45 Sagamore Children's Psychiatric Center
46 Western New York Children's Psychiatric Center

47 The New York State Psychiatric Institute and The Nathan S. Kline
48 Institute for Psychiatric Research are designated as institutes for the
49 conduct of medical research and other scientific investigation directed
50 towards furthering knowledge of the etiology, diagnosis, treatment and
51 prevention of mental illness. THE BROOKLYN CHILDREN'S CENTER IS A FACIL-
52 ITY OPERATED BY THE OFFICE TO PROVIDE COMMUNITY-BASED MENTAL HEALTH
53 SERVICES FOR CHILDREN WITH SERIOUS EMOTIONAL DISTURBANCES.

1 S 2. Notwithstanding the provisions of subdivisions (b) and (e) of
2 section 7.17 of the mental hygiene law, section 41.55 of the mental
3 hygiene law, or any other law to the contrary, the office of mental
4 health is authorized in state fiscal year 2011-12 to close, consolidate,
5 reduce, transfer or otherwise redesign services of hospitals, other
6 facilities and programs operated by the office of mental health, and to
7 implement significant service reductions and reconfigurations according
8 to this section as shall be determined by the commissioner of mental
9 health to be necessary for the cost-effective and efficient operation of
10 such hospitals, other facilities and programs.

11 (a) In addition to the closure, consolidation or merger of one or more
12 facilities, the commissioner of mental health is authorized to perform
13 any significant service reductions that would reduce inpatient bed
14 capacity by up to 600 beds, which shall include but not be limited to
15 closures of wards at a state-operated psychiatric center or the conver-
16 sion of beds to transitional placement programs, provided that the
17 commissioner provide at least 30 days notice of such reductions to the
18 temporary president of the senate and the speaker of the assembly and
19 simultaneously post such notice upon its public website. In assessing
20 which significant service reductions to undertake, the commissioner
21 shall consider data related to inpatient census, indicating nonutiliza-
22 tion or under utilization of beds, and the efficient operation of facil-
23 ities.

24 (b) At least sixty days prior to the anticipated closure, consol-
25 idation or merger of any hospitals named in subdivision (b) of section
26 7.17 of the mental hygiene law, the commissioner of mental health shall
27 provide notice of such closure, consolidation or merger to the temporary
28 president of the senate and speaker of the assembly, the chief executive
29 officer of the county in which the facility is located, and shall post
30 such notice upon its public website. The commissioner shall be author-
31 ized to conduct any and all preparatory actions which may be required to
32 effectuate such closures during such sixty day period. In assessing
33 which of such hospitals to close, the commissioner shall consider the
34 following factors: (1) the size, scope and type of services provided by
35 the hospital; (2) the current and anticipated long-term need for the
36 types of services provided by the facility within its catchment area,
37 which may include, but not be limited to, services for adults or chil-
38 dren, or other specialized services, such as forensic services; (3) the
39 availability of staff sufficient to address the current and anticipated
40 long term service needs; (4) the long term capital investment required
41 to ensure that the facility meets relevant state and federal regulatory
42 and capital construction requirements, and national accreditation stand-
43 ards; (5) the proximity of the facility to other facilities with space
44 that could accommodate anticipated need, the relative cost of any neces-
45 sary renovations of such space, the relative potential operating effi-
46 ciency of such facilities, and the size, scope and types of services
47 provided by the other facilities; (6) anticipated savings based upon
48 economies of scale or other factors; (7) community mental health
49 services available in the facility catchment area and the ability of
50 such community mental health services to meet the behavioral health
51 needs of the impacted consumers; and (8) the anticipated impact of the
52 closure on access to mental health services.

53 (c) Any transfers of inpatient capacity or any resulting transfer of
54 functions shall be authorized to be made by the commissioner of mental
55 health and any transfer of personnel upon such transfer of capacity or

transfer of functions shall be accomplished in accordance with the provisions of section 70 of the civil service law.

S 3. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 4. This act shall take effect April 1, 2011; provided that section two of this act shall expire and be deemed repealed March 31, 2012.

PART H

Section 1. Notwithstanding paragraph (c) of subdivision 10 of section 2807-c of the public health law, section 21 of chapter 1 of the laws of 1999, or any other contrary provision of law, in determining rates of payments by state governmental agencies effective for services provided on and after April 1, 2011, for inpatient and outpatient services provided by general hospitals, for inpatient services and adult day health care outpatient services provided by residential health care facilities pursuant to article 28 of the public health law, except for residential health care facilities or units of such facilities that provide services primarily to children under twenty-one years of age, for home health care services provided pursuant to article 36 of the public health law by certified home health agencies, long term home health care programs and AIDS home care programs, and for personal care services provided pursuant to section 365-a of the social services law, the commissioner of health shall apply no greater than zero trend factors attributable to the 2011 and 2012 calendar years in accordance with paragraph (c) of subdivision 10 of section 2807-c of the public health law, provided, however, that such no greater than zero trend factors for such 2011 and 2012 calendar years shall also be applied to rates of payment for personal care services provided in those local social service districts, including New York City, whose rates of payment for such services are established by such local social service districts pursuant to a rate-setting exemption issued by the commissioner of health to such local social services districts in accordance with applicable regulations, and provided further, however, that for rates of payment for assisted living program services provided on and after April 1, 2011, trend factors attributable to the 2011 and 2012 calendar years shall be established at no greater than zero percent.

S 2. Notwithstanding paragraph (c) of subdivision 10 of section 2807-c of the public health law, section 21 of chapter 1 of the laws of 1999, or any other contrary provision of law, in determining rates of payments by state governmental agencies effective for services provided on and after January 1, 2013 through March 31, 2013, for inpatient and outpatient services provided by general hospitals, for inpatient services and adult day health care outpatient services provided by residential health care facilities pursuant to article 28 of the public health law, except for residential health care facilities or units of such facilities that provide services primarily to children under twenty-one years of age, for home health care services provided pursuant to article 36 of the public health law, by certified home health agencies, long term home

1 health care programs and AIDS home care programs, and for personal care
2 services provided pursuant to section 365-a of the social services law,
3 the commissioner of health shall apply no greater than zero trend
4 factors attributable to the 2013 calendar year in accordance with para-
5 graph (c) of subdivision 10 of section 2807-c of the public health law,
6 provided, however, that such no greater than zero trend factors for such
7 2013 calendar year shall also be applied to rates of payment for
8 personal care services provided in those local social service districts,
9 including New York city, whose rates of payment for such services are
10 established by such local social service districts pursuant to a rate-
11 setting exemption issued by the commissioner of health to such local
12 social service districts in accordance with applicable regulations, and
13 provided further, however, that for rates of payment for assisted living
14 program services provided on and after January 1, 2013 through March 31,
15 2013, trend factors attributable to the 2013 calendar year shall be
16 established at no greater than zero percent.

17 S 2-a. Intentionally omitted.

18 S 3. Section 3614 of the public health law is amended by adding a new
19 subdivision 12 to read as follows:

20 12. (A) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW OR REGU-
21 LATION AND SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTIC-
22 IPATION, EFFECTIVE ON AND AFTER APRIL FIRST, TWO THOUSAND ELEVEN THROUGH
23 MARCH THIRTY-FIRST, TWO THOUSAND TWELVE, RATES OF PAYMENT BY GOVERNMENT
24 AGENCIES FOR SERVICES PROVIDED BY CERTIFIED HOME HEALTH AGENCIES, EXCEPT
25 FOR SUCH SERVICES PROVIDED TO CHILDREN UNDER EIGHTEEN YEARS OF AGE AND
26 OTHER DISCRETE GROUPS AS MAY BE DETERMINED BY THE COMMISSIONER PURSUANT
27 TO REGULATIONS, SHALL REFLECT CEILING LIMITATIONS DETERMINED IN ACCORD-
28 ANCE WITH THIS SUBDIVISION, PROVIDED, HOWEVER, THAT AT THE DISCRETION OF
29 THE COMMISSIONER SUCH CEILINGS MAY, AS AN ALTERNATIVE, BE APPLIED TO
30 PAYMENTS FOR SERVICES PROVIDED ON AND AFTER APRIL FIRST, TWO THOUSAND
31 ELEVEN, EXCEPT FOR SUCH SERVICES PROVIDED TO CHILDREN AND OTHER DISCRETE
32 GROUPS AS MAY BE DETERMINED BY THE COMMISSIONER PURSUANT TO REGULATIONS.
33 IN DETERMINING SUCH PAYMENTS OR RATES OF PAYMENT, AGENCY CEILINGS SHALL
34 BE ESTABLISHED. SUCH CEILINGS SHALL BE APPLIED TO PAYMENTS OR RATES OF
35 PAYMENT FOR CERTIFIED HOME HEALTH AGENCY SERVICES AS ESTABLISHED PURSU-
36 ANT TO THIS SECTION AND APPLICABLE REGULATIONS. CEILINGS SHALL BE BASED
37 ON A BLEND OF: (I) AN AGENCY'S TWO THOUSAND NINE AVERAGE PER PATIENT
38 MEDICAID CLAIMS, WEIGHTED AT A PERCENTAGE AS DETERMINED BY THE COMMIS-
39 SIONER; AND (II) THE TWO THOUSAND NINE STATEWIDE AVERAGE PER PATIENT
40 MEDICAID CLAIMS ADJUSTED BY A REGIONAL WAGE INDEX FACTOR AND AN AGENCY
41 PATIENT CASE MIX INDEX, WEIGHTED AT A PERCENTAGE AS DETERMINED BY THE
42 COMMISSIONER. SUCH CEILINGS WILL BE EFFECTIVE APRIL FIRST, TWO THOUSAND
43 ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND TWELVE. AN INTERIM
44 PAYMENT OR RATE OF PAYMENT ADJUSTMENT EFFECTIVE APRIL FIRST, TWO THOU-
45 SAND ELEVEN, SHALL BE APPLIED TO AGENCIES WITH PROJECTED AVERAGE PER
46 PATIENT MEDICAID CLAIMS, AS DETERMINED BY THE COMMISSIONER, TO BE OVER
47 THEIR CEILINGS. SUCH AGENCIES SHALL HAVE THEIR PAYMENTS OR RATES OF
48 PAYMENT REDUCED TO REFLECT THE AMOUNT BY WHICH SUCH CLAIMS EXCEED THEIR
49 CEILINGS.

50 (B) CEILING LIMITATIONS DETERMINED PURSUANT TO PARAGRAPH (A) OF THIS
51 SUBDIVISION SHALL BE SUBJECT TO RECONCILIATION. IN DETERMINING PAYMENT
52 OR RATE OF PAYMENT ADJUSTMENTS BASED ON SUCH RECONCILIATION, ADJUSTED
53 AGENCY CEILINGS SHALL BE ESTABLISHED. SUCH ADJUSTED CEILINGS SHALL BE
54 BASED ON A BLEND OF: (I) AN AGENCY'S TWO THOUSAND NINE AVERAGE PER
55 PATIENT MEDICAID CLAIMS ADJUSTED BY THE PERCENTAGE OF INCREASE OR
56 DECREASE IN SUCH AGENCY'S PATIENT CASE MIX FROM THE TWO THOUSAND NINE

1 CALENDAR YEAR TO THE ANNUAL PERIOD APRIL FIRST, TWO THOUSAND ELEVEN
2 THROUGH MARCH THIRTY-FIRST, TWO THOUSAND TWELVE, WEIGHTED AT A PERCENT-
3 AGE AS DETERMINED BY THE COMMISSIONER; AND (II) THE TWO THOUSAND NINE
4 STATEWIDE AVERAGE PER PATIENT MEDICAID CLAIMS ADJUSTED BY A REGIONAL
5 WAGE INDEX FACTOR AND THE AGENCY'S PATIENT CASE MIX INDEX FOR THE ANNUAL
6 PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO
7 THOUSAND TWELVE, WEIGHTED AT A PERCENTAGE AS DETERMINED BY THE COMMIS-
8 SIONER. SUCH ADJUSTED AGENCY CEILING SHALL BE COMPARED TO ACTUAL MEDI-
9 CAID PAID CLAIMS FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH
10 MARCH THIRTY-FIRST, TWO THOUSAND TWELVE. IN THOSE INSTANCES WHEN AN
11 AGENCY'S ACTUAL PER PATIENT MEDICAID CLAIMS ARE DETERMINED TO EXCEED THE
12 AGENCY'S ADJUSTED CEILING, THE AMOUNT OF SUCH EXCESS SHALL BE DUE FROM
13 EACH SUCH AGENCY TO THE STATE AND MAY BE RECOUPED BY THE DEPARTMENT IN A
14 LUMP SUM AMOUNT OR THROUGH REDUCTIONS IN THE MEDICAID PAYMENTS DUE TO
15 THE AGENCY. IN THOSE INSTANCES WHERE AN INTERIM PAYMENT OR RATE OF
16 PAYMENT ADJUSTMENT WAS APPLIED TO AN AGENCY IN ACCORDANCE WITH PARAGRAPH
17 (A) OF THIS SUBDIVISION, AND SUCH AGENCY'S ACTUAL PER PATIENT MEDICAID
18 CLAIMS ARE DETERMINED TO BE LESS THAN THE AGENCY'S ADJUSTED CEILING, THE
19 AMOUNT BY WHICH SUCH MEDICAID CLAIMS ARE LESS THAN THE AGENCY'S ADJUSTED
20 CEILING SHALL BE REMITTED TO EACH SUCH AGENCY BY THE DEPARTMENT IN A
21 LUMP SUM AMOUNT OR THROUGH AN INCREASE IN THE MEDICAID PAYMENTS DUE TO
22 THE AGENCY.

23 (C) INTERIM PAYMENT OR RATE OF PAYMENT ADJUSTMENTS PURSUANT TO THIS
24 SUBDIVISION SHALL BE BASED ON MEDICAID PAID CLAIMS, AS DETERMINED BY THE
25 COMMISSIONER, FOR SERVICES PROVIDED BY AGENCIES IN THE BASE YEAR TWO
26 THOUSAND NINE. AMOUNTS DUE FROM RECONCILING RATE ADJUSTMENTS SHALL BE
27 BASED ON MEDICAID PAID CLAIMS, AS DETERMINED BY THE COMMISSIONER, FOR
28 SERVICES PROVIDED BY AGENCIES IN THE BASE YEAR TWO THOUSAND NINE AND
29 MEDICAID PAID CLAIMS, AS DETERMINED BY THE COMMISSIONER, FOR SERVICES
30 PROVIDED BY AGENCIES IN THE RECONCILIATION PERIOD APRIL FIRST, TWO THOU-
31 SAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND TWELVE. IN DETER-
32 MINING CASE MIX, EACH PATIENT SHALL BE CLASSIFIED USING A SYSTEM BASED
33 ON MEASURES WHICH MAY INCLUDE, BUT NOT BE LIMITED TO, CLINICAL AND FUNC-
34 TIONAL MEASURES, AS REPORTED ON THE FEDERAL OUTCOME AND ASSESSMENT
35 INFORMATION SET (OASIS), AS MAY BE AMENDED.

36 (D) THE COMMISSIONER MAY REQUIRE AGENCIES TO COLLECT AND SUBMIT ANY
37 DATA REQUIRED TO IMPLEMENT THE PROVISIONS OF THIS SUBDIVISION. THE
38 COMMISSIONER MAY PROMULGATE REGULATIONS TO IMPLEMENT THE PROVISIONS OF
39 THIS SUBDIVISION.

40 (E) PAYMENTS OR RATE OF PAYMENT ADJUSTMENTS DETERMINED PURSUANT TO
41 THIS SUBDIVISION SHALL, FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN
42 THROUGH MARCH THIRTY-FIRST, TWO THOUSAND TWELVE, BE RETROACTIVELY RECON-
43 CILED UTILIZING THE METHODOLOGY IN PARAGRAPH (B) OF THIS SUBDIVISION AND
44 UTILIZING ACTUAL PAID CLAIMS FROM SUCH PERIOD.

45 (F) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SUBDIVISION,
46 PAYMENTS OR RATE OF PAYMENT ADJUSTMENTS MADE PURSUANT TO THIS SUBDIVI-
47 SION SHALL NOT RESULT IN AN AGGREGATE ANNUAL DECREASE IN MEDICAID
48 PAYMENTS TO PROVIDERS SUBJECT TO THIS SUBDIVISION THAT IS IN EXCESS OF
49 TWO HUNDRED MILLION DOLLARS, AS DETERMINED BY THE COMMISSIONER AND NOT
50 SUBJECT TO SUBSEQUENT ADJUSTMENT, AND THE COMMISSIONER SHALL MAKE SUCH
51 ADJUSTMENTS TO SUCH PAYMENTS OR RATES OF PAYMENT AS ARE NECESSARY TO
52 ENSURE THAT SUCH AGGREGATE LIMITS ON PAYMENT DECREASES ARE NOT EXCEEDED.

53 S 4. Section 3614 of the public health law is amended by adding a new
54 subdivision 13 to read as follows:

55 13. (A) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW OR REGU-
56 LATION AND SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTIC-

1 IPATION, EFFECTIVE APRIL FIRST, TWO THOUSAND TWELVE THROUGH MARCH THIR-
2 TY-FIRST, TWO THOUSAND FIFTEEN, PAYMENTS BY GOVERNMENT AGENCIES FOR
3 SERVICES PROVIDED BY CERTIFIED HOME HEALTH AGENCIES, EXCEPT FOR SUCH
4 SERVICES PROVIDED TO CHILDREN UNDER EIGHTEEN YEARS OF AGE AND OTHER
5 DISCREET GROUPS AS MAY BE DETERMINED BY THE COMMISSIONER PURSUANT TO
6 REGULATIONS, SHALL BE BASED ON EPISODIC PAYMENTS. IN ESTABLISHING SUCH
7 PAYMENTS, A STATEWIDE BASE PRICE SHALL BE ESTABLISHED FOR EACH SIXTY DAY
8 EPISODE OF CARE AND ADJUSTED BY A REGIONAL WAGE INDEX FACTOR AND AN
9 INDIVIDUAL PATIENT CASE MIX INDEX. SUCH EPISODIC PAYMENTS MAY BE FURTHER
10 ADJUSTED FOR LOW UTILIZATION CASES AND TO REFLECT A PERCENTAGE LIMITA-
11 TION OF THE COST FOR HIGH-UTILIZATION CASES THAT EXCEED OUTLIER THRESH-
12 OLDS OF SUCH PAYMENTS.

13 (B) INITIAL BASE YEAR EPISODIC PAYMENTS SHALL BE BASED ON MEDICAID
14 PAID CLAIMS, AS DETERMINED AND ADJUSTED BY THE COMMISSIONER TO ACHIEVE
15 SAVINGS COMPARABLE TO THE PRIOR STATE FISCAL YEAR, FOR SERVICES PROVIDED
16 BY ALL CERTIFIED HOME HEALTH AGENCIES IN THE BASE YEAR TWO THOUSAND
17 NINE. SUBSEQUENT BASE YEAR EPISODIC PAYMENTS MAY BE BASED ON MEDICAID
18 PAID CLAIMS FOR SERVICES PROVIDED BY ALL CERTIFIED HOME HEALTH AGENCIES
19 IN A BASE YEAR SUBSEQUENT TO TWO THOUSAND NINE, AS DETERMINED BY THE
20 COMMISSIONER, PROVIDED, HOWEVER, THAT SUCH BASE YEAR ADJUSTMENT SHALL BE
21 MADE NOT LESS FREQUENTLY THAN EVERY THREE YEARS. IN DETERMINING CASE
22 MIX, EACH PATIENT SHALL BE CLASSIFIED USING A SYSTEM BASED ON MEASURES
23 WHICH MAY INCLUDE, BUT NOT LIMITED TO, CLINICAL AND FUNCTIONAL MEASURES,
24 AS REPORTED ON THE FEDERAL OUTCOME AND ASSESSMENT INFORMATION SET
25 (OASIS), AS MAY BE AMENDED.

26 (C) THE COMMISSIONER MAY REQUIRE AGENCIES TO COLLECT AND SUBMIT ANY
27 DATA REQUIRED TO IMPLEMENT THIS SUBDIVISION. THE COMMISSIONER MAY
28 PROMULGATE REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS SUBDIVISION.

29 S 5. Sections 365-i and 369-dd of the social services law are
30 REPEALED.

31 S 5-a. Subparagraph (v) of paragraph (e) of subdivision 1 and subdivi-
32 sion 2-b of section 369-ee of the social services law, subparagraph (v)
33 of paragraph (e) of subdivision 1 as amended by section 1 of part C and
34 subdivision 2-b as added by section 2 of part C of chapter 58 of the
35 laws of 2008, are amended to read as follows:

36 (v) prescription drugs [as defined in section two hundred seventy of
37 the public health law, which shall be provided pursuant to subdivision
38 two-b of this section,] and non-prescription smoking cessation products
39 or devices;

40 2-b. Prescription drug payments. [(a) Subject to paragraph (b) of this
41 subdivision, payment for drugs, except for such drugs provided by
42 medical practitioners, and for which payment is authorized pursuant to
43 paragraph (e) of subdivision one of this section, shall be made pursuant
44 to subdivision nine of section three hundred sixty-seven-a of this arti-
45 cle and article two-A of the public health law and subdivision four of
46 section three hundred sixty-five-a of this article. Payment for such
47 drugs provided by medical practitioners shall be included in the capita-
48 tion payment for services or supplies provided to persons eligible for
49 health care services under this title.

50 (b)] Payment for drugs for which payment is authorized pursuant to
51 paragraph (e) of subdivision one of this section[, and that are provided
52 by an employer partnership for family health plus plan authorized by
53 section three hundred sixty-nine-ff of this title,] shall be included in
54 the capitation payment for services or supplies provided to persons
55 eligible for health care services under [such] A FAMILY HEALTH INSURANCE
56 plan.

1 S 6. Section 368-d of the social services law is amended by adding
2 three new subdivisions 4, 5 and 6 to read as follows:

3 4. THE COMMISSIONER OF HEALTH IS AUTHORIZED TO CONTRACT WITH ONE OR
4 MORE ENTITIES TO CONDUCT A STUDY TO DETERMINE ACTUAL DIRECT AND INDIRECT
5 COSTS INCURRED BY PUBLIC SCHOOL DISTRICTS AND STATE OPERATED/STATE
6 SUPPORTED SCHOOLS WHICH OPERATE PURSUANT TO ARTICLE EIGHTY-FIVE, EIGHT-
7 Y-SEVEN OR EIGHTY-EIGHT OF THE EDUCATION LAW FOR MEDICAL CARE, SERVICES
8 AND SUPPLIES, INCLUDING RELATED SPECIAL EDUCATION SERVICES AND SPECIAL
9 TRANSPORTATION, FURNISHED TO CHILDREN WITH HANDICAPPING CONDITIONS.

10 5. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SECTIONS ONE HUNDRED
11 TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, OR SECTION
12 ONE HUNDRED FORTY-TWO OF THE ECONOMIC DEVELOPMENT LAW, OR ANY OTHER LAW,
13 THE COMMISSIONER OF HEALTH IS AUTHORIZED TO ENTER INTO A CONTRACT OR
14 CONTRACTS UNDER SUBDIVISION FOUR OF THIS SECTION WITHOUT A COMPETITIVE
15 BID OR REQUEST FOR PROPOSAL PROCESS, PROVIDED, HOWEVER, THAT:

16 (A) THE DEPARTMENT OF HEALTH SHALL POST ON ITS WEBSITE, FOR A PERIOD
17 OF NO LESS THAN THIRTY DAYS:

18 (I) A DESCRIPTION OF THE PROPOSED SERVICES TO BE PROVIDED PURSUANT TO
19 THE CONTRACT OR CONTRACTS;

20 (II) THE CRITERIA FOR SELECTION OF A CONTRACTOR OR CONTRACTORS;

21 (III) THE PERIOD OF TIME DURING WHICH A PROSPECTIVE CONTRACTOR MAY
22 SEEK SELECTION, WHICH SHALL BE NO LESS THAN THIRTY DAYS AFTER SUCH
23 INFORMATION IS FIRST POSTED ON THE WEBSITE; AND

24 (IV) THE MANNER BY WHICH A PROSPECTIVE CONTRACTOR MAY SEEK SUCH
25 SELECTION, WHICH MAY INCLUDE SUBMISSION BY ELECTRONIC MEANS;

26 (B) ALL REASONABLE AND RESPONSIVE SUBMISSIONS THAT ARE RECEIVED FROM
27 PROSPECTIVE CONTRACTORS IN TIMELY FASHION SHALL BE REVIEWED BY THE
28 COMMISSIONER OF HEALTH; AND

29 (C) THE COMMISSIONER OF HEALTH SHALL SELECT SUCH CONTRACTOR OR
30 CONTRACTORS THAT, IN HIS OR HER DISCRETION, ARE BEST SUITED TO SERVE THE
31 PURPOSES OF THIS SECTION.

32 (D) UPON SELECTION OF A CONTRACTOR OR CONTRACTORS, THE DEPARTMENT OF
33 HEALTH SHALL PROVIDE WRITTEN NOTIFICATION OF SUCH SELECTION AND A SUMMA-
34 RY OF THE CRITERIA EMPLOYED IN SUCH SELECTION TO THE CHAIR OF THE SENATE
35 FINANCE COMMITTEE AND THE CHAIR OF THE ASSEMBLY WAYS AND MEANS COMMIT-
36 TEE.

37 6. THE COMMISSIONER SHALL EVALUATE THE RESULTS OF THE STUDY CONDUCTED
38 PURSUANT TO SUBDIVISION FOUR OF THIS SECTION TO DETERMINE, AFTER IDEN-
39 TIFICATION OF ACTUAL DIRECT AND INDIRECT COSTS INCURRED BY PUBLIC SCHOOL
40 DISTRICTS AND STATE OPERATED/STATE SUPPORTED SCHOOLS, WHETHER IT IS
41 ADVISABLE TO CLAIM FEDERAL REIMBURSEMENT FOR EXPENDITURES UNDER THIS
42 SECTION AS CERTIFIED PUBLIC EXPENDITURES. IN THE EVENT SUCH CLAIMS ARE
43 SUBMITTED, IF FEDERAL REIMBURSEMENT RECEIVED FOR CERTIFIED PUBLIC
44 EXPENDITURES ON BEHALF OF MEDICAL ASSISTANCE RECIPIENTS WHOSE ASSISTANCE
45 AND CARE ARE THE RESPONSIBILITY OF A SOCIAL SERVICES DISTRICT IN A CITY
46 WITH A POPULATION OF OVER TWO MILLION, RESULTS IN A DECREASE IN THE
47 STATE SHARE OF ANNUAL EXPENDITURES PURSUANT TO THIS SECTION FOR SUCH
48 RECIPIENTS, THEN TO THE EXTENT THAT THE AMOUNT OF ANY SUCH DECREASE WHEN
49 COMBINED WITH ANY DECREASE IN THE STATE SHARE OF ANNUAL EXPENDITURES
50 DESCRIBED IN SUBDIVISION FIVE OF SECTION THREE HUNDRED SIXTY-EIGHT-E OF
51 THIS TITLE EXCEEDS FIFTY MILLION DOLLARS, THE EXCESS AMOUNT SHALL BE
52 TRANSFERRED TO SUCH CITY. ANY SUCH EXCESS AMOUNT TRANSFERRED SHALL NOT
53 BE CONSIDERED A REVENUE RECEIVED BY SUCH SOCIAL SERVICES DISTRICT IN
54 DETERMINING THE DISTRICT'S ACTUAL MEDICAL ASSISTANCE EXPENDITURES FOR
55 PURPOSES OF PARAGRAPH (B) OF SECTION ONE OF PART C OF CHAPTER
56 FIFTY-EIGHT OF THE LAWS OF TWO THOUSAND FIVE.

1 S 7. Section 368-e of the social services law is amended by adding
2 three new subdivisions 3, 4 and 5 to read as follows:

3 3. THE COMMISSIONER OF HEALTH IS AUTHORIZED TO CONTRACT WITH ONE OR
4 MORE ENTITIES TO CONDUCT A STUDY TO DETERMINE ACTUAL DIRECT AND INDIRECT
5 COSTS INCURRED BY COUNTIES FOR MEDICAL CARE, SERVICES AND SUPPLIES,
6 INCLUDING RELATED SPECIAL EDUCATION SERVICES AND SPECIAL TRANSPORTATION,
7 FURNISHED TO PRE-SCHOOL CHILDREN WITH HANDICAPPING CONDITIONS.

8 4. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SECTIONS ONE HUNDRED
9 TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, OR SECTION
10 ONE HUNDRED FORTY-TWO OF THE ECONOMIC DEVELOPMENT LAW, OR ANY OTHER LAW,
11 THE COMMISSIONER OF HEALTH IS AUTHORIZED TO ENTER INTO A CONTRACT OR
12 CONTRACTS UNDER SUBDIVISION THREE OF THIS SECTION WITHOUT A COMPETITIVE
13 BID OR REQUEST FOR PROPOSAL PROCESS, PROVIDED, HOWEVER, THAT:

14 (A) THE DEPARTMENT OF HEALTH SHALL POST ON ITS WEBSITE, FOR A PERIOD
15 OF NO LESS THAN THIRTY DAYS:

16 (I) A DESCRIPTION OF THE PROPOSED SERVICES TO BE PROVIDED PURSUANT TO
17 THE CONTRACT OR CONTRACTS;

18 (II) THE CRITERIA FOR SELECTION OF A CONTRACTOR OR CONTRACTORS;

19 (III) THE PERIOD OF TIME DURING WHICH A PROSPECTIVE CONTRACTOR MAY
20 SEEK SELECTION, WHICH SHALL BE NO LESS THAN THIRTY DAYS AFTER SUCH
21 INFORMATION IS FIRST POSTED ON THE WEBSITE; AND

22 (IV) THE MANNER BY WHICH A PROSPECTIVE CONTRACTOR MAY SEEK SUCH
23 SELECTION, WHICH MAY INCLUDE SUBMISSION BY ELECTRONIC MEANS;

24 (B) ALL REASONABLE AND RESPONSIVE SUBMISSIONS THAT ARE RECEIVED FROM
25 PROSPECTIVE CONTRACTORS IN TIMELY FASHION SHALL BE REVIEWED BY THE
26 COMMISSIONER OF HEALTH; AND

27 (C) THE COMMISSIONER OF HEALTH SHALL SELECT SUCH CONTRACTOR OR
28 CONTRACTORS THAT, IN HIS OR HER DISCRETION, ARE BEST SUITED TO SERVE THE
29 PURPOSES OF THIS SECTION.

30 (D) UPON SELECTION OF A CONTRACTOR OR CONTRACTORS, THE DEPARTMENT OF
31 HEALTH SHALL PROVIDE WRITTEN NOTIFICATION OF SUCH SELECTION AND A SUMMA-
32 RY OF THE CRITERIA EMPLOYED IN SUCH SELECTION TO THE CHAIR OF THE SENATE
33 FINANCE COMMITTEE AND THE CHAIR OF THE ASSEMBLY WAYS AND MEANS COMMIT-
34 TEE.

35 5. THE COMMISSIONER SHALL EVALUATE THE RESULTS OF THE STUDY CONDUCTED
36 PURSUANT TO SUBDIVISION THREE OF THIS SECTION TO DETERMINE, AFTER IDEN-
37 TIFICATION OF ACTUAL DIRECT AND INDIRECT COSTS INCURRED BY COUNTIES FOR
38 MEDICAL CARE, SERVICES, AND SUPPLIES FURNISHED TO PRE-SCHOOL CHILDREN
39 WITH HANDICAPPING CONDITIONS, WHETHER IT IS ADVISABLE TO CLAIM FEDERAL
40 REIMBURSEMENT FOR EXPENDITURES UNDER THIS SECTION AS CERTIFIED PUBLIC
41 EXPENDITURES. IN THE EVENT SUCH CLAIMS ARE SUBMITTED, IF FEDERAL
42 REIMBURSEMENT RECEIVED FOR CERTIFIED PUBLIC EXPENDITURES ON BEHALF OF
43 MEDICAL ASSISTANCE RECIPIENTS WHOSE ASSISTANCE AND CARE ARE THE RESPON-
44 SIBILITY OF A SOCIAL SERVICES DISTRICT IN A CITY WITH A POPULATION OF
45 OVER TWO MILLION, RESULTS IN A DECREASE IN THE STATE SHARE OF ANNUAL
46 EXPENDITURES PURSUANT TO THIS SECTION FOR SUCH RECIPIENTS, THEN TO THE
47 EXTENT THAT THE AMOUNT OF ANY SUCH DECREASE WHEN COMBINED WITH ANY
48 DECREASE IN THE STATE SHARE OF ANNUAL EXPENDITURES DESCRIBED IN SUBDIVI-
49 SION SIX OF SECTION THREE HUNDRED SIXTY-EIGHT-D OF THIS TITLE EXCEEDS
50 FIFTY MILLION DOLLARS, THE EXCESS AMOUNT SHALL BE TRANSFERRED TO SUCH
51 CITY. ANY SUCH EXCESS AMOUNT TRANSFERRED SHALL NOT BE CONSIDERED A
52 REVENUE RECEIVED BY SUCH SOCIAL SERVICES DISTRICT IN DETERMINING THE
53 DISTRICT'S ACTUAL MEDICAL ASSISTANCE EXPENDITURES FOR PURPOSES OF PARA-
54 GRAPH (B) OF SECTION ONE OF PART C OF CHAPTER FIFTY-EIGHT OF THE LAWS OF
55 TWO THOUSAND FIVE.

1 S 8. Paragraph d of subdivision 20 of section 2808 of the public
2 health law is REPEALED and a new paragraph d is added to read as
3 follows:

4 D. NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW, RULE OR REGULATION,
5 FOR RATE PERIODS ON AND AFTER APRIL FIRST, TWO THOUSAND ELEVEN, THE
6 COMMISSIONER MAY REDUCE OR ELIMINATE THE PAYMENT FACTOR FOR RETURN ON OR
7 RETURN OF EQUITY IN THE CAPITAL COST COMPONENT OF MEDICAID RATES OF
8 PAYMENT FOR SERVICES PROVIDED BY RESIDENTIAL HEALTH CARE FACILITIES.

9 S 9. Paragraph (b) of subdivision 11 of section 272 of the public
10 health law, as added by section 36 of part C of chapter 58 of the laws
11 of 2009, is amended to read as follows:

12 (b) The commissioner may designate a pharmaceutical manufacturer as
13 one with whom the commissioner is negotiating or has negotiated a
14 manufacturer agreement, and all of the drugs it manufactures or markets
15 shall be included in the preferred drug program. The commissioner may
16 negotiate directly with a pharmaceutical manufacturer for rebates relat-
17 ing to any or all of the drugs it manufactures or markets. A manufactur-
18 er agreement shall designate any or all of the drugs manufactured or
19 marketed by the pharmaceutical manufacturer as being preferred or non
20 preferred drugs. When a pharmaceutical manufacturer has been designated
21 by the commissioner under this paragraph but THE COMMISSIONER has not
22 reached a manufacturer agreement with the pharmaceutical manufacturer,
23 then THE COMMISSIONER MAY DESIGNATE SOME OR all of the drugs manufac-
24 tured or marketed by the pharmaceutical manufacturer [shall be] AS non
25 preferred drugs. However, notwithstanding this paragraph, any drug that
26 is selected to be on the preferred drug list under paragraph (b) of
27 subdivision ten of this section on grounds that it is significantly more
28 clinically effective and safer than other drugs in its therapeutic class
29 shall be a preferred drug.

30 S 10. Subparagraphs (i) and (ii) of paragraph (b) of subdivision 9 of
31 section 367-a of the social services law, subparagraph (i) as amended by
32 section 10 and subparagraph (ii) as amended by section 4 of part C of
33 chapter 58 of the laws of 2008, are amended to read as follows:

34 (i) if the drug dispensed is a multiple source prescription drug for
35 which an upper limit has been set by the federal centers for medicare
36 and medicaid services, the lower of: (A) an amount equal to the specific
37 upper limit set by such federal agency for the multiple source
38 prescription drug; (B) the estimated acquisition cost of such drug to
39 pharmacies which, for purposes of this subparagraph, shall mean the
40 average wholesale price of a prescription drug based on the package size
41 dispensed from, as reported by the prescription drug pricing service
42 used by the department, less twenty-five percent thereof; (C) the maxi-
43 mum acquisition cost, if any, established pursuant to paragraph (e) of
44 this subdivision; [or] (D) the dispensing pharmacy's usual and customary
45 price charged to the general public[,]; OR (E) THE AVERAGE ACQUISITION
46 COST IF AVAILABLE; and

47 (ii) if the drug dispensed is a multiple source prescription drug or a
48 brand-name prescription drug for which no specific upper limit has been
49 set by such federal agency, the lower of the estimated acquisition cost
50 of such drug to pharmacies, THE AVERAGE ACQUISITION COST IF AVAILABLE or
51 the dispensing pharmacy's usual and customary price charged to the
52 general public. For sole and multiple source brand name drugs, estimated
53 acquisition cost means the average wholesale price of a prescription
54 drug based upon the package size dispensed from, as reported by the
55 prescription drug pricing service used by the department, less [sixteen
56 and twenty-five one hundredths] SEVENTEEN percent thereof OR THE WHOLE-

1 SALE ACQUISITION COST OF A PRESCRIPTION DRUG BASED UPON PACKAGE SIZE
2 DISPENSED FROM, AS REPORTED BY THE PRESCRIPTION DRUG PRICING SERVICE
3 USED BY THE DEPARTMENT, MINUS ZERO AND FORTY-ONE HUNDREDTHS PERCENT
4 THEREOF, and updated monthly by the department[; or, for a specialized
5 HIV pharmacy, as defined in paragraph (f) of this subdivision, acqui-
6 sition cost means the average wholesale price of a prescription drug based
7 upon the package size dispensed from, as reported by the prescription
8 drug pricing service used by the department, less twelve percent there-
9 of, and updated monthly by the department]. For multiple source generic
10 drugs, estimated acquisition cost means the lower of THE AVERAGE ACQUI-
11 SITION COST, the average wholesale price of a prescription drug based on
12 the package size dispensed from, as reported by the prescription drug
13 pricing service used by the department, less twenty-five percent there-
14 of, or the maximum acquisition cost, if any, established pursuant to
15 paragraph (e) of this subdivision[; or, for a specialized HIV pharmacy,
16 as defined in paragraph (f) of this subdivision, acquisition cost means
17 the lower of the average wholesale price of a prescription drug based on
18 the package size dispensed from, as reported by the prescription drug
19 pricing service used by the department, less twelve percent thereof, or
20 the maximum acquisition cost, if any, established pursuant to paragraph
21 (e) of this subdivision].

22 S 10-a. Subparagraph (i) of paragraph (d) of subdivision 9 of section
23 367-a of the social services law, as amended by chapter 19 of the laws
24 of 1998, is amended to read as follows:

25 (i) for prescription drugs categorized as generic by the prescription
26 drug pricing service used by the department, [four] THREE dollars and
27 fifty cents per prescription; and

28 S 10-b. Paragraph (f) of subdivision 9 of section 367-a of the social
29 services law is REPEALED and a new paragraph (f) is added to read as
30 follows:

31 (F) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW OR REGULATION TO
32 THE CONTRARY, THE COMMISSIONER SHALL HAVE THE AUTHORITY TO ESTABLISH THE
33 AMOUNT OF PAYMENTS AND DISPENSING FEES UNDER THIS TITLE FOR THOSE DRUGS
34 WHICH MAY NOT BE DISPENSED WITHOUT A PRESCRIPTION AS REQUIRED BY SECTION
35 SIXTY-EIGHT HUNDRED TEN OF THE EDUCATION LAW AND FOR WHICH PAYMENT IS
36 AUTHORIZED PURSUANT TO PARAGRAPH (G) OF SUBDIVISION TWO OF SECTION THREE
37 HUNDRED SIXTY-FIVE-A OF THIS TITLE. THE COMMISSIONER SHALL NOT CHANGE
38 THE AMOUNTS OF OR METHOD FOR SUCH PAYMENTS OR DISPENSING FEES ON OR
39 AFTER APRIL FIRST, TWO THOUSAND ELEVEN UNLESS NOTICE IS GIVEN SIXTY DAYS
40 IN ADVANCE OF SUCH CHANGE TO THE CHAIRS OF THE COMMITTEES ON SENATE
41 FINANCE, ASSEMBLY WAYS AND MEANS, SENATE HEALTH, AND ASSEMBLY HEALTH.

42 S 11. Subdivision 1 of section 3-d of part B of chapter 58 of the laws
43 of 2010 amending the public health law and other laws relating to Medi-
44 caid payments, is amended to read as follows:

45 1. Notwithstanding any provision of law, rule or regulation to the
46 contrary, and subject to the availability of federal financial partic-
47 ipation, for periods on and after April 1, 2010, payments made to
48 managed care providers sponsored by a public benefit corporation located
49 in a city of more than one million persons which provide coverage prima-
50 rily to Medicaid patients in accordance with sections 364-j and 369-ee
51 of the social services law may, at the election of the social services
52 district, be increased up to an annual aggregate amount of two hundred
53 million dollars; provided, however that, notwithstanding the social
54 services district Medicaid cap provisions of part C of chapter 58 of the
55 laws of 2005, such social services district shall be responsible for
56 payment of one hundred percent of the non-federal share of such

1 increase, and provided further, however, that such payment increases
2 shall not be applied to payments related to the Medicaid advantage
3 program [or the HIV special needs plan]. Social services district fund-
4 ing of the non-federal share of any such payments shall be deemed to be
5 voluntary for purposes of the increased federal medical assistance
6 percentage provisions of the American Recovery and Reinvestment Act of
7 2009; provided however that, in the event the federal Centers for Medi-
8 care and Medicaid Services determines that such non-federal share
9 payments are not voluntary payments for purposes of such Act, the
10 provisions of this section shall be null and void.

11 S 12. Intentionally omitted.

12 S 13. Subdivision 1 of section 271 of the public health law, as added
13 by section 10 of part C of chapter 58 of the laws of 2005, is amended to
14 read as follows:

15 1. There is hereby established in the department a pharmacy and thera-
16 peutics committee. The committee shall consist of [seventeen] EIGHTEEN
17 members, who shall be appointed by the commissioner and who shall serve
18 three year terms; except that for the initial appointments to the
19 committee, five members shall serve one year terms, seven shall serve
20 two year terms, and five shall serve three year terms. Committee members
21 may be reappointed upon the completion of their terms. [No] WITH THE
22 EXCEPTION OF THE CHAIRPERSON, NO member of the committee shall be an
23 employee of the state or any subdivision of the state, other than for
24 his or her membership on the committee, except for employees of health
25 care facilities or universities operated by the state, a public benefit
26 corporation, the State University of New York or municipalities.

27 S 14. Paragraphs (d) and (e) of subdivision 2 of section 271 of the
28 public health law, as added by section 10 of part C of chapter 58 of the
29 laws of 2005, are amended, and a new paragraph (f) is added to read as
30 follows:

31 (d) one person with expertise in drug utilization review who is either
32 a health care professional licensed under title eight of the education
33 law, is a pharmacologist or has a doctorate in pharmacology; [and]

34 (e) three persons who shall be consumers or representatives of organ-
35 izations with a regional or statewide constituency and who have been
36 involved in activities related to health care consumer advocacy, includ-
37 ing issues affecting Medicaid or EPIC recipients[.]; AND

38 (F) A CHAIRPERSON DESIGNATED PURSUANT TO SUBDIVISION FOUR OF THIS
39 SECTION.

40 S 15. Subdivision 4 of section 271 of the public health law is
41 REPEALED and a new subdivision 4 is added to read as follows:

42 4. THE COMMISSIONER SHALL DESIGNATE A MEMBER OF THE DEPARTMENT TO
43 SERVE AS CHAIRPERSON OF THE COMMITTEE.

44 S 16. Intentionally omitted.

45 S 17. Subdivision 10 of section 272 of the public health law is
46 amended by adding a new paragraph (d) to read as follows:

47 (D) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, THE
48 COMMISSIONER MAY DESIGNATE THERAPEUTIC CLASSES OF DRUGS, INCLUDING
49 CLASSES WITH ONLY ONE DRUG, AS ALL PREFERRED PRIOR TO ANY REVIEW THAT
50 MAY BE CONDUCTED BY THE COMMITTEE PURSUANT TO THIS SECTION.

51 S 18. Intentionally omitted.

52 S 19. Subdivision 4 of section 364-j of the social services law is
53 amended by adding a new paragraph (u) to read as follows:

54 (U) A MANAGED CARE PROVIDER THAT PROVIDES COVERAGE FOR PRESCRIPTION
55 DRUGS SHALL PERMIT EACH PARTICIPANT TO FILL ANY MAIL ORDER COVERED
56 PRESCRIPTION, AT HIS OR HER OPTION, AT ANY MAIL ORDER PHARMACY OR

1 NON-MAIL-ORDER RETAIL PHARMACY IN THE MANAGED CARE PROVIDER NETWORK, IF
2 THE NON-MAIL-ORDER RETAIL PHARMACY OFFERS TO ACCEPT A PRICE THAT IS
3 COMPARABLE TO THAT OF THE MAIL ORDER PHARMACY.

4 S 20. Paragraph (g) of subdivision 4 of section 365-a of the social
5 services law, as amended by section 61 of part C of chapter 58 of the
6 laws of 2007, is amended to read as follows:

7 (g) for eligible persons who are also beneficiaries under part D of
8 title XVIII of the federal social security act, drugs which are denomi-
9 nated as "covered part D drugs" under section 1860D-2(e) of such act[;
10 provided however that, for purposes of this paragraph, "covered part D
11 drugs" shall not mean atypical anti-psychotics, anti-depressants, anti-
12 retrovirals used in the treatment of HIV/AIDS, or anti-rejection drugs
13 used for the treatment of organ and tissue transplants].

14 S 21. Subdivision 12 of section 272 of the public health law is
15 REPEALED.

16 S 22. Paragraph (c) of subdivision 8 of section 2807 of the public
17 health law, as added by section 28 of part B of chapter 1 of the laws of
18 2002, is amended to read as follows:

19 (c) Rates of payments to facilities which first qualify as federally
20 qualified health centers or rural health centers on or after October
21 first, two thousand shall be computed in accordance with the provisions
22 of paragraph (b) of subdivision two of this section, provided, however,
23 that the operating cost component of such rates shall reflect an average
24 of the operating cost component of rates of payments issued to other
25 facilities subject to this subdivision during the same rate period,
26 located in the same geographic region and with a similar case load, and
27 further provided that the capital cost component of such rates shall
28 reflect the most recently available capital cost data as reported to the
29 department. For each twelve month period following the rate period in
30 which such facilities commence operation, the operating cost component
31 of rates of payment for such facilities shall be computed in accordance
32 with paragraph (b) of this subdivision. IN CALCULATING THE OPERATING
33 COST COMPONENT OF SUCH RATES FOR FACILITIES WHICH FIRST QUALIFY AS
34 FEDERALLY QUALIFIED HEALTH CARE CENTERS ON OR AFTER OCTOBER FIRST, TWO
35 THOUSAND, THE COUNTIES COMPRISING THE GEOGRAPHIC REGION KNOWN AS DOWN-
36 STATE SHALL BE THE SAME AS THE COUNTIES COMPRISING THE DOWNSTATE REGION
37 FOR PURPOSES OF REIMBURSING DIAGNOSTIC AND TREATMENT CENTERS UNDER AMBU-
38 LATORY PATIENT GROUPS, WHICH COUNTIES ARE SPECIFIED IN THE REGULATIONS
39 ADOPTED BY THE COMMISSIONER IMPLEMENTING SECTION 18 OF PART C OF CHAPTER
40 FIFTY-EIGHT OF THE LAWS OF TWO THOUSAND EIGHT.

41 S 23. Paragraph (g) of subdivision 2 of section 365-a of the social
42 services law, as amended by section 1 of part F of chapter 497 of the
43 laws of 2008, is amended to read as follows:

44 (g) sickroom supplies, eyeglasses, prosthetic appliances and dental
45 prosthetic appliances furnished in accordance with the regulations of
46 the department[,]; provided FURTHER that: (I) the commissioner of health
47 is authorized to implement a preferred diabetic supply program wherein
48 the department of health will receive enhanced rebates from preferred
49 manufacturers of glucometers and test strips, and may subject non-pre-
50 ferred manufacturers' glucometers and test strips to prior authorization
51 under section two hundred seventy-three of the public health law; (II)
52 ENTERAL FORMULA THERAPY AND NUTRITIONAL SUPPLEMENTS ARE LIMITED TO
53 COVERAGE ONLY FOR NASOGASTRIC, JEJUNOSTOMY, OR GASTROSTOMY TUBE FEEDING
54 OR FOR TREATMENT OF AN INBORN METABOLIC DISORDER, OR TO ADDRESS GROWTH
55 AND DEVELOPMENT PROBLEMS IN CHILDREN; (III) PRESCRIPTION FOOTWEAR AND
56 INSERTS ARE LIMITED TO COVERAGE ONLY WHEN USED AS AN INTEGRAL PART OF A

1 LOWER LIMB ORTHOTIC APPLIANCE, AS PART OF A DIABETIC TREATMENT PLAN, OR
2 TO ADDRESS GROWTH AND DEVELOPMENT PROBLEMS IN CHILDREN; AND (IV)
3 COMPRESSION AND SUPPORT STOCKINGS ARE LIMITED TO COVERAGE ONLY FOR PREG-
4 NANCY OR TREATMENT OF VENOUS STASIS ULCERS;

5 (G-1) drugs provided on an in-patient basis, those drugs contained on
6 the list established by regulation of the commissioner of health pursu-
7 ant to subdivision four of this section, and those drugs which may not
8 be dispensed without a prescription as required by section sixty-eight
9 hundred ten of the education law and which the commissioner of health
10 shall determine to be reimbursable based upon such factors as the avail-
11 ability of such drugs or alternatives at low cost if purchased by a
12 medicaid recipient, or the essential nature of such drugs as described
13 by such commissioner in regulations, provided, however, that such drugs,
14 exclusive of long-term maintenance drugs, shall be dispensed in quanti-
15 ties no greater than a thirty day supply or one hundred doses, whichever
16 is greater; provided further that the commissioner of health is author-
17 ized to require prior authorization for any refill of a prescription
18 when less than seventy-five percent of the previously dispensed amount
19 per fill should have been used were the product used as normally indi-
20 cated; PROVIDED FURTHER THAT THE COMMISSIONER OF HEALTH IS AUTHORIZED TO
21 REQUIRE PRIOR AUTHORIZATION OF PRESCRIPTIONS OF OPIOID ANALGESICS IN
22 EXCESS OF FOUR PRESCRIPTIONS IN A THIRTY-DAY PERIOD IN ACCORDANCE WITH
23 SECTION TWO HUNDRED SEVENTY-THREE OF THE PUBLIC HEALTH LAW; medical
24 assistance shall not include any drug provided on other than an in-pa-
25 tient basis for which a recipient is charged or a claim is made in the
26 case of a prescription drug, in excess of the maximum reimbursable
27 amounts to be established by department regulations in accordance with
28 standards established by the secretary of the United States department
29 of health and human services, or, in the case of a drug not requiring a
30 prescription, in excess of the maximum reimbursable amount established
31 by the commissioner of health pursuant to paragraph (a) of subdivision
32 four of this section;

33 S 24. Intentionally omitted.

34 S 25. Section 367-w of the social services law is REPEALED.

35 S 26. Notwithstanding any provision of law to the contrary and subject
36 to the availability of federal financial participation, for periods on
37 and after April 1, 2011, clinics certified pursuant to articles 16, 31
38 or 32 of the mental hygiene law shall be subject to targeted Medicaid
39 reimbursement rate reductions in accordance with the provisions of this
40 section. Such reductions shall be based on utilization thresholds which
41 may be established either as provider-specific or patient-specific
42 thresholds. Provider-specific thresholds shall be based on average
43 patient utilization for a given provider in comparison to a peer based
44 standard to be determined for each service. The commissioners of the
45 office of mental health, the office for persons with developmental disa-
46 bilities, and the office of alcoholism and substance abuse services, in
47 consultation with the commissioner of health, are authorized to waive
48 utilization thresholds for patients of clinics certified pursuant to
49 article 16, 31, or 32 of the mental hygiene law who are enrolled in
50 specific treatment programs or otherwise meet criteria as may be speci-
51 fied by such commissioners. When applying a provider-specific thresh-
52 old, rates will be reduced on a prospective basis based on the amount
53 any provider is over the determined threshold level. Patient-specific
54 thresholds will be based on annual thresholds determined for each
55 service over which the per visit payment for each visit in excess of the
56 standard during a twelve month period shall be reduced by a pre-deter-

1 mined amount. The thresholds, peer based standards and the payment
2 reductions shall be determined by the department of health, with the
3 approval of the division of the budget, and in consultation with the
4 office of mental health, the office for people with developmental disa-
5 bilities and the office of alcoholism and substance abuse services, and
6 any such resulting rates shall be subject to certification by the appro-
7 priate commissioners pursuant to subdivision (a) of section 43.02 of the
8 mental hygiene law. The base period used to establish the thresholds
9 shall be the 2009 calendar year. The total annualized reduction in
10 payments shall be not more than \$10,900,000 for Article 31 clinics, not
11 more than \$2,400,000 for Article 16 clinics, and not more than
12 \$13,250,000 for Article 32 clinics. The commissioner of health may
13 promulgate regulations to implement the provisions of this section.

14 S 27. Paragraph (h) of subdivision 2 of section 365-a of the social
15 services law, as amended by chapter 444 of the laws of 1979 and as
16 relettered by chapter 478 of the laws of 1980, is amended to read as
17 follows:

18 (h) SPEECH THERAPY, AND WHEN PROVIDED AT THE DIRECTION OF A PHYSICIAN
19 OR NURSE PRACTITIONER, physical therapy [and relative] INCLUDING RELATED
20 rehabilitative services [when provided at the direction of a physician]
21 AND OCCUPATIONAL THERAPY; PROVIDED, HOWEVER, THAT SPEECH THERAPY, PHYS-
22 ICAL THERAPY AND OCCUPATIONAL THERAPY EACH SHALL BE LIMITED TO COVERAGE
23 OF TWENTY VISITS PER YEAR; SUCH LIMITATION SHALL NOT APPLY TO PERSONS
24 WITH DEVELOPMENTAL DISABILITIES;

25 S 28. Section 3614 of the public health law is amended by adding a new
26 subdivision 2-a to read as follows:

27 2-A. NOTWITHSTANDING ANY CONTRARY LAW, RULE OR REGULATION, FOR RATE
28 PERIODS ON AND AFTER APRIL FIRST, TWO THOUSAND ELEVEN, MEDICAID RATES OF
29 PAYMENTS FOR SERVICES PROVIDED BY CERTIFIED HOME HEALTH AGENCIES, BY
30 LONG TERM HOME HEALTH CARE PROGRAMS OR BY AN AIDS HOME CARE PROGRAM
31 SHALL NOT REFLECT A SEPARATE PAYMENT FOR HOME CARE NURSING SERVICES
32 PROVIDED TO PATIENTS DIAGNOSED WITH ACQUIRED IMMUNE DEFICIENCY SYNDROME
33 (AIDS).

34 S 29. Intentionally omitted.

35 S 30. Subparagraphs (x), (xi), (xii), (xiii) and (xiv) of paragraph
36 (a) of subdivision 7 of section 2807-s of the public health law, as
37 amended by section 100 of part C of chapter 58 of the laws of 2009, are
38 amended to read as follows:

39 (x) forty-seven million two hundred ten thousand dollars on an annual
40 basis for the periods January first, two thousand nine through December
41 thirty-first, two thousand ten; [and]

42 (xi) eleven million eight hundred thousand dollars for the period
43 January first, two thousand eleven through March thirty-first, two thou-
44 sand eleven;

45 (xii) TWENTY-THREE MILLION EIGHT HUNDRED THIRTY-SIX THOUSAND DOLLARS
46 FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH
47 THIRTY-FIRST, TWO THOUSAND TWELVE;

48 (XIII) TWENTY-THREE MILLION EIGHT HUNDRED THIRTY-SIX THOUSAND DOLLARS
49 EACH STATE FISCAL YEAR FOR THE PERIOD APRIL FIRST, TWO THOUSAND TWELVE
50 THROUGH MARCH THIRTY-FIRST, TWO THOUSAND FOURTEEN;

51 (XIV) provided, however, for periods prior to January first, two thou-
52 sand nine, amounts set forth in this paragraph may be reduced by the
53 commissioner in an amount to be approved by the director of the budget
54 to reflect the amount received from the federal government under the
55 state's 1115 waiver which is directed under its terms and conditions to

1 the graduate medical education program established pursuant to section
2 twenty-eight hundred seven-m of this article;

3 [(xiii)] (XV) provided further, however, for periods prior to July
4 first, two thousand nine, amounts set forth in this paragraph shall be
5 reduced by an amount equal to the total actual distribution reductions
6 for all facilities pursuant to paragraph (e) of subdivision three of
7 section twenty-eight hundred seven-m of this article; and

8 [(xiv)] (XVI) provided further, however, for periods prior to July
9 first, two thousand nine, amounts set forth in this paragraph shall be
10 reduced by an amount equal to the actual distribution reductions for all
11 facilities pursuant to paragraph (s) of subdivision one of section twen-
12 ty-eight hundred seven-m of this article.

13 S 31. Paragraph (s) of subdivision 2 of section 365-a of the social
14 services law, as amended by section 46 of part B of chapter 58 of the
15 laws of 2010, is amended to read as follows:

16 (s) smoking cessation counseling services [for pregnant women on any
17 day of pregnancy through the end of the month in which the one hundred
18 eightieth day following the end of the pregnancy occurs, and children
19 and adolescents ten to twenty years of age, during a medical visit when
20 provided by a general hospital outpatient department or a free-standing
21 clinic, or by a physician, registered physician's assistant, registered
22 nurse practitioner or licensed midwife in office-based settings];
23 provided, however, that the provisions of this paragraph [relating to
24 smoking cessation counseling services] shall not take effect unless all
25 necessary approvals under federal law and regulation have been obtained
26 to receive federal financial participation in the costs of such
27 services.

28 S 32. Subparagraph (i) of paragraph (b-1) of subdivision 1 of section
29 2807-c of the public health law, as amended by section 10 of part C of
30 chapter 58 of the laws of 2010, is amended to read as follows:

31 (i) For patients discharged on and after January first, nineteen
32 hundred ninety-seven and prior to January first, two thousand and on and
33 after January first, two thousand, payments to general hospitals for
34 reimbursement of inpatient hospital services provided to patients eligi-
35 ble for payments pursuant to the workers' compensation law, the volun-
36 teer firefighters' benefit law, the volunteer ambulance workers' benefit
37 law, and the comprehensive motor vehicle insurance reparations act shall
38 be at the rates of payment determined pursuant to this section for state
39 governmental agencies, excluding adjustments pursuant to subdivision
40 fourteen-f of this section and subdivision thirty-three of this section
41 [and], excluding such further reductions to such payments as are enacted
42 as part of the state budget for the state fiscal year commencing April
43 first, two thousand ten AND EXCLUDING SUCH FURTHER REDUCTIONS TO SUCH
44 PAYMENTS AS ARE ENACTED AS PART OF THE STATE BUDGET FOR STATE FISCAL
45 YEARS COMMENCING ON AND AFTER APRIL FIRST, TWO THOUSAND ELEVEN.

46 S 33. The public health law is amended by adding a new section 3614-c
47 to read as follows:

48 S 3614-C. HOME CARE WORKER WAGE PARITY. 1. AS USED IN THIS SECTION,
49 THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANING:

50 (A) "LIVING WAGE LAW" MEANS ANY LAW ENACTED BY NASSAU, SUFFOLK OR
51 WESTCHESTER COUNTY OR A CITY WITH A POPULATION OF ONE MILLION OR MORE
52 WHICH ESTABLISHES A MINIMUM WAGE FOR SOME OR ALL EMPLOYEES WHO PERFORM
53 WORK ON CONTRACTS WITH SUCH COUNTY OR CITY.

54 (B) "TOTAL COMPENSATION" MEANS ALL WAGES AND OTHER DIRECT COMPENSATION
55 PAID TO OR PROVIDED ON BEHALF OF THE EMPLOYEE INCLUDING, BUT NOT LIMITED
56 TO, WAGES, HEALTH, EDUCATION OR PENSION BENEFITS, SUPPLEMENTS IN LIEU OF

1 BENEFITS AND COMPENSATED TIME OFF, EXCEPT THAT IT DOES NOT INCLUDE
2 EMPLOYER TAXES OR EMPLOYER PORTION OF PAYMENTS FOR STATUTORY BENEFITS,
3 INCLUDING BUT NOT LIMITED TO FICA, DISABILITY INSURANCE, UNEMPLOYMENT
4 INSURANCE AND WORKERS' COMPENSATION.

5 (C) "PREVAILING RATE OF TOTAL COMPENSATION" MEANS THE AVERAGE HOURLY
6 AMOUNT OF TOTAL COMPENSATION PAID TO ALL HOME CARE AIDES COVERED BY
7 WHATEVER COLLECTIVELY BARGAINED AGREEMENT COVERS THE GREATEST NUMBER OF
8 HOME CARE AIDES IN A CITY WITH A POPULATION OF ONE MILLION OR MORE. FOR
9 PURPOSES OF THIS DEFINITION, ANY SET OF COLLECTIVELY BARGAINED AGREE-
10 MENTS IN SUCH CITY WITH SUBSTANTIALLY THE SAME TERMS AND CONDITIONS
11 RELATING TO TOTAL COMPENSATION SHALL BE CONSIDERED AS A SINGLE COLLEC-
12 TIVELY BARGAINED AGREEMENT.

13 (D) "HOME CARE AIDE" MEANS A HOME HEALTH AIDE, PERSONAL CARE AIDE,
14 HOME ATTENDANT OR OTHER LICENSED OR UNLICENSED PERSON WHOSE PRIMARY
15 RESPONSIBILITY INCLUDES THE PROVISION OF IN-HOME ASSISTANCE WITH ACTIV-
16 ITIES OF DAILY LIVING, INSTRUMENTAL ACTIVITIES OF DAILY LIVING OR
17 HEALTH-RELATED TASKS; PROVIDED, HOWEVER, THAT HOME CARE AIDE DOES NOT
18 INCLUDE ANY INDIVIDUAL (I) WORKING ON A CASUAL BASIS, OR (II) WHO IS A
19 RELATIVE THROUGH BLOOD, MARRIAGE OR ADOPTION OF: (1) THE EMPLOYER; OR
20 (2) THE PERSON FOR WHOM THE WORKER IS DELIVERING SERVICES, UNDER A
21 PROGRAM FUNDED OR ADMINISTERED BY FEDERAL, STATE OR LOCAL GOVERNMENT.

22 (E) "MANAGED CARE PLAN" MEANS ANY MANAGED CARE PROGRAM, ORGANIZATION
23 OR DEMONSTRATION COVERING PERSONAL CARE OR HOME HEALTH AIDE SERVICES,
24 AND WHICH RECEIVES PREMIUMS FUNDED, IN WHOLE OR IN PART, BY THE NEW YORK
25 STATE MEDICAL ASSISTANCE PROGRAM, INCLUDING BUT NOT LIMITED TO ALL MEDI-
26 CAID MANAGED CARE, MEDICAID MANAGED LONG TERM CARE, MEDICAID ADVANTAGE,
27 AND MEDICAID ADVANTAGE PLUS PLANS AND ALL PROGRAMS OF ALL-INCLUSIVE CARE
28 FOR THE ELDERLY.

29 (F) "EPISODE OF CARE" MEANS ANY SERVICE UNIT REIMBURSED, IN WHOLE OR
30 IN PART, BY THE NEW YORK STATE MEDICAL ASSISTANCE PROGRAM, WHETHER
31 THROUGH DIRECT REIMBURSEMENT OR COVERED BY A PREMIUM PAYMENT, AND WHICH
32 COVERS, IN WHOLE OR IN PART, ANY SERVICE PROVIDED BY A HOME CARE AIDE,
33 INCLUDING BUT NOT LIMITED TO ALL SERVICE UNITS DEFINED AS VISITS, HOURS,
34 DAYS, MONTHS OR EPISODES.

35 2. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, RULE OR REGU-
36 LATION, NO PAYMENTS BY GOVERNMENT AGENCIES SHALL BE MADE TO CERTIFIED
37 HOME HEALTH AGENCIES, LONG TERM HOME HEALTH CARE PROGRAMS OR MANAGED
38 CARE PLANS FOR ANY EPISODE OF CARE FURNISHED, IN WHOLE OR IN PART, BY
39 ANY HOME CARE AIDE WHO IS COMPENSATED AT AMOUNTS LESS THAN THE APPLICA-
40 BLE MINIMUM RATE OF HOME CARE AIDE TOTAL COMPENSATION ESTABLISHED PURSU-
41 ANT TO THIS SECTION.

42 3. (A) THE MINIMUM RATE OF HOME CARE AIDE TOTAL COMPENSATION IN A CITY
43 WITH A POPULATION OF ONE MILLION OR MORE SHALL BE:

44 (I) FOR THE PERIOD MARCH FIRST, TWO THOUSAND TWELVE THROUGH FEBRUARY
45 TWENTY-EIGHTH, TWO THOUSAND THIRTEEN, NINETY PERCENT OF THE TOTAL
46 COMPENSATION MANDATED BY THE LIVING WAGE LAW OF SUCH CITY;

47 (II) FOR THE PERIOD MARCH FIRST, TWO THOUSAND THIRTEEN THROUGH FEBRU-
48 ARY TWENTY-EIGHTH, TWO THOUSAND FOURTEEN, NINETY-FIVE PERCENT OF THE
49 TOTAL COMPENSATION MANDATED BY THE LIVING WAGE LAW OF SUCH CITY;

50 (III) FOR ALL PERIODS ON AND AFTER MARCH FIRST, TWO THOUSAND FOURTEEN,
51 NO LESS THAN THE PREVAILING RATE OF TOTAL COMPENSATION AS OF JANUARY
52 FIRST, TWO THOUSAND ELEVEN, OR THE TOTAL COMPENSATION MANDATED BY THE
53 LIVING WAGE LAW OF SUCH CITY, WHICHEVER IS GREATER.

54 (B) THE MINIMUM RATE OF HOME CARE AIDE TOTAL COMPENSATION IN THE COUN-
55 TIES OF NASSAU, SUFFOLK AND WESTCHESTER SHALL BE:

1 (I) FOR THE PERIOD MARCH FIRST, TWO THOUSAND THIRTEEN THROUGH FEBRUARY
2 TWENTY-EIGHTH, TWO THOUSAND FOURTEEN, NINETY PERCENT OF THE TOTAL
3 COMPENSATION MANDATED BY THE LIVING WAGE LAW AS SET ON MARCH FIRST, TWO
4 THOUSAND THIRTEEN OF A CITY WITH A POPULATION OF A MILLION OR MORE;

5 (II) FOR THE PERIOD MARCH FIRST, TWO THOUSAND FOURTEEN THROUGH FEBRU-
6 ARY TWENTY-EIGHTH, TWO THOUSAND FIFTEEN, NINETY-FIVE PERCENT OF THE
7 TOTAL COMPENSATION MANDATED BY THE LIVING WAGE LAW AS SET ON MARCH
8 FIRST, TWO THOUSAND FOURTEEN OF A CITY WITH A POPULATION OF A MILLION OR
9 MORE;

10 (III) FOR THE PERIOD MARCH FIRST, TWO THOUSAND FIFTEEN, THROUGH FEBRU-
11 ARY TWENTY-EIGHTH, TWO THOUSAND SIXTEEN, ONE HUNDRED PERCENT OF THE
12 TOTAL COMPENSATION MANDATED BY THE LIVING WAGE LAW AS SET ON MARCH
13 FIRST, TWO THOUSAND FIFTEEN OF A CITY WITH A POPULATION OF A MILLION OR
14 MORE;

15 (IV) FOR ALL PERIODS ON OR AFTER MARCH FIRST, TWO THOUSAND SIXTEEN,
16 THE LESSER OF (I) ONE HUNDRED AND FIFTEEN PERCENT OF THE TOTAL COMPEN-
17 SATION MANDATED BY THE LIVING WAGE LAW AS SET ON MARCH FIRST OF EACH
18 SUCCEEDING YEAR OF A CITY WITH A POPULATION OF ONE MILLION OR MORE OR;

19 (II) THE TOTAL COMPENSATION MANDATED BY THE LIVING WAGE LAW OF NASSAU,
20 SUFFOLK OR WESTCHESTER COUNTY, BASED ON THE LOCATION OF THE EPISODE OF
21 CARE

22 4. ANY PORTION OF THE MINIMUM RATE OF HOME CARE AIDE TOTAL COMPEN-
23 SATION ATTRIBUTABLE TO HEALTH BENEFIT COSTS OR PAYMENTS IN LIEU OF
24 HEALTH BENEFITS, AND PAID TIME OFF, AS ESTABLISHED PURSUANT TO SUBDIVI-
25 SION THREE OF THIS SECTION SHALL BE SUPERSEDED BY THE TERMS OF ANY
26 EMPLOYER BONA FIDE COLLECTIVE BARGAINING AGREEMENT IN EFFECT AS OF JANU-
27 ARY FIRST, TWO THOUSAND ELEVEN, OR A SUCCESSOR TO SUCH AGREEMENT, WHICH
28 PROVIDES FOR HOME CARE AIDES' HEALTH BENEFITS THROUGH PAYMENTS TO JOINT-
29 LY ADMINISTERED LABOR-MANAGEMENT FUNDS.

30 5. THE TERMS OF THIS SECTION SHALL APPLY EQUALLY TO SERVICES PROVIDED
31 BY HOME CARE AIDES WHO WORK ON EPISODES OF CARE AS DIRECT EMPLOYEES OF
32 CERTIFIED HOME HEALTH AGENCIES, LONG TERM HOME HEALTH CARE PROGRAMS, OR
33 MANAGED CARE PLANS, OR AS EMPLOYEES OF LICENSED HOME CARE SERVICES AGEN-
34 CIES, LIMITED LICENSED HOME CARE SERVICES AGENCIES, OR UNDER ANY OTHER
35 ARRANGEMENT.

36 6. NO PAYMENTS BY GOVERNMENT AGENCIES SHALL BE MADE TO CERTIFIED HOME
37 HEALTH AGENCIES, LONG TERM HOME HEALTH CARE PROGRAMS, OR MANAGED CARE
38 PLANS FOR ANY EPISODE OF CARE WITHOUT THE CERTIFIED HOME HEALTH AGENCY,
39 LONG TERM HOME HEALTH CARE PROGRAM, OR MANAGED CARE PLAN HAVING DELIV-
40 ERED PRIOR WRITTEN CERTIFICATION TO THE COMMISSIONER, ON FORMS PREPARED
41 BY THE DEPARTMENT IN CONSULTATION WITH THE DEPARTMENT OF LABOR, THAT ALL
42 SERVICES PROVIDED UNDER EACH EPISODE OF CARE ARE IN FULL COMPLIANCE WITH
43 THE TERMS OF THIS SECTION AND ANY REGULATIONS PROMULGATED PURSUANT TO
44 THIS SECTION.

45 7. IF A CERTIFIED HOME HEALTH AGENCY OR LONG TERM HOME HEALTH CARE
46 PROGRAM ELECTS TO PROVIDE HOME CARE AIDE SERVICES THROUGH CONTRACTS WITH
47 LICENSED HOME CARE SERVICES AGENCIES OR THROUGH OTHER THIRD PARTIES,
48 PROVIDED THAT THE EPISODE OF CARE ON WHICH THE HOME CARE AIDE WORKS IS
49 COVERED UNDER THE TERMS OF THIS SECTION, THE CERTIFIED HOME HEALTH AGEN-
50 CY, LONG TERM HOME HEALTH CARE PROGRAM, OR MANAGED CARE PLAN MUST OBTAIN
51 A WRITTEN CERTIFICATION FROM THE LICENSED HOME CARE SERVICES AGENCY OR
52 OTHER THIRD PARTY, ON FORMS PREPARED BY THE DEPARTMENT IN CONSULTATION
53 WITH THE DEPARTMENT OF LABOR, WHICH ATTESTS TO THE LICENSED HOME CARE
54 SERVICES AGENCY'S OR OTHER THIRD PARTY'S COMPLIANCE WITH THE TERMS OF
55 THIS SECTION. SUCH CERTIFICATIONS SHALL ALSO OBLIGATE THE CERTIFIED HOME
56 HEALTH AGENCY, LONG TERM HOME HEALTH CARE PROGRAM, OR MANAGED CARE PLAN

TO OBTAIN, ON NO LESS THAN A QUARTERLY BASIS, ALL INFORMATION FROM THE LICENSED HOME CARE SERVICES AGENCY OR OTHER THIRD PARTIES NECESSARY TO VERIFY COMPLIANCE WITH THE TERMS OF THIS SECTION. SUCH CERTIFICATIONS AND THE INFORMATION EXCHANGED PURSUANT TO THEM SHALL BE RETAINED BY ALL CERTIFIED HOME HEALTH AGENCIES, LONG TERM HOME HEALTH CARE PROGRAMS, OR MANAGED CARE PLANS, AND ALL LICENSED HOME CARE SERVICES AGENCIES, OR OTHER THIRD PARTIES FOR A PERIOD OF NO LESS THAN TEN YEARS, AND MADE AVAILABLE TO THE DEPARTMENT UPON REQUEST.

8. THE COMMISSIONER SHALL DISTRIBUTE TO ALL CERTIFIED HOME HEALTH AGENCIES, LONG TERM HOME HEALTH CARE PROGRAMS, AND MANAGED CARE PLANS OFFICIAL NOTICE OF THE MINIMUM RATES OF HOME CARE AIDE COMPENSATION AT LEAST ONE HUNDRED TWENTY DAYS PRIOR TO THE EFFECTIVE DATE OF EACH MINIMUM RATE FOR EACH SOCIAL SERVICES DISTRICT COVERED BY THE TERMS OF THIS SECTION.

9. THE COMMISSIONER IS AUTHORIZED TO PROMULGATE REGULATIONS, AND MAY PROMULGATE EMERGENCY REGULATIONS, TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

10. NOTHING IN THIS SECTION SHOULD BE CONSTRUED AS APPLICABLE TO ANY SERVICE PROVIDED BY CERTIFIED HOME HEALTH AGENCIES, LONG TERM HOME HEALTH CARE PROGRAMS, OR MANAGED CARE PLANS EXCEPT FOR ALL EPISODES OF CARE REIMBURSED IN WHOLE OR IN PART BY THE NEW YORK MEDICAID PROGRAM.

11. NO CERTIFIED HOME HEALTH AGENCY, MANAGED CARE PLAN OR LONG TERM HOME HEALTH CARE PROGRAM SHALL BE LIABLE FOR RECOUPMENT OF PAYMENTS FOR SERVICES PROVIDED THROUGH A LICENSED HOME CARE SERVICES AGENCY OR OTHER THIRD PARTY WITH WHICH THE CERTIFIED HOME HEALTH AGENCY, LONG TERM HOME HEALTH CARE PROGRAM, OR MANAGED CARE PLAN HAS A CONTRACT BECAUSE THE LICENSED AGENCY OR OTHER THIRD PARTY FAILED TO COMPLY WITH THE PROVISIONS OF THIS SECTION IF THE CERTIFIED HOME HEALTH AGENCY, LONG TERM HOME HEALTH CARE PROGRAM, OR MANAGED CARE PLAN HAS REASONABLY AND IN GOOD FAITH COLLECTED CERTIFICATIONS AND ALL INFORMATION REQUIRED PURSUANT TO SUBDIVISIONS SIX AND SEVEN OF THIS SECTION.

S 33-a. Intentionally omitted.

S 34. Subdivision 22-a of section 2808 of the public health law is amended by adding a new paragraph (d) to read as follows:

(D) (I) NOTWITHSTANDING ANY INCONSISTENT PROVISIONS OF SUBDIVISIONS TWO-B OR TWO-C OF THIS SECTION OR ANY OTHER CONTRARY PROVISION OF LAW, AND SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, FOR INPATIENT SERVICES PROVIDED BY RESIDENTIAL HEALTH CARE FACILITIES ON AND AFTER APRIL FIRST, TWO THOUSAND ELEVEN, THE COMMISSIONER MAY, SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE BUDGET, GRANT APPROVAL OF A TEMPORARY ADJUSTMENT TO MEDICAID RATES FOR ELIGIBLE FACILITIES, AS DETERMINED IN ACCORDANCE WITH THIS PARAGRAPH.

(II) ELIGIBLE FACILITIES SHALL BE THOSE RESIDENTIAL HEALTH CARE FACILITIES WHICH, AS DETERMINED BY THE COMMISSIONER, REQUIRE SHORT-TERM ASSISTANCE TO ACCOMMODATE ADDITIONAL PATIENT SERVICES REQUIREMENTS RESULTING FROM THE CLOSURE OF OTHER FACILITIES IN THE AREA, INCLUDING, BUT NOT LIMITED TO, ADDITIONAL STAFF, SERVICE RECONFIGURATION AND ENHANCED INFORMATION TECHNOLOGY CAPABILITY.

(III) ELIGIBLE FACILITIES SHALL SUBMIT WRITTEN PROPOSALS DEMONSTRATING THE NEED FOR ADDITIONAL SHORT-TERM RESOURCES AND HOW SUCH ADDITIONAL RESOURCES WILL RESULT IN IMPROVEMENTS TO:

(A) THE COST EFFECTIVENESS OF SERVICE DELIVERY;

(B) QUALITY OF CARE; AND

(C) OTHER FACTORS DEEMED APPROPRIATE BY THE COMMISSIONER.

(IV) SUCH WRITTEN PROPOSALS SHALL BE SUBMITTED TO THE DEPARTMENT AT LEAST SIXTY DAYS PRIOR TO THE REQUESTED EFFECTIVE DATE OF THE TEMPORARY

1 RATE ADJUSTMENT. THE TEMPORARY RATE ADJUSTMENT SHALL BE IN EFFECT FOR A
2 SPECIFIED PERIOD OF TIME AS DETERMINED BY THE COMMISSIONER. AT THE END
3 OF THE SPECIFIED TIMEFRAME, THE FACILITY WILL BE REIMBURSED IN ACCORD-
4 ANCE WITH OTHERWISE APPLICABLE RATE-SETTING METHODOLOGIES. THE COMMIS-
5 SIONER MAY ESTABLISH, AS A CONDITION OF RECEIVING SUCH A TEMPORARY RATE
6 ADJUSTMENT, BENCHMARKS AND GOALS TO BE ACHIEVED IN ACCORDANCE WITH THE
7 FACILITY'S APPROVED PROPOSALS AND MAY ALSO REQUIRE THAT THE FACILITY
8 SUBMIT SUCH PERIODIC REPORTS CONCERNING THE ACHIEVEMENT OF SUCH BENCH-
9 MARKS AND GOALS AS THE COMMISSIONER DEEMS NECESSARY. FAILURE TO ACHIEVE
10 SATISFACTORY PROGRESS, AS DETERMINED BY THE COMMISSIONER, IN ACCOMPLISH-
11 ING SUCH BENCHMARKS AND GOALS SHALL BE A BASIS FOR ENDING THE FACILITY'S
12 TEMPORARY RATE ADJUSTMENT PRIOR TO THE END OF THE SPECIFIED TIMEFRAME.

13 S 35. The public health law is amended by adding a new article 29-AA
14 to read as follows:

15 ARTICLE 29-AA

16 PATIENT CENTERED MEDICAL HOMES

17 SECTION 2959-A. MULTIPAYOR PATIENT CENTERED MEDICAL HOME PROGRAM.

18 S 2959-A. MULTIPAYOR PATIENT CENTERED MEDICAL HOME PROGRAM. 1. (A)
19 THE COMMISSIONER IS AUTHORIZED TO ESTABLISH MEDICAL HOME MULTIPAYOR
20 PROGRAMS (REFERRED TO IN THIS SECTION AS A "PROGRAM") WHEREBY ENHANCED
21 PAYMENTS ARE MADE TO PRIMARY CARE CLINICIANS AND CLINICS STATEWIDE THAT
22 ARE CERTIFIED AS MEDICAL HOMES FOR THE PURPOSE OF IMPROVING HEALTH CARE
23 OUTCOMES AND EFFICIENCY THROUGH IMPROVED ACCESS, PATIENT CARE CONTINUITY
24 AND COORDINATION OF HEALTH SERVICES.

25 (B) AS USED IN THIS SECTION:

26 (I) "CLINIC" MEANS A GENERAL HOSPITAL PROVIDING OUTPATIENT CARE OR
27 DIAGNOSTIC AND TREATMENT CENTER, LICENSED UNDER ARTICLE TWENTY-EIGHT OF
28 THIS CHAPTER; AND

29 (II) "PRIMARY CARE CLINICIAN" MEANS A PHYSICIAN, NURSE PRACTITIONER,
30 OR MIDWIFE ACTING WITHIN HIS OR HER LAWFUL SCOPE OF PRACTICE UNDER TITLE
31 EIGHT OF THE EDUCATION LAW AND WHO IS PRACTICING IN A PRIMARY CARE
32 SPECIALTY.

33 (III) "PRIMARY CARE MEDICAL HOME COLLABORATIVE" MEANS AN ENTITY
34 APPROVED BY THE COMMISSIONER WHICH SHALL INCLUDE BUT NOT BE LIMITED TO
35 HEALTH CARE PROVIDERS, WHICH MAY INCLUDE BUT NOT BE LIMITED TO HOSPI-
36 TALS, DIAGNOSTIC AND TREATMENT CENTERS, PRIVATE PRACTICES AND INDEPEND-
37 ENT PRACTICE ASSOCIATIONS, AND PAYORS OF HEALTH CARE SERVICES, WHICH MAY
38 INCLUDE BUT NOT BE LIMITED TO EMPLOYERS, HEALTH PLANS AND INSURERS.

39 2. (A) IN ORDER TO PROMOTE IMPROVED QUALITY OF, AND ACCESS TO, HEALTH
40 CARE SERVICES AND PROMOTE IMPROVED CLINICAL OUTCOMES, IT IS THE POLICY
41 OF THE STATE TO ENCOURAGE COOPERATIVE, COLLABORATIVE AND INTEGRATIVE
42 ARRANGEMENTS AMONG PAYORS OF HEALTH CARE SERVICES AND HEALTH CARE
43 SERVICES PROVIDERS WHO MIGHT OTHERWISE BE COMPETITORS, UNDER THE ACTIVE
44 SUPERVISION OF THE COMMISSIONER. IT IS THE INTENT OF THE STATE TO
45 SUPPLANT COMPETITION WITH SUCH ARRANGEMENTS AND REGULATION ONLY TO THE
46 EXTENT NECESSARY TO ACCOMPLISH THE PURPOSES OF THIS ARTICLE, AND TO
47 PROVIDE STATE ACTION IMMUNITY UNDER THE STATE AND FEDERAL ANTITRUST LAWS
48 TO PAYORS OF HEALTH CARE SERVICES AND HEALTH CARE SERVICES PROVIDERS
49 WITH RESPECT TO THE PLANNING, IMPLEMENTATION AND OPERATION OF THE MULTI-
50 PAYOR PATIENT CENTERED MEDICAL HOME PROGRAM.

51 (B) THE COMMISSIONER OR HIS OR HER DULY AUTHORIZED REPRESENTATIVE MAY
52 ENGAGE IN APPROPRIATE STATE SUPERVISION NECESSARY TO PROMOTE STATE
53 ACTION IMMUNITY UNDER THE STATE AND FEDERAL ANTITRUST LAWS, AND MAY
54 INSPECT OR REQUEST ADDITIONAL DOCUMENTATION FROM PAYORS OF HEALTH CARE
55 SERVICES AND HEALTH CARE SERVICES PROVIDERS TO VERIFY THAT MEDICAL HOMES

1 CERTIFIED PURSUANT TO THIS SECTION OPERATE IN ACCORDANCE WITH ITS INTENT
2 AND PURPOSE.

3 3. THE COMMISSIONER IS AUTHORIZED TO PARTICIPATE IN, ACTIVELY SUPER-
4 VISE, FACILITATE AND APPROVE A PRIMARY CARE MEDICAL HOME COLLABORATIVE
5 FOR EACH PROGRAM AROUND THE STATE TO ESTABLISH: (A) THE BOUNDARIES OF
6 EACH PROGRAM AND THE PROVIDERS ELIGIBLE TO PARTICIPATE, PROVIDED THAT
7 THE BOUNDARIES OF PROGRAMS MAY OVERLAP; (B) PRACTICE STANDARDS FOR EACH
8 MEDICAL HOME PROGRAM ADOPTED WITH CONSIDERATION OF EXISTING STANDARDS
9 DEVELOPED BY THE NATIONAL COMMITTEE FOR QUALITY ASSURANCE ("NCQA"), THE
10 JOINT COMMISSION OF ACCREDITATION OF HEALTHCARE ORGANIZATIONS ("JCAHCO"
11 OR THE "JOINT COMMISSION"), AMERICAN ACCREDITATION HEALTHCARE COMMISSION
12 ("URAC"), AMERICAN COLLEGE OF PHYSICIANS, THE AMERICAN ACADEMY OF FAMILY
13 PHYSICIANS, THE AMERICAN ACADEMY OF PEDIATRICS, AND THE AMERICAN OSTEO-
14 PATHIC ASSOCIATION; THE AMERICAN ACADEMY OF NURSE PRACTITIONERS, AND THE
15 AMERICAN COLLEGE OF NURSE PRACTITIONERS; (C) STANDARDS FOR IMPLEMENTA-
16 TION AND USE OF HEALTH INFORMATION TECHNOLOGY, INCLUDING PARTICIPATION
17 IN HEALTH INFORMATION EXCHANGES THROUGH THE STATEWIDE HEALTH INFORMATION
18 NETWORK; (D) METHODOLOGIES BY WHICH PAYORS WILL PROVIDE ENHANCED RATES
19 OF PAYMENT TO CERTIFIED MEDICAL HOMES; (E) REQUIREMENTS FOR COLLECTING
20 DATA RELATING TO THE PROVIDING AND PAYING FOR HEALTH CARE SERVICES UNDER
21 THE PROGRAM AND PROVIDING OF DATA TO THE COMMISSIONER, PAYORS AND HEALTH
22 CARE PROVIDERS UNDER THE PROGRAM, TO PROMOTE THE EFFECTIVE OPERATION AND
23 EVALUATION OF THE PROGRAM, CONSISTENT WITH PROTECTION OF THE CONFIDEN-
24 TIALITY OF INDIVIDUAL PATIENT INFORMATION; AND (F) PROVISIONS UNDER
25 WHICH THE COMMISSIONER MAY TERMINATE THE PROGRAM.

26 3-A. THE COMMISSIONER MAY DEVELOP OR APPROVE (A) METHODOLOGIES TO PAY
27 ADDITIONAL AMOUNTS FOR MEDICAL HOMES THAT MEET SPECIFIC PROCESS OR
28 OUTCOME STANDARDS ESTABLISHED BY EACH MULTIPAYOR PATIENT CENTERED
29 MEDICAL HOME COLLABORATIVE; (B) ALTERNATIVE METHODOLOGIES FOR PAYORS OF
30 HEALTH CARE SERVICES TO HEALTH CARE PROVIDERS UNDER THE PROGRAM; (C)
31 PROVISIONS FOR PAYMENTS TO PROVIDERS THAT MAY VARY BY SIZE OR FORM OF
32 ORGANIZATION OF THE PROVIDER, OR PATIENT CASE MIX, TO ACCOMMODATE
33 DIFFERENT LEVELS OF RESOURCES AND DIFFICULTY TO MEET THE STANDARDS OF
34 THE PROGRAM; (D) PROVISIONS FOR PAYMENTS TO ENTITIES THAT PROVIDE
35 SERVICES TO HEALTH CARE PROVIDERS TO ASSIST THEM IN MEETING MEDICAL HOME
36 STANDARDS UNDER THE PROGRAM SUCH AS THE SERVICES OF COMMUNITY HEALTH
37 WORKERS.

38 4. THE COMMISSIONER IS AUTHORIZED TO ESTABLISH AN ADVISORY GROUP OF
39 STATE AGENCIES AND STAKEHOLDERS, SUCH AS PROFESSIONAL ORGANIZATIONS AND
40 ASSOCIATIONS, AND CONSUMERS, TO IDENTIFY LEGAL AND/OR ADMINISTRATIVE
41 BARRIERS TO THE SHARING OF CARE MANAGEMENT AND CARE COORDINATION
42 SERVICES AMONG PARTICIPATING HEALTH CARE SERVICES PROVIDERS AND TO MAKE
43 RECOMMENDATIONS FOR STATUTORY AND/OR REGULATORY CHANGES TO ADDRESS SUCH
44 BARRIERS.

45 5. PATIENT, PAYOR AND HEALTH CARE SERVICES PROVIDER PARTICIPATION IN
46 THE MULTIPAYOR PATIENT CENTERED MEDICAL HOME PROGRAM SHALL BE ON A
47 VOLUNTARY BASIS.

48 6. CLINICS AND PRIMARY CARE CLINICIANS PARTICIPATING IN A PROGRAM ARE
49 NOT ELIGIBLE FOR ADDITIONAL ENHANCEMENTS OR BONUSES UNDER THE STATEWIDE
50 PATIENT CENTERED MEDICAL HOME PROGRAM ESTABLISHED PURSUANT TO SECTION
51 THREE HUNDRED SIXTY-FOUR-M OF THE SOCIAL SERVICES LAW. THE COMMISSIONER
52 SHALL DEVELOP OR APPROVE A METHOD FOR DETERMINING PAYMENT UNDER A
53 PROGRAM WHERE A PROVIDER PARTICIPATES, OR A PATIENT IS SERVED, IN AN
54 AREA WHERE PROGRAM BOUNDARIES OVERLAP.

55 7. SUBJECT TO THE AVAILABILITY OF FUNDING AND FEDERAL FINANCIAL
56 PARTICIPATION, THE COMMISSIONER IS AUTHORIZED:

1 (A) TO PAY ENHANCED RATES OF PAYMENT UNDER MEDICAID FEE-FOR-SERVICE,
2 MEDICAID MANAGED CARE, FAMILY HEALTH PLUS AND CHILD HEALTH PLUS TO CLIN-
3 ICS AND CLINICIANS THAT ARE CERTIFIED AS PATIENT CENTERED MEDICAL HOMES
4 UNDER THIS TITLE;

5 (B) TO PAY ADDITIONAL AMOUNTS FOR MEDICAL HOMES THAT MEET SPECIFIC
6 PROCESS OR OUTCOME STANDARDS SPECIFIED BY THE COMMISSIONER IN CONSULTA-
7 TION WITH EACH MULTIPAYOR PATIENT CENTERED MEDICAL HOME COLLABORATIVE;

8 (C) TO AUTHORIZE ALTERNATIVE PAYMENT METHODOLOGIES UNDER MEDICAID
9 FEE-FOR-SERVICE, MEDICAID MANAGED CARE, FAMILY HEALTH PLUS AND CHILD
10 HEALTH PLUS FOR HEALTH CARE PROVIDERS AND TO SERVE THE PURPOSES OF THE
11 PROGRAM, INCLUDING PAYMENTS TO ENTITIES UNDER PARAGRAPH (G) OF SUBDIVI-
12 SION THREE OF THIS SECTION; AND

13 (D) TO TEST NEW MODELS OF PAYMENT TO HIGH VOLUME MEDICAID PRIMARY CARE
14 MEDICAL HOME PRACTICES THAT INCORPORATE RISK ADJUSTED GLOBAL PAYMENTS
15 COMBINED WITH CARE MANAGEMENT AND PAY FOR PERFORMANCE ADJUSTMENTS.

16 8. (A) THE COMMISSIONER IS AUTHORIZED TO CONTRACT WITH ONE OR MORE
17 ENTITIES TO ASSIST THE STATE IN IMPLEMENTING THE PROVISIONS OF THIS
18 SECTION. SUCH ENTITY OR ENTITIES SHALL BE THE SAME ENTITY OR ENTITIES
19 CHOSEN TO ASSIST IN THE IMPLEMENTATION OF THE HEALTH HOME PROVISIONS OF
20 SECTION THREE HUNDRED SIXTY-FIVE-L OF THE SOCIAL SERVICES LAW. RESPON-
21 SIBILITIES OF THE CONTRACTOR SHALL INCLUDE BUT NOT BE LIMITED TO: DEVEL-
22 OPING RECOMMENDATIONS WITH RESPECT TO PROGRAM POLICY, REIMBURSEMENT,
23 SYSTEM REQUIREMENTS, REPORTING REQUIREMENTS, EVALUATION PROTOCOLS, AND
24 PROVIDER AND PATIENT ENROLLMENT; PROVIDING TECHNICAL ASSISTANCE TO
25 POTENTIAL MEDICAL HOME AND HEALTH HOME PROVIDERS; DATA COLLECTION; DATA
26 SHARING; PROGRAM EVALUATION, AND PREPARATION OF REPORTS.

27 (B) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SECTIONS ONE HUNDRED
28 TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, OR SECTION
29 ONE HUNDRED FORTY-TWO OF THE ECONOMIC DEVELOPMENT LAW, OR ANY OTHER LAW,
30 THE COMMISSIONER IS AUTHORIZED TO ENTER INTO A CONTRACT OR CONTRACTS
31 UNDER PARAGRAPH (A) OF THIS SUBDIVISION WITHOUT A REQUEST FOR PROPOSAL
32 PROCESS, PROVIDED, HOWEVER, THAT:

33 (I) THE DEPARTMENT SHALL POST ON ITS WEBSITE, FOR A PERIOD OF NO LESS
34 THAN THIRTY DAYS:

35 (1) A DESCRIPTION OF THE PROPOSED SERVICES TO BE PROVIDED PURSUANT TO
36 THE CONTRACT OR CONTRACTS;

37 (2) THE CRITERIA FOR SELECTION OF A CONTRACTOR OR CONTRACTORS;

38 (3) THE PERIOD OF TIME DURING WHICH A PROSPECTIVE CONTRACTOR MAY SEEK
39 SELECTION, WHICH SHALL BE NO LESS THAN THIRTY DAYS AFTER SUCH INFORMA-
40 TION IS FIRST POSTED ON THE WEBSITE; AND

41 (4) THE MANNER BY WHICH A PROSPECTIVE CONTRACTOR MAY SEEK SUCH
42 SELECTION, WHICH MAY INCLUDE SUBMISSION BY ELECTRONIC MEANS;

43 (II) ALL REASONABLE AND RESPONSIVE SUBMISSIONS THAT ARE RECEIVED FROM
44 PROSPECTIVE CONTRACTORS IN TIMELY FASHION SHALL BE REVIEWED BY THE
45 COMMISSIONER; AND

46 (III) THE COMMISSIONER SHALL SELECT SUCH CONTRACTOR OR CONTRACTORS
47 THAT, IN HIS OR HER DISCRETION, ARE BEST SUITED TO SERVE THE PURPOSES OF
48 THIS SECTION.

49 9. THE COMMISSIONER MAY DIRECTLY, OR BY CONTRACT, PROVIDE:

50 (A) TECHNICAL ASSISTANCE TO A PRIMARY CARE MEDICAL HOME COLLABORATIVE
51 IN RELATION TO ESTABLISHING AND OPERATING A PROGRAM;

52 (B) CONSUMER ASSISTANCE TO PATIENTS PARTICIPATING IN A PROGRAM AS TO
53 MATTERS RELATING TO THE PROGRAM;

54 (C) TECHNICAL AND OTHER ASSISTANCE TO HEALTH CARE PROVIDERS PARTIC-
55 IPATING IN A PROGRAM AS TO MATTERS RELATING TO THE PROGRAM, INCLUDING
56 ACHIEVING MEDICAL HOME STANDARDS;

1 (D) CARE COORDINATION PROVIDER TECHNICAL AND OTHER ASSISTANCE TO INDI-
2 VIDUALS AND ENTITIES PROVIDING CARE COORDINATION SERVICES TO HEALTH CARE
3 PROVIDERS UNDER A PROGRAM; AND

4 (E) INFORMATION SHARING AND OTHER ASSISTANCE AMONG PROGRAMS TO IMPROVE
5 THE OPERATION OF PROGRAMS, CONSISTENT WITH APPLICABLE LAWS RELATING TO
6 PATIENT CONFIDENTIALITY.

7 10. THE COMMISSIONER SHALL, TO THE EXTENT NECESSARY FOR THE PURPOSE OF
8 THIS SECTION, SUBMIT THE APPROPRIATE WAIVERS AND OTHER APPLICATIONS,
9 INCLUDING, BUT NOT LIMITED TO, THOSE AUTHORIZED PURSUANT TO SECTIONS
10 ELEVEN HUNDRED FIFTEEN AND NINETEEN HUNDRED FIFTEEN OF THE FEDERAL
11 SOCIAL SECURITY ACT, OR SUCCESSOR PROVISIONS, AND ANY OTHER WAIVERS OR
12 APPLICATIONS NECESSARY TO ACHIEVE THE PURPOSES OF HIGH QUALITY, INTE-
13 GRATED, AND COST EFFECTIVE CARE AND INTEGRATED FINANCIAL ELIGIBILITY
14 POLICIES UNDER MEDICAID, FAMILY HEALTH PLUS AND CHILD HEALTH PLUS OR
15 MEDICARE. COPIES OF SUCH ORIGINAL WAIVER AND OTHER APPLICATIONS SHALL BE
16 PROVIDED TO THE CHAIRMAN OF THE SENATE FINANCE COMMITTEE AND THE CHAIR-
17 MAN OF THE ASSEMBLY WAYS AND MEANS COMMITTEE SIMULTANEOUSLY WITH THEIR
18 SUBMISSION TO THE FEDERAL GOVERNMENT.

19 11. THE ADIRONDACK MEDICAL HOME MULTIPAYOR DEMONSTRATION PROGRAM
20 (INCLUDING THE ADIRONDACK MEDICAL HOME COLLABORATIVE) PREVIOUSLY ESTAB-
21 LISHED UNDER SECTION TWENTY-NINE HUNDRED FIFTY-NINE OF THIS CHAPTER IS
22 CONTINUED AND SHALL BE DEEMED TO BE A PROGRAM UNDER THIS SECTION.

23 12. THE COMMISSIONER SHALL ANNUALLY REPORT TO THE GOVERNOR AND THE
24 LEGISLATURE ON THE OPERATION OF THE PROGRAMS AND THEIR EFFECTIVENESS IN
25 ACHIEVING THE PURPOSES OF THIS SECTION, WITH PARTICULAR REFERENCE TO THE
26 QUALITY, COST, AND OUTCOMES FOR ENROLLEES IN MEDICAID FEE-FOR-SERVICE,
27 MEDICAID MANAGED CARE, FAMILY HEALTH PLUS AND CHILD HEALTH PLUS.

28 S 35-a. Subparagraph (v) of paragraph (b) of subdivision 35 of section
29 2807-c of the public health law, as amended by section 2 of part B of
30 chapter 109 of the laws of 2010, is amended to read as follows:

31 (v) [Such] SUCH regulations shall incorporate quality related measures
32 [pertaining to], INCLUDING, BUT NOT LIMITED TO, potentially preventable
33 [complications and] re-admissions (PPRs) and provide for rate adjust-
34 ments or payment disallowances related to PPRs AND OTHER POTENTIALLY
35 PREVENTABLE NEGATIVE OUTCOMES (PPNOS), which shall be calculated in
36 accordance with methodologies as determined by the commissioner,
37 provided, however, that such methodologies shall be based on a [risk
38 adjusted] comparison of the actual and [the] RISK ADJUSTED expected
39 number of PPRs AND OTHER PPNOS in a given hospital and with benchmarks
40 established by the commissioner and provided further that such rate
41 adjustments or payment disallowances shall result in an aggregate
42 reduction in Medicaid payments of no less than thirty-five million
43 dollars for the period July first, two thousand ten through March thir-
44 ty-first, two thousand eleven and no less than [forty-seven] FIFTY-ONE
45 million dollars for the period April first, two thousand eleven through
46 March thirty-first, two thousand twelve, PROVIDED FURTHER THAT SUCH
47 AGGREGATE REDUCTIONS SHALL BE OFFSET BY MEDICAID PAYMENT REDUCTIONS
48 OCCURRING AS A RESULT OF DECREASED PPRs DURING THE PERIOD JULY FIRST,
49 TWO THOUSAND TEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND ELEVEN AND THE
50 PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO
51 THOUSAND TWELVE AND AS A RESULT OF DECREASED PPNOS DURING THE PERIOD
52 APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOU-
53 SAND TWELVE; and provided further that [the regulations promulgated
54 pursuant to this subparagraph shall be effective on and after July
55 first, two thousand ten, and provided further, however, that] for the
56 period July first, two thousand ten through March thirty-first, two

1 thousand twelve, such rate adjustments or payment disallowances shall
2 not apply to behavioral health PPRs; or to readmissions that occur on or
3 after fifteen days following an initial admission. By no later than
4 [April] JULY first, two thousand eleven the commissioner shall enter
5 into consultations with representatives of the health care facilities
6 subject to this section regarding potential prospective revisions to
7 applicable methodologies and benchmarks set forth in regulations issued
8 pursuant to this subparagraph;

9 S 36. Subparagraph (xi) of paragraph (b) of subdivision 35 of section
10 2807-c of the public health law, as added by section 2 of part C of
11 chapter 58 of the laws of 2009, is amended and two new subparagraphs
12 (xii) and (xiii) are added to read as follows:

13 (xi) Rates for teaching general hospitals shall include reimbursement
14 for direct and indirect graduate medical education as defined and calcu-
15 lated pursuant to such regulations. In addition, such regulations shall
16 specify the reports and information required by the commissioner to
17 assess the cost, quality and health system needs for medical education
18 provided[.];

19 (XII) SUCH REGULATIONS MAY INCORPORATE QUALITY RELATED MEASURES
20 PERTAINING TO THE INAPPROPRIATE USE OF CERTAIN MEDICAL PROCEDURES,
21 INCLUDING, BUT NOT LIMITED TO, CESAREAN DELIVERIES, CORONARY ARTERY
22 BYPASS GRAFTS AND PERCUTANEOUS CORONARY INTERVENTIONS;

23 (XIII) SUCH REGULATIONS MAY IMPOSE A FEE ON GENERAL HOSPITAL SUFFI-
24 CIENT TO COVER THE COSTS OF AUDITING THE INSTITUTIONAL COST REPORTS
25 SUBMITTED BY GENERAL HOSPITALS, WHICH SHALL BE DEPOSITED IN THE HEALTH
26 CARE REFORM ACT (HCRA) RESOURCES ACCOUNT.

27 S 37. The social services law is amended by adding a new section 365-1
28 to read as follows:

29 S 365-L. HEALTH HOMES. 1. NOTWITHSTANDING ANY LAW, RULE OR REGULATION
30 TO THE CONTRARY, THE COMMISSIONER OF HEALTH IS AUTHORIZED, IN CONSULTA-
31 TION WITH THE COMMISSIONERS OF THE OFFICE OF MENTAL HEALTH, OFFICE OF
32 ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, AND OFFICE FOR PEOPLE WITH
33 DEVELOPMENTAL DISABILITIES, TO (A) ESTABLISH, IN ACCORDANCE WITH APPLI-
34 CABLE FEDERAL LAW AND REGULATIONS, STANDARDS FOR THE PROVISION OF HEALTH
35 HOME SERVICES TO MEDICAID ENROLLEES WITH CHRONIC CONDITIONS, (B) ESTAB-
36 LISH PAYMENT METHODOLOGIES FOR HEALTH HOME SERVICES BASED ON FACTORS
37 INCLUDING BUT NOT LIMITED TO THE COMPLEXITY OF THE CONDITIONS PROVIDERS
38 WILL BE MANAGING, THE ANTICIPATED AMOUNT OF PATIENT CONTACT NEEDED TO
39 MANAGE SUCH CONDITIONS, AND THE HEALTH CARE COST SAVINGS REALIZED BY
40 PROVISION OF HEALTH HOME SERVICES, (C) ESTABLISH THE CRITERIA UNDER
41 WHICH A MEDICAID ENROLLEE WILL BE DESIGNATED AS BEING AN ELIGIBLE INDIV-
42 VIDUAL WITH CHRONIC CONDITIONS FOR PURPOSES OF THIS PROGRAM, (D) ASSIGN
43 ANY MEDICAID ENROLLEE DESIGNATED AS AN ELIGIBLE INDIVIDUAL WITH CHRONIC
44 CONDITIONS TO A PROVIDER OF HEALTH HOME SERVICES.

45 2. IN ADDITION TO PAYMENTS MADE FOR HEALTH HOME SERVICES PURSUANT TO
46 SUBDIVISION ONE OF THIS SECTION, THE COMMISSIONER IS AUTHORIZED TO PAY
47 ADDITIONAL AMOUNTS TO PROVIDERS OF HEALTH HOME SERVICES THAT MEET PROC-
48 ESS OR OUTCOME STANDARDS SPECIFIED BY THE COMMISSIONER.

49 3. UNTIL SUCH TIME AS THE COMMISSIONER OBTAINS NECESSARY WAIVERS
50 AND/OR APPROVALS OF THE FEDERAL SOCIAL SECURITY ACT, MEDICAID ENROLLEES
51 ASSIGNED TO PROVIDERS OF HEALTH HOME SERVICES WILL BE ALLOWED TO OPT OUT
52 OF SUCH SERVICES. IN ADDITION, UPON ENROLLMENT, AN ENROLLEE SHALL BE
53 OFFERED AN OPTION OF AT LEAST TWO PROVIDERS OF HEALTH HOME SERVICES, TO
54 THE EXTENT PRACTICABLE.

55 4. PAYMENTS AUTHORIZED PURSUANT TO THIS SECTION WILL BE MADE WITH
56 STATE FUNDS ONLY, TO THE EXTENT THAT SUCH FUNDS ARE APPROPRIATED THERE-

FORE, UNTIL SUCH TIME AS FEDERAL FINANCIAL PARTICIPATION IN THE COSTS OF SUCH SERVICES IS AVAILABLE.

5. THE COMMISSIONER IS AUTHORIZED TO SUBMIT AMENDMENTS TO THE STATE PLAN FOR MEDICAL ASSISTANCE AND/OR SUBMIT ONE OR MORE APPLICATIONS FOR WAIVERS OF THE FEDERAL SOCIAL SECURITY ACT, TO OBTAIN FEDERAL FINANCIAL PARTICIPATION IN THE COSTS OF HEALTH HOME SERVICES PROVIDED PURSUANT TO THIS SECTION, AND AS PROVIDED IN SUBDIVISION THREE OF THIS SECTION.

6. NOTWITHSTANDING ANY LIMITATIONS IMPOSED BY SECTION THREE HUNDRED SIXTY-FOUR-L OF THIS TITLE ON ENTITIES PARTICIPATING IN DEMONSTRATION PROJECTS ESTABLISHED PURSUANT TO SUCH SECTION, THE COMMISSIONER IS AUTHORIZED TO ALLOW SUCH ENTITIES WHICH MEET THE REQUIREMENTS OF THIS SECTION TO PROVIDE HEALTH HOME SERVICES.

7. NOTWITHSTANDING ANY LAW, RULE, OR REGULATION TO THE CONTRARY, THE COMMISSIONERS OF THE DEPARTMENT OF HEALTH, THE OFFICE OF MENTAL HEALTH, THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES, AND THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES ARE AUTHORIZED TO JOINTLY ESTABLISH A SINGLE SET OF OPERATING AND REPORTING REQUIREMENTS AND A SINGLE SET OF CONSTRUCTION AND SURVEY REQUIREMENTS FOR ENTITIES THAT:

(A) CAN DEMONSTRATE EXPERIENCE IN THE DELIVERY OF HEALTH, AND MENTAL HEALTH AND/OR ALCOHOL AND SUBSTANCE ABUSE SERVICES AND/OR SERVICES TO PERSONS WITH DEVELOPMENTAL DISABILITIES, AND THE CAPACITY TO OFFER INTEGRATED DELIVERY OF SUCH SERVICES IN EACH LOCATION APPROVED BY THE COMMISSIONER; AND

(B) MEET THE STANDARDS ESTABLISHED PURSUANT TO SUBDIVISION ONE OF THIS SECTION FOR PROVIDING AND RECEIVING PAYMENT FOR HEALTH HOME SERVICES; PROVIDED, HOWEVER, THAT AN ENTITY MEETING THE STANDARDS ESTABLISHED PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL NOT BE REQUIRED TO BE AN INTEGRATED SERVICE PROVIDER PURSUANT TO THIS SUBDIVISION.

IN ESTABLISHING A SINGLE SET OF OPERATING AND REPORTING REQUIREMENTS AND A SINGLE SET OF CONSTRUCTION AND SURVEY REQUIREMENTS FOR ENTITIES DESCRIBED IN THIS SUBDIVISION, THE COMMISSIONERS OF THE DEPARTMENT OF HEALTH, THE OFFICE OF MENTAL HEALTH, THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES, AND THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES ARE AUTHORIZED TO WAIVE ANY REGULATORY REQUIREMENTS AS ARE NECESSARY TO AVOID DUPLICATION OF REQUIREMENTS AND TO ALLOW THE INTEGRATED DELIVERY OF SERVICES IN A RATIONAL AND EFFICIENT MANNER.

8. (A) THE COMMISSIONER OF HEALTH IS AUTHORIZED TO CONTRACT WITH ONE OR MORE ENTITIES TO ASSIST THE STATE IN IMPLEMENTING THE PROVISIONS OF THIS SECTION. SUCH ENTITY OR ENTITIES SHALL BE THE SAME ENTITY OR ENTITIES CHOSEN TO ASSIST IN THE IMPLEMENTATION OF THE MULTIPAYOR PATIENT CENTERED MEDICAL HOME PROGRAM PURSUANT TO SECTION TWENTY-NINE HUNDRED FIFTY-NINE-A OF THE PUBLIC HEALTH LAW. RESPONSIBILITIES OF THE CONTRACTOR SHALL INCLUDE BUT NOT BE LIMITED TO: DEVELOPING RECOMMENDATIONS WITH RESPECT TO PROGRAM POLICY, REIMBURSEMENT, SYSTEM REQUIREMENTS, REPORTING REQUIREMENTS, EVALUATION PROTOCOLS, AND PROVIDER AND PATIENT ENROLLMENT; PROVIDING TECHNICAL ASSISTANCE TO POTENTIAL MEDICAL HOME AND HEALTH HOME PROVIDERS; DATA COLLECTION; DATA SHARING; PROGRAM EVALUATION, AND PREPARATION OF REPORTS.

(B) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SECTIONS ONE HUNDRED TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, OR SECTION ONE HUNDRED FORTY-TWO OF THE ECONOMIC DEVELOPMENT LAW, OR ANY OTHER LAW, THE COMMISSIONER OF HEALTH IS AUTHORIZED TO ENTER INTO A CONTRACT OR CONTRACTS UNDER PARAGRAPH (A) OF THIS SUBDIVISION WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS, PROVIDED, HOWEVER, THAT:

(I) THE DEPARTMENT OF HEALTH SHALL POST ON ITS WEBSITE, FOR A PERIOD OF NO LESS THAN THIRTY DAYS:

1 (1) A DESCRIPTION OF THE PROPOSED SERVICES TO BE PROVIDED PURSUANT TO
2 THE CONTRACT OR CONTRACTS;

3 (2) THE CRITERIA FOR SELECTION OF A CONTRACTOR OR CONTRACTORS;

4 (3) THE PERIOD OF TIME DURING WHICH A PROSPECTIVE CONTRACTOR MAY SEEK
5 SELECTION, WHICH SHALL BE NO LESS THAN THIRTY DAYS AFTER SUCH INFORMA-
6 TION IS FIRST POSTED ON THE WEBSITE; AND

7 (4) THE MANNER BY WHICH A PROSPECTIVE CONTRACTOR MAY SEEK SUCH
8 SELECTION, WHICH MAY INCLUDE SUBMISSION BY ELECTRONIC MEANS;

9 (II) ALL REASONABLE AND RESPONSIVE SUBMISSIONS THAT ARE RECEIVED FROM
10 PROSPECTIVE CONTRACTORS IN TIMELY FASHION SHALL BE REVIEWED BY THE
11 COMMISSIONER OF HEALTH; AND

12 (III) THE COMMISSIONER OF HEALTH SHALL SELECT SUCH CONTRACTOR OR
13 CONTRACTORS THAT, IN HIS OR HER DISCRETION, ARE BEST SUITED TO SERVE THE
14 PURPOSES OF THIS SECTION.

15 S 38. Section 2816 of the public health law, as added by chapter 225
16 of the laws of 2001, paragraph (a) of subdivision 2 as amended by
17 section 19 of part D of chapter 57 of the laws of 2006, is amended to
18 read as follows:

19 S 2816. Statewide planning and research cooperative system. 1. (A)
20 The statewide planning and research cooperative system in the department
21 is continued, as provided in AND SUBJECT TO this section, WITHIN AMOUNTS
22 APPROPRIATED FOR THAT PURPOSE. The [statewide planning and research
23 cooperative] system shall be developed and operated by the commissioner
24 in consultation with the council, [and shall be comprised of such data
25 elements] as may be specified by regulation OF THE COMMISSIONER. ANY
26 COMPONENT OR COMPONENTS OF THE SYSTEM MAY BE OPERATED UNDER A DIFFERENT
27 NAME OR NAMES, AND MAY BE STRUCTURED AS SEPARATE SYSTEMS. IN MAKING
28 REGULATIONS UNDER THIS SECTION, SUBSEQUENT TO APRIL FIRST, TWO THOUSAND
29 ELEVEN, THE COMMISSIONER SHALL CONSULT WITH THE SUPERINTENDENT OF INSUR-
30 ANCE OR THE HEAD OF ANY AGENCY THAT SUCCEEDS THE INSURANCE DEPARTMENT,
31 HEALTH CARE PROVIDERS, THIRD-PARTY HEALTH CARE PAYERS, AND ADVOCATES
32 REPRESENTING PATIENTS; PROTECT THE CONFIDENTIALITY OF PATIENT-IDENTIFI-
33 BLE INFORMATION; PROMOTE THE ACCURACY AND COMPLETENESS OF REPORTING; AND
34 MINIMIZE THE BURDEN ON INSTITUTIONAL AND NON-INSTITUTIONAL HEALTH CARE
35 PROVIDERS AND THIRD-PARTY HEALTH CARE PAYERS.

36 (B) AS USED IN THIS SECTION, UNLESS THE CONTEXT CLEARLY REQUIRES
37 OTHERWISE:

38 (I) "HEALTH CARE" MEANS ANY SERVICES, SUPPLIES, EQUIPMENT, OR
39 PRESCRIPTION DRUGS REFERRED TO IN SUBDIVISION TWO OF THIS SECTION.

40 (II) "HEALTH CARE PROVIDER" INCLUDES, IN ADDITION TO ITS COMMON MEAN-
41 INGS, A CLINICAL LABORATORY, A PHARMACY, AN ENTITY THAT IS AN INTEGRATED
42 ORGANIZATION OF HEALTH CARE PROVIDERS, AND AN ACCOUNTABLE CARE ORGANIZA-
43 TION OF HEALTH CARE PROVIDERS.

44 (III) "SYSTEM" MEANS THE STATEWIDE PLANNING AND RESEARCH COOPERATIVE
45 SYSTEM UNDER THIS SECTION, AND ANY SEPARATE SYSTEM UNDER THIS SUBDIVI-
46 SION.

47 (IV) "THIRD-PARTY HEALTH CARE PAYER" INCLUDES, BUT IS NOT LIMITED TO,
48 AN INSURER, ORGANIZATION OR CORPORATION LICENSED OR CERTIFIED PURSUANT
49 TO ARTICLE THIRTY-TWO, FORTY-THREE OR FORTY-SEVEN OF THE INSURANCE LAW,
50 OR ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW; OR AN ENTITY SUCH AS A
51 PHARMACY BENEFITS MANAGER, FISCAL ADMINISTRATOR, OR ADMINISTRATIVE
52 SERVICES PROVIDER THAT PARTICIPATES IN THE ADMINISTRATION OF A
53 THIRD-PARTY HEALTH CARE PAYER SYSTEM.

54 (V) "COVERED PERSON" IS A PERSON COVERED UNDER A THIRD-PARTY HEALTH
55 CARE PAYER CONTRACT, AGREEMENT, OR ARRANGEMENT.

1 2. [Regulations] NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY,
2 REGULATIONS governing the [statewide planning and research cooperative]
3 system shall include, but not be limited to, the following:

4 (a) Specification of patient, COVERED PERSON, CLAIMS, and other data
5 elements and format [to] WHICH SHALL be reported including data related
6 to:

7 (i) inpatient hospitalization data from general hospitals;

8 (ii) ambulatory surgery data from hospital-based ambulatory surgery
9 services and all other ambulatory surgery facilities licensed under this
10 article;

11 (iii) emergency department data from general hospitals;

12 (iv) outpatient [clinic], CLINICAL LABORATORY, AND PRESCRIPTION DATA,
13 INCLUDING BUT NOT LIMITED TO data from OR RELATING TO SERVICES,
14 SUPPLIES, EQUIPMENT, AND PRESCRIPTION DRUGS PROVIDED OR ORDERED BY
15 general hospitals and diagnostic and treatment centers licensed under
16 this article, [provided, however, that notwithstanding subdivision one
17 of this section the commissioner, in consultation with the health care
18 industry, is authorized to promulgate or adopt any rules or regulations
19 necessary to implement the collection of data pursuant to this subpara-
20 graph] PHARMACIES, CLINICAL LABORATORIES, AND OTHER HEALTH CARE PROVID-
21 ERS;

22 (v) COVERED PERSON AND CLAIMS DATA; and

23 (VI) the data specified in this paragraph shall include the identifi-
24 cation of patients transferred, admitted or treated subsequent to a
25 medical, surgical or diagnostic procedure by a licensed health care
26 professional OR at a HEALTH CARE site or facility [other than those
27 specified in subparagraph (i), (ii), (iii) or (iv) of this paragraph].

28 (b) Standards to assure the protection of patient privacy in data
29 collected [and], PUBLISHED, released [under this section], USED AND
30 ACCESSED UNDER THIS SECTION, INCLUDING COMPLIANCE WITH APPLICABLE FEDER-
31 AL LAW.

32 (c) Standards for the publication [and], release, AND USE of AND
33 ACCESS TO data reported in accordance with this section, INCLUDING FEES
34 TO BE CHARGED.

35 (D) PROVISIONS REQUIRING SPECIFIED HEALTH CARE PROVIDERS AND
36 THIRD-PARTY HEALTH CARE PAYERS TO REPORT DATA TO THE SYSTEM, WITH SPEC-
37 IFICATIONS OF THE DATA, CIRCUMSTANCES, FORMAT, TIME AND METHOD OF
38 REPORTING.

39 (E) PROVISIONS TO ACQUIRE DATA RELATING TO HEALTH CARE PROVIDED (I) TO
40 PATIENTS FOR WHOM THERE IS NO THIRD-PARTY HEALTH CARE PAYER AND (II)
41 UNDER ARRANGEMENTS THAT DO NOT INVOLVE FEE-FOR-SERVICE PAYMENT.

42 (F) PHASED-IN IMPLEMENTATION OF THE SYSTEM.

43 3. THE COMMISSIONER MAY PROVIDE THAT THE SYSTEM MAY PARTICIPATE IN OR
44 COOPERATE WITH A SIMILAR SYSTEM OPERATED BY, OR RECEIVE INFORMATION FROM
45 OR PROVIDE INFORMATION TO, A REGIONAL OR NATIONAL ENTITY OR ANOTHER
46 JURISDICTION, INCLUDING MAKING APPROPRIATE AGREEMENTS AND APPLYING FOR
47 APPROVALS, PROVIDED THAT THE PROTECTIONS FOR HEALTH CARE PROVIDERS,
48 PATIENTS, AND THIRD-PARTY HEALTH CARE PAYERS IN THIS SECTION ARE
49 PRESERVED AND COMPARABLE PROVISIONS ARE INCLUDED IN THE OTHER SYSTEM.

50 4. THE COMMISSIONER MAY PROVIDE FOR ACCESS TO DATA IN THE SYSTEM BY A
51 HEALTH CARE PROVIDER RELATING TO A PATIENT BEING TREATED BY THE HEALTH
52 CARE PROVIDER, SUBJECT TO THIS SECTION AND APPLICABLE STATE AND FEDERAL
53 LAW.

54 5. IN OPERATING THE SYSTEM, THE COMMISSIONER SHALL CONSIDER NATIONAL
55 STANDARDS, INCLUDING BUT NOT LIMITED TO THOSE APPROVED BY THE NATIONAL
56 UNIFORM BILLING COMMITTEE (NUBC) OR REQUIRED UNDER NATIONAL ELECTRONIC

1 DATA INTERCHANGE (EDI) STANDARDS FOR HEALTH CARE TRANSACTIONS. THE
2 COMMISSIONER SHALL ALSO CONSIDER THE USE OF THE STATEWIDE HEALTH INFOR-
3 MATION NETWORK FOR NEW YORK IN RELATION TO THE SYSTEM.

4 6. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW TO THE CONTRARY,
5 INCLUDING BUT NOT LIMITED TO SECTION ONE HUNDRED TWO OF THE EXECUTIVE
6 LAW, SUCH RULES AND REGULATIONS MAY DESCRIBE DATA ELEMENTS BY REFERENCE
7 TO INFORMATION REASONABLY AVAILABLE TO REGULATED PARTIES, AS SUCH MATE-
8 RIAL MAY BE AMENDED IN THE FUTURE, EVEN THOUGH SUCH MATERIAL CANNOT BE
9 PRECISELY IDENTIFIED TO THE EXTENT THAT IT IS AMENDED IN THE FUTURE;
10 PROVIDED, HOWEVER, THAT THE COMMISSIONER SHALL PRECISELY IDENTIFY AND
11 PUBLISH SUCH DATA ELEMENTS.

12 7. THE COMMISSIONER MAY CONTRACT WITH ONE OR MORE ENTITIES TO OPERATE
13 ANY PART OF THE SYSTEM SUBJECT TO THIS SECTION.

14 8. THE COMMISSIONER MAY ACCEPT GRANTS AND ENTER INTO CONTRACTS AS MAY
15 BE NECESSARY TO PROVIDE FUNDING FOR THE SYSTEM.

16 9. THE COMMISSIONER SHALL PUBLISH AN ANNUAL REPORT RELATING TO HEALTH
17 CARE UTILIZATION, COST, QUALITY, AND SAFETY, INCLUDING DATA ON HEALTH
18 DISPARITIES.

19 S 38-a. Paragraph (b) of subdivision 18-a of section 206 of the public
20 health law, as added by section 11 of part A of chapter 58 of the laws
21 of 2010, is amended to read as follows:

22 (b) The commissioner shall make such rules and regulations as may be
23 necessary to implement federal policies and disburse funds as required
24 by the American Recovery and Reinvestment Act of 2009 and to promote the
25 development of a statewide health information network of New York
26 (SHIN-NY) to enable widespread interoperability among disparate health
27 information systems, including electronic health records, personal
28 health records, HEALTH CARE CLAIMS AND OTHER ADMINISTRATIVE DATA, and
29 public health information systems, while protecting privacy and securi-
30 ty. Such rules and regulations shall include, but not be limited to,
31 requirements for organizations covered by 42 U.S.C. 17938 or any other
32 organizations that exchange health information through the SHIN-NY.

33 S 39. The social services law is amended by adding a new section 363-e
34 to read as follows:

35 S 363-E. MEDICAID PLAN, APPLICATIONS FOR WAIVERS AND PLAN AMENDMENTS;
36 PUBLIC DISCLOSURE. 1. THE COMMISSIONER OF HEALTH SHALL POST ON THE
37 DEPARTMENT OF HEALTH INTERNET WEBSITE IN AS TIMELY A MANNER AS PRACTICAL
38 THE ENTIRETY OF THE STATE'S PLAN FOR MEDICAL ASSISTANCE AS REQUIRED BY
39 TITLE XIX OF THE FEDERAL SOCIAL SECURITY ACT, OR ITS SUCCESSOR, AND
40 EVERY APPROVED AMENDMENT AND CHANGE TO THE PLAN.

41 2. THE COMMISSIONER OF HEALTH SHALL POST ON THE DEPARTMENT OF HEALTH
42 INTERNET WEBSITE IN AS TIMELY A MANNER AS PRACTICAL: EVERY APPLICATION
43 FOR A FEDERAL WAIVER AND EVERY PROPOSED STATE PLAN AMENDMENT, RELATING
44 TO THE STATE'S PLAN FOR MEDICAL ASSISTANCE, SUBMITTED TO THE FEDERAL
45 DEPARTMENT OF HEALTH AND HUMAN SERVICES, OR ANY SUCCESSOR AGENCY OR PART
46 THEREOF.

47 S 40. Paragraph (u) of subdivision 2 of section 365-a of the social
48 services law, as amended by section 42 of part B of chapter 58 of the
49 laws of 2010, is amended to read as follows:

50 (u) screening, brief intervention, and referral to treatment [in
51 hospital outpatient and emergency departments and free-standing diagnos-
52 tic and treatment centers] of individuals at risk for substance abuse
53 including referral to the appropriate level of intervention and treat-
54 ment in a community setting; provided, however, that the provisions of
55 this paragraph relating to screening, brief intervention, and referral
56 to treatment services shall not take effect unless all necessary

1 approvals under federal law and regulation have been obtained to receive
2 federal financial participation in such costs.

3 S 41. Paragraphs (d) and (e) of subdivision 1 and paragraphs (c) and
4 (d) of subdivision 2 of section 4403-f of the public health law, para-
5 graph (d) of subdivision 1 as amended by section 6 of part C of chapter
6 58 of the laws of 2007, paragraph (e) of subdivision 1 as amended by
7 section 65-d of part A of chapter 57 of the laws of 2006, paragraph (c)
8 of subdivision 2 as added by chapter 659 of the laws of 1997 and para-
9 graph (d) of subdivision 2 as amended by section 9 of part C of chapter
10 58 of the laws of 2007, and paragraphs (d) and (e) of subdivision 1 as
11 relettered by section 7 of part C of chapter 58 of the laws of 2007, are
12 amended to read as follows:

13 (d) ["Approved managed long term care demonstration" means the sites
14 approved by the commissioner to participate in the "Evaluated Medicaid
15 Long Term Care Capitation Program".

16 (e)] "Health and long term care services" means services including,
17 but not limited to [primary care, acute care,] home and community-based
18 and institution-based long term care and ancillary services (that shall
19 include medical supplies and nutritional supplements) that are necessary
20 to meet the needs of persons whom the plan is authorized to enroll. THE
21 MANAGED LONG TERM CARE PLAN MAY ALSO COVER PRIMARY CARE AND ACUTE CARE
22 IF SO AUTHORIZED.

23 (c) [a description that demonstrates the cost-effectiveness of the
24 program as compared to the cost of services clients would otherwise have
25 received;

26 (d)] adequate documentation of the appropriate licenses, certifi-
27 cations or approvals to provide care as planned, including contracts
28 with such providers as may be necessary to provide the full complement
29 of services required to be provided under this section.

30 S 41-a. Subdivision 3 of section 4403-f of the public health law, as
31 amended by chapter 627 of the laws of 2008, is amended to read as
32 follows:

33 3. Certificate of authority; approval. The commissioner shall not
34 approve an application for a certificate of authority unless the appli-
35 cant demonstrates to the commissioner's satisfaction:

36 (a) [the relative cost effectiveness to the medical assistance program
37 when compared to other managed long term care plans proposing to serve,
38 or serving, comparable populations;

39 (b)] that it will have in place acceptable quality-assurance mech-
40 anisms, grievance procedures, mechanisms to protect the rights of enrol-
41 lees and case management services to ensure continuity, quality, appro-
42 priateness and coordination of care;

43 [(c)] (B) that it will include an enrollment process which shall
44 ensure that enrollment in the plan is informed [and voluntary by enrol-
45 lees or their representatives and a voluntary disenrollment process].
46 The application shall [include the specific grounds that would warrant
47 involuntary disenrollment provided, however,] DESCRIBE THE DISENROLLMENT
48 PROCESS, WHICH SHALL PROVIDE THAT an otherwise eligible enrollee shall
49 not be involuntarily disenrolled on the basis of health status;

50 [(d)] (C) satisfactory evidence of the character and competence of the
51 proposed operators and reasonable assurance that the applicant will
52 provide high quality services to an enrolled population;

53 [(e)] (D) sufficient management systems capacity to meet the require-
54 ments of this section and the ability to efficiently process payment for
55 covered services;

1 [(f)] (E) readiness and capability to [achieve full capitation for
2 services reimbursed pursuant to title XVIII of the federal social secu-
3 rity act or, for an applicant designated as an eligible applicant prior
4 to April first, two thousand seven pursuant to paragraph (d) of subdivi-
5 sion six of this section that has its principal place of business in
6 Bronx county and is unable to achieve such full capitation, readiness
7 and capability to achieve full capitation on a scheduled basis for]
8 MAXIMIZE REIMBURSEMENT OF AND COORDINATE services reimbursed pursuant to
9 title XVIII of the federal social security act [or capability and proto-
10 cols for benefit coordination for services reimbursed pursuant to such
11 title] and all other applicable benefits, with such benefit coordination
12 including, but not limited to, measures to support sound clinical deci-
13 sions, reduce administrative complexity, coordinate access to services,
14 maximize benefits available pursuant to such title and ensure that
15 necessary care is provided;

16 [(g)] (F) readiness and capability to [achieve full capitation for]
17 ARRANGE AND MANAGE COVERED SERVICES AND COORDINATE NON-COVERED SERVICES
18 WHICH COULD INCLUDE PRIMARY, SPECIALTY, AND ACUTE CARE services reim-
19 bursed pursuant to title XIX of the federal social security act;

20 [(h)] (G) willingness and capability of taking, or cooperating in, all
21 steps necessary to secure and integrate any potential sources of funding
22 for services provided by the managed long term care plan, including, but
23 not limited to, funding available under titles XVI, XVIII, XIX and XX of
24 the federal social security act, the federal older Americans act of
25 nineteen hundred sixty-five, as amended, or any successor provisions
26 subject to approval of the director of the state office for aging, and
27 through financing options such as those authorized pursuant to section
28 three hundred sixty-seven-f of the social services law;

29 [(i)] (H) that the CONTRACTUAL arrangements for PROVIDERS OF health
30 and long term care services IN THE BENEFIT PACKAGE ARE SUFFICIENT TO
31 ensure the availability and accessibility of such services to the
32 proposed enrolled population CONSISTENT WITH GUIDELINES ESTABLISHED BY
33 THE COMMISSIONER; WITH RESPECT TO INDIVIDUALS IN RECEIPT OF SUCH
34 SERVICES PRIOR TO ENROLLMENT, SUCH GUIDELINES SHALL REQUIRE THE MANAGED
35 LONG TERM CARE PLAN TO CONTRACT WITH AGENCIES CURRENTLY PROVIDING SUCH
36 SERVICES, IN ORDER TO PROMOTE CONTINUITY OF CARE. IN ADDITION, SUCH
37 GUIDELINES SHALL REQUIRE MANAGED LONG TERM CARE PLANS TO OFFER AND COVER
38 CONSUMER DIRECTED PERSONAL ASSISTANCE SERVICES FOR ELIGIBLE INDIVIDUALS
39 WHO ELECT SUCH SERVICES PURSUANT TO SECTION THREE HUNDRED SIXTY-FIVE-F
40 OF THE SOCIAL SERVICES LAW; and

41 [(j)] (I) that the applicant is financially responsible and may be
42 expected to meet its obligations to its enrolled members.

43 S 41-b. Subdivisions 5, 6, 7 and 10 of section 4403-f of the public
44 health law, subdivision 5 as amended by section 15 of part C of chapter
45 58 of the laws of 2007, subdivisions 6 and 7 as added by chapter 659 of
46 the laws of 1997, paragraphs (a), (b) and (c) of subdivision 6 as
47 amended by section 6 of part C of chapter 58 of the laws of 2010, para-
48 graph (d) of subdivision 6 as amended by section 17 of part C of chapter
49 58 of the laws of 2007, paragraphs (c) and (d) of subdivision 7 as
50 amended by section 18 of part C of chapter 58 of the laws of 2007, para-
51 graphs (e) and (g) of subdivision 7 as relettered by section 20 of part
52 C of chapter 58 of the laws of 2007, paragraph (h) of subdivision 7 as
53 added by section 65-c of part A of chapter 57 of the laws of 2006, para-
54 graph (i) as added by section 65-f of part A of chapter 57 of the laws
55 of 2006, and such paragraphs (h) and (i) as relettered by section 20 of
56 part C of chapter 58 of the laws of 2007, paragraph (f) of subdivision 7

1 as amended by section 7 of part C of chapter 58 of the laws of 2010,
2 subparagraph (iii) of paragraph (h) of subdivision 7 as amended by
3 section 19 of part C of chapter 58 of the laws of 2007, subdivision 10
4 as amended by chapter 192 of the laws of 2006 and renumbered by section
5 22 of part C of chapter 58 of the laws of 2007, are amended to read as
6 follows:

7 5. Applicability of other laws. A managed long term care plan [or
8 approved managed long term care demonstration] shall be subject to the
9 provisions of the insurance law and regulations applicable to health
10 maintenance organizations, this article and regulations promulgated
11 pursuant thereto. To the extent that the provisions of this section are
12 inconsistent with the provisions of this chapter or the provisions of
13 the insurance law, the provisions of this section shall prevail.

14 6. Approval authority. (a) An applicant shall be issued a certificate
15 of authority as a managed long term care plan upon a determination by
16 the commissioner that the applicant complies with the operating require-
17 ments for a managed long term care plan under this section. The commis-
18 sioner shall issue no more than [fifty] SEVENTY-FIVE certificates of
19 authority to managed long term care plans pursuant to this section. [For
20 purposes of issuance of no more than fifty certificates of authority,
21 such certificates shall include those certificates issued pursuant to
22 paragraphs (b) and (c) of this subdivision.]

23 (b) An operating demonstration shall be issued a certificate of
24 authority as a managed long term care plan upon a determination by the
25 commissioner that such demonstration complies with the operating
26 requirements for a managed long term care plan under this section.
27 [Except as otherwise expressly provided in paragraphs (d) and (e) of
28 subdivision seven of this section, nothing] NOTHING in this section
29 shall be construed to affect the continued legal authority of an operat-
30 ing demonstration to operate its previously approved program.

31 (c) [An approved managed long term care demonstration shall be issued
32 a certificate of authority as a managed long term care plan upon a
33 determination by the commissioner that such demonstration complies with
34 the operating requirements for a managed long term care plan under this
35 section. Notwithstanding any inconsistent provision of law to the
36 contrary, all authority for the operation of approved managed long term
37 care demonstrations which have not been issued a certificate of authori-
38 ty as a managed long term care plan, shall expire one year after the
39 adoption of regulations implementing managed long term care plans.]

40 (d) The majority leader of the senate and the speaker of the assembly
41 may each designate in writing up to fifteen eligible applicants to apply
42 to be approved managed long term care demonstrations or plans. The
43 commissioner may designate in writing up to eleven eligible applicants
44 to apply to be approved managed long term care demonstrations or plans.]
45 FOR THE PERIOD BEGINNING APRIL FIRST, TWO THOUSAND TWELVE AND ENDING
46 MARCH THIRTY-FIRST, TWO THOUSAND FIFTEEN, THE MAJORITY LEADER OF THE
47 SENATE AND THE SPEAKER OF THE ASSEMBLY MAY EACH RECOMMEND TO THE COMMIS-
48 SIONER, IN WRITING, UP TO FOUR ELIGIBLE APPLICANTS TO CONVERT TO BE
49 APPROVED MANAGED LONG TERM CARE PLANS. AN APPLICANT SHALL ONLY BE
50 APPROVED AND ISSUED A CERTIFICATE OF AUTHORITY IF THE COMMISSIONER
51 DETERMINES THAT THE APPLICANT MEETS THE REQUIREMENTS OF SUBDIVISION
52 THREE OF THIS SECTION. THE MAJORITY LEADER OF THE SENATE OR THE SPEAKER
53 OF THE ASSEMBLY MAY ASSIGN THEIR AUTHORITY TO RECOMMEND ONE OR MORE
54 APPLICANTS UNDER THIS SECTION TO THE COMMISSIONER.

55 7. Program oversight and administration. (a)(i) The commissioner shall
56 promulgate regulations to implement this section and to ensure the qual-

1 ity, appropriateness and cost-effectiveness of the services provided by
2 managed long term care plans. The commissioner may waive rules and regu-
3 lations of the department, including but not limited to, those pertain-
4 ing to duplicative requirements concerning record keeping, boards of
5 directors, staffing and reporting, when such waiver will promote the
6 efficient delivery of appropriate, quality, cost-effective services and
7 when the health, safety and general welfare of enrollees will not be
8 impaired as a result of such waiver. In order to achieve managed long
9 term care plan system efficiencies and coordination and to promote the
10 objectives of high quality, integrated and cost effective care, the
11 commissioner may establish a single coordinated surveillance process,
12 allow for a comprehensive quality improvement and review process to meet
13 component quality requirements, and require a uniform cost report. The
14 commissioner shall require managed long term care plans to utilize qual-
15 ity improvement measures, based on health outcomes data, for internal
16 quality assessment processes and may utilize such measures as part of
17 the single coordinated surveillance process.

18 (ii) Notwithstanding any inconsistent provision of the social services
19 law to the contrary, the commissioner shall, pursuant to regulation,
20 determine whether and the extent to which the applicable provisions of
21 the social services law or regulations relating to approvals and author-
22 izations of, and utilization limitations on, health and long term care
23 services reimbursed pursuant to title XIX of the federal social security
24 act, including, but not limited to, fiscal assessment requirements, are
25 inconsistent with the flexibility necessary for the efficient adminis-
26 tration of managed long term care plans and such regulations shall
27 provide that such provisions shall not be applicable to enrollees or
28 managed long term care plans, provided that such determinations are
29 consistent with applicable federal law and regulation.

30 (b) (I) The commissioner shall, to the extent necessary, submit the
31 appropriate waivers, including, but not limited to, those authorized
32 pursuant to sections eleven hundred fifteen and nineteen hundred fifteen
33 of the federal social security act, or successor provisions, and any
34 other waivers necessary to achieve the purposes of high quality, inte-
35 grated, and cost effective care and integrated financial eligibility
36 policies under the medical assistance program or pursuant to title XVIII
37 of the federal social security act. IN ADDITION, THE COMMISSIONER IS
38 AUTHORIZED TO SUBMIT THE APPROPRIATE WAIVERS, INCLUDING BUT NOT LIMITED
39 TO THOSE AUTHORIZED PURSUANT TO SECTIONS ELEVEN HUNDRED FIFTEEN AND
40 NINETEEN HUNDRED FIFTEEN OF THE FEDERAL SOCIAL SECURITY ACT OR SUCCESSOR
41 PROVISIONS, AND ANY OTHER WAIVERS NECESSARY TO REQUIRE ON OR AFTER APRIL
42 FIRST, TWO THOUSAND TWELVE, MEDICAL ASSISTANCE RECIPIENTS WHO ARE TWEN-
43 TY-ONE YEARS OF AGE OR OLDER AND WHO REQUIRE COMMUNITY-BASED LONG TERM
44 CARE SERVICES, AS SPECIFIED BY THE COMMISSIONER, FOR MORE THAN ONE
45 HUNDRED AND TWENTY DAYS, TO RECEIVE SUCH SERVICES THROUGH AN AVAILABLE
46 PLAN CERTIFIED PURSUANT TO THIS SECTION OR OTHER PROGRAM MODEL THAT
47 MEETS GUIDELINES SPECIFIED BY THE COMMISSIONER THAT SUPPORT COORDINATION
48 AND INTEGRATION OF SERVICES. SUCH GUIDELINES SHALL ADDRESS THE REQUIRE-
49 MENTS OF PARAGRAPHS (A), (B), (C), (D), (E), (F), (G), (H), AND (I) OF
50 SUBDIVISION THREE OF THIS SECTION AS WELL AS PAYMENT METHODS THAT ENSURE
51 PROVIDER ACCOUNTABILITY FOR COST EFFECTIVE QUALITY OUTCOMES. SUCH OTHER
52 PROGRAM MODELS MAY INCLUDE LONG TERM HOME HEALTH CARE PROGRAMS THAT
53 COMPLY WITH SUCH GUIDELINES. Copies of such original waiver applications
54 AND AMENDMENTS THERETO shall be provided to the [chairman] CHAIRS of the
55 senate finance committee [and the chairman of], the assembly ways and

means committee AND THE SENATE AND ASSEMBLY HEALTH COMMITTEES simultaneously with their submission to the federal government.

(II) THE COMMISSIONER, SHALL SEEK INPUT FROM REPRESENTATIVES OF HOME AND COMMUNITY-BASED LONG TERM CARE SERVICES PROVIDERS, RECIPIENTS, AND THE MEDICAID MANAGED CARE ADVISORY REVIEW PANEL, AMONG OTHERS, TO FURTHER EVALUATE AND PROMOTE THE TRANSITION OF PERSONS IN RECEIPT OF HOME AND COMMUNITY-BASED LONG TERM CARE SERVICES INTO MANAGED LONG TERM CARE PLANS AND OTHER CARE COORDINATION MODELS AND TO DEVELOP GUIDELINES FOR SUCH CARE COORDINATION MODELS. THE GUIDELINES SHALL BE FINALIZED AND POSTED ON THE DEPARTMENT'S WEBSITE NO LATER THAN NOVEMBER FIFTEEN, TWO THOUSAND ELEVEN.

(III) MEDICAL ASSISTANCE RECIPIENTS WHO ARE NATIVE AMERICANS SHALL NOT BE REQUIRED TO ENROLL IN A MANAGED LONG TERM CARE PLAN OR OTHER CARE COORDINATION MODEL PURSUANT TO THIS PARAGRAPH.

(IV) THE FOLLOWING MEDICAL ASSISTANCE RECIPIENTS SHALL NOT BE ELIGIBLE TO PARTICIPATE IN A MANAGED LONG TERM CARE PROGRAM OR OTHER CARE COORDINATION MODEL ESTABLISHED PURSUANT TO THIS PARAGRAPH:

(1) A PERSON WHO IS EXPECTED TO BE ELIGIBLE FOR MEDICAL ASSISTANCE FOR LESS THAN SIX MONTHS, FOR A REASON OTHER THAN THAT THE PERSON IS ELIGIBLE FOR MEDICAL ASSISTANCE ONLY THROUGH THE APPLICATION OF EXCESS INCOME TOWARD THE COST OF MEDICAL CARE AND SERVICES;

(2) A PERSON WHO IS ELIGIBLE FOR MEDICAL ASSISTANCE BENEFITS ONLY WITH RESPECT TO TUBERCULOSIS-RELATED SERVICES;

(3) A PERSON RECEIVING HOSPICE SERVICES AT TIME OF ENROLLMENT;

(4) A PERSON WHO HAS PRIMARY MEDICAL OR HEALTH CARE COVERAGE AVAILABLE FROM OR UNDER A THIRD-PARTY PAYOR WHICH MAY BE MAINTAINED BY PAYMENT, OR PART PAYMENT, OF THE PREMIUM OR COST SHARING AMOUNTS, WHEN PAYMENT OF SUCH PREMIUM OR COST SHARING AMOUNTS WOULD BE COST-EFFECTIVE, AS DETERMINED BY THE SOCIAL SERVICES DISTRICT;

(5) A PERSON RECEIVING FAMILY PLANNING SERVICES PURSUANT TO SUBPARAGRAPH ELEVEN OF PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION THREE HUNDRED SIXTY-SIX OF THE SOCIAL SERVICES LAW;

(6) A PERSON WHO IS ELIGIBLE FOR MEDICAL ASSISTANCE PURSUANT TO PARAGRAPH (V) OF SUBDIVISION FOUR OF SECTION THREE HUNDRED SIXTY-SIX OF THE SOCIAL SERVICES LAW.

(V) THE FOLLOWING MEDICAL ASSISTANCE RECIPIENTS SHALL NOT BE ELIGIBLE TO PARTICIPATE IN A MANAGED LONG TERM CARE PROGRAM OR OTHER CARE COORDINATION MODEL ESTABLISHED PURSUANT TO THIS PARAGRAPH UNTIL PROGRAM FEATURES AND REIMBURSEMENT RATES ARE APPROVED BY THE COMMISSIONER AND, AS APPLICABLE, THE COMMISSIONER OF DEVELOPMENTAL DISABILITIES:

(1) A PERSON ENROLLED IN A MANAGED CARE PLAN PURSUANT TO SECTION THREE HUNDRED SIXTY-FOUR-J OF THE SOCIAL SERVICES LAW;

(2) A PARTICIPANT IN THE TRAUMATIC BRAIN INJURY WAIVER PROGRAM;

(3) A PARTICIPANT IN THE NURSING HOME TRANSITION AND DIVERSION WAIVER PROGRAM;

(4) A PERSON ENROLLED IN THE ASSISTED LIVING PROGRAM;

(5) A PERSON ENROLLED IN HOME AND COMMUNITY BASED WAIVER PROGRAMS ADMINISTERED BY THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES.

(VI) PERSONS REQUIRED TO ENROLL IN THE MANAGED LONG TERM CARE PROGRAM OR OTHER CARE COORDINATION MODEL ESTABLISHED PURSUANT TO THIS PARAGRAPH SHALL HAVE NO LESS THAN THIRTY DAYS TO SELECT A MANAGED LONG TERM CARE PROVIDER, AND SHALL BE PROVIDED WITH INFORMATION TO MAKE AN INFORMED CHOICE. WHERE A PARTICIPANT HAS NOT SELECTED SUCH A PROVIDER, THE COMMISSIONER SHALL ASSIGN SUCH PARTICIPANT TO A MANAGED LONG TERM CARE PROVIDER, TAKING INTO ACCOUNT QUALITY, CAPACITY AND GEOGRAPHIC ACCESSIBILITY.

(VII) MANAGED LONG TERM CARE PROVIDED AND PLANS CERTIFIED OR OTHER CARE COORDINATION MODEL ESTABLISHED PURSUANT TO THIS PARAGRAPH SHALL COMPLY WITH THE PROVISIONS OF PARAGRAPHS (D), (I), AND (T) AND SUBPARAGRAPH (III) OF PARAGRAPH (A) AND SUBPARAGRAPH (IV) OF PARAGRAPH (E) OF SUBDIVISION FOUR OF SECTION THREE HUNDRED SIXTY-FOUR-J OF THE SOCIAL SERVICES LAW.

(c)(i) A managed long term care plan shall not use deceptive or coercive marketing methods to encourage participants to enroll. A managed long term care plan shall not distribute marketing materials to potential enrollees before such materials have been approved by the commissioner.

(ii) The commissioner shall ensure, through periodic reviews of managed long term care plans, that enrollment was [a voluntary and] AN informed choice; such plan has only enrolled persons whom it is authorized to enroll, and plan services are promptly available to enrollees when appropriate. Such periodic reviews shall be made according to standards as determined by the commissioner in regulations.

(d) Notwithstanding any provision of law, rule or regulation to the contrary, the commissioner may issue a request for proposals to carry out reviews of enrollment and assessment activities in managed long term care plans and operating demonstrations with respect to enrollees eligible to receive services under title XIX of the federal social security act to determine if enrollment meets the requirements of subparagraph (ii) of paragraph (c) of this subdivision; and that assessments of such enrollees' health, functional and other status, for the purpose of adjusting premiums, were accurate. [Evaluations shall address each bidder's ability to ensure that enrollments in such plans are promptly reviewed and that medical assistance required to be furnished pursuant to title eleven of article five of the social services law will be appropriately furnished to the recipients for whom the local commissioners are responsible pursuant to section three hundred sixty-five of such title and that plan implementation will be consistent with the proper and efficient administration of the medical assistance program and managed long term care plans.]

(e) The commissioner may, in his or her discretion for the purpose of protection of enrollees, impose measures including, but not limited to, bans on further enrollments and requirements for use of enrollment brokers until any identified problems are resolved to the satisfaction of the commissioner.

(f) Continuation of a certificate of authority issued under this section shall be contingent upon satisfactory performance by the managed long term care plan in the delivery, continuity, accessibility, cost effectiveness and quality of the services to enrolled members; compliance with applicable provisions of this section and rules and regulations promulgated thereunder; the continuing fiscal solvency of the organization; and, federal financial participation in payments on behalf of enrollees who are eligible to receive services under title XIX of the federal social security act.

(g) [The commissioner shall ensure that (i) a process exists for the resolution of disputes concerning the accuracy of assessments performed pursuant to paragraphs (d) and (e) of this subdivision; and (ii) the tasks described in paragraphs (d) and (e) of this subdivision are consistently administered.

(h)] (i) Managed long term care plans and demonstrations may enroll eligible persons in the plan or demonstration upon the completion of a comprehensive assessment that shall include, but not be limited to, an

1 evaluation of the medical, social and environmental needs of each
2 prospective enrollee in such program. This assessment shall also serve
3 as the basis for the development and provision of an appropriate plan of
4 care for the [prospective] enrollee. UPON APPROVAL OF FEDERAL WAIVERS
5 PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION WHICH REQUIRE MEDICAL
6 ASSISTANCE RECIPIENTS WHO REQUIRE COMMUNITY-BASED LONG TERM CARE
7 SERVICES TO ENROLL IN A PLAN, AND UPON APPROVAL OF THE COMMISSIONER, A
8 PLAN MAY ENROLL AN APPLICANT WHO IS CURRENTLY RECEIVING HOME AND COMMU-
9 NITY-BASED SERVICES AND COMPLETE THE COMPREHENSIVE ASSESSMENT WITHIN
10 THIRTY DAYS OF ENROLLMENT PROVIDED THAT THE PLAN CONTINUES TO COVER
11 TRANSITIONAL CARE UNTIL SUCH TIME AS THE ASSESSMENT IS COMPLETED.

12 (ii) The assessment shall be completed by a representative of the
13 managed long term care plan or demonstration, in consultation with the
14 prospective enrollee's health care practitioner AS NECESSARY. The
15 commissioner shall prescribe the forms on which the assessment shall be
16 made.

17 (iii) The [completed assessment and documentation of the] enrollment
18 APPLICATION shall be submitted by the managed long term care plan or
19 demonstration to the [local department of social services, or to a
20 contractor selected pursuant to paragraph (d) of this subdivision,]
21 ENTITY DESIGNATED BY THE DEPARTMENT prior to the commencement of
22 services under the managed long term care plan or demonstration. For
23 purposes of reimbursement of the managed long term care plan or demon-
24 stration, if the [completed assessment and documentation are] ENROLLMENT
25 APPLICATION IS submitted on or before the twentieth day of the month,
26 the enrollment shall commence on the first day of the month following
27 the completion and submission and if the [completed assessment and
28 documentation are] ENROLLMENT APPLICATION IS submitted after the twenti-
29 eth day of the month, the enrollment shall commence on the first day of
30 the second month following submission. Enrollments conducted by a plan
31 or demonstration shall be subject to review and audit by the department
32 [and by the local social services district] or a contractor selected
33 pursuant to paragraph (d) of this subdivision.

34 (iv) Continued enrollment in a managed long term care plan or demon-
35 stration paid for by government funds shall be based upon a comprehen-
36 sive assessment of the medical, social and environmental needs of the
37 recipient of the services. Such assessment shall be performed at least
38 [annually] EVERY SIX MONTHS by the managed long term care plan serving
39 the enrollee. The commissioner shall prescribe the forms on which the
40 assessment will be made.

41 [(i)] (H) The commissioner shall, upon request by a managed long term
42 care plan[, approved managed long term care demonstration,] or operating
43 demonstration, and consistent with federal regulations promulgated
44 pursuant to the Health Insurance Portability and Accountability Act,
45 share with such plan or demonstration the following data if it is avail-
46 able:

47 (i) information concerning utilization of services and providers by
48 each of its enrollees prior to and during enrollment, including but not
49 limited to utilization of emergency department services, prescription
50 drugs, and hospital and nursing facility admissions.

51 (ii) aggregate data concerning utilization and costs for enrollees and
52 for comparable cohorts served through the Medicaid fee-for-service
53 program.

54 10. [The] NOTWITHSTANDING ANY INCONSISTENT PROVISION TO THE CONTRARY,
55 THE ENROLLMENT AND DISENROLLMENT PROCESS AND services provided or
56 arranged by all operating demonstrations or any program that receives

1 designation as a Program of All-Inclusive Care for the Elderly (PACE) as
2 authorized by federal public law 105-33, subtitle I of title IV of the
3 Balanced Budget Act of 1997, MUST MEET ALL APPLICABLE FEDERAL REQUIRE-
4 MENTS. SERVICES may include, but need not be limited to, housing, inpa-
5 tient and outpatient hospital services, nursing home care, home health
6 care, adult day care, assisted living services provided in accordance
7 with article forty-six-B of this chapter, adult care facility services,
8 enriched housing program services, hospice care, respite care, personal
9 care, homemaker services, diagnostic laboratory services, therapeutic
10 and diagnostic radiologic services, emergency services, emergency alarm
11 systems, home delivered meals, physical adaptations to the client's
12 home, physician care (including consultant and referral services),
13 ancillary services, case management services, transportation, and
14 related medical services.

15 S 42. Section 4401 of the public health law is amended by adding a
16 new subdivision 8 to read as follows:

17 8. "SPECIAL NEEDS MANAGED CARE PLAN" OR "SPECIALIZED MANAGED CARE
18 PLAN" SHALL MEAN A COMBINATION OF PERSONS NATURAL OR CORPORATE, OR ANY
19 GROUPS OF SUCH PERSONS, OR A COUNTY OR COUNTIES, WHO ENTER INTO AN
20 ARRANGEMENT, AGREEMENT OR PLAN, OR COMBINATION OF ARRANGEMENTS, AGREE-
21 MENTS OR PLANS, TO PROVIDE HEALTH AND BEHAVIORAL HEALTH SERVICES TO
22 ENROLLEES WITH SIGNIFICANT BEHAVIORAL HEALTH NEEDS.

23 S 42-a. The public health law is amended by adding a new section
24 4403-d to read as follows:

25 S 4403-D. SPECIAL NEEDS MANAGED CARE PLANS AND SPECIALIZED MANAGED
26 CARE PLANS. NO PERSON, GROUP OF PERSONS, COUNTY OR COUNTIES MAY OPERATE
27 A SPECIAL NEEDS MANAGED CARE PLAN OR SPECIALIZED MANAGED CARE PLAN WITH-
28 OUT FIRST OBTAINING A CERTIFICATE OF AUTHORITY FROM THE COMMISSIONER,
29 ISSUED JOINTLY WITH THE COMMISSIONER OF THE OFFICE OF MENTAL HEALTH AND
30 THE COMMISSIONER OF THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE
31 SERVICES.

32 S 42-b. Paragraph (m) of subdivision 1 of section 364-j of the social
33 services law, as amended by chapter 649 of the laws of 1996, is amended
34 to read as follows:

35 (m) "[Mental health special] SPECIAL needs MANAGED CARE plan" AND
36 "SPECIALIZED MANAGED CARE PLAN" shall have the same meaning as in
37 section forty-four hundred [three-d] ONE of the public health law.

38 S 42-c. Subdivision 2 of section 364-j of the social services law is
39 amended by adding a new paragraph (c) to read as follows:

40 (C) THE COMMISSIONER OF HEALTH, JOINTLY WITH THE COMMISSIONER OF
41 MENTAL HEALTH AND THE COMMISSIONER OF ALCOHOLISM AND SUBSTANCE ABUSE
42 SERVICES SHALL BE AUTHORIZED TO ESTABLISH SPECIAL NEEDS MANAGED CARE AND
43 SPECIALIZED MANAGED CARE PLANS, UNDER THE MEDICAL ASSISTANCE PROGRAM, IN
44 ACCORDANCE WITH APPLICABLE FEDERAL LAW AND REGULATIONS. THE COMMISSIONER
45 OF HEALTH, IN COOPERATION WITH SUCH COMMISSIONERS, IS AUTHORIZED,
46 SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE DIVISION OF THE BUDGET,
47 TO APPLY FOR FEDERAL WAIVERS WHEN SUCH ACTION WOULD BE NECESSARY TO
48 ASSIST IN PROMOTING THE OBJECTIVES OF THIS SECTION.

49 S 42-d. The social services law is amended by adding a new section
50 365-m to read as follows:

51 S 365-M. ADMINISTRATION AND MANAGEMENT OF BEHAVIORAL HEALTH SERVICES.
52 1. THE COMMISSIONERS OF THE OFFICE OF MENTAL HEALTH AND THE OFFICE OF
53 ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, IN CONSULTATION WITH THE
54 COMMISSIONER OF HEALTH, THE IMPACTED LOCAL GOVERNMENTAL UNITS AND WITH
55 THE APPROVAL OF THE DIVISION OF THE BUDGET, SHALL HAVE RESPONSIBILITY
56 FOR JOINTLY DESIGNATING REGIONAL ENTITIES TO PROVIDE ADMINISTRATIVE AND

1 MANAGEMENT SERVICES FOR THE PURPOSES OF PRIOR APPROVING AND COORDINATING
2 THE PROVISION OF BEHAVIORAL HEALTH SERVICES, FACILITATING THE CONTINUITY
3 OF POST-HOSPITALIZATION BEHAVIORAL HEALTH AND THE INTEGRATION OF BEHAV-
4 IORAL HEALTH SERVICES WITH OTHER SERVICES AVAILABLE UNDER THIS TITLE,
5 FOR RECIPIENTS OF MEDICAL ASSISTANCE WHO ARE NOT ENROLLED IN MANAGED
6 CARE, AND FOR SUCH APPROVAL, COORDINATION, FACILITATING CONTINUITY AND
7 INTEGRATION OF BEHAVIORAL HEALTH SERVICES THAT ARE NOT PROVIDED THROUGH
8 MANAGED CARE PROGRAMS UNDER THIS TITLE FOR INDIVIDUALS REGARDLESS OF
9 WHETHER OR NOT SUCH INDIVIDUALS ARE ENROLLED IN MANAGED CARE PROGRAMS.
10 SUCH REGIONAL ENTITIES SHALL ALSO BE RESPONSIBLE FOR PROMOTING APPROPRI-
11 ATE CARE AND SERVICE UTILIZATION WHILE SAFEGUARDING AGAINST UNNECESSARY
12 UTILIZATION OF SUCH CARE AND SERVICES AND ASSURING THAT PAYMENTS ARE
13 CONSISTENT WITH THE EFFICIENT AND ECONOMICAL DELIVERY OF QUALITY CARE.

14 2. IN EXERCISING THIS RESPONSIBILITY, THE COMMISSIONERS OF THE OFFICE
15 OF MENTAL HEALTH AND THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE
16 SERVICES ARE AUTHORIZED TO CONTRACT, AFTER CONSULTATION WITH THE COMMIS-
17 SIONER OF HEALTH AND THE IMPACTED LOCAL GOVERNMENTAL UNITS, WITH
18 REGIONAL BEHAVIORAL HEALTH ORGANIZATIONS OR OTHER ENTITIES. SUCH
19 CONTRACTS MAY INCLUDE RESPONSIBILITY FOR RECEIPT, REVIEW, AND DETERMI-
20 NATION OF PRIOR AUTHORIZATION REQUESTS FOR BEHAVIORAL HEALTH CARE AND
21 SERVICES UNDER SUBDIVISION ONE OF THIS SECTION, CONSISTENT WITH CRITERIA
22 ESTABLISHED OR APPROVED BY THE COMMISSIONERS OF MENTAL HEALTH AND ALCO-
23 HOLISM AND SUBSTANCE ABUSE SERVICES, AND AUTHORIZATION OF APPROPRIATE
24 CARE AND SERVICES BASED ON DOCUMENTED PATIENT MEDICAL NEED.

25 3. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SECTIONS ONE HUNDRED
26 TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, OR SECTION
27 ONE HUNDRED FORTY-TWO OF THE ECONOMIC DEVELOPMENT LAW, OR ANY OTHER LAW
28 TO THE CONTRARY, THE COMMISSIONERS OF THE OFFICE OF MENTAL HEALTH AND
29 THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES ARE AUTHORIZED TO
30 ENTER INTO A CONTRACT OR CONTRACTS UNDER SUBDIVISIONS ONE AND TWO OF
31 THIS SECTION WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS,
32 PROVIDED, HOWEVER, THAT:

33 (A) THE OFFICE OF MENTAL HEALTH AND THE OFFICE OF ALCOHOLISM AND
34 SUBSTANCE ABUSE SERVICES SHALL POST ON THEIR WEBSITES, FOR A PERIOD OF
35 NO LESS THAN THIRTY DAYS:

36 (I) A DESCRIPTION OF THE PROPOSED SERVICES TO BE PROVIDED PURSUANT TO
37 THE CONTRACTOR CONTRACTS;

38 (II) THE CRITERIA FOR SELECTION OF A CONTRACTOR OR CONTRACTORS;

39 (III) THE PERIOD OF TIME DURING WHICH A PROSPECTIVE CONTRACTOR MAY
40 SEEK SELECTION, WHICH SHALL BE NO LESS THAN THIRTY DAYS AFTER SUCH
41 INFORMATION IS FIRST POSTED ON THE WEBSITE; AND

42 (IV) THE MANNER BY WHICH A PROSPECTIVE CONTRACTOR MAY SEEK SUCH
43 SELECTION, WHICH MAY INCLUDE SUBMISSION BY ELECTRONIC MEANS;

44 (B) ALL REASONABLE AND RESPONSIVE SUBMISSIONS THAT ARE RECEIVED FROM
45 PROSPECTIVE CONTRACTORS IN TIMELY FASHION SHALL BE REVIEWED BY THE
46 COMMISSIONERS; AND

47 (C) THE COMMISSIONERS OF THE OFFICE OF MENTAL HEALTH AND THE OFFICE OF
48 ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, IN CONSULTATION WITH THE
49 COMMISSIONER OF HEALTH AND THE IMPACTED LOCAL GOVERNMENTAL UNITS, SHALL
50 SELECT SUCH CONTRACTOR OR CONTRACTORS THAT, IN THEIR DISCRETION, HAVE
51 DEMONSTRATED THE ABILITY TO EFFECTIVELY, EFFICIENTLY, AND ECONOMICALLY
52 INTEGRATE BEHAVIORAL HEALTH AND HEALTH SERVICES; HAVE THE REQUISITE
53 EXPERTISE AND FINANCIAL RESOURCES; HAVE DEMONSTRATED THAT THEIR DIREC-
54 TORS, SPONSORS, MEMBERS, MANAGERS, PARTNERS OR OPERATORS HAVE THE REQUI-
55 SITE CHARACTER, COMPETENCE AND STANDING IN THE COMMUNITY, AND ARE BEST
56 SUITED TO SERVE THE PURPOSES OF THIS SECTION.

1 4. THE COMMISSIONERS OF THE OFFICE OF MENTAL HEALTH, THE OFFICE OF
2 ALCOHOLISM AND SUBSTANCE ABUSE SERVICES AND THE DEPARTMENT OF HEALTH,
3 SHALL HAVE THE RESPONSIBILITY FOR JOINTLY DESIGNATING ON A REGIONAL
4 BASIS, AFTER CONSULTATION WITH THE LOCAL SOCIAL SERVICES DISTRICT AND
5 LOCAL GOVERNMENTAL UNIT, AS SUCH TERM IS DEFINED IN THE MENTAL HYGIENE
6 LAW, OF A CITY WITH A POPULATION OF OVER ONE MILLION PERSONS, AND AFTER
7 CONSULTATION OF OTHER AFFECTED COUNTIES, A LIMITED NUMBER OF SPECIALIZED
8 MANAGED CARE PLANS UNDER SECTION THREE HUNDRED SIXTY-FOUR-J OF THIS
9 TITLE, SPECIAL NEED MANAGED CARE PLANS UNDER SECTION THREE HUNDRED
10 SIXTY-FOUR-J OF THIS TITLE, AND/OR INTEGRATED PHYSICAL AND BEHAVIORAL
11 HEALTH PROVIDER SYSTEMS CERTIFIED UNDER ARTICLE TWENTY-NINE-E OF THE
12 PUBLIC HEALTH LAW CAPABLE OF MANAGING THE BEHAVIORAL AND PHYSICAL HEALTH
13 NEEDS OF MEDICAL ASSISTANCE ENROLLEES WITH SIGNIFICANT BEHAVIORAL HEALTH
14 NEEDS. INITIAL DESIGNATIONS OF SUCH PLANS OR PROVIDER SYSTEMS SHOULD BE
15 MADE NO LATER THAN APRIL FIRST, TWO THOUSAND THIRTEEN, PROVIDED, HOWEV-
16 ER, SUCH DESIGNATIONS SHALL BE CONTINGENT UPON A DETERMINATION BY SUCH
17 STATE COMMISSIONERS THAT THE ENTITIES TO BE DESIGNATED HAVE THE CAPACITY
18 AND FINANCIAL ABILITY TO PROVIDE SERVICES IN SUCH PLANS OR PROVIDER
19 SYSTEMS, AND THAT THE REGION HAS A SUFFICIENT POPULATION AND SERVICE
20 BASE TO SUPPORT SUCH PLANS AND SYSTEMS. ONCE DESIGNATED, THE COMMISSION-
21 ER OF HEALTH SHALL MAKE ARRANGEMENTS TO ENROLL SUCH ENROLLEES IN SUCH
22 PLANS OR INTEGRATED PROVIDER SYSTEMS AND TO PAY SUCH PLANS OR PROVIDER
23 SYSTEMS ON A CAPITATED OR OTHER BASIS TO MANAGE, COORDINATE, AND PAY FOR
24 BEHAVIORAL AND PHYSICAL HEALTH MEDICAL ASSISTANCE SERVICES FOR SUCH
25 ENROLLEES. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SECTION ONE
26 HUNDRED TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, AND
27 SECTION ONE HUNDRED FORTY-TWO OF THE ECONOMIC DEVELOPMENT LAW, OR ANY
28 OTHER LAW TO THE CONTRARY, THE DESIGNATIONS OF SUCH PLANS AND PROVIDER
29 SYSTEMS, AND ANY RESULTING CONTRACTS WITH SUCH PLANS, PROVIDERS OR
30 PROVIDER SYSTEMS ARE AUTHORIZED TO BE ENTERED INTO BY SUCH STATE COMMIS-
31 SIONERS WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS,
32 PROVIDED HOWEVER THAT:

33 (A) THE DEPARTMENT OF HEALTH, THE OFFICE OF MENTAL HEALTH AND THE
34 OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES SHALL POST ON THEIR
35 WEBSITES, FOR A PERIOD OF NOT LESS THAN THIRTY DAYS:

36 (I) A DESCRIPTION OF THE PROPOSED SERVICES TO BE PROVIDED BY THE PLANS
37 OR SYSTEMS;

38 (II) THE CRITERIA FOR SELECTION OF A PLAN OR SYSTEM;

39 (III) THE PERIOD OF TIME DURING WHICH A PROSPECTIVE PLAN OR SYSTEM MAY
40 SEEK SELECTION, WHICH SHALL BE NO LESS THAN THIRTY DAYS AFTER SUCH
41 INFORMATION IS FIRST POSTED ON THE WEBSITE; AND

42 (IV) THE MANNER BY WHICH A PROSPECTIVE PLAN OR SYSTEM MAY SEEK SUCH
43 SELECTION, WHICH MAY INCLUDE SUBMISSION BY ELECTRONIC MEANS;

44 (B) ALL REASONABLE AND RESPONSIVE SUBMISSIONS THAT ARE RECEIVED FROM
45 PROSPECTIVE PLANS OR SYSTEMS IN TIMELY FASHION SHALL BE REVIEWED BY THE
46 COMMISSIONERS; AND

47 (C) THE COMMISSIONERS OF THE OFFICE OF MENTAL HEALTH AND THE OFFICE OF
48 ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, IN CONSULTATION WITH THE
49 COMMISSIONER OF HEALTH, SHALL SELECT SUCH PLANS OR SYSTEMS THAT, IN
50 THEIR DISCRETION, HAVE DEMONSTRATED THE ABILITY TO EFFECTIVELY, EFFI-
51 CIENTLY, AND ECONOMICALLY MANAGE THE BEHAVIORAL AND PHYSICAL HEALTH
52 NEEDS OF MEDICAL ASSISTANCE ENROLLEES WITH SIGNIFICANT BEHAVIORAL HEALTH
53 NEEDS; HAVE THE REQUISITE EXPERTISE AND FINANCIAL RESOURCES; HAVE DEMON-
54 STRATED THAT THEIR DIRECTORS, SPONSORS, MEMBERS, MANAGERS, PARTNERS OR
55 OPERATORS HAVE THE REQUISITE CHARACTER, COMPETENCE AND STANDING IN THE
56 COMMUNITY, AND ARE BEST SUITED TO SERVE THE PURPOSES OF THIS SECTION.

OVERSIGHT OF SUCH CONTRACTS WITH SUCH PLANS, PROVIDERS OR PROVIDER SYSTEMS SHALL BE THE JOINT RESPONSIBILITY OF SUCH STATE COMMISSIONERS, AND FOR CONTRACTS AFFECTING A CITY WITH A POPULATION OF OVER ONE MILLION PERSONS, ALSO WITH THE CITY'S LOCAL SOCIAL SERVICES DISTRICT AND LOCAL GOVERNMENTAL UNIT, AS SUCH TERM IS DEFINED IN THE MENTAL HYGIENE LAW.

S 43. Intentionally omitted.

S 44. Intentionally omitted.

S 45. Intentionally omitted.

S 46. Intentionally omitted.

S 47. Intentionally omitted.

S 47-a. Subdivision 8 of section 2511 of the public health law is amended by adding two new paragraphs (f) and (g) to read as follows:

(F) THE COMMISSIONER SHALL ADJUST SUBSIDY PAYMENTS MADE TO APPROVED ORGANIZATIONS ON AND AFTER APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND TWELVE, SO THAT THE AMOUNT OF EACH SUCH PAYMENT IS REDUCED BY ONE AND SEVEN-TENTHS PERCENT.

(G) THE COMMISSIONER MAY INCREASE SUBSIDY PAYMENTS MADE TO APPROVED ORGANIZATIONS THAT VOLUNTARILY PARTICIPATE IN THE MULTI-PAYOR PATIENT CENTERED MEDICAL HOME PROGRAM TO REFLECT ADDITIONAL COSTS ASSOCIATED WITH ENHANCED PAYMENTS MADE TO CERTIFIED MEDICAL HOMES BY APPROVED ORGANIZATIONS AS REQUIRED BY ARTICLE TWENTY-NINE-AA OF THIS CHAPTER.

S 48. The public health law is amended by adding a new section 2997-d to read as follows:

S 2997-D. HOSPITAL, NURSING HOME, HOME CARE, SPECIAL NEEDS ASSISTED LIVING RESIDENCES AND ENHANCED ASSISTED LIVING RESIDENCES PALLIATIVE CARE SUPPORT. 1. (A) "PALLIATIVE CARE" MEANS HEALTH CARE TREATMENT, INCLUDING INTERDISCIPLINARY END-OF-LIFE CARE, AND CONSULTATION WITH PATIENTS AND FAMILY MEMBERS, TO PREVENT OR RELIEVE PAIN AND SUFFERING AND TO ENHANCE THE PATIENT'S QUALITY OF LIFE, INCLUDING HOSPICE CARE UNDER ARTICLE FORTY OF THIS CHAPTER.

(B) "APPROPRIATE" HAS THE SAME MEANING AS PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION TWENTY-NINE HUNDRED NINETY-SEVEN-C OF THIS TITLE.

2. GENERAL HOSPITALS, NURSING HOMES, ORGANIZATIONS LICENSED OR CERTIFIED PURSUANT TO ARTICLE THIRTY-SIX OF THIS CHAPTER, AND ORGANIZATIONS LICENSED AS SPECIAL NEEDS ASSISTED LIVING RESIDENCES OR ENHANCED ASSISTED LIVING RESIDENCES PURSUANT TO ARTICLE FORTY-SIX-B OF THIS CHAPTER SHALL ESTABLISH POLICIES AND PROCEDURES TO PROVIDE PATIENTS WITH ADVANCED LIFE LIMITING CONDITIONS AND ILLNESSES WHO MIGHT BENEFIT FROM PALLIATIVE CARE, INCLUDING ASSOCIATED PAIN MANAGEMENT, SERVICES WITH ACCESS TO INFORMATION AND COUNSELING REGARDING SUCH OPTIONS APPROPRIATE TO THE PATIENT. POLICIES MUST INCLUDE PROVISION FOR PATIENTS WHO LACK CAPACITY TO MAKE MEDICAL DECISIONS, SO THAT ACCESS TO SUCH INFORMATION AND COUNSELING SHALL BE PROVIDED TO THE PERSONS WHO ARE LEGALLY AUTHORIZED TO MAKE MEDICAL DECISIONS ON BEHALF OF SUCH PATIENTS.

3. GENERAL HOSPITALS, NURSING HOMES, ORGANIZATIONS LICENSED OR CERTIFIED PURSUANT TO ARTICLE THIRTY-SIX OF THIS CHAPTER, AND ORGANIZATIONS LICENSED AS SPECIAL NEEDS ASSISTED LIVING RESIDENCES OR ENHANCED ASSISTED LIVING RESIDENCES PURSUANT TO ARTICLE FORTY-SIX-B OF THIS CHAPTER SHALL FACILITATE ACCESS TO APPROPRIATE PALLIATIVE CARE CONSULTATIONS AND SERVICES, INCLUDING ASSOCIATED PAIN MANAGEMENT CONSULTATIONS AND SERVICES, INCLUDING BUT NOT LIMITED TO REFERRALS CONSISTENT WITH PATIENT NEEDS AND PREFERENCES. THE DEPARTMENT SHALL TAKE INTO ACCOUNT ACCESS AND PROXIMITY OF PALLIATIVE CARE SERVICES, INCLUDING THE AVAILABILITY OF HOSPICE AND PALLIATIVE CARE BOARD CERTIFIED PRACTITIONERS AND OTHER RELATED WORKFORCE STAFF, GEOGRAPHIC FACTORS, AND FACILITY SIZE THAT MAY IMPACT DEVELOPMENT OF PALLIATIVE CARE SERVICES.

1 S 49. Intentionally omitted.

2 S 50. Legislative findings. The legislature finds that integration and
3 coordination of health care services is essential to the improvement of
4 health care quality, efficiency, access and outcomes. The federal
5 Patient Protection and Affordable Care Act creates several health system
6 demonstration and pilot programs, intended to promote and assess deliv-
7 ery system and payment reforms, that require integration of services,
8 coordination among providers, or a combination of the two. In addition,
9 collaborative arrangements among, or consolidation, mergers or acquisi-
10 tion, of providers may be necessary to preserve access to essential
11 services in some communities, and improve the quality of the services
12 they provide and the efficiency of their operations, as well as minimize
13 unnecessary increases in the cost of care.

14 Federal and state antitrust laws may prohibit or discourage such
15 collaboration or consolidation beneficial to residents of New York
16 state, given their potential for, or actual, reduction in competition.
17 The legislature finds that such agreements where they meet the standards
18 of this section, should be permitted and encouraged. Under these circum-
19 stances, competition as currently mandated by federal and state anti-
20 trust laws should be supplanted by a regulatory program to permit and
21 encourage mergers, acquisitions, and cooperative, collaborative and
22 integrative agreements among health care providers, and others, that are
23 beneficial to New York residents when the benefits of such agreements
24 outweigh any disadvantages caused by their potential or actual adverse
25 effects on competition. Regulatory oversight of such arrangements should
26 be provided to ensure that the benefits of such agreements outweigh any
27 disadvantages attributable to any reduction in competition that may
28 result from the agreements. Accordingly, the legislature intends to
29 authorize a regulatory program to permit and oversee merger, acquisi-
30 tion, integration, consolidation, collaboration, and coordination among
31 providers, where necessary to assure access to essential health care
32 services, to improve health care quality and outcomes, to enhance effi-
33 ciency, or to minimize the cost of health care.

34 S 51. The public health law is amended by adding a new article 29-F to
35 read as follows:

36 ARTICLE 29-F

37 IMPROVED INTEGRATION OF HEALTH CARE AND FINANCING

38 SECTION 2999-AA. ANTITRUST PROVISIONS, STATE OVERSIGHT.

39 2999-BB. DEPARTMENT AUTHORITY.

40 S 2999-AA. ANTITRUST PROVISIONS, STATE OVERSIGHT. 1. IN ORDER TO
41 PROMOTE IMPROVED QUALITY AND EFFICIENCY OF, AND ACCESS TO, HEALTH CARE
42 SERVICES AND TO PROMOTE IMPROVED CLINICAL OUTCOMES TO THE RESIDENTS OF
43 NEW YORK, IT SHALL BE THE POLICY OF THE STATE TO ENCOURAGE, WHERE APPRO-
44 PRIATE, COOPERATIVE, COLLABORATIVE AND INTEGRATIVE ARRANGEMENTS INCLUD-
45 ING BUT NOT LIMITED TO, MERGERS AND ACQUISITIONS AMONG HEALTH CARE
46 PROVIDERS OR AMONG OTHERS WHO MIGHT OTHERWISE BE COMPETITORS, UNDER THE
47 ACTIVE SUPERVISION OF THE COMMISSIONER. TO THE EXTENT SUCH ARRANGEMENTS,
48 OR THE PLANNING AND NEGOTIATIONS THAT PRECEDE THEM, MIGHT BE ANTI-COM-
49 PETITIVE WITHIN THE MEANING AND INTENT OF THE STATE AND FEDERAL ANTI-
50 TRUST LAWS, THE INTENT OF THE STATE IS TO SUPPLANT COMPETITION WITH SUCH
51 ARRANGEMENTS UNDER THE ACTIVE SUPERVISION AND RELATED ADMINISTRATIVE
52 ACTIONS OF THE COMMISSIONER AS NECESSARY TO ACCOMPLISH THE PURPOSES OF
53 THIS ARTICLE, AND TO PROVIDE STATE ACTION IMMUNITY UNDER THE STATE AND
54 FEDERAL ANTITRUST LAWS WITH RESPECT TO ACTIVITIES UNDERTAKEN BY HEALTH
55 CARE PROVIDERS AND OTHERS PURSUANT TO THIS ARTICLE, WHERE THE BENEFITS
56 OF SUCH ACTIVE SUPERVISION, ARRANGEMENTS AND ACTIONS OF THE COMMISSIONER

OUTWEIGH ANY DISADVANTAGES LIKELY TO RESULT FROM A REDUCTION OF COMPETITION. THE COMMISSIONER SHALL NOT APPROVE AN ARRANGEMENT FOR WHICH STATE ACTION IMMUNITY IS SOUGHT UNDER THIS ARTICLE WITHOUT FIRST CONSULTING WITH, AND RECEIVING A RECOMMENDATION FROM, THE PUBLIC HEALTH AND HEALTH PLANNING COUNCIL. NO ARRANGEMENT UNDER THIS ARTICLE SHALL BE APPROVED AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND SIXTEEN.

2. THE COMMISSIONER OR HIS OR HER DULY AUTHORIZED REPRESENTATIVE MAY ENGAGE IN APPROPRIATE STATE SUPERVISION NECESSARY TO PROMOTE STATE ACTION IMMUNITY UNDER THE STATE AND FEDERAL ANTITRUST LAWS.

S 2999-BB. DEPARTMENT AUTHORITY. THE DEPARTMENT SHALL PROMULGATE REGULATIONS TO IMPLEMENT THIS ARTICLE. SUCH REGULATIONS SHALL PROVIDE STANDARDS FOR DETERMINING WHICH PROPOSED COLLABORATIONS, INTEGRATIONS, MERGERS OR ACQUISITIONS SHALL BE COVERED BY THIS ARTICLE AND THE MANNER BY WHICH THE INTERESTS SET FORTH IN THE LEGISLATIVE FINDINGS SHALL BE ADVANCED THROUGH REGULATORY OVERSIGHT. THE DEPARTMENT SHALL FURTHER BE AUTHORIZED TO IMPOSE FEES AS APPROPRIATE TO FACILITATE THE IMPLEMENTATION OF THIS ARTICLE. THIS ARTICLE IS NOT INTENDED TO LIMIT THE AUTHORITY OF THE ATTORNEY GENERAL OF THE STATE OF NEW YORK.

S 52. Article 29-D of the public health law is amended by adding a new title 4 to read as follows:

TITLE 4

NEW YORK STATE MEDICAL INDEMNITY FUND

SECTION 2999-G. PURPOSE OF THIS TITLE.

2999-H. DEFINITIONS.

2999-I. CUSTODY AND ADMINISTRATION OF THE FUND.

2999-J. PAYMENTS FROM THE FUND.

S 2999-G. PURPOSE OF THIS TITLE. CREATION OF THE NEW YORK STATE MEDICAL INDEMNITY FUND. THERE IS HEREBY CREATED THE NEW YORK STATE MEDICAL INDEMNITY FUND (THE "FUND"). THE PURPOSE OF THE FUND IS TO PROVIDE A FUNDING SOURCE FOR FUTURE HEALTH CARE COSTS ASSOCIATED WITH BIRTH RELATED NEUROLOGICAL INJURIES, IN ORDER TO REDUCE PREMIUM COSTS FOR MEDICAL MALPRACTICE INSURANCE COVERAGE.

S 2999-H. DEFINITIONS. AS USED IN THIS TITLE, UNLESS THE CONTEXT OR SUBJECT MATTER REQUIRES OTHERWISE:

1. "BIRTH-RELATED NEUROLOGICAL INJURY" MEANS AN INJURY TO THE BRAIN OR SPINAL CORD OF A LIVE INFANT CAUSED BY THE DEPRIVATION OF OXYGEN OR MECHANICAL INJURY OCCURRING IN THE COURSE OF LABOR, DELIVERY OR RESUSCITATION OR BY OTHER MEDICAL SERVICES PROVIDED OR NOT PROVIDED DURING DELIVERY ADMISSION THAT RENDERED THE INFANT WITH A PERMANENT AND SUBSTANTIAL MOTOR IMPAIRMENT OR WITH A DEVELOPMENTAL DISABILITY AS THAT TERM IS DEFINED BY SECTION 1.03 OF THE MENTAL HYGIENE LAW, OR BOTH. THIS DEFINITION SHALL APPLY TO LIVE BIRTHS ONLY.

2. "FUND" MEANS THE NEW YORK STATE MEDICAL INDEMNITY FUND.

3. "QUALIFYING HEALTH CARE COSTS" MEANS THE FUTURE MEDICAL, HOSPITAL, SURGICAL, NURSING, DENTAL, REHABILITATION, CUSTODIAL, DURABLE MEDICAL EQUIPMENT, HOME MODIFICATIONS, ASSISTIVE TECHNOLOGY, VEHICLE MODIFICATIONS, PRESCRIPTION AND NON-PRESCRIPTION MEDICATIONS, AND OTHER HEALTH CARE COSTS ACTUALLY INCURRED FOR SERVICES RENDERED TO AND SUPPLIES UTILIZED BY QUALIFIED PLAINTIFFS, WHICH ARE NECESSARY TO MEET THEIR HEALTH CARE NEEDS AS DETERMINED BY THEIR TREATING PHYSICIANS, PHYSICIAN ASSISTANTS, OR NURSE PRACTITIONERS AND AS OTHERWISE DEFINED BY THE COMMISSIONER IN REGULATION.

4. "QUALIFIED PLAINTIFF" MEANS EVERY PLAINTIFF OR CLAIMANT WHO (I) HAS BEEN FOUND BY A JURY OR COURT TO HAVE SUSTAINED A BIRTH-RELATED NEUROLOGICAL INJURY AS THE RESULT OF MEDICAL MALPRACTICE, OR (II) HAS SUSTAINED A BIRTH-RELATED NEUROLOGICAL INJURY AS THE RESULT OF ALLEGED

1 MEDICAL MALPRACTICE, AND HAS SETTLED HIS OR HER LAWSUIT OR CLAIM THERE-
2 FOR.

3 5. ANY REFERENCE TO THE "DEPARTMENT OF FINANCIAL SERVICES" AND THE
4 "SUPERINTENDENT OF FINANCIAL SERVICES" IN THIS TITLE SHALL MEAN, PRIOR
5 TO OCTOBER THIRD, TWO THOUSAND ELEVEN, RESPECTIVELY, THE "DEPARTMENT OF
6 INSURANCE" AND "SUPERINTENDENT OF INSURANCE."

7 S 2999-I. CUSTODY AND ADMINISTRATION OF THE FUND. 1. THE COMMISSIONER
8 OF TAXATION AND FINANCE SHALL BE THE CUSTODIAN OF THE FUND AND THE
9 SPECIAL ACCOUNT ESTABLISHED PURSUANT TO SECTION NINETY-NINE-T OF THE
10 STATE FINANCE LAW. ALL PAYMENTS FROM THE FUND SHALL BE MADE BY THE
11 COMMISSIONER OF TAXATION AND FINANCE UPON CERTIFICATES SIGNED BY THE
12 SUPERINTENDENT OF FINANCIAL SERVICES, OR HIS OR HER DESIGNEE, AS HEREIN-
13 AFTER PROVIDED. THE FUND SHALL BE SEPARATE AND APART FROM ANY OTHER FUND
14 AND FROM ALL OTHER STATE MONIES. NO MONIES FROM THE FUND SHALL BE TRANS-
15 FERRED TO ANY OTHER FUND, NOR SHALL ANY SUCH MONIES BE APPLIED TO THE
16 MAKING OF ANY PAYMENT FOR ANY PURPOSE OTHER THAN THE PURPOSE SET FORTH
17 IN THIS TITLE.

18 2. (A) THE FUND SHALL BE ADMINISTERED BY THE SUPERINTENDENT OF FINAN-
19 CIAL SERVICES OR HIS OR HER DESIGNEE IN ACCORDANCE WITH THE PROVISIONS
20 OF THIS ARTICLE.

21 (B) THE SUPERINTENDENT OF FINANCIAL SERVICES SHALL HAVE ALL POWERS
22 NECESSARY AND PROPER TO CARRY OUT THE PURPOSES OF THE FUND.

23 (C) NOTWITHSTANDING ANY CONTRARY PROVISION OF THIS SECTION, SECTIONS
24 ONE HUNDRED TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW
25 OR ANY OTHER CONTRARY PROVISION OF LAW, THE SUPERINTENDENT OF FINANCIAL
26 SERVICES IS AUTHORIZED TO ENTER INTO A CONTRACT OR CONTRACTS WITHOUT A
27 COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS FOR PURPOSES OF ADMINIS-
28 TERING THE FUND FOR THE FIRST YEAR OF ITS OPERATION AND IN PREPARATION
29 THEREFOR.

30 (D) THE DEPARTMENT OF FINANCIAL SERVICES AND THE DEPARTMENT SHALL POST
31 ON THEIR WEBSITES INFORMATION ABOUT THE FUND, ELIGIBILITY FOR ENROLLMENT
32 IN THE FUND, AND THE PROCESS FOR ENROLLMENT IN THE FUND.

33 3. THE EXPENSE OF ADMINISTERING THE FUND, INCLUDING THE EXPENSES
34 INCURRED BY THE DEPARTMENT, SHALL BE PAID FROM THE FUND.

35 4. MONIES FOR THE FUND WILL BE PROVIDED PURSUANT TO THIS CHAPTER.

36 5. FOR THE STATE FISCAL YEAR BEGINNING APRIL FIRST, TWO THOUSAND ELEV-
37 EN AND ENDING MARCH THIRTY-FIRST, TWO THOUSAND TWELVE, THE STATE FISCAL
38 YEAR BEGINNING APRIL FIRST, TWO THOUSAND TWELVE AND ENDING MARCH THIR-
39 TY-FIRST, TWO THOUSAND THIRTEEN, AND THE STATE FISCAL YEAR BEGINNING
40 APRIL FIRST, TWO THOUSAND THIRTEEN AND ENDING MARCH THIRTY-FIRST, TWO
41 THOUSAND FOURTEEN, THE SUPERINTENDENT OF FINANCIAL SERVICES SHALL CAUSE
42 TO BE DEPOSITED INTO THE FUND FOR EACH SUCH FISCAL YEAR THE AMOUNT
43 APPROPRIATED FOR SUCH PURPOSE. BEGINNING APRIL FIRST, TWO THOUSAND
44 FOURTEEN AND ANNUALLY THEREAFTER, THE SUPERINTENDENT OF FINANCIAL
45 SERVICES SHALL CAUSE TO BE DEPOSITED INTO THE FUND, SUBJECT TO AVAILABLE
46 APPROPRIATIONS, AN AMOUNT EQUAL TO THE DIFFERENCE BETWEEN THE AMOUNT
47 APPROPRIATED TO THE FUND IN THE PRECEDING FISCAL YEAR, AS INCREASED BY
48 THE ADJUSTMENT FACTOR DEFINED IN SUBDIVISION SEVEN OF THIS SECTION, AND
49 THE ASSETS OF THE FUND AT THE CONCLUSION OF THAT FISCAL YEAR.

50 6. (A) FOLLOWING THE DEPOSIT REFERENCED IN SUBDIVISION FIVE OF THIS
51 SECTION, THE SUPERINTENDENT OF FINANCIAL SERVICES SHALL CONDUCT AN ACTU-
52 ARIAL CALCULATION OF THE ESTIMATED LIABILITIES OF THE FUND FOR THE
53 COMING YEAR RESULTING FROM THE QUALIFIED PLAINTIFFS ENROLLED IN THE
54 FUND. THE ADMINISTRATOR SHALL FROM TIME TO TIME ADJUST SUCH CALCULATION.
55 IF THE TOTAL OF ALL ESTIMATES OF CURRENT LIABILITIES EQUALS OR EXCEEDS
56 EIGHTY PERCENT OF THE FUND'S ASSETS, THEN THE FUND SHALL NOT ACCEPT ANY

NEW ENROLLMENTS UNTIL A NEW DEPOSIT HAS BEEN MADE PURSUANT TO SUBDIVISION FIVE OF THIS SECTION. WHEN, AS A RESULT OF SUCH NEW DEPOSIT, THE FUND'S LIABILITIES NO LONGER EXCEED EIGHTY PERCENT OF THE FUND'S ASSETS, THE FUND ADMINISTRATOR SHALL ENROLL NEW QUALIFIED PLAINTIFFS IN THE ORDER THAT AN APPLICATION FOR ENROLLMENT HAS BEEN SUBMITTED IN ACCORDANCE WITH SUBDIVISION SEVEN OF SECTION TWENTY-NINE HUNDRED NINETY-NINE-J OF THIS TITLE.

(B) WHENEVER ENROLLMENT IS SUSPENDED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION AND UNTIL SUCH TIME AS ENROLLMENT RESUMES PURSUANT TO SUCH PARAGRAPH: (I) NOTICE OF SUCH SUSPENSION SHALL BE PROMPTLY POSTED ON THE DEPARTMENT'S WEBSITE AND ON THE WEBSITE OF THE DEPARTMENT OF FINANCIAL SERVICES; (II) THE FUND ADMINISTRATOR SHALL DENY EACH APPLICATION FOR ENROLLMENT THAT HAD BEEN RECEIVED BUT NOT ACCEPTED PRIOR TO THE DATE OF SUSPENSION AND EACH APPLICATION FOR ENROLLMENT RECEIVED AFTER THE DATE OF SUCH SUSPENSION; AND (III) NOTIFICATION OF EACH SUCH DENIAL SHALL BE MADE TO THE PLAINTIFF OR CLAIMANT OR PERSONS AUTHORIZED TO ACT ON BEHALF OF SUCH PLAINTIFF OR CLAIMANT AND ALL DEFENDANTS IN REGARD TO SUCH PLAINTIFF OR CLAIMANT, TO THE EXTENT THEY ARE KNOWN TO THE FUND ADMINISTRATOR. JUDGMENTS AND SETTLEMENTS FOR PLAINTIFFS OR CLAIMANTS FOR WHOM APPLICATIONS ARE DENIED UNDER THIS PARAGRAPH OR WHO ARE NOT ELIGIBLE FOR ENROLLMENT DUE TO SUSPENSION PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION SHALL BE SATISFIED AS IF THIS TITLE HAD NOT BEEN ENACTED.

(C) FOLLOWING A SUSPENSION, WHENEVER ENROLLMENT RESUMES PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, NOTICE THAT ENROLLMENT HAS RESUMED SHALL BE PROMPTLY POSTED ON THE DEPARTMENT'S WEBSITE AND ON THE WEBSITE OF THE DEPARTMENT OF FINANCIAL SERVICES.

(D) THE SUSPENSION OF ENROLLMENT PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION SHALL NOT IMPACT PAYMENT UNDER THE FUND FOR ANY QUALIFIED PLAINTIFFS ALREADY ENROLLED IN THE FUND.

7. FOR PURPOSES OF THIS SECTION, THE ADJUSTMENT FACTOR REFERENCED IN THIS SECTION SHALL BE THE TEN YEAR ROLLING AVERAGE MEDICAL COMPONENT OF THE CONSUMER PRICE INDEX AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, FOR THE PRECEDING TEN YEARS.

S 2999-J. PAYMENTS FROM THE FUND. 1. THE FUND SHALL BE USED TO PAY THE QUALIFYING HEALTH CARE COSTS OF QUALIFIED PLAINTIFFS.

2. THE PROVISION OF QUALIFYING HEALTH CARE COSTS TO QUALIFIED PLAINTIFFS SHALL NOT BE SUBJECT TO PRIOR AUTHORIZATION, EXCEPT AS DESCRIBED BY THE COMMISSIONER IN REGULATION; PROVIDED, HOWEVER, THAT SUCH REGULATION SHALL NOT PREVENT QUALIFIED PLAINTIFFS FROM RECEIVING CARE OR ASSISTANCE THAT WOULD, AT A MINIMUM, BE AUTHORIZED UNDER THE MEDICAID PROGRAM; AND PROVIDED, FURTHER, THAT IF ANY PRIOR AUTHORIZATION IS REQUIRED BY SUCH REGULATION, THE REGULATION SHALL REQUIRE THAT REQUESTS FOR PRIOR AUTHORIZATION BE PROCESSED WITHIN A REASONABLY PROMPT PERIOD OF TIME AND SHALL IDENTIFY A PROCESS FOR PROMPT ADMINISTRATIVE REVIEW OF ANY DENIAL OF A REQUEST FOR PRIOR AUTHORIZATION.

3. IN DETERMINING THE AMOUNT OF QUALIFYING HEALTH CARE COSTS TO BE PAID FROM THE FUND, ANY SUCH COST OR EXPENSE THAT WAS OR WILL, WITH REASONABLE CERTAINTY, BE PAID, REPLACED OR INDEMNIFIED FROM ANY COLLATERAL SOURCE AS PROVIDED BY SUBDIVISION (A) OF SECTION FORTY-FIVE HUNDRED FORTY-FIVE OF THE CIVIL PRACTICE LAW AND RULES SHALL NOT CONSTITUTE A QUALIFYING HEALTH CARE COST AND SHALL NOT BE PAID FROM THE FUND. FOR PURPOSES OF THIS TITLE, "COLLATERAL SOURCE" SHALL NOT INCLUDE MEDICARE OR MEDICAID.

4. THE AMOUNT OF QUALIFYING HEALTH CARE COSTS TO BE PAID FROM THE FUND SHALL BE CALCULATED: (A) WITH RESPECT TO SERVICES PROVIDED IN PRIVATE PHYSICIAN PRACTICES ON THE BASIS OF ONE HUNDRED PERCENT OF THE USUAL AND

1 CUSTOMARY RATES, AS DEFINED BY THE COMMISSIONER IN REGULATION; OR (B)
2 WITH RESPECT TO ALL OTHER SERVICES, ON THE BASIS OF MEDICAID RATES OF
3 REIMBURSEMENT OR, WHERE NO SUCH RATES ARE AVAILABLE, AS DEFINED BY THE
4 COMMISSIONER IN REGULATION.

5 5. CLAIMS FOR THE PAYMENT OR REIMBURSEMENT FROM THE FUND OF QUALIFYING
6 HEALTH CARE COSTS SHALL BE MADE UPON FORMS PRESCRIBED AND FURNISHED BY
7 THE FUND ADMINISTRATOR IN CONSULTATION WITH THE COMMISSIONER AND IN
8 CONJUNCTION WITH REGULATIONS ESTABLISHING A MECHANISM FOR SUBMISSION OF
9 CLAIMS BY HEALTH CARE PROVIDERS DIRECTLY TO THE FUND, WHERE PRACTICABLE.

10 6. (A) EVERY SETTLEMENT AGREEMENT FOR CLAIMS ARISING OUT OF A
11 PLAINTIFF'S OR CLAIMANT'S BIRTH RELATED NEUROLOGICAL INJURY SUBJECT TO
12 THIS TITLE, AND THAT PROVIDES FOR THE PAYMENT OF FUTURE MEDICAL EXPENSES
13 FOR THE PLAINTIFF OR CLAIMANT, SHALL PROVIDE THAT IN THE EVENT THE
14 ADMINISTRATOR OF THE FUND DETERMINES THAT THE PLAINTIFF OR CLAIMANT IS A
15 QUALIFIED PLAINTIFF, ALL PAYMENTS FOR FUTURE MEDICAL EXPENSES SHALL BE
16 PAID IN ACCORDANCE WITH THIS TITLE, IN LIEU OF THAT PORTION OF THE
17 SETTLEMENT AGREEMENT THAT PROVIDES FOR PAYMENT OF SUCH EXPENSES. THE
18 PLAINTIFF'S OR CLAIMANT'S FUTURE MEDICAL EXPENSES SHALL BE PAID IN
19 ACCORDANCE WITH THIS TITLE. WHEN SUCH A SETTLEMENT AGREEMENT DOES NOT SO
20 PROVIDE, THE COURT SHALL DIRECT THE MODIFICATION OF THE AGREEMENT TO
21 INCLUDE SUCH TERM AS A CONDITION OF COURT APPROVAL.

22 (B) IN ANY CASE WHERE THE JURY OR COURT HAS MADE AN AWARD FOR FUTURE
23 MEDICAL EXPENSES ARISING OUT OF A BIRTH RELATED NEUROLOGICAL INJURY, ANY
24 PARTY TO SUCH ACTION OR PERSON AUTHORIZED TO ACT ON BEHALF OF SUCH PARTY
25 MAY MAKE APPLICATION TO THE COURT THAT THE JUDGMENT REFLECT THAT, IN
26 LIEU OF THAT PORTION OF THE AWARD THAT PROVIDES FOR PAYMENT OF SUCH
27 EXPENSES, AND UPON A DETERMINATION BY THE FUND ADMINISTRATOR THAT THE
28 PLAINTIFF IS A QUALIFIED PLAINTIFF, THE FUTURE MEDICAL EXPENSES OF THE
29 PLAINTIFF SHALL BE PAID OUT OF THE FUND IN ACCORDANCE WITH THIS TITLE.
30 UPON A FINDING BY THE COURT THAT THE APPLICANT HAS MADE A PRIMA FACIE
31 SHOWING THAT THE PLAINTIFF IS A QUALIFIED PLAINTIFF, THE COURT SHALL
32 ENSURE THAT THE JUDGMENT SO PROVIDES.

33 7. A QUALIFIED PLAINTIFF SHALL BE ENROLLED WHEN (A) SUCH PLAINTIFF OR
34 PERSON AUTHORIZED TO ACT ON BEHALF OF SUCH PERSON, UPON NOTICE TO ALL
35 DEFENDANTS, OR ANY OF THE DEFENDANTS IN REGARD TO THE PLAINTIFF'S CLAIM,
36 UPON NOTICE TO SUCH PLAINTIFF, MAKES AN APPLICATION FOR ENROLLMENT BY
37 PROVIDING THE FUND ADMINISTRATOR WITH A CERTIFIED COPY OF THE JUDGMENT
38 OR OF THE COURT APPROVED SETTLEMENT AGREEMENT; AND (B) THE FUND ADMINIS-
39 TRATOR DETERMINES UPON THE BASIS OF SUCH JUDGMENT OR SETTLEMENT AGREE-
40 MENT AND ANY ADDITIONAL INFORMATION THE FUND ADMINISTRATOR SHALL REQUEST
41 THAT THE RELEVANT PROVISIONS OF SUBDIVISION SIX OF THIS SECTION HAVE
42 BEEN MET AND THAT THE PLAINTIFF IS A QUALIFIED PLAINTIFF; PROVIDED THAT
43 NO ENROLLMENT SHALL OCCUR WHEN THE FUND IS CLOSED TO ENROLLMENT PURSUANT
44 TO SUBDIVISION SIX OF SECTION TWENTY-NINE HUNDRED NINETY-NINE-I OF THIS
45 TITLE.

46 8. AS TO ALL CLAIMS, THE FUND ADMINISTRATOR SHALL:

47 (A) DETERMINE WHICH OF SUCH COSTS ARE QUALIFYING HEALTH CARE COSTS TO
48 BE PAID FROM THE FUND; AND

49 (B) THEREUPON CERTIFY TO THE COMMISSIONER OF TAXATION AND FINANCE
50 THOSE COSTS THAT HAVE BEEN DETERMINED TO BE QUALIFYING HEALTH CARE COSTS
51 TO BE PAID FROM THE FUND.

52 9. PAYMENTS FROM THE FUND SHALL BE MADE BY THE COMMISSIONER OF TAXA-
53 TION AND FINANCE ON THE SAID CERTIFICATE OF THE SUPERINTENDENT OF FINAN-
54 CIAL SERVICES. NO PAYMENT SHALL BE MADE BY THE COMMISSIONER OF TAXATION
55 AND FINANCE IN EXCESS OF THE AMOUNT CERTIFIED. PROMPTLY UPON RECEIPT OF
56 THE SAID CERTIFICATE OF THE SUPERINTENDENT OF FINANCIAL SERVICES, THE

1 COMMISSIONER OF TAXATION AND FINANCE SHALL PAY THE QUALIFIED PLAINTIFF'S
2 HEALTH CARE PROVIDER OR REIMBURSE THE QUALIFIED PLAINTIFF THE AMOUNT SO
3 CERTIFIED FOR PAYMENT.

4 10. PAYMENT FROM THE FUND SHALL NOT GIVE THE FUND ANY RIGHT OF RECOV-
5 ERY AGAINST ANY QUALIFIED PLAINTIFF OR SUCH QUALIFIED PLAINTIFF'S ATTOR-
6 NEY EXCEPT IN THE CASE OF FRAUD OR MISTAKE.

7 11. ALL HEALTH CARE PROVIDERS SHALL ACCEPT FROM QUALIFIED PLAINTIFF'S
8 OR PERSONS AUTHORIZED TO ACT ON BEHALF OF SUCH PLAINTIFF'S ASSIGNMENTS
9 OF THE RIGHT TO RECEIVE PAYMENTS FROM THE FUND FOR QUALIFYING HEALTH
10 CARE COSTS.

11 12. HEALTH INSURERS (OTHER THAN MEDICARE AND MEDICAID) SHALL BE THE
12 PRIMARY PAYERS OF QUALIFYING HEALTH CARE COSTS OF QUALIFIED PLAINTIFFS.
13 SUCH COSTS SHALL BE PAID FROM THE FUND ONLY TO THE EXTENT THAT HEALTH
14 INSURERS OR OTHER COLLATERAL SOURCES OR OTHER PERSONS ARE NOT OTHERWISE
15 OBLIGATED TO MAKE PAYMENTS THEREFOR. HEALTH INSURERS THAT MAKE PAYMENTS
16 FOR QUALIFYING HEALTH CARE COSTS TO OR ON BEHALF OF QUALIFIED PLAINTIFFS
17 SHALL HAVE NO RIGHT OF RECOVERY AGAINST AND SHALL HAVE NO LIEN UPON THE
18 FUND OR ANY PERSON OR ENTITY NOR SHALL THE FUND CONSTITUTE AN ADDITIONAL
19 PAYMENT SOURCE TO OFFSET THE PAYMENTS OTHERWISE CONTRACTUALLY REQUIRED
20 TO BE MADE BY SUCH HEALTH INSURERS. THE SUPERINTENDENT OF FINANCIAL
21 SERVICES SHALL HAVE THE AUTHORITY TO ENFORCE THE PROVISIONS OF THIS
22 SUBDIVISION.

23 13. EXCEPT AS PROVIDED FOR BY THIS TITLE, WITH RESPECT TO A QUALIFIED
24 PLAINTIFF, NO PAYMENT SHALL BE REQUIRED TO BE MADE BY ANY DEFENDANT OR
25 SUCH DEFENDANT'S INSURER FOR QUALIFYING HEALTH CARE COSTS AND NO JUDG-
26 MENT SHALL BE MADE OR ENTERED REQUIRING THAT ANY SUCH PAYMENT BE MADE BY
27 ANY DEFENDANT OR SUCH DEFENDANT'S INSURER FOR SUCH HEALTH CARE COSTS.

28 14. THE DETERMINATION OF THE QUALIFIED PLAINTIFF'S ATTORNEY'S FEE
29 SHALL BE BASED UPON THE ENTIRE SUM AWARDED BY THE JURY OR THE COURT OR
30 THE FULL SUM OF THE SETTLEMENT, AS THE CASE MAY BE. THE QUALIFIED
31 PLAINTIFF'S ATTORNEY'S FEE SHALL BE PAID IN A LUMP SUM BY THE DEFENDANTS
32 AND THEIR INSURERS PURSUANT TO SECTION FOUR HUNDRED SEVENTY-FOUR-A OF
33 THE JUDICIARY LAW; PROVIDED HOWEVER THAT THE PORTION OF THE ATTORNEY FEE
34 THAT IS ALLOCATED TO THE NON-FUND ELEMENTS OF DAMAGES SHALL BE DEDUCTED
35 FROM THE NON-FUND PORTION OF THE AWARD IN A PROPORTIONAL MANNER.

36 15. THE COMMISSIONER, IN CONSULTATION WITH THE SUPERINTENDENT OF
37 FINANCIAL SERVICES, SHALL PROMULGATE, AMEND AND ENFORCE ALL RULES AND
38 REGULATIONS NECESSARY FOR THE PROPER ADMINISTRATION OF THE FUND IN
39 ACCORDANCE WITH THE PROVISIONS OF THIS SECTION, INCLUDING, BUT NOT
40 LIMITED TO, THOSE CONCERNING THE PAYMENT OF CLAIMS AND CONCERNING THE
41 ACTUARIAL CALCULATIONS NECESSARY TO DETERMINE, ANNUALLY, THE TOTAL
42 AMOUNT TO BE PAID INTO THE FUND AS PROVIDED HEREIN, AND AS OTHERWISE
43 NEEDED TO IMPLEMENT THIS TITLE.

44 16. THE COMMISSIONER SHALL CONVENE A CONSUMER ADVISORY COMMITTEE FOR
45 THE PURPOSE OF PROVIDING INFORMATION, AS REQUESTED BY THE COMMISSIONER,
46 IN THE DEVELOPMENT OF THE REGULATIONS AUTHORIZED BY SUBDIVISION FIFTEEN
47 OF THIS SECTION.

48 S 52-a. Article 29-D of the public health law is amended by adding a
49 new title 5 to read as follows:

50 TITLE 5

51 NEW YORK STATE HOSPITAL QUALITY INITIATIVE

52 SECTION 2999-M. NEW YORK STATE HOSPITAL QUALITY INITIATIVE.

53 S 2999-M. NEW YORK STATE HOSPITAL QUALITY INITIATIVE. THE NEW YORK
54 STATE HOSPITAL QUALITY INITIATIVE, INCLUDING THE NEW YORK STATE OBSTET-
55 RICAL PATIENT SAFETY WORKGROUP, WILL BE CREATED IN THE DEPARTMENT OF

1 HEALTH TO BE COMPRISED OF MEDICAL, HOSPITAL AND ACADEMIC EXPERTS AND
2 OTHER STAKEHOLDERS CHOSEN BY THE COMMISSIONER.

3 THE NEW YORK STATE QUALITY INITIATIVE WILL OVERSEE THE GENERAL DISSEM-
4 INATION OF INITIATIVES, GUIDANCE, AND BEST PRACTICES TO GENERAL HOSPI-
5 TALS. ACTIVITIES WILL INCLUDE BUT NOT BE LIMITED TO: BUILDING CULTURES
6 OF PATIENT SAFETY AND IMPLEMENTING EVIDENCE BASED CARE IN TARGET AREAS.
7 THE WORKGROUP WILL UNDERTAKE COLLABORATIVE WORK TO IMPROVE OBSTETRICAL
8 CARE OUTCOMES AND QUALITY OF CARE, BASED ON IDENTIFYING AND IMPLEMENTING
9 EVIDENCE BASED PRACTICES, AND CLINICAL PROTOCOLS THAT CAN BE STANDARD-
10 IZED AND ADOPTED BY HOSPITALS INCLUDING BUT NOT LIMITED TO:

11 (A) SURVEYING, REVIEWING AND ANALYZING CURRENT "BEST" PRACTICES
12 EMPLOYED IN OBSTETRICAL CASES, INCLUDING EXPLORING THE USE OF "VIRTUAL
13 GRAND ROUNDS";

14 (B) UNDERTAKING A REVIEW OF CLAIMS IN AN EFFORT TO DEVELOP A SET OF
15 "STANDARD BEST PRACTICES" FOR DELIVERIES IN NEW YORK STATE;

16 (C) FORMULATING AND RECOMMENDING TO THE COMMISSIONER BEST PRACTICE
17 STANDARDS AND DESIGNING NEW PROGRAMS FOR IMPLEMENTATION AND IMPROVED
18 OUTCOMES, INCLUDING BUT NOT LIMITED TO, CLINICAL BUNDLES FOR HIGH PRIOR-
19 ITY CONDITIONS, ELECTRONIC FETAL MONITORING TRAINING AND CERTIFICATION,
20 AND TEAM TRAINING; AND

21 (D) ENGAGING THE EXISTING REGIONAL PERINATAL CENTER NETWORK IN
22 DIALOGUES REGARDING THE ABOVE TOPICS AND MAKING RECOMMENDATIONS TO
23 IMPROVE AND/OR UPGRADE ASSISTANCE AND COMMUNICATION TO SMALLER HOSPI-
24 TALS.

25 S 52-b. Subdivision 1 of section 2807-v of the public health law is
26 amended by adding a new paragraph (iii) to read as follows:

27 (III) FUNDS SHALL BE RESERVED AND SET ASIDE AND ACCUMULATED FROM YEAR
28 TO YEAR AND SHALL BE MADE AVAILABLE, INCLUDING INCOME FROM INVESTMENT
29 FUNDS, FOR THE PURPOSE OF SUPPORTING THE NEW YORK STATE MEDICAL INDEM-
30 NITY FUND AS AUTHORIZED PURSUANT TO TITLE FOUR OF ARTICLE TWENTY-NINE-D
31 OF THIS CHAPTER, FOR THE FOLLOWING PERIODS AND IN THE FOLLOWING AMOUNTS,
32 PROVIDED, HOWEVER, THAT THE COMMISSIONER IS AUTHORIZED TO SEEK WAIVER
33 AUTHORITY FROM THE FEDERAL CENTERS FOR MEDICARE AND MEDICAID FOR THE
34 PURPOSE OF SECURING MEDICAID FEDERAL FINANCIAL PARTICIPATION FOR SUCH
35 PROGRAM, IN WHICH CASE THE FUNDING AUTHORIZED PURSUANT TO THIS PARAGRAPH
36 SHALL BE UTILIZED AS THE NON-FEDERAL SHARE FOR SUCH PAYMENTS:

37 THIRTY MILLION DOLLARS FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN
38 THROUGH MARCH THIRTY-FIRST, TWO THOUSAND TWELVE.

39 S 52-c. The public health law is amended by adding a new section
40 2807-d-1 to read as follows:

41 S 2807-D-1. HOSPITAL QUALITY CONTRIBUTIONS. 1. NOTWITHSTANDING ANY
42 CONTRARY PROVISION OF LAW AND SUBJECT TO THE RECEIPT OF ALL NECESSARY
43 FEDERAL APPROVALS OR WAIVERS, FOR PERIODS ON AND AFTER JULY FIRST, TWO
44 THOUSAND ELEVEN, A QUALITY CONTRIBUTION SHALL BE IMPOSED ON THE INPA-
45 TIENT REVENUE OF EACH GENERAL HOSPITAL THAT IS RECEIVED FOR THE
46 PROVISION OF INPATIENT OBSTETRICAL PATIENT CARE SERVICES IN AN AMOUNT
47 EQUAL TO ONE AND SIX-TENTHS PERCENT OF SUCH REVENUE, AS DEFINED IN
48 ACCORDANCE WITH PARAGRAPH (A) OF SUBDIVISION THREE OF SECTION
49 TWENTY-EIGHT HUNDRED SEVEN-D OF THIS ARTICLE, PROVIDED, HOWEVER, THAT IN
50 THE EVENT THE COMMISSIONER, IN CONSULTATION WITH THE DIRECTOR OF THE
51 BUDGET, DETERMINES THAT SUCH QUALITY CONTRIBUTION SHALL RAISE LESS THAN
52 OR MORE THAN THE TOTAL QUALITY COLLECTION AMOUNT SET FORTH IN SUBDIVI-
53 SION TWO OF THIS SECTION, THE COMMISSIONER, IN CONSULTATION WITH THE
54 DIRECTOR OF THE BUDGET, MAY PROMULGATE REGULATIONS, AND MAY PROMULGATE
55 EMERGENCY REGULATIONS, INCREASING OR DECREASING SUCH QUALITY CONTRIB-

UTIONS BY AMOUNTS SUFFICIENT TO ENSURE THE COLLECTION OF SUCH ANNUAL QUALITY CONTRIBUTION AMOUNT.

2. THE ANNUAL QUALITY CONTRIBUTION AMOUNT REFERENCED IN SUBDIVISION ONE OF THIS SECTION SHALL BE THIRTY MILLION DOLLARS FOR THE STATE FISCAL YEAR BEGINNING APRIL FIRST, TWO THOUSAND ELEVEN, AND FOR EACH SUBSEQUENT STATE FISCAL YEAR THEREAFTER IT SHALL BE THE AMOUNT OF THE PRECEDING YEAR AS INCREASED BY THE TEN YEAR ROLLING AVERAGE OF THE MEDICAL COMPONENT OF THE CONSUMER PRICE INDEX AS PUBLISHED BY THE UNITED STATES DEPARTMENT OF LABOR, BUREAU OF LABOR STATISTICS, FOR THE PRECEDING TEN YEARS.

3. THE QUALITY CONTRIBUTIONS DESCRIBED IN THIS SECTION SHALL BE ADMINISTERED IN ACCORDANCE WITH AND SUBJECT TO THE PROVISIONS OF SUBDIVISIONS FOUR, FIVE, SIX, SEVEN, EIGHT AND TWELVE OF SECTION TWENTY-EIGHT HUNDRED SEVEN-D OF THIS ARTICLE, PROVIDED, HOWEVER, THAT SUCH QUALITY CONTRIBUTIONS SHALL BE DEPOSITED IN THE HCRA RESOURCES FUND AS ESTABLISHED PURSUANT TO SECTION NINETY-TWO-DD OF THE STATE FINANCE LAW; AND PROVIDED FURTHER, HOWEVER, THAT SUCH CONTRIBUTIONS SHALL NOT BE AN ALLOWABLE COST IN THE DETERMINATION OF REIMBURSEMENT RATES OF PAYMENT COMPUTED PURSUANT TO THIS ARTICLE.

S 52-d. The civil practice law and rules is amended by adding a new rule 3409 to read as follows:

RULE 3409. SETTLEMENT CONFERENCE IN DENTAL, PODIATRIC AND MEDICAL MALPRACTICE ACTIONS. IN EVERY DENTAL, PODIATRIC OR MEDICAL MALPRACTICE ACTION, THE COURT SHALL HOLD A MANDATORY SETTLEMENT CONFERENCE WITHIN FORTY-FIVE DAYS AFTER THE FILING OF THE NOTE OF ISSUE AND CERTIFICATE OF READINESS OR, IF A PARTY MOVES TO VACATE THE NOTE OF ISSUE AND CERTIFICATE OF READINESS, WITHIN FORTY-FIVE DAYS AFTER THE DENIAL OF SUCH MOTION. WHERE PARTIES ARE REPRESENTED BY COUNSEL, ONLY ATTORNEYS FULLY FAMILIAR WITH THE ACTION AND AUTHORIZED TO DISPOSE OF THE CASE, OR ACCOMPANIED BY A PERSON EMPOWERED TO ACT ON BEHALF OF THE PARTY REPRESENTED, WILL BE PERMITTED TO APPEAR AT THE CONFERENCE. WHERE APPROPRIATE, THE COURT MAY ORDER PARTIES, REPRESENTATIVES OF PARTIES, REPRESENTATIVES OF INSURANCE CARRIERS OR PERSONS HAVING AN INTEREST IN ANY SETTLEMENT TO ALSO ATTEND IN PERSON OR TELEPHONICALLY AT THE SETTLEMENT CONFERENCE. THE CHIEF ADMINISTRATIVE JUDGE SHALL BY RULE ADOPT PROCEDURES TO IMPLEMENT SUCH SETTLEMENT CONFERENCE.

S 52-e. The state finance law is amended by adding a new section 99-t to read as follows:

S 99-T. NEW YORK STATE MEDICAL INDEMNITY FUND ACCOUNT. 1. THERE IS HEREBY ESTABLISHED IN THE CUSTODY OF THE COMMISSIONER OF TAXATION AND FINANCE A SPECIAL ACCOUNT TO BE KNOWN AS THE "NEW YORK STATE MEDICAL INDEMNITY FUND ACCOUNT".

2. ALL MONEYS RECEIVED BY THE NEW YORK STATE MEDICAL INDEMNITY FUND PURSUANT TO TITLE FOUR OF ARTICLE TWENTY-NINE-D OF THE PUBLIC HEALTH LAW FROM WHATEVER SOURCE DERIVED SHALL BE DEPOSITED TO THE EXCLUSIVE CREDIT OF SUCH FUND ACCOUNT. SAID MONEYS SHALL BE KEPT SEPARATE AND SHALL NOT BE COMMINGLED WITH ANY OTHER MONEYS IN THE CUSTODY OF THE COMMISSIONER OF TAXATION AND FINANCE.

3. THE MONEYS IN SAID ACCOUNT SHALL BE RETAINED BY THE FUND AND SHALL BE RELEASED BY THE COMMISSIONER OF TAXATION AND FINANCE ONLY UPON CERTIFICATES SIGNED BY THE SUPERINTENDENT OF FINANCIAL SERVICES OR THE HEAD OF ANY SUCCESSOR AGENCY TO THE DEPARTMENT OF INSURANCE OR HIS OR HER DESIGNEE AND ONLY FOR THE PURPOSES SET FORTH IN TITLE FOUR OF ARTICLE TWENTY-NINE-D OF THE PUBLIC HEALTH LAW.

S 52-f. Part C of chapter 58 of the laws of 2005, amending the public health law and other laws relating to authorizing reimbursements for

1 expenditures made by social services districts for medical assistance,
2 is amended by adding a new section 5-a to read as follows:

3 S 5-A. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE
4 COMMISSIONER OF HEALTH IS AUTHORIZED TO APPROVE SOCIAL SERVICES DISTRICT
5 DEMONSTRATION PROGRAMS FOR THE PURPOSE OF MAXIMIZING MEDICAID RECOV-
6 ERIES. THE COMMISSIONER SHALL EVALUATE THE RESULTS OF ANY SUCH PROGRAMS,
7 INCLUDING ANY SAVINGS RESULTING THEREFROM. TEN PERCENT OF ANY SUCH
8 SAVINGS, AFTER CERTIFICATION BY THE DIRECTOR OF THE DIVISION OF THE
9 BUDGET, SHALL BE SHARED WITH THE APPLICABLE SOCIAL SERVICES DISTRICT IN
10 A MANNER TO BE DETERMINED JOINTLY BY THE COMMISSIONER OF HEALTH AND THE
11 DIRECTOR OF THE DIVISION OF THE BUDGET.

12 S 52-g. Subdivision 1 of section 104-b of the social services law, as
13 amended by chapter 271 of the laws of 1965, is amended to read as
14 follows:

15 1. If a recipient of public assistance and care shall have a right of
16 action, suit, claim, counterclaim or demand against another on account
17 of any personal injuries suffered by such recipient, then the public
18 welfare official for the public welfare district providing such assist-
19 ance and care shall have a lien for such amount as may be fixed by the
20 public welfare official not exceeding, however, the total amount of such
21 assistance and care furnished by such public welfare official on and
22 after the date when such injuries were incurred. IN ALL SUCH CASES,
23 NOTICE OF THE COMMENCEMENT OF SUCH AN ACTION SHALL BE SERVED UPON THE
24 PUBLIC WELFARE DISTRICT THAT HAS PROVIDED OR IS PROVIDING SUCH ASSIST-
25 ANCE AND CARE, OR UPON THE DEPARTMENT OF HEALTH.

26 The [welfare] commissioner shall endeavor to ascertain whether such
27 person, firm or corporation alleged to be responsible for such injuries
28 is insured with a liability insurance company, as the case may be, and
29 the name thereof.

30 S 52-h. The civil practice law and rules is amended by adding a new
31 section 306-c to read as follows:

32 S 306-C. NOTICE OF COMMENCEMENT OF ACTION FOR PERSONAL INJURIES BY
33 RECIPIENT OF MEDICAL ASSISTANCE. IN THE CASE OF AN INDIVIDUAL WHO HAS
34 SUFFERED PERSONAL INJURIES AND HAS RECEIVED MEDICAL ASSISTANCE PURSUANT
35 TO TITLES ELEVEN AND ELEVEN-D OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW
36 ON OR AFTER THE DATE OF SUCH INJURY, NOTICE OF THE COMMENCEMENT OF AN
37 ACTION BY OR ON BEHALF OF SUCH INDIVIDUAL FOR SUCH PERSONAL INJURIES
38 SHALL BE SENT TO THE SOCIAL SERVICES DISTRICT IN THE COUNTY IN WHICH
39 SUCH RECIPIENT RESIDES, OR TO THE DEPARTMENT OF HEALTH, BY CERTIFIED
40 MAIL, RETURN RECEIPT REQUESTED, OR ELECTRONICALLY IN ACCORD WITH REGU-
41 LATIONS PROMULGATED BY THE COMMISSIONER OF THE DEPARTMENT OF HEALTH,
42 WITHIN SIXTY DAYS OF THE COMPLETION OF SERVICE UPON ALL PARTIES TO SUCH
43 ACTION. PROOF OF SENDING SUCH NOTICE SHALL BE FILED WITH THE COURT IN
44 ACCORDANCE WITH RULE THREE HUNDRED SIX OF THIS ARTICLE. SENDING SUCH
45 NOTICE SHALL NOT BE A JURISDICTIONAL REQUIREMENT TO COMMENCING AN
46 ACTION.

47 S 52-i. Intentionally omitted.

48 S 52-j. Intentionally omitted.

49 S 52-k. Intentionally omitted.

50 S 52-l. Intentionally omitted.

51 S 52-m. Intentionally omitted.

52 S 53. Subdivision 6 of section 369 of the social services law, as
53 added by chapter 170 of the laws of 1994, is amended to read as follows:

54 6. For purposes of this section, [the term] AN INDIVIDUAL'S "estate"
55 [means] INCLUDES all OF THE INDIVIDUAL'S real and personal property and
56 other assets [included within the individual's estate and] passing under

1 the terms of a valid will or by intestacy. PURSUANT TO REGULATIONS
2 ADOPTED BY THE COMMISSIONER, WHICH MAY BE PROMULGATED ON AN EMERGENCY
3 BASIS, AN INDIVIDUAL'S ESTATE ALSO INCLUDES ANY OTHER PROPERTY IN WHICH
4 THE INDIVIDUAL HAS ANY LEGAL TITLE OR INTEREST AT THE TIME OF DEATH,
5 INCLUDING JOINTLY HELD PROPERTY, RETAINED LIFE ESTATES, AND INTERESTS IN
6 TRUSTS, TO THE EXTENT OF SUCH INTERESTS; PROVIDED, HOWEVER, THAT A CLAIM
7 AGAINST A RECIPIENT OF SUCH PROPERTY BY DISTRIBUTION OR SURVIVAL SHALL
8 BE LIMITED TO THE VALUE OF THE PROPERTY RECEIVED OR THE AMOUNT OF
9 MEDICAL ASSISTANCE BENEFITS OTHERWISE RECOVERABLE PURSUANT TO THIS
10 SECTION, WHICHEVER IS LESS. NOTHING IN THIS SUBDIVISION SHALL BE
11 CONSTRUED AS AUTHORIZING THE DEPARTMENT OR A SOCIAL SERVICES DISTRICT TO
12 IMPOSE LIENS OR MAKE RECOVERIES THAT ARE PROHIBITED BY FEDERAL LAWS
13 GOVERNING THE MEDICAL ASSISTANCE PROGRAM.

14 S 54. Subparagraph 12 of paragraph (a) of subdivision 1 of section 366
15 of the social services law, as amended by section 42-a of part C of
16 chapter 58 of the laws of 2008, is amended to read as follows:

17 (12) is a disabled person at least sixteen years of age, but under the
18 age of sixty-five, who: would be eligible for benefits under the supple-
19 mental security income program but for earnings in excess of the allow-
20 able limit; has net available income that does not exceed two hundred
21 fifty percent of the applicable federal income official poverty line, as
22 defined and updated by the United States department of health and human
23 services, for a one-person or two-person household, as defined by the
24 commissioner in regulation; has household resources, as defined in para-
25 graph (e) of subdivision two of section three hundred sixty-six-c of
26 this title, OTHER THAN RETIREMENT ACCOUNTS, that do not exceed [the
27 amount described in subparagraph four of paragraph (a) of subdivision
28 two of this section] TWENTY THOUSAND DOLLARS for a one-person HOUSEHOLD
29 or THIRTY THOUSAND DOLLARS FOR A two-person household, as defined by the
30 commissioner in regulation; and contributes to the cost of medical
31 assistance provided pursuant to this subparagraph in accordance with
32 subdivision twelve of section three hundred sixty-seven-a of this title;
33 for purposes of this subparagraph, disabled means having a medically
34 determinable impairment of sufficient severity and duration to qualify
35 for benefits under section 1902(a)(10)(A)(ii)(xv) of the social security
36 act; or

37 S 55. The mental hygiene law is amended by adding a new section 31.08
38 to read as follows:

39 S 31.08 COMPLIANCE WITH OPERATIONAL STANDARDS BY HOSPITALS.

40 (A) NOTWITHSTANDING THE PROVISIONS OF SECTION 31.07 OF THIS ARTICLE,
41 WITH RESPECT TO A HOSPITAL AS DEFINED IN SECTION 1.03 OF THIS CHAPTER,
42 WHICH IS A WARD, WING, UNIT, OR OTHER PART OF A HOSPITAL, AS DEFINED IN
43 ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW, WHICH PROVIDES SERVICES
44 FOR PERSONS WITH MENTAL ILLNESS PURSUANT TO AN OPERATING CERTIFICATE
45 ISSUED BY THE COMMISSIONER, THE REQUIREMENTS OF SECTION 31.07 OF THIS
46 ARTICLE MAY BE DEEMED TO BE MET IF SUCH HOSPITAL HAS BEEN ACCREDITED BY
47 THE JOINT COMMISSION, OR ANY OTHER HOSPITAL ACCREDITING ORGANIZATION TO
48 WHICH THE CENTERS FOR MEDICARE AND MEDICAID SERVICES HAS GRANTED DEEMING
49 STATUS, AND WHICH THE COMMISSIONER SHALL HAVE DETERMINED HAS ACCREDITING
50 STANDARDS SUFFICIENT TO ASSURE THE COMMISSIONER THAT HOSPITALS SO
51 ACCREDITED ARE IN COMPLIANCE WITH THE PROVISIONS OF THIS CHAPTER AND
52 APPLICABLE LAWS, RULES AND REGULATIONS IN REGARD TO SERVICES PROVIDED AT
53 SUCH WING, WARD, UNIT OR OTHER PART OF A HOSPITAL. SUCH ACCREDITATION
54 SHALL HAVE THE SAME LEGAL EFFECT AS A DETERMINATION BY THE COMMISSIONER
55 UNDER SECTION 31.07 OF THIS ARTICLE THAT THE HOSPITAL IS IN COMPLIANCE
56 WITH SUCH PROVISIONS. THE COMMISSIONER MAY EXEMPT ANY SUCH HOSPITAL

1 FROM THE ANNUAL INSPECTION AND VISITATION REQUIREMENTS ESTABLISHED IN
2 SECTION 31.07 OF THIS ARTICLE, PROVIDED THAT:

3 1. SUCH HOSPITAL HAS A HISTORY OF COMPLIANCE WITH SUCH PROVISIONS OF
4 LAW, RULES AND REGULATIONS AND A RECORD OF PROVIDING GOOD QUALITY CARE,
5 AS DETERMINED BY THE COMMISSIONER;

6 2. A COPY OF THE SURVEY REPORT AND THE CERTIFICATE OF ACCREDITATION OF
7 THE JOINT COMMISSION OR OTHER APPROVED ACCREDITING ORGANIZATION IS
8 SUBMITTED BY THE ACCREDITING BODY OR THE HOSPITAL TO THE COMMISSIONER,
9 WITHIN SEVEN DAYS OF ISSUANCE TO THE HOSPITAL;

10 3. THE JOINT COMMISSION OR OTHER ACCREDITING ORGANIZATION HAS AGREED
11 TO AND DOES EVALUATE, AS PART OF ITS ACCREDITATION SURVEY, ANY MINIMAL
12 OPERATIONAL STANDARDS ESTABLISHED BY THE COMMISSIONER WHICH ARE IN ADDI-
13 TION TO THE MINIMAL OPERATIONAL STANDARDS OF ACCREDITATION OF THE JOINT
14 COMMISSION OR OTHER ACCREDITING ORGANIZATION; AND

15 4. THERE ARE NO CONSTRAINTS PLACED UPON ACCESS BY THE COMMISSIONER TO
16 THE JOINT COMMISSION OR OTHER APPROVED ACCREDITING ORGANIZATION SURVEY
17 REPORTS, PLANS OF CORRECTION, INTERIM SELF-EVALUATION REPORTS, NOTICES
18 OF NONCOMPLIANCE, PROGRESS REPORTS ON CORRECTION OF AREAS OF NONCOMPLI-
19 ANCE, OR ANY OTHER RELATED REPORTS, INFORMATION, COMMUNICATIONS OR MATE-
20 RIALS REGARDING SUCH HOSPITAL.

21 (B) ANY HOSPITAL GOVERNED BY THE PROVISIONS OF SUBDIVISION (A) OF THIS
22 SECTION SHALL AT ALL TIMES BE SUBJECT TO INSPECTION OR VISITATION BY THE
23 COMMISSIONER TO DETERMINE COMPLIANCE WITH APPLICABLE LAW, REGULATIONS,
24 STANDARDS OR CONDITIONS AS DEEMED NECESSARY BY THE COMMISSIONER. ANY
25 SUCH HOSPITAL SHALL BE SUBJECT TO THE FULL RANGE OF LICENSING ENFORCE-
26 MENT AUTHORITY OF THE COMMISSIONER.

27 (C) ANY HOSPITAL GOVERNED BY THE PROVISIONS OF SUBDIVISION (A) OF THIS
28 SECTION SHALL NOTIFY THE COMMISSIONER IMMEDIATELY UPON RECEIPT OF NOTICE
29 BY THE JOINT COMMISSION OR OTHER APPROVED ACCREDITING ORGANIZATION, OR
30 ANY COMMUNICATION THE HOSPITAL MAY RECEIVE THAT SUCH ORGANIZATION WILL
31 BE RECOMMENDING THAT SUCH HOSPITAL NOT BE ACCREDITED, NOT HAVE ITS
32 ACCREDITATION RENEWED, OR HAVE ITS ACCREDITATION TERMINATED, OR UPON
33 RECEIPT OF NOTICE OR OTHER COMMUNICATION FROM THE CENTERS FOR MEDICARE
34 AND MEDICAID SERVICES REGARDING A DETERMINATION THAT THE HOSPITAL WILL
35 BE TERMINATED FROM PARTICIPATION IN THE MEDICARE PROGRAM BECAUSE IT IS
36 NOT IN COMPLIANCE WITH ONE OR MORE CONDITIONS OF PARTICIPATION IN SUCH
37 PROGRAM, OR HAS DEFICIENCIES THAT EITHER INDIVIDUALLY OR IN COMBINATION
38 JEOPARDIZE THE HEALTH AND SAFETY OF PATIENTS OR ARE OF SUCH CHARACTER AS
39 TO SERIOUSLY LIMIT THE PROVIDER'S CAPACITY TO RENDER ADEQUATE CARE.

40 S 56. The mental hygiene law is amended by adding a new section 32.14
41 to read as follows:

42 S 32.14 COMPLIANCE WITH OPERATIONAL STANDARDS BY PROVIDERS OF SERVICES
43 IN HOSPITALS.

44 (A) NOTWITHSTANDING THE PROVISIONS OF SECTION 32.13 OF THIS ARTICLE,
45 WITH RESPECT TO A PROVIDER OF SERVICES AS DEFINED IN SECTION 1.03 OF
46 THIS CHAPTER THAT OCCUPIES A WARD, WING, UNIT, OR OTHER PART OF A HOSPI-
47 TAL, AS DEFINED IN ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW, WHICH
48 PROVIDES SERVICES FOR PERSONS WITH MENTAL DISABILITIES PURSUANT TO AN
49 OPERATING CERTIFICATE ISSUED BY THE COMMISSIONER, THE REQUIREMENTS OF
50 SECTION 32.13 OF THIS ARTICLE MAY BE DEEMED TO BE MET IF SUCH HOSPITAL
51 HAS BEEN ACCREDITED BY THE JOINT COMMISSION, OR ANY OTHER ACCREDITING
52 ORGANIZATION TO WHICH THE CENTERS FOR MEDICARE AND MEDICAID SERVICES HAS
53 GRANTED DEEMING STATUS, AND WHICH THE COMMISSIONER SHALL HAVE DETERMINED
54 HAS ACCREDITING STANDARDS SUFFICIENT TO ASSURE THE COMMISSIONER THAT
55 PROVIDERS OF SERVICES OCCUPYING A WARD, WING, UNIT OR OTHER PART OF SUCH
56 HOSPITAL SO ACCREDITED ARE IN COMPLIANCE WITH THE PROVISIONS OF THIS

CHAPTER AND APPLICABLE LAWS, RULES AND REGULATIONS IN REGARD TO SERVICES PROVIDED AT SUCH WARD, WING, UNIT OR OTHER PART OF A HOSPITAL. SUCH ACCREDITATION SHALL HAVE THE SAME LEGAL EFFECT AS A DETERMINATION BY THE COMMISSIONER UNDER SECTION 32.13 OF THIS ARTICLE THAT THE PROVIDER OF SERVICES IS IN COMPLIANCE WITH SUCH PROVISIONS. THE COMMISSIONER MAY EXEMPT ANY SUCH PROVIDER OF SERVICES, IN REGARD TO SERVICES PROVIDED AT SUCH WARD, WING, UNIT OR OTHER PART OF A HOSPITAL, FROM THE ANNUAL INSPECTION AND VISITATION REQUIREMENTS ESTABLISHED IN SECTION 32.13 OF THIS ARTICLE, PROVIDED THAT:

1. SUCH PROVIDER OF SERVICES HAS A HISTORY OF COMPLIANCE WITH SUCH PROVISIONS OF LAW, RULES AND REGULATIONS AND A RECORD OF PROVIDING GOOD QUALITY CARE, AS DETERMINED BY THE COMMISSIONER;

2. A COPY OF THE SURVEY REPORT AND THE CERTIFICATE OF ACCREDITATION OF THE JOINT COMMISSION OR OTHER APPROVED ACCREDITING ORGANIZATION IS SUBMITTED BY THE ACCREDITING BODY OR THE PROVIDER OF SERVICES TO THE COMMISSIONER, WITHIN SEVEN DAYS OF ISSUANCE TO SUCH PROVIDER OF SERVICES;

3. THE JOINT COMMISSION OR OTHER APPROVED ACCREDITING ORGANIZATION HAS AGREED TO AND DOES EVALUATE, AS PART OF ITS ACCREDITATION SURVEY, ANY MINIMAL OPERATIONAL STANDARDS ESTABLISHED BY THE COMMISSIONER WHICH ARE IN ADDITION TO THE MINIMAL OPERATIONAL STANDARDS OF ACCREDITATION OF THE JOINT COMMISSION OR OTHER ACCREDITING ORGANIZATION; AND

4. THERE ARE NO CONSTRAINTS PLACED UPON ACCESS BY THE COMMISSIONER TO THE JOINT COMMISSION OR OTHER APPROVED ACCREDITING ORGANIZATION SURVEY REPORTS, PLANS OF CORRECTION, INTERIM SELF-EVALUATION REPORTS, NOTICES OF NONCOMPLIANCE, PROGRESS REPORTS ON CORRECTION OF AREAS OF NONCOMPLIANCE, OR ANY OTHER RELATED REPORTS, INFORMATION, COMMUNICATIONS OR MATERIALS REGARDING SUCH PROVIDER OF SERVICES.

(B) ANY PROVIDER OF SERVICES GOVERNED BY THE PROVISIONS OF SUBDIVISION (A) OF THIS SECTION SHALL AT ALL TIMES BE SUBJECT TO INSPECTION OR VISITATION BY THE COMMISSIONER TO DETERMINE COMPLIANCE WITH APPLICABLE LAW, REGULATIONS, STANDARDS OR CONDITIONS AS DEEMED NECESSARY BY THE COMMISSIONER. ANY SUCH PROVIDER OF SERVICES SHALL BE SUBJECT TO THE FULL RANGE OF CERTIFICATION ENFORCEMENT AUTHORITY OF THE COMMISSIONER.

(C) ANY PROVIDER OF SERVICES GOVERNED BY THE PROVISIONS OF SUBDIVISION (A) OF THIS SECTION SHALL NOTIFY THE COMMISSIONER IMMEDIATELY UPON RECEIPT OF NOTICE BY THE JOINT COMMISSION OR OTHER APPROVED ACCREDITING ORGANIZATION, OR ANY COMMUNICATION THE PROVIDER OF SERVICES MAY RECEIVE THAT SUCH ORGANIZATION WILL BE RECOMMENDING THAT SUCH PROVIDER OF SERVICES NOT BE ACCREDITED, NOT HAVE ITS ACCREDITATION RENEWED, OR HAVE ITS ACCREDITATION TERMINATED, OR UPON RECEIPT OF NOTICE OR OTHER COMMUNICATION FROM THE CENTERS FOR MEDICARE AND MEDICAID SERVICES REGARDING A DETERMINATION THAT THE PROVIDER OF SERVICES WILL BE TERMINATED FROM PARTICIPATION IN THE MEDICARE OR MEDICAID PROGRAM BECAUSE IT IS NOT IN COMPLIANCE WITH ONE OR MORE CONDITIONS OF PARTICIPATION IN SUCH PROGRAM, OR HAS DEFICIENCIES THAT EITHER INDIVIDUALLY OR IN COMBINATION JEOPARDIZE THE HEALTH AND SAFETY OF PATIENTS OR ARE OF SUCH CHARACTER AS TO SERIOUSLY LIMIT THE PROVIDER'S CAPACITY TO RENDER ADEQUATE CARE.

S 57. Intentionally omitted.

S 58. Section 2805-1 of the public health law, as added by chapter 266 of the laws of 1986, subdivision 3 as amended by chapter 542 of the laws of 2000, subdivision 4 as added and subdivision 5 as renumbered by chapter 632 of the laws of 2006, is amended to read as follows:

S 2805-1. [Incident] ADVERSE EVENT reporting. 1. (A) All hospitals[, as defined in subdivision ten of section twenty-eight hundred one of this article,] shall be required to report [incidents] EVENTS described

1 by subdivision two of this section to the department in a manner and
2 within time periods as may be specified by regulation of the department.

3 (B) FOR PURPOSES OF THIS SECTION, "HOSPITAL" MEANS ANY GENERAL HOSPI-
4 TAL OR DIAGNOSTIC AND TREATMENT CENTER.

5 2. The following [incidents] ADVERSE EVENTS shall be reported to the
6 department:

7 (a) patients' deaths or impairments of bodily functions in circum-
8 stances other than those related to the natural course of illness,
9 disease or proper treatment in accordance with generally accepted
10 medical standards;

11 (b) fires in the hospital which disrupt the provision of patient care
12 services or cause harm to patients or staff;

13 (c) equipment malfunction during treatment or diagnosis of a patient
14 which did or could have adversely affected a patient or hospital person-
15 nel;

16 (d) poisoning occurring within the hospital;

17 (e) strikes by hospital staff;

18 (f) disasters or other emergency situations external to the hospital
19 environment which affect hospital operations; and

20 (g) termination of any services vital to the continued safe operation
21 of the hospital or to the health and safety of its patients and person-
22 nel, including but not limited to the anticipated or actual termination
23 of telephone, electric, gas, fuel, water, heat, air conditioning, rodent
24 or pest control, laundry services, food or contract services.

25 3. NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, THE
26 COMMISSIONER IS AUTHORIZED, AS APPROPRIATE IN THE INTEREST OF PROMOTING
27 PATIENT SAFETY, AND AFTER CONSULTING WITH CLINICIANS, HOSPITAL ADMINIS-
28 TRATORS, RESEARCHERS, AND CONSUMERS WITH EXPERTISE IN THE AREA OF
29 PATIENT SAFETY AND QUALITY IMPROVEMENT, TO ADD, MODIFY OR ELIMINATE ONE
30 OR MORE ADVERSE EVENTS SET FORTH IN SUBDIVISION TWO OF THIS SECTION, BY
31 REGULATION, CONSISTENT WITH NATIONAL CONSENSUS STANDARDS ENDORSED BY THE
32 CONSENSUS-BASED ENTITY SELECTED FOR THE PURPOSE OF PURSUING CERTAIN
33 ACTIVITIES RELATING TO HEALTHCARE PERFORMANCE MEASUREMENT BY THE U.S.
34 DEPARTMENT OF HEALTH AND HUMAN SERVICES PURSUANT TO THE MEDICARE
35 IMPROVEMENTS FOR PATIENTS AND PROVIDERS ACT (PUB. L. 110-275).

36 4. The hospital shall conduct an investigation of [incidents] EVENTS
37 described in paragraphs (a) through (d) of subdivision two of this
38 section within thirty days of obtaining knowledge of any information
39 which reasonably appears to show that such an [incident] EVENT has
40 occurred, provided that, if the hospital reasonably expects such inves-
41 tigation to extend beyond such thirty day period, the hospital shall
42 notify the department of such expectation and the reason therefor, and
43 shall inform the department of the expected completion date of the
44 investigation. The hospital shall provide to the department a copy of
45 the investigation report within twenty-four hours of completion. Nothing
46 herein shall limit the authority of the department to conduct an inves-
47 tigation of [incidents] EVENTS occurring in [general] hospitals.

48 5. THE DEPARTMENT SHALL:

49 (A) ANALYZE EVENT REPORTS, FINDINGS OF THE INVESTIGATIONS, THEIR ROOT
50 CAUSE ANALYSES, AND CORRECTIVE ACTION PLANS TO DETERMINE PATTERNS OF
51 SYSTEMIC FAILURE IN THE HEALTH CARE SYSTEM AND IDENTIFY SUCCESSFUL METH-
52 ODS TO CORRECT THESE FAILURES; AND

53 (B) COMMUNICATE TO FACILITIES THE DEPARTMENT'S CONCLUSIONS, IF ANY,
54 REGARDING EVENT REPORTS, PATTERNS OF SYSTEMIC FAILURE, AND RECOMMENDA-
55 TIONS FOR CORRECTIVE ACTION RESULTING FROM THE ANALYSIS OF SUBMISSIONS
56 FROM FACILITIES; AND MAY RELEASE, IN A FORMAT THAT DOES NOT IDENTIFY

1 SPECIFIC PATIENTS AND DOES NOT PROVIDE REASONABLE BASIS TO BELIEVE THAT
2 THE INFORMATION CAN BE USED TO IDENTIFY A PATIENT; (I) ANALYSES AND
3 FINDINGS DERIVED FROM THE ADVERSE EVENT DATA TO HOSPITALS OR THE PUBLIC
4 AND (II) ADVERSE EVENT DATA TO RESEARCHERS FOR PATIENT SAFETY RESEARCH
5 PROJECTS APPROVED BY THE COMMISSIONER, SUBJECT TO ANY TERMS AND CONDI-
6 TIONS IMPOSED BY THE COMMISSIONER CONCERNING THE SECURITY AND CONFIDEN-
7 TIALITY OF THE DATA AND THEIR USE; AND PROVIDED THAT NO SUCH DATA,
8 RECORD, DOCUMENTATION OR ACTION SUBJECT TO SUBDIVISION TWO OF SECTION
9 TWENTY-EIGHT HUNDRED FIVE-M OF THIS ARTICLE, SHALL BE SUBJECT TO DISCLO-
10 SURE UNDER ARTICLE SIX OF THE PUBLIC OFFICERS LAW NOR ARTICLE THIRTY-ONE
11 OF THE CIVIL PRACTICE LAW AND RULES.

12 [4] 6. The commissioner shall establish protocols for hospital
13 personnel where a patient under the age of eighteen years dies during
14 transportation to the hospital or while at the hospital, under circum-
15 stances other than those related to the natural course of illness,
16 disease or proper treatment in accordance with generally accepted
17 medical standards. Such protocols shall address matters including, but
18 not limited to, the following:

- 19 (a) medical and social history, and examination of the patient;
- 20 (b) preservation of evidence and chain of custody;
- 21 (c) questioning of the patient's family, guardian or person in
22 parental authority;
- 23 (d) circumstances surrounding the injury resulting in death;
- 24 (e) determination of the cause of death;
- 25 (f) notification of law enforcement personnel; and
- 26 (g) reporting requirements under title six of article six of the
27 social services law.

28 In developing such protocols, the commissioner shall consult with the
29 office of children and family services, local departments of social
30 services, coordinators of child fatality review teams established pursu-
31 ant to section four hundred twenty-two-b of the social services law, law
32 enforcement agencies, pediatricians preferably with expertise in the
33 area of child abuse and maltreatment or forensic pediatrics, and such
34 other persons as the commissioner deems necessary.

35 [5] 7. The commissioner shall make, adopt, promulgate and enforce
36 such rules and regulations as he may deem appropriate to effectuate the
37 purposes of this section.

38 S 59. Intentionally omitted.

39 S 60. Intentionally omitted.

40 S 61. Intentionally omitted.

41 S 62. Intentionally omitted.

42 S 63. Subdivision 38 of section 2 of the social services law is
43 amended by adding four new paragraphs (f), (g), (h) and (i) to read as
44 follows:

45 (F) "VERIFICATION ORGANIZATION" MEANS AN ENTITY, OPERATING IN A MANNER
46 CONSISTENT WITH APPLICABLE FEDERAL AND STATE CONFIDENTIALITY AND PRIVACY
47 LAWS AND REGULATIONS, WHICH USES ELECTRONIC MEANS INCLUDING BUT NOT
48 LIMITED TO CONTEMPORANEOUS TELEPHONE VERIFICATION OR CONTEMPORANEOUS
49 VERIFIED ELECTRONIC DATA TO VERIFY WHETHER A SERVICE OR ITEM WAS
50 PROVIDED TO AN ELIGIBLE MEDICAID RECIPIENT. FOR EACH SERVICE OR ITEM THE
51 VERIFICATION ORGANIZATION SHALL CAPTURE:

52 (I) THE IDENTITY OF THE INDIVIDUAL PROVIDING SERVICES OR ITEMS TO THE
53 MEDICAID RECIPIENT;

54 (II) THE IDENTITY OF THE MEDICAID RECIPIENT; AND

55 (III) THE DATE, TIME, DURATION, LOCATION AND TYPE OF SERVICE OR ITEM.

1 A LIST OF VERIFICATION ORGANIZATIONS SHALL BE JOINTLY DEVELOPED BY THE
2 DEPARTMENT OF HEALTH AND THE OFFICE OF THE MEDICAID INSPECTOR GENERAL.

3 (G) "EXCEPTION REPORT" MEANS AN ELECTRONIC REPORT CONTAINING ALL THE
4 DATA FIELDS IN PARAGRAPH (F) OF THIS SUBDIVISION FOR CONFLICTS BETWEEN
5 SERVICES OR ITEMS ON THE BASIS OF THE IDENTITY OF THE PERSON PROVIDING
6 THE SERVICE OR ITEM TO THE MEDICAID RECIPIENT, THE IDENTITY OF THE MEDI-
7 CAID RECIPIENT, AND/OR TIME, DATE, DURATION OR LOCATION OF SERVICE;

8 (H) "CONFLICT REPORT" MEANS AN ELECTRONIC REPORT CONTAINING ALL OF THE
9 DATA FIELDS IN PARAGRAPH (F) OF THIS SUBDIVISION DETAILING INCONGRUITIES
10 IN SERVICES OR ITEMS BETWEEN SCHEDULING AND/OR LOCATION OF SERVICE WHEN
11 COMPARED TO A DUTY ROSTER.

12 (I) "PARTICIPATING PROVIDER" MEANS A CERTIFIED HOME HEALTH AGENCY,
13 LONG TERM HOME HEALTH AGENCY OR PERSONAL CARE PROVIDER WITH TOTAL MEDI-
14 CAID REIMBURSEMENTS EXCEEDING FIFTEEN MILLION DOLLARS PER CALENDAR YEAR.

15 S 64. The social services law is amended by adding a new section 363-e
16 to read as follows:

17 S 363-E. PRECLAIM REVIEW FOR PARTICIPATING PROVIDERS OF MEDICAL
18 ASSISTANCE PROGRAM SERVICES AND ITEMS. EVERY SERVICE OR ITEM WITHIN A
19 CLAIM SUBMITTED BY A PARTICIPATING PROVIDER SHALL BE REVIEWED AND VERI-
20 FIED BY A VERIFICATION ORGANIZATION PRIOR TO SUBMISSION OF A CLAIM TO
21 THE DEPARTMENT OF HEALTH. THE VERIFICATION ORGANIZATION SHALL DECLARE
22 EACH SERVICE OR ITEM TO BE VERIFIED OR UNVERIFIED. EACH PARTICIPATING
23 PROVIDER SHALL RECEIVE AND MAINTAIN REPORTS FROM THE VERIFICATION ORGAN-
24 IZATION WHICH SHALL CONTAIN DATA ON:

25 1. VERIFIED SERVICES OR ITEMS, INCLUDING WHETHER A SERVICE APPEARED ON
26 A CONFLICT OR EXCEPTION REPORT BEFORE VERIFICATION AND HOW THAT CONFLICT
27 OR EXCEPTION WAS RESOLVED; AND

28 2. SERVICES OR ITEMS THAT WERE NOT VERIFIED, INCLUDING CONFLICT AND
29 EXCEPTION REPORT DATA FOR THESE SERVICES.

30 S 65. Subparagraph (iii) of paragraph (d) of subdivision 1 of section
31 367-a of the social services law, as amended by section 53 of part C of
32 chapter 58 of the laws of 2008, is amended to read as follows:

33 (iii) When payment under part B of title XVIII of the federal social
34 security act for items and services provided to eligible persons who are
35 also beneficiaries under part B of title XVIII of the federal social
36 security act and for items and services provided to qualified medicare
37 beneficiaries under part B of title XVIII of the federal social security
38 act would exceed the amount that otherwise would be made under this
39 title if provided to an eligible person other than a person who is also
40 a beneficiary under part B or is a qualified medicare beneficiary, the
41 amount payable FOR SERVICES COVERED under this title shall be twenty
42 percent of the amount of any co-insurance liability of such eligible
43 persons pursuant to federal law were they not eligible for medical
44 assistance or were they not qualified medicare beneficiaries with
45 respect to such benefits under such part B; provided, however, amounts
46 payable under this title for items and services provided to eligible
47 persons who are also beneficiaries under part B or to qualified medicare
48 beneficiaries by an ambulance service under the authority of an operat-
49 ing certificate issued pursuant to article thirty of the public health
50 law, a psychologist licensed under article one hundred fifty-three of
51 the education law, or a facility under the authority of an operating
52 certificate issued pursuant to article sixteen, thirty-one or thirty-two
53 of the mental hygiene law and with respect to outpatient hospital and
54 clinic items and services provided by a facility under the authority of
55 an operating certificate issued pursuant to article twenty-eight of the
56 public health law, shall not be less than the amount of any co-insurance

liability of such eligible persons or such qualified medicare beneficiaries, or for which such eligible persons or such qualified medicare beneficiaries would be liable under federal law were they not eligible for medical assistance or were they not qualified medicare beneficiaries with respect to such benefits under part B.

S 65-a. Subdivision 1 of section 367-a of the social services law is amended by adding a new paragraph (g) to read as follows:

(G) NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, AMOUNTS PAYABLE UNDER THIS TITLE FOR MEDICAL ASSISTANCE IN THE FORM OF HOSPITAL OUTPATIENT SERVICES OR DIAGNOSTIC AND TREATMENT CENTER SERVICES PURSUANT TO ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW PROVIDED TO ELIGIBLE PERSONS WHO ARE ALSO BENEFICIARIES UNDER PART B OF TITLE XVIII OF THE FEDERAL SOCIAL SECURITY ACT SHALL NOT EXCEED THE APPROVED MEDICAL ASSISTANCE PAYMENT LEVEL LESS THE AMOUNT PAYABLE UNDER PART B.

S 66. The public health law is amended by adding a new article 29-E to read as follows:

ARTICLE 29-E

ACCOUNTABLE CARE ORGANIZATIONS DEMONSTRATION PROGRAM

SECTION 2999-N. ACCOUNTABLE CARE ORGANIZATIONS; FINDINGS; PURPOSE.

2999-O. DEFINITIONS.

2999-P. ESTABLISHMENT OF ACO DEMONSTRATION PROGRAM.

2999-Q. ACCOUNTABLE CARE ORGANIZATIONS; REQUIREMENTS.

2999-R. OTHER LAWS.

S 2999-N. ACCOUNTABLE CARE ORGANIZATIONS; FINDINGS; PURPOSE. THE LEGISLATURE INTENDS TO TEST THE ABILITY OF ACCOUNTABLE CARE ORGANIZATIONS TO ASSUME A ROLE IN DELIVERING AN ARRAY OF HEALTH CARE SERVICES, FROM PRIMARY AND PREVENTIVE CARE THROUGH ACUTE INPATIENT HOSPITAL AND POST-HOSPITAL CARE. THE LEGISLATURE FINDS THAT THE FORMATION AND OPERATION OF ACCOUNTABLE CARE ORGANIZATIONS UNDER THIS ARTICLE, AND SUBJECT TO APPROPRIATE REGULATION, CAN BE CONSISTENT WITH THE PURPOSES OF FEDERAL AND STATE ANTI-TRUST, ANTI-REFERRAL, AND OTHER STATUTES, INCLUDING REDUCING OVER-UTILIZATION AND EXPENDITURES. THE LEGISLATURE FINDS THAT THE DEVELOPMENT OF ACCOUNTABLE CARE ORGANIZATIONS UNDER THIS ARTICLE WILL REDUCE HEALTH CARE COSTS, PROMOTE EFFECTIVE ALLOCATION OF HEALTH CARE RESOURCES, AND ENHANCE THE QUALITY AND ACCESSIBILITY OF HEALTH CARE. THE LEGISLATURE FINDS THAT THIS ARTICLE IS NECESSARY TO PROMOTE THE FORMATION OF ACCOUNTABLE CARE ORGANIZATIONS AND PROTECT THE PUBLIC INTEREST AND THE INTERESTS OF PATIENTS AND HEALTH CARE PROVIDERS.

S 2999-O. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS, UNLESS THE CONTEXT CLEARLY REQUIRES OTHERWISE:

1. "ACCOUNTABLE CARE ORGANIZATION" OR "ACO" MEANS AN ORGANIZATION OF CLINICALLY INTEGRATED HEALTH CARE PROVIDERS CERTIFIED BY THE COMMISSIONER UNDER THIS ARTICLE.

2. "CERTIFICATE OF AUTHORITY" OR "CERTIFICATE" MEANS A CERTIFICATE OF AUTHORITY ISSUED BY THE COMMISSIONER UNDER THIS ARTICLE.

3. "HEALTH CARE PROVIDER" INCLUDES BUT IS NOT LIMITED TO AN ENTITY LICENSED OR CERTIFIED UNDER ARTICLE TWENTY-EIGHT OR THIRTY-SIX OF THIS CHAPTER; AN ENTITY LICENSED OR CERTIFIED UNDER ARTICLE SIXTEEN, THIRTY-ONE OR THIRTY-TWO OF THE MENTAL HYGIENE LAW; OR A HEALTH CARE PRACTITIONER LICENSED OR CERTIFIED UNDER TITLE EIGHT OF THE EDUCATION LAW OR A LAWFUL COMBINATION OF SUCH HEALTH CARE PRACTITIONERS; AND MAY ALSO INCLUDE, TO THE EXTENT PROVIDED BY REGULATION OF THE COMMISSIONER, OTHER ENTITIES THAT PROVIDE TECHNICAL ASSISTANCE, INFORMATION SYSTEMS AND SERVICES, CARE COORDINATION AND OTHER SERVICES TO HEALTH CARE PROVIDERS AND PATIENTS PARTICIPATING IN AN ACO.

1 4. "PRIMARY CARE" MEANS THE HEALTH CARE FIELDS OF FAMILY PRACTICE,
2 GENERAL PEDIATRICS, PRIMARY CARE INTERNAL MEDICINE, PRIMARY CARE OBSTET-
3 RICS, OR PRIMARY CARE GYNECOLOGY, WITHOUT REGARD TO BOARD CERTIFICATION,
4 PROVIDED BY A HEALTH CARE PROVIDER ACTING WITHIN HIS, HER, OR ITS LAWFUL
5 SCOPE OF PRACTICE.

6 5. "THIRD-PARTY HEALTH CARE PAYER" HAS ITS ORDINARY MEANINGS AND MAY
7 INCLUDE ANY ENTITIES PROVIDED FOR BY REGULATION OF THE COMMISSIONER,
8 WHICH MAY INCLUDE AN ENTITY SUCH AS A PHARMACY BENEFITS MANAGER, FISCAL
9 ADMINISTRATOR, OR ADMINISTRATIVE SERVICES PROVIDER THAT PARTICIPATES IN
10 THE ADMINISTRATION OF A THIRD-PARTY HEALTH CARE PAYER SYSTEM.

11 6. ANY REFERENCES TO THE "DEPARTMENT OF FINANCIAL SERVICES" AND THE
12 "SUPERINTENDENT OF FINANCIAL SERVICES" IN THIS ARTICLE SHALL MEAN, PRIOR
13 TO OCTOBER THIRD, TWO THOUSAND ELEVEN, RESPECTIVELY, THE "DEPARTMENT OF
14 INSURANCE" AND THE "SUPERINTENDENT OF INSURANCE."

15 S 2999-P. ESTABLISHMENT OF ACO DEMONSTRATION PROGRAM. 1. AN ACCOUNT-
16 ABLE CARE ORGANIZATION: (A) IS AN ORGANIZATION OF CLINICALLY INTEGRATED
17 HEALTH CARE PROVIDERS THAT WORK TOGETHER TO PROVIDE, MANAGE, AND COORDI-
18 NATE HEALTH CARE (INCLUDING PRIMARY CARE) FOR A DEFINED POPULATION; WITH
19 A MECHANISM FOR SHARED GOVERNANCE; THE ABILITY TO NEGOTIATE, RECEIVE,
20 AND DISTRIBUTE PAYMENTS; AND ACCOUNTABILITY FOR THE QUALITY, COST, AND
21 DELIVERY OF HEALTH CARE TO THE ACO'S PATIENTS; IN ACCORDANCE WITH THIS
22 ARTICLE; AND (B) HAS BEEN ISSUED A CERTIFICATE OF AUTHORITY BY THE
23 COMMISSIONER UNDER THIS ARTICLE.

24 2. THE COMMISSIONER SHALL ESTABLISH A DEMONSTRATION PROGRAM WITHIN THE
25 DEPARTMENT TO TEST THE ABILITY OF ACOS TO DELIVER AN ARRAY OF HEALTH
26 CARE SERVICES FOR THE PURPOSE OF IMPROVING THE QUALITY, COORDINATION AND
27 ACCOUNTABILITY OF SERVICES PROVIDED TO PATIENTS IN NEW YORK.

28 3. THE COMMISSIONER MAY ISSUE A CERTIFICATE OF AUTHORITY TO AN ENTITY
29 THAT MEETS CONDITIONS FOR ACO CERTIFICATION AS SET FORTH IN REGULATIONS
30 PROMULGATED BY THE COMMISSIONER PURSUANT TO SECTION TWENTY-NINE HUNDRED
31 NINETY-NINE-Q OF THIS ARTICLE. THE COMMISSIONER SHALL NOT ISSUE MORE
32 THAN SEVEN CERTIFICATES UNDER THIS ARTICLE, AND SHALL NOT ISSUE ANY NEW
33 CERTIFICATE UNDER THIS ARTICLE AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND
34 FIFTEEN.

35 4. THE COMMISSIONER MAY LIMIT, SUSPEND, OR TERMINATE A CERTIFICATE OF
36 AUTHORITY IF AN ACO IS NOT OPERATING IN ACCORDANCE WITH THIS ARTICLE.

37 5. THE COMMISSIONER IS AUTHORIZED TO SEEK FEDERAL APPROVALS AND WAIV-
38 ERS TO IMPLEMENT THIS ARTICLE, INCLUDING BUT NOT LIMITED TO THOSE
39 APPROVALS OR WAIVERS NECESSARY TO OBTAIN FEDERAL FINANCIAL PARTIC-
40 IPATION.

41 S 2999-Q. ACCOUNTABLE CARE ORGANIZATIONS; REQUIREMENTS. 1. THE COMMIS-
42 SIONER SHALL PROMULGATE REGULATIONS ESTABLISHING CRITERIA FOR CERTIF-
43 ICATES OF AUTHORITY, QUALITY STANDARDS FOR ACOS, REPORTING REQUIREMENTS
44 AND OTHER MATTERS DEEMED TO BE APPROPRIATE AND NECESSARY IN THE OPERA-
45 TION AND EVALUATION OF THE DEMONSTRATION PROGRAM. IN PROMULGATING SUCH
46 REGULATIONS, THE COMMISSIONER SHALL CONSULT WITH THE SUPERINTENDENT OF
47 FINANCIAL SERVICES, HEALTH CARE PROVIDERS, THIRD-PARTY HEALTH CARE
48 PAYERS, ADVOCATES REPRESENTING PATIENTS, AND OTHER APPROPRIATE PARTIES.

49 2. SUCH REGULATIONS MAY, AND SHALL AS NECESSARY FOR PURPOSES OF THIS
50 ARTICLE, ADDRESS MATTERS INCLUDING BUT NOT LIMITED TO:

51 (A) THE GOVERNANCE, LEADERSHIP AND MANAGEMENT STRUCTURE OF THE ACO,
52 INCLUDING THE MANNER IN WHICH CLINICAL AND ADMINISTRATIVE SYSTEMS AND
53 CLINICAL PARTICIPATION WILL BE MANAGED;

54 (B) DEFINITION OF THE POPULATION PROPOSED TO BE SERVED BY THE ACO,
55 WHICH MAY INCLUDE REFERENCE TO A GEOGRAPHICAL AREA AND PATIENT CHARAC-
56 TERISTICS;

1 (C) THE CHARACTER, COMPETENCE AND FISCAL RESPONSIBILITY AND SOUNDNESS
2 OF AN ACO AND ITS PRINCIPALS, IF AND TO THE EXTENT DEEMED APPROPRIATE BY
3 THE COMMISSIONER;

4 (D) THE ADEQUACY OF AN ACO'S NETWORK OF PARTICIPATING HEALTH CARE
5 PROVIDERS, INCLUDING PRIMARY CARE HEALTH CARE PROVIDERS;

6 (E) MECHANISMS BY WHICH AN ACO WILL PROVIDE, MANAGE, AND COORDINATE
7 QUALITY HEALTH CARE FOR ITS PATIENTS AND PROVIDE ACCESS TO HEALTH CARE
8 PROVIDERS THAT ARE NOT PARTICIPANTS IN THE ACO;

9 (F) MECHANISMS BY WHICH THE ACO SHALL RECEIVE AND DISTRIBUTE PAYMENTS
10 TO ITS PARTICIPATING HEALTH CARE PROVIDERS, WHICH MAY INCLUDE INCENTIVE
11 PAYMENTS OR MECHANISMS FOR POOLING PAYMENTS RECEIVED BY PARTICIPATING
12 HEALTH CARE PROVIDERS FROM THIRD-PARTY PAYERS AND PATIENTS;

13 (G) MECHANISMS AND CRITERIA FOR ACCEPTING HEALTH CARE PROVIDERS TO
14 PARTICIPATE IN THE ACO THAT ARE RELATED TO THE NEEDS OF THE PATIENT
15 POPULATION TO BE SERVED AND NEEDS AND PURPOSES OF THE ACO, AND PREVENT-
16 ING UNREASONABLE DISCRIMINATION;

17 (H) MECHANISMS FOR QUALITY ASSURANCE AND GRIEVANCE PROCEDURES FOR
18 PATIENTS OR HEALTH CARE PROVIDERS WHERE APPROPRIATE;

19 (I) MECHANISMS THAT PROMOTE EVIDENCE-BASED HEALTH CARE, PATIENT
20 ENGAGEMENT, COORDINATION OF CARE, ELECTRONIC HEALTH RECORDS, INCLUDING
21 PARTICIPATION IN HEALTH INFORMATION EXCHANGES, AND OTHER ENABLING TECH-
22 NOLOGIES;

23 (J) PERFORMANCE STANDARDS FOR, AND MEASURES TO ASSESS, THE QUALITY AND
24 UTILIZATION OF CARE PROVIDED BY AN ACO;

25 (K) APPROPRIATE REQUIREMENTS FOR ACOS TO PROMOTE COMPLIANCE WITH THE
26 PURPOSES OF THIS ARTICLE;

27 (L) POSTING ON THE DEPARTMENT'S WEBSITE INFORMATION ABOUT ACOS THAT
28 WOULD BE USEFUL TO HEALTH CARE PROVIDERS AND PATIENTS;

29 (M) REQUIREMENTS FOR THE SUBMISSION OF INFORMATION AND DATA BY ACOS
30 AND THEIR PARTICIPATING AND AFFILIATED HEALTH CARE PROVIDERS AS NECES-
31 SARY FOR THE EVALUATION OF THE SUCCESS OF THE DEMONSTRATION PROGRAM;

32 (N) PROTECTION OF PATIENT RIGHTS AS APPROPRIATE;

33 (O) THE IMPACT OF THE ESTABLISHMENT AND OPERATION OF AN ACO ON ACCESS
34 TO ANY HEALTH CARE SERVICE IN THE AREA SERVED; AND

35 (P) ESTABLISHMENT OF STANDARDS, AS APPROPRIATE, TO PROMOTE THE ABILITY
36 OF AN ACO TO PARTICIPATE IN APPLICABLE FEDERAL PROGRAMS FOR ACOS.

37 3. (A) SUBJECT TO REGULATIONS OF THE COMMISSIONER: (I) AN ACO MAY
38 ENTER INTO ARRANGEMENTS WITH ONE OR MORE THIRD-PARTY HEALTH CARE PAYERS
39 TO ESTABLISH PAYMENT METHODOLOGIES FOR HEALTH CARE SERVICES FOR THE
40 THIRD-PARTY HEALTH CARE PAYER'S ENROLLEES PROVIDED BY THE ACO OR FOR
41 WHICH THE ACO IS RESPONSIBLE, SUCH AS FULL OR PARTIAL CAPITATION OR
42 OTHER ARRANGEMENTS; (II) SUCH ARRANGEMENTS MAY INCLUDE PROVISION FOR THE
43 ACO TO RECEIVE AND DISTRIBUTE PAYMENTS TO THE ACO'S PARTICIPATING HEALTH
44 CARE PROVIDERS, INCLUDING INCENTIVE PAYMENTS AND PAYMENTS FOR HEALTH
45 CARE SERVICES FROM THIRD-PARTY HEALTH CARE PAYERS AND PATIENTS; AND
46 (III) AN ACO MAY INCLUDE MECHANISMS FOR POOLING PAYMENTS RECEIVED BY
47 PARTICIPATING HEALTH CARE PROVIDERS FROM THIRD-PARTY PAYERS AND
48 PATIENTS.

49 (B) SUBJECT TO REGULATIONS OF THE COMMISSIONER, THE COMMISSIONER, IN
50 CONSULTATION WITH THE SUPERINTENDENT OF FINANCIAL SERVICES, MAY AUTHOR-
51 IZE A THIRD-PARTY HEALTH CARE PAYER TO PARTICIPATE IN PAYMENT METHODOLO-
52 GIES WITH AN ACO UNDER THIS SUBDIVISION, NOTWITHSTANDING ANY CONTRARY
53 PROVISION OF THIS CHAPTER, THE INSURANCE LAW, THE SOCIAL SERVICES LAW,
54 OR THE ELDER LAW, ON FINDING THAT THE PAYMENT METHODOLOGY IS CONSISTENT
55 WITH THE PURPOSES OF THIS ARTICLE.

1 4. THE PROVISION OF HEALTH CARE SERVICES DIRECTLY OR INDIRECTLY BY AN
2 ACO THROUGH HEALTH CARE PROVIDERS SHALL NOT BE CONSIDERED THE PRACTICE
3 OF A PROFESSION UNDER TITLE EIGHT OF THE EDUCATION LAW BY THE ACO.

4 S 2999-R. OTHER LAWS. 1. (A) IT IS THE POLICY OF THE STATE TO PERMIT
5 AND ENCOURAGE COOPERATIVE, COLLABORATIVE AND INTEGRATIVE ARRANGEMENTS
6 AMONG THIRD-PARTY HEALTH CARE PAYERS AND HEALTH CARE PROVIDERS WHO MIGHT
7 OTHERWISE BE COMPETITORS UNDER THE ACTIVE SUPERVISION OF THE COMMISSION-
8 ER. TO THE EXTENT THAT IT IS NECESSARY TO ACCOMPLISH THE PURPOSES OF
9 THIS ARTICLE, COMPETITION MAY BE SUPPLANTED AND THE STATE MAY PROVIDE
10 STATE ACTION IMMUNITY UNDER STATE AND FEDERAL ANTITRUST LAWS TO PAYORS
11 AND HEALTH CARE PROVIDERS.

12 (B) THE COMMISSIONER MAY ENGAGE IN STATE SUPERVISION TO PROMOTE STATE
13 ACTION IMMUNITY UNDER STATE AND FEDERAL ANTITRUST LAWS AND MAY INSPECT,
14 REQUIRE, OR REQUEST ADDITIONAL DOCUMENTATION AND TAKE OTHER ACTIONS
15 UNDER THIS ARTICLE TO VERIFY AND MAKE SURE THAT THIS ARTICLE IS IMPLE-
16 MENTED IN ACCORDANCE WITH ITS INTENT AND PURPOSE.

17 2. WITH RESPECT TO THE PLANNING, IMPLEMENTATION, AND OPERATION OF
18 ACOS, THE COMMISSIONER, BY REGULATION, MAY SPECIFICALLY DELINEATE SAFE
19 HARBORS THAT EXEMPT ACOS FROM THE APPLICATION OF THE FOLLOWING STATUTES:

20 (A) ARTICLE TWENTY-TWO OF THE GENERAL BUSINESS LAW RELATING TO
21 ARRANGEMENTS AND AGREEMENTS IN RESTRAINT OF TRADE;

22 (B) ARTICLE ONE HUNDRED THIRTY-ONE-A OF THE EDUCATION LAW RELATING TO
23 FEE-SPLITTING ARRANGEMENTS; AND

24 (C) TITLE TWO-D OF ARTICLE TWO OF THIS CHAPTER RELATING TO HEALTH CARE
25 PRACTITIONER REFERRALS.

26 3. FOR THE PURPOSES OF THIS ARTICLE, AN ACO SHALL BE DEEMED TO BE A
27 HOSPITAL FOR PURPOSES OF SECTIONS TWENTY-EIGHT HUNDRED FIVE-J,
28 TWENTY-EIGHT HUNDRED FIVE-K, TWENTY-EIGHT HUNDRED FIVE-L AND
29 TWENTY-EIGHT HUNDRED FIVE-M OF THIS CHAPTER AND SUBDIVISIONS THREE AND
30 FIVE OF SECTION SIXTY-FIVE HUNDRED TWENTY-SEVEN OF THE EDUCATION LAW.

31 S 67. Section 18 of part B of chapter 58 of the laws of 2010, amending
32 chapter 474 of the laws of 1996, amending the education law and other
33 laws relating to rates for residential healthcare facilities and other
34 laws relating to Medicaid payments, is amended to read as follows:

35 S 18. Notwithstanding any contrary provision of law, surcharges and
36 assessments due and owing pursuant to sections 2807-j, 2807-s and 2807-t
37 of the public health law for any period prior to January 1, [2010] 2011,
38 which are paid and accompanied by all required reports and which are
39 received on or before December 31, [2010] 2011 shall not be subject to
40 interest or penalties as otherwise provided in such sections, provided,
41 however, that such reports may be based on estimates by payors and
42 designated providers of services of the amounts owed, subject to subse-
43 quent audit by the commissioner of health or the commissioner's desig-
44 nee, and provided further, however, with regard to all principal, inter-
45 est and penalty amounts collected by the commissioner of health prior to
46 the effective date of this act, the penalty provisions of sections
47 2807-j, 2807-s and 2807-t of the public health law shall remain in full
48 force and effect and such amounts collected shall not be subject to
49 further adjustment pursuant to this section, and provided further,
50 however, that payments of principal amounts of surcharges and assess-
51 ments which were paid late and received prior to the effective date of
52 this provision, and in regard to which interest and penalty amounts have
53 not been collected, shall not be subject to such interest and penalties,
54 and provided, further, however, that the provisions of this section
55 shall not apply to delinquent amounts which have been referred by the
56 commissioner of health for recoupment or collection proceeding.

Furthermore, the provisions of this section shall not apply to any surcharge or assessment payments made in response to a final audit finding issued by the commissioner of health or the commissioner's designee.

S 68. Intentionally omitted.

S 69. Subparagraph (iii) of paragraph (b) of subdivision 25 of section 2808 of the public health law, as added by section 31 of part B of chapter 109 of the laws of 2010, is amended and a new subparagraph (iv) is added to read as follows:

(iii) payment to a facility for reserved bed days provided on behalf of such person for non-hospitalization leaves of absence may not exceed ten days in any twelve month period[.]; AND

(IV) PAYMENTS FOR RESERVED BED DAYS FOR TEMPORARY HOSPITALIZATIONS SHALL ONLY BE MADE TO A RESIDENTIAL HEALTH CARE FACILITY IF AT LEAST FIFTY PERCENT OF THE FACILITY'S RESIDENTS ELIGIBLE TO PARTICIPATE IN A MEDICARE MANAGED CARE PLAN ARE ENROLLED IN SUCH A PLAN.

S 70. Intentionally omitted.

S 71. Intentionally omitted.

S 72. Intentionally omitted.

S 73. Intentionally omitted.

S 74. Section 366 of the social services law is amended by adding a new subdivision 14 to read as follows:

14. THE COMMISSIONER OF HEALTH MAY MAKE ANY AVAILABLE AMENDMENTS TO THE STATE PLAN FOR MEDICAL ASSISTANCE SUBMITTED PURSUANT TO SECTION THREE HUNDRED SIXTY-THREE-A OF THIS TITLE, OR, IF AN AMENDMENT IS NOT POSSIBLE, DEVELOP AND SUBMIT AN APPLICATION FOR ANY WAIVER OR APPROVAL UNDER THE FEDERAL SOCIAL SECURITY ACT THAT MAY BE NECESSARY TO DISREGARD OR EXEMPT AN AMOUNT OF INCOME, FOR THE PURPOSE OF ASSISTING WITH HOUSING COSTS, FOR INDIVIDUALS RECEIVING COVERAGE OF NURSING FACILITY SERVICES UNDER THIS TITLE WHO ARE: (I) DISCHARGED FROM THE NURSING FACILITY TO THE COMMUNITY; (II) ENROLLED IN A PLAN CERTIFIED PURSUANT TO SECTION FORTY-FOUR HUNDRED THREE-F OF THE PUBLIC HEALTH LAW; AND (III) WHILE SO ENROLLED, NOT CONSIDERED AN "INSTITUTIONALIZED SPOUSE" FOR PURPOSES OF SECTION THREE HUNDRED SIXTY-SIX-C OF THIS TITLE.

S 75. Intentionally Omitted.

S 76. Subdivision 6 of section 364-i of the social services law is amended by adding a new paragraph (a-2) to read as follows:

(A-2) AT THE TIME OF APPLICATION FOR PRESUMPTIVE ELIGIBILITY PURSUANT TO THIS SUBDIVISION, A PREGNANT WOMAN WHO RESIDES IN A SOCIAL SERVICES DISTRICT THAT HAS IMPLEMENTED THE STATE'S MANAGED CARE PROGRAM PURSUANT TO SECTION THREE HUNDRED SIXTY-FOUR-J OF THIS TITLE MUST CHOOSE A MANAGED CARE PROVIDER. IF A MANAGED CARE PROVIDER IS NOT CHOSEN AT THE TIME OF APPLICATION, THE PREGNANT WOMAN WILL BE ASSIGNED TO A MANAGED CARE PROVIDER IN ACCORDANCE WITH SUBPARAGRAPHS (II), (III), (IV) AND (V) OF PARAGRAPH (F) OF SUBDIVISION FOUR OF SECTION THREE HUNDRED SIXTY-FOUR-J OF THIS TITLE.

S 77. Paragraphs (b), (c), (d) and (f) of subdivision 3 of section 364-j of the social services law are REPEALED, paragraph (e) is relettered paragraph (d), and two new paragraphs (b) and (c) are added to read as follows:

(B) THE FOLLOWING MEDICAL ASSISTANCE RECIPIENTS SHALL NOT BE REQUIRED TO PARTICIPATE IN A MANAGED CARE PROGRAM ESTABLISHED PURSUANT TO THIS SECTION:

(I) INDIVIDUALS WITH A CHRONIC MEDICAL CONDITION WHO ARE BEING TREATED BY A SPECIALIST PHYSICIAN THAT IS NOT ASSOCIATED WITH A MANAGED CARE PROVIDER IN THE INDIVIDUAL'S SOCIAL SERVICES DISTRICT MAY DEFER PARTIC-

1 IPATION IN THE MANAGED CARE PROGRAM FOR SIX MONTHS OR UNTIL THE COURSE
2 OF TREATMENT IS COMPLETE, WHICHEVER OCCURS FIRST; AND

3 (II) NATIVE AMERICANS.

4 (C) THE FOLLOWING MEDICAL ASSISTANCE RECIPIENTS SHALL NOT BE ELIGIBLE
5 TO PARTICIPATE IN A MANAGED CARE PROGRAM ESTABLISHED PURSUANT TO THIS
6 SECTION:

7 (I) A PERSON ELIGIBLE FOR MEDICARE PARTICIPATING IN A CAPITATED DEMON-
8 STRATION PROGRAM FOR LONG TERM CARE;

9 (II) AN INFANT LIVING WITH AN INCARCERATED MOTHER IN A STATE OR LOCAL
10 CORRECTIONAL FACILITY AS DEFINED IN SECTION TWO OF THE CORRECTION LAW;

11 (III) A PERSON WHO IS EXPECTED TO BE ELIGIBLE FOR MEDICAL ASSISTANCE
12 FOR LESS THAN SIX MONTHS;

13 (IV) A PERSON WHO IS ELIGIBLE FOR MEDICAL ASSISTANCE BENEFITS ONLY
14 WITH RESPECT TO TUBERCULOSIS-RELATED SERVICES;

15 (V) INDIVIDUALS RECEIVING HOSPICE SERVICES AT TIME OF ENROLLMENT;

16 (VI) A PERSON WHO HAS PRIMARY MEDICAL OR HEALTH CARE COVERAGE AVAIL-
17 ABLE FROM OR UNDER A THIRD-PARTY PAYOR WHICH MAY BE MAINTAINED BY
18 PAYMENT, OR PART PAYMENT, OF THE PREMIUM OR COST SHARING AMOUNTS, WHEN
19 PAYMENT OF SUCH PREMIUM OR COST SHARING AMOUNTS WOULD BE COST-EFFECTIVE,
20 AS DETERMINED BY THE LOCAL SOCIAL SERVICES DISTRICT;

21 (VII) A PERSON RECEIVING FAMILY PLANNING SERVICES PURSUANT TO SUBPARA-
22 GRAPH ELEVEN OF PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION THREE
23 HUNDRED SIXTY-SIX OF THIS TITLE;

24 (VIII) A PERSON WHO IS ELIGIBLE FOR MEDICAL ASSISTANCE PURSUANT TO
25 PARAGRAPH (V) OF SUBDIVISION FOUR OF SECTION THREE HUNDRED SIXTY-SIX OF
26 THIS TITLE; AND

27 (IX) A PERSON WHO IS MEDICARE/MEDICAID DUALY ELIGIBLE AND WHO IS NOT
28 ENROLLED IN A MEDICARE MANAGED CARE PLAN.

29 S 77-a. Paragraph (g) of subdivision 3 of section 364-j of the social
30 services law, as amended by chapter 649 of the laws of 1996, and subpar-
31 agraph (i) as amended by section 30 of part C of chapter 58 of the laws
32 of 2008, is amended to read as follows:

33 [(g)] (E) The following categories of individuals [will not] MAY be
34 required to enroll with a managed care program [until] WHEN program
35 features and reimbursement rates are approved by the commissioner of
36 health and, as appropriate, the [commissioner] COMMISSIONERS of THE
37 DEPARTMENT OF mental health, THE OFFICE FOR PERSONS WITH DEVELOPMENTAL
38 DISABILITIES, THE OFFICE OF CHILDREN AND FAMILY SERVICES, AND THE OFFICE
39 OF ALCOHOL AND SUBSTANCE ABUSE SERVICES:

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

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

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

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

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

9 (ii) an individual eligible for supplemental security income;

10 (iii) HIV positive individuals; [and]

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

14 (V) A PERSON RECEIVING SERVICES PROVIDED BY A RESIDENTIAL ALCOHOL OR
15 SUBSTANCE ABUSE PROGRAM OR FACILITY FOR THE MENTALLY RETARDED;

16 (VI) A PERSON RECEIVING SERVICES PROVIDED BY AN INTERMEDIATE CARE
17 FACILITY FOR THE MENTALLY RETARDED OR WHO HAS CHARACTERISTICS AND NEEDS
18 SIMILAR TO SUCH PERSONS;

19 (VII) A PERSON WITH A DEVELOPMENTAL OR PHYSICAL DISABILITY WHO
20 RECEIVES HOME AND COMMUNITY-BASED SERVICES OR CARE-AT-HOME SERVICES
21 THROUGH EXISTING WAIVERS UNDER SECTION NINETEEN HUNDRED FIFTEEN (C) OF
22 THE FEDERAL SOCIAL SECURITY ACT OR WHO HAS CHARACTERISTICS AND NEEDS
23 SIMILAR TO SUCH PERSONS;

24 (VIII) A PERSON WHO IS ELIGIBLE FOR MEDICAL ASSISTANCE PURSUANT TO
25 SUBPARAGRAPH TWELVE OR SUBPARAGRAPH THIRTEEN OF PARAGRAPH (A) OF SUBDI-
26 VISION ONE OF SECTION THREE HUNDRED SIXTY-SIX OF THIS TITLE;

27 (IX) A PERSON RECEIVING SERVICES PROVIDED BY A LONG TERM HOME HEALTH
28 CARE PROGRAM, OR A PERSON RECEIVING INPATIENT SERVICES IN A STATE-OPER-
29 ATED PSYCHIATRIC FACILITY OR A RESIDENTIAL TREATMENT FACILITY FOR CHIL-
30 DREN AND YOUTH;

31 (X) CERTIFIED BLIND OR DISABLED CHILDREN LIVING OR EXPECTED TO BE
32 LIVING SEPARATE AND APART FROM THE PARENT FOR THIRTY DAYS OR MORE;

33 (XI) RESIDENTS OF NURSING FACILITIES;

34 (XII) A FOSTER CHILD IN THE PLACEMENT OF A VOLUNTARY AGENCY OR IN THE
35 DIRECT CARE OF THE LOCAL SOCIAL SERVICES DISTRICT;

36 (XIII) A PERSON OR FAMILY THAT IS HOMELESS; AND

37 (XIV) INDIVIDUALS FOR WHOM A MANAGED CARE PROVIDER IS NOT GEOGRAPH-
38 ICALLY ACCESSIBLE SO AS TO REASONABLY PROVIDE SERVICES TO THE PERSON. A
39 MANAGED CARE PROVIDER IS NOT GEOGRAPHICALLY ACCESSIBLE IF THE PERSON
40 CANNOT ACCESS THE PROVIDER'S SERVICES IN A TIMELY FASHION DUE TO
41 DISTANCE OR TRAVEL TIME.

42 S 78. Subparagraph (v) of paragraph (e) of subdivision 4 of section
43 364-j of the social services law, as amended by section 14 of part C of
44 chapter 58 of the laws of 2004, is amended to read as follows:

45 (v) Upon delivery of the pre-enrollment information, the local
46 district or the enrollment organization shall certify the participant's
47 receipt of such information. Upon verification that the participant has
48 received the pre-enrollment education information, a managed care
49 provider, a local district or the enrollment organization may enroll a
50 participant into a managed care provider. Managed care providers must
51 submit enrollment forms to the local department of social services. Upon
52 enrollment, participants will sign an attestation that they have been
53 informed that: participants have a choice of managed care providers;
54 participants have a choice of primary care practitioners; and, except as
55 otherwise provided in this section, including but not limited to the
56 exceptions listed in subparagraph (iii) of paragraph (a) of this subdi-

vision, participants must exclusively use their primary care practitioners and plan providers. The commissioner of health [or with respect to a managed care plan serving participants in a city with a population of over two million, the local department of social services in such city,] may suspend or curtail enrollment or impose sanctions for failure to appropriately notify clients as required in this subparagraph.

S 79. Subparagraph (i) of paragraph (f) of subdivision 4 of section 364-j of the social services law, as amended by section 14 of part C of chapter 58 of the laws of 2004, is amended to read as follows:

(i) Participants SHALL CHOOSE A MANAGED CARE PROVIDER AT THE TIME OF APPLICATION FOR MEDICAL ASSISTANCE; IF THE PARTICIPANT DOES NOT CHOOSE SUCH A PROVIDER THE COMMISSIONER SHALL ASSIGN SUCH PARTICIPANT TO A MANAGED CARE PROVIDER IN ACCORDANCE WITH SUBPARAGRAPHS (II), (III), (IV) AND (V) OF THIS PARAGRAPH. PARTICIPANTS ALREADY IN RECEIPT OF MEDICAL ASSISTANCE shall have no less than [sixty] THIRTY days from the date selected by the district to enroll in the managed care program to select a managed care provider, and as appropriate, a mental health special needs plan, and shall be provided with information to make an informed choice. Where a participant has not selected such a provider or mental health special needs plan, the commissioner of health shall assign such participant to a managed care provider, and as appropriate, to a mental health special needs plan, taking into account capacity and geographic accessibility. The commissioner may after the period of time established in subparagraph (ii) of this paragraph assign participants to a managed care provider taking into account quality performance criteria and cost. Provided however, cost criteria shall not be of greater value than quality criteria in assigning participants.

S 80. Paragraphs (d), (e), and (f) of subdivision 5 of section 364-j of the social services law, as added by section 15 of part C of chapter 58 of the laws of 2004, are amended to read as follows:

(d) Notwithstanding any inconsistent provision of this title and section one hundred sixty-three of the state finance law, the commissioner of health [or the local department of social services in a city with a population of over two million] may contract with managed care providers approved under paragraph (b) of this subdivision, without a competitive bid or request for proposal process, to provide coverage for participants pursuant to this title.

(e) Notwithstanding any inconsistent provision of this title and section one hundred forty-three of the economic development law, no notice in the procurement opportunities newsletter shall be required for contracts awarded by the commissioner of health [or the local department of social services in a city with a population of over two million], to qualified managed care providers pursuant to this section.

(f) The care and services described in subdivision four of this section will be furnished by a managed care provider pursuant to the provisions of this section when such services are furnished in accordance with an agreement with the department of health [or the local department of social services in a city with a population of over two million], and meet applicable federal law and regulations.

S 81. Paragraph (k) of subdivision 2 of section 365-a of the social services law, as amended by chapter 659 of the laws of 1997, is amended to read as follows:

(k) care and services furnished by an entity offering a comprehensive health services plan, including an entity that has received a certificate of authority pursuant to sections forty-four hundred three, forty-four hundred three-a or forty-four hundred eight-a of the public

1 health law (as added by chapter six hundred thirty-nine of the laws of
2 nineteen hundred ninety-six) or a health maintenance organization
3 authorized under article forty-three of the insurance law, to eligible
4 individuals residing in the geographic area served by such entity, when
5 such services are furnished in accordance with an agreement approved by
6 the department which meets the requirements of federal law and regu-
7 lations [provided, that no such agreement shall allow for medical
8 assistance payments on a capitated basis for nursing facility, home care
9 or other long term care services of a duration and scope defined in
10 regulations of the department of health promulgated pursuant to section
11 forty-four hundred three-f of the public health law, unless such entity
12 has received a certificate of authority as a managed long term care plan
13 or is an operating demonstration or is an approved managed long term
14 care demonstration, pursuant to such section].

15 S 82. Paragraph (a) of subdivision 1 of section 367-f of the social
16 services law, as amended by section 37 of part D of chapter 58 of the
17 laws of 2009, is amended to read as follows:

18 (a) "Medicaid extended coverage" shall mean eligibility for medical
19 assistance (i) without regard to the resource requirements of section
20 three hundred sixty-six of this title, or in the case of an individual
21 covered under an insurance policy or certificate described in subdivi-
22 sion two of this section that provided a residential health care facili-
23 ty benefit less than [three] TWO years in duration, without consider-
24 ation of an amount of resources equivalent to the value of benefits
25 received by the individual under such policy or certificate, as deter-
26 mined under the rules of the partnership for long-term care program;
27 (ii) without regard to the recovery of medical assistance from the
28 estates of individuals and the imposition of liens on the homes of
29 persons pursuant to section three hundred sixty-nine of this title, with
30 respect to resources exempt from consideration pursuant to subparagraph
31 (i) of this paragraph; provided, however, that nothing in this section
32 shall prevent the imposition of a lien or recovery against property of
33 an individual on account of medical assistance incorrectly paid; and
34 (iii) based on an income eligibility standard for married couples equal
35 to the amount of the minimum monthly maintenance needs allowance defined
36 in paragraph (h) of subdivision two of section three hundred sixty-six-c
37 of this title, and for single individuals equal to one-half of such
38 amount; provided, however, that the commissioner of health shall not be
39 required to implement the provisions of this subparagraph if the use of
40 such income eligibility standards will result in a loss of federal
41 financial participation in the costs of Medicaid extended coverage
42 furnished in accordance with subparagraphs (i) and (ii) of this para-
43 graph.

44 S 83. Intentionally omitted.

45 S 84. Intentionally omitted.

46 S 85. Intentionally omitted.

47 S 86. Intentionally omitted.

48 S 87. Intentionally omitted.

49 S 88. Subparagraph 11 of paragraph (a) of subdivision 1 of section 366
50 of the social services law, as amended by section 1-h of part C of chap-
51 ter 58 of the laws of 2007, is amended to read as follows:

52 (11) for purposes of receiving family planning services eligible for
53 reimbursement by the federal government at a rate of ninety percent, is
54 not otherwise eligible for medical assistance and whose income is two
55 hundred percent or less of the comparable federal income official pover-
56 ty line (as defined and annually revised by the United States department

1 of health and human services); provided, however, that such ninety
2 percent limitation shall not apply to those services identified by the
3 commissioner of health as services, including treatment for sexually
4 transmitted diseases, generally performed as part of or as a follow-up
5 to a service eligible for such ninety percent reimbursement; PROVIDED
6 FURTHER THAT THE COMMISSIONER OF HEALTH IS AUTHORIZED TO ESTABLISH
7 CRITERIA FOR PRESUMPTIVE ELIGIBILITY FOR SERVICES PROVIDED PURSUANT TO
8 THIS SUBPARAGRAPH IN ACCORDANCE WITH ALL APPLICABLE REQUIREMENTS OF
9 FEDERAL LAW OR REGULATION PERTAINING TO SUCH ELIGIBILITY. The commis-
10 sioner of health shall submit whatever waiver applications as may be
11 necessary to receive federal financial participation for services
12 provided under this subparagraph and the provisions of this subparagraph
13 shall be effective if and so long as such federal financial partic-
14 ipation shall be available; or

15 S 89. Paragraph (e) of subdivision 2 of section 365-a of the social
16 services law, as amended by chapter 170 of the laws of 1994, is amended
17 to read as follows:

18 (e) (I) personal care services, including personal emergency response
19 services, shared aide and an individual aide, SUBJECT TO THE PROVISIONS
20 OF SUBPARAGRAPHS (II), (III), AND (IV) OF THIS PARAGRAPH, furnished to
21 an individual who is not an inpatient or resident of a hospital, nursing
22 facility, intermediate care facility for the mentally retarded, or
23 institution for mental disease, as determined to meet the recipient's
24 needs for assistance when cost effective and appropriate [in accordance
25 with section three hundred sixty-seven-k and section three hundred
26 sixty-seven-o of this title], and when prescribed by a physician, in
27 accordance with the recipient's plan of treatment and provided by indi-
28 viduals who are qualified to provide such services, who are supervised
29 by a registered nurse and who are not members of the recipient's family,
30 and furnished in the recipient's home or other location;

31 (II) THE COMMISSIONER IS AUTHORIZED TO ADOPT STANDARDS, PURSUANT TO
32 EMERGENCY REGULATION, FOR THE PROVISION AND MANAGEMENT OF SERVICES
33 AVAILABLE UNDER THIS PARAGRAPH FOR INDIVIDUALS WHOSE NEED FOR SUCH
34 SERVICES EXCEEDS A SPECIFIED LEVEL TO BE DETERMINED BY THE COMMISSIONER;

35 (III) THE COMMISSIONER IS AUTHORIZED TO PROVIDE ASSISTANCE TO PERSONS
36 RECEIVING SERVICES UNDER THIS PARAGRAPH WHO ARE TRANSITIONING TO RECEIV-
37 ING CARE FROM A MANAGED LONG TERM CARE PLAN CERTIFIED PURSUANT TO
38 SECTION FORTY-FOUR HUNDRED THREE-F OF THE PUBLIC HEALTH LAW;

39 (IV) PERSONAL CARE SERVICES AVAILABLE PURSUANT TO THIS PARAGRAPH SHALL
40 NOT EXCEED EIGHT HOURS PER WEEK FOR INDIVIDUALS WHOSE NEEDS ARE LIMITED
41 TO NUTRITIONAL AND ENVIRONMENTAL SUPPORT FUNCTIONS;

42 S 90. (a) Notwithstanding any other provision of law to the contrary,
43 for the state fiscal years beginning April 1, 2011 and ending on March
44 31, 2013, all Medicaid payments made for services provided on and after
45 April 1, 2011, shall, except as hereinafter provided, be subject to a
46 uniform two percent reduction and such reduction shall be applied, to
47 the extent practicable, in equal amounts during the fiscal year,
48 provided, however, that an alternative method may be considered at the
49 discretion of the commissioner of health and the director of the budget
50 based upon consultation with the health care industry including but not
51 limited to, a uniform reduction in Medicaid rates of payments or other
52 reductions provided that any method selected achieves up to \$345,000,000
53 in Medicaid state share savings in state fiscal year 2011-12 and up to
54 \$357,000,000 in state fiscal year 2012-13, except as hereinafter
55 provided, for services provided on and after April 1, 2011 through March
56 31, 2013. Any alternative methods to achieve the reduction must be

provided in writing and shall be filed with the senate finance committee and the assembly ways and means committee not less than thirty days before the date on which implementation is expected to begin. Nothing in this section shall be deemed to prevent all or part of such alternative reduction plan from taking effect retroactively, to the extent permitted by the federal centers for medicare and medicaid services.

(b) The following types of appropriations shall be exempt from reductions pursuant to this section:

(i) any reductions that would violate federal law including, but not limited to, payments required pursuant to the federal Medicare program;

(ii) any reductions related to payments pursuant to article 32, article 31 and article 16 of the mental hygiene law;

(iii) payments the state is obligated to make pursuant to court orders or judgments;

(iv) payments for which the non-federal share does not reflect any state funding; and

(v) at the discretion of the commissioner of health and the director of the budget, payments with regard to which it is determined by the commissioner of health and the director of the budget that application of reductions pursuant to this section would result, by operation of federal law, in a lower federal medical assistance percentage applicable to such payments.

(c) Reductions to Medicaid payments or Medicaid rates of payments made pursuant to this section shall be subject to the receipt of all necessary federal approvals.

(d) Not less than 30 days prior to the conclusion of each state fiscal year in which the provisions of this section apply, the department of health shall prepare and transmit a report to the legislature that details the actions taken to implement the Medicaid state share reductions established pursuant to this section. Such report shall be provided to the chairman of the senate finance committee and the assembly ways and means committee.

S 91. Notwithstanding any inconsistent provision of state law, rule or regulation to the contrary, subject to federal approval, the year to year rate of growth of department of health state funds Medicaid spending shall not exceed the ten year rolling average of the medical component of the consumer price index as published by the United States department of labor, bureau of labor statistics, for the preceding ten years.

S 92. 1. For state fiscal years 2011-12 and 2012-13, the director of the budget, in consultation with the commissioner of health referenced as "commissioner" for purposes of this section, shall assess on a monthly basis, as reflected in monthly reports pursuant to subdivision five of this section known and projected department of health state funds medicaid expenditures by category of service and by geographic regions, as defined by the commissioner, and if the director of the budget determines that such expenditures are expected to cause medicaid disbursements for such period to exceed the projected department of health medicaid state funds disbursements in the enacted budget financial plan pursuant to subdivision 3 of section 23 of the state finance law, the commissioner of health, in consultation with the director of the budget, shall develop a medicaid savings allocation plan to limit such spending to the aggregate limit level specified in the enacted budget financial plan, provided, however, such projections may be adjusted by the director of the budget to account for any changes in the New York state federal medical assistance percentage amount established pursuant to the

1 federal social security act, changes in provider revenues, and beginning
2 April 1, 2012 the operational costs of the New York state medical indem-
3 nity fund.

4 2. Such medicaid savings allocation plan shall be designed, to reduce
5 the disbursements authorized by the appropriations herein in compliance
6 with the following guidelines: (1) reductions shall be made in compli-
7 ance with applicable federal law, including the provisions of the
8 Patient Protection and Affordable Care Act, Public Law No. 111-148, and
9 the Health Care and Education Reconciliation Act of 2010, Public Law No.
10 111-152 (collectively "Affordable Care Act") and any subsequent amend-
11 ments thereto or regulations promulgated thereunder; (2) reductions
12 shall be made in a manner that complies with the state Medicaid plan
13 approved by the federal centers for medicare and medicaid services,
14 provided, however, that the commissioner of health is authorized to
15 submit any state plan amendment or seek other federal approval, includ-
16 ing waiver authority, to implement the provisions of the medicaid
17 savings allocation plan that meets the other criteria set forth herein;
18 (3) reductions shall be made in a manner that maximizes federal finan-
19 cial participation, to the extent practicable, including any federal
20 financial participation that is available or is reasonably expected to
21 become available, in the discretion of the commissioner of health, under
22 the Affordable Care Act; (4) reductions shall be made uniformly among
23 categories of services and geographic regions of the state, to the
24 extent practicable, and shall be made uniformly within a category of
25 service, to the extent practicable, except where the commissioner of
26 health determines that there are sufficient grounds for non-uniformity,
27 including but not limited to: the extent to which specific categories of
28 services contributed to department of health medicaid state funds spend-
29 ing in excess of the limits specified herein; the need to maintain safe-
30 ty net services in underserved communities; or the potential benefits of
31 pursuing innovative payment models contemplated by the Affordable Care
32 Act, in which case such grounds shall be set forth in the medicaid
33 savings allocation plan; and (5) reductions shall be made in a manner
34 that does not unnecessarily create administrative burdens to Medicaid
35 applicants and recipients or providers.

36 3. (a) The commissioner of health shall seek the input of the legisla-
37 ture, as well as organizations representing health care providers,
38 consumers, businesses, workers, health insurers, and others with rele-
39 vant expertise, in developing such medicaid savings allocation plan, to
40 the extent that all or part of such plan, in the discretion of the
41 commissioner, is likely to have a material impact on the overall medi-
42 caid program, particular categories of service or particular geographic
43 regions of the states.

44 (b)(i) The commissioner of health shall post the medicaid savings
45 allocation plan on the department of health's website and shall provide
46 written copies of such plan to the chairs of the senate finance and the
47 assembly ways and means committees at least 30 days before the date on
48 which implementation is expected to begin.

49 (ii) The commissioner of health may revise the medicaid savings allo-
50 cation plan subsequent to the provision of notice and prior to implemen-
51 tation but need provide a new notice pursuant to subparagraph (i) of
52 this paragraph only if the commissioner determines, in his or her
53 discretion, that such revisions materially alter the plan.

54 (c) Notwithstanding the provisions of paragraphs (a) and (b) of this
55 subdivision, the commissioner of health need not seek the input
56 described in paragraph (a) of this subdivision or provide notice pursu-

1 ant to paragraph (b) of this paragraph if, in the discretion of the
2 commissioner, expedited development and implementation of a medicaid
3 savings allocation plan is necessary due to a public health emergency.

4 For purposes of this section, a public health emergency is defined as:

5 (i) a disaster, natural or otherwise, that significantly increases the
6 immediate need for health care personnel in an area of the state; (ii)
7 an event or condition that creates a widespread risk of exposure to a
8 serious communicable disease, or the potential for such widespread risk
9 of exposure; or (iii) any other event or condition determined by the
10 commissioner to constitute an imminent threat to public health.

11 (d) Nothing in this paragraph shall be deemed to prevent all or part
12 of such medical savings allocation plan from taking effect retroactively
13 to the extent permitted by the federal centers for medicare and medicaid
14 services.

15 4. In accordance with the medicaid savings allocation plan, the
16 commissioner of the department of health shall reduce department of
17 health state funds medicaid disbursements by the amount of the projected
18 overspending through, actions including, but not limited to modifying or
19 suspending reimbursement methods, including but not limited to all fees,
20 premium levels and rates of payment, notwithstanding any provision of
21 law that sets a specific amount or methodology for any such payments or
22 rates of payment; modifying Medicaid program benefits; seeking all
23 necessary Federal approvals, including, but not limited to waivers,
24 waiver amendments; and suspending time frames for notice, approval or
25 certification of rate requirements, notwithstanding any provision of
26 law, rule or regulation to the contrary, including but not limited to
27 sections 2807 and 3614 of the public health law, section 18 of chapter 2
28 of the laws of 1988, and 18 NYCRR 505.14(h).

29 5. The department of health shall prepare a monthly report that sets
30 forth: (a) known and projected department of health medicaid expendi-
31 tures as described in subdivision one of this section; and (b) the
32 actions taken to implement any medicaid savings allocation plan imple-
33 mented pursuant to subdivision four of this section, including informa-
34 tion concerning the impact of such actions on each category of service
35 and each geographic region of the state. Each such monthly report shall
36 be provided to the chairs of the senate finance and the assembly ways
37 and means committees and shall be posted on the department of health's
38 website in a timely manner.

39 S 93. 1. Notwithstanding any inconsistent provision of law, rule or
40 regulation to the contrary, and subject to the availability of federal
41 financial participation, effective for the period April 1, 2011 through
42 March 31, 2012, and each state fiscal year thereafter, the department of
43 health is authorized to make supplemental Medicaid payments for profes-
44 sional services provided by physicians, nurse practitioners and physi-
45 cian assistants who are employed by a public benefit corporation or a
46 non-state operated public general hospital operated by a public benefit
47 corporation or who are providing professional services at a facility of
48 such public benefit corporation as either a member of a practice plan or
49 an employee of a professional corporation or limited liability corpo-
50 ration under contract to provide services to patients of such a public
51 benefit corporation, in accordance with title 11 of article 5 of the
52 social services law for patients eligible for federal financial partic-
53 ipation under title XIX of the federal social security act, in amounts
54 that will increase fees for such professional services to an amount
55 equal to either the Medicare rate or the average commercial rate that
56 would otherwise be received for such services rendered by such physi-

1 cians, nurse practitioners and physician assistants, provided, however,
2 that such supplemental fee payments shall not be available with regard
3 to services provided at facilities participating in the Medicare Teach-
4 ing Election Amendment. The calculation of such supplemental fee
5 payments shall be made in accordance with applicable federal law and
6 regulation and subject to the approval of the division of the budget.
7 Such supplemental Medicaid fee payments may be added to the professional
8 fees paid under the fee schedule or made as aggregate lump sum payments
9 to entities authorized to receive professional fees.

10 2. The supplemental Medicaid payments for professional services
11 authorized by subdivision one of this section may be made only at the
12 election of the public benefit corporation or the local social services
13 district in which the non-state operated public general hospital is
14 located. The electing public benefit corporation or local social
15 services district shall, notwithstanding the social services district
16 Medicaid cap provisions of Part C of chapter 58 of the laws of 2005, be
17 responsible for payment of one hundred percent of the non-federal share
18 of such supplemental Medicaid payments, in accordance with section 365-a
19 of the social services law, regardless of whether another social
20 services district or the department of health may otherwise be responsi-
21 ble for furnishing medical assistance to the eligible persons receiving
22 such services. Social services district or public benefit corporation
23 funding of the non-federal share of any such payments shall be deemed to
24 be voluntary for purposes of the increased federal medical assistance
25 percentage provisions of the American Recovery and Reinvestment Act of
26 2009, provided, however, that in the event the federal Centers for Medi-
27 care and Medicaid Services determines that such non-federal share
28 payments are not voluntary payments for purposes of such act, the
29 provisions of this section shall be null and void.

30 S 94. Subparagraph (i) of paragraph (b) of subdivision 2-b of section
31 2808 of the public health law, as amended by section 1 of part D of
32 chapter 58 of the laws of 2010, is amended to read as follows:

33 (i) Subject to the provisions of subparagraphs (ii) through (xiv) of
34 this paragraph, for periods on and after April first, two thousand nine
35 [through June thirtieth, two thousand eleven] the operating cost compo-
36 nent of rates of payment shall reflect allowable operating costs as
37 reported in each facility's cost report for the two thousand two calen-
38 dar year, as adjusted for inflation on an annual basis in accordance
39 with the methodology set forth in paragraph (c) of subdivision ten of
40 section twenty-eight hundred seven-c of this article, provided, however,
41 that for those facilities which do not receive a per diem add-on adjust-
42 ment pursuant to subparagraph (ii) of paragraph (a) of this subdivision,
43 rates shall be further adjusted to include the proportionate benefit, as
44 determined by the commissioner, of the expiration of the opening para-
45 graph and paragraph (a) of subdivision sixteen of this section and of
46 paragraph (a) of subdivision fourteen of this section, and provided
47 further that the operating cost component of rates of payment for those
48 facilities which did not receive a per diem adjustment in accordance
49 with subparagraph (ii) of paragraph (a) of this subdivision shall not be
50 less than the operating component such facilities received in the two
51 thousand eight rate period, as adjusted for inflation on an annual basis
52 in accordance with the methodology set forth in paragraph (c) of subdi-
53 vision ten of section twenty-eight hundred seven-c of this article and
54 further provided, however, that rates for facilities whose operating
55 cost component reflects base year costs subsequent to January first, two
56 thousand two shall have rates computed in accordance with this para-

graph, utilizing allowable operating costs as reported in such subsequent base year period, and trended forward to the rate year in accordance with applicable inflation factors.

S 95. Subdivision 2-c of section 2808 of the public health law is REPEALED and a new subdivision 2-c is added to read as follows:

2-C. (A) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION OR ANY OTHER CONTRARY PROVISION OF LAW AND SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, THE NON-CAPITAL COMPONENT OF RATES OF PAYMENT BY GOVERNMENTAL AGENCIES FOR INPATIENT SERVICES PROVIDED BY RESIDENTIAL HEALTH CARE FACILITIES ON OR AFTER OCTOBER FIRST, TWO THOUSAND ELEVEN, BUT NO LATER THAN JANUARY FIRST, TWO THOUSAND TWELVE, SHALL REFLECT A DIRECT STATEWIDE PRICE COMPONENT, AND INDIRECT STATEWIDE PRICE COMPONENT, AND A FACILITY SPECIFIC NON-COMPARABLE COMPONENT, UTILIZING ALLOWABLE OPERATING COSTS FOR A BASE YEAR AS DETERMINED BY THE COMMISSIONER BY REGULATION. SUCH RATE COMPONENTS SHALL BE PERIODICALLY UPDATED TO REFLECT CHANGES IN OPERATING COSTS.

(B) THE DIRECT AND INDIRECT STATEWIDE PRICE COMPONENTS SHALL BE ADJUSTED BY A WAGE EQUALIZATION FACTOR AND SUCH OTHER FACTORS AS DETERMINED TO BE APPROPRIATE TO RECOGNIZE LEGITIMATE COST DIFFERENTIALS AND THE DIRECT STATEWIDE PRICE COMPONENT SHALL BE SUBJECT TO A CASE MIX ADJUSTMENT UTILIZING THE PATIENTS THAT ARE ELIGIBLE FOR MEDICAL ASSISTANCE PURSUANT TO TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW. SUCH WAGE EQUALIZATION FACTOR SHALL BE PERIODICALLY UPDATED TO REFLECT CURRENT LABOR MARKET CONDITIONS.

(C) THE NON-CAPITAL COMPONENT OF THE RATES FOR: (I) AIDS FACILITIES OR DISCRETE AIDS UNITS WITHIN FACILITIES; (II) DISCRETE UNITS FOR RESIDENTS RECEIVING CARE IN A LONG-TERM INPATIENT REHABILITATION PROGRAM FOR TRAUMATIC BRAIN INJURED PERSONS; (III) DISCRETE UNITS PROVIDING SPECIALIZED PROGRAMS FOR RESIDENTS REQUIRING BEHAVIORAL INTERVENTIONS; (IV) DISCRETE UNITS FOR LONG-TERM VENTILATOR DEPENDENT RESIDENTS; AND (V) FACILITIES OR DISCRETE UNITS WITHIN FACILITIES THAT PROVIDE EXTENSIVE NURSING, MEDICAL, PSYCHOLOGICAL AND COUNSELING SUPPORT SERVICES SOLELY TO CHILDREN SHALL REFLECT THE RATES IN EFFECT FOR SUCH FACILITIES ON JANUARY FIRST, TWO THOUSAND NINE, AS ADJUSTED FOR INFLATION AND RATE APPEALS IN ACCORDANCE WITH APPLICABLE STATUTES, PROVIDED, HOWEVER, THAT SUCH RATES FOR FACILITIES DESCRIBED IN SUBPARAGRAPH (I) OF THIS PARAGRAPH SHALL REFLECT THE APPLICATION OF THE PROVISIONS OF SECTION TWELVE OF PART D OF CHAPTER FIFTY-EIGHT OF THE LAWS OF TWO THOUSAND NINE, AND PROVIDED FURTHER, HOWEVER, THAT INsofar AS SUCH RATES REFLECT TREND ADJUSTMENTS FOR TREND FACTORS ATTRIBUTABLE TO THE TWO THOUSAND EIGHT AND TWO THOUSAND NINE CALENDAR YEARS THE AGGREGATE AMOUNT OF SUCH TREND FACTOR ADJUSTMENTS SHALL BE SUBJECT TO THE PROVISIONS OF SECTION TWO OF PART D OF CHAPTER FIFTY-EIGHT OF THE LAWS OF TWO THOUSAND NINE, AS AMENDED.

(D) THE COMMISSIONER SHALL PROMULGATE REGULATIONS, AND MAY PROMULGATE EMERGENCY REGULATIONS, TO IMPLEMENT THE PROVISIONS OF THIS SUBDIVISION. SUCH REGULATIONS SHALL BE DEVELOPED IN CONSULTATION WITH THE NURSING HOME INDUSTRY AND ADVOCATES FOR RESIDENTIAL HEALTH CARE FACILITY RESIDENTS AND, FURTHER, THE COMMISSIONER SHALL PROVIDE NOTIFICATION CONCERNING SUCH REGULATIONS TO THE CHAIRS OF THE SENATE AND ASSEMBLY HEALTH COMMITTEES, THE CHAIR OF THE SENATE FINANCE COMMITTEE AND THE CHAIR OF THE ASSEMBLY WAYS AND MEANS COMMITTEE. SUCH REGULATIONS SHALL INCLUDE PROVISIONS FOR RATE ADJUSTMENTS OR PAYMENT ENHANCEMENTS TO FACILITATE A MINIMUM FOUR-YEAR TRANSITION OF FACILITIES TO THE RATE-SETTING METHODOLOGY ESTABLISHED BY THIS SUBDIVISION AND MAY ALSO INCLUDE, BUT NOT BE LIMITED TO, PROVISIONS FOR FACILITATING QUALITY IMPROVEMENTS IN RESIDENTIAL HEALTH CARE FACILITIES.

1 S 96. Section 2 of part D of chapter 58 of the laws of 2009 amending
2 the public health law and other laws relating to Medicaid reimbursements
3 to residential health care facilities, as amended by section 3 of part D
4 of chapter 58 of the laws of 2010, is amended to read as follows:

5 S 2. Notwithstanding paragraph (b) of subdivision 2-b of section 2808
6 of the public health law or any other contrary provision of law, with
7 regard to adjustments to medicaid rates of payment for inpatient
8 services provided by residential health care facilities for the period
9 April 1, 2009 through March 31, 2010, made pursuant to paragraph (b) of
10 subdivision 2-b of section 2808 of the public health law, the commis-
11 sioner of health and the director of the budget shall, upon a determi-
12 nation that such adjustments, including the application of adjustments
13 authorized by the provisions of paragraph (g) of subdivision 2-b of
14 section 2808 of the public health law, shall result in an aggregate
15 increase in total Medicaid rates of payment for such services for such
16 period that is less than or more than two hundred ten million dollars
17 (\$210,000,000), make such proportional adjustments to such rates as are
18 necessary to result in an increase of such aggregate expenditures of two
19 hundred ten million dollars (\$210,000,000), and provided further, howev-
20 er, that notwithstanding section 2808 of the public health law or any
21 other contrary provision of law, with regard to adjustments to inpatient
22 rates of payment made pursuant to section 2808 of the public health law
23 for inpatient services provided by residential health care facilities
24 for the period April 1, 2010 through [June 30, 2011] MARCH 31, 2012, the
25 commissioner of health and the director of the budget shall, upon a
26 determination by such commissioner and such director that such rate
27 adjustments shall, prior to the application of any applicable adjustment
28 for inflation, result in an aggregate increase in total Medicaid rates
29 of payment for such services, including payments made pursuant to
30 subparagraph (i) of paragraph (d) of subdivision 2-c of section 2808 of
31 the public health law, make such proportional adjustments to such rates
32 as are necessary to reduce such total aggregate rate adjustments such
33 that the aggregate total reflects no such increase or decrease, and
34 provided further, however, the case mix adjustments as otherwise author-
35 ized by subparagraph (ii) of paragraph (b) of subdivision 2-b of section
36 2808 of the public health law and as scheduled for January AND JULY of
37 2011 shall not be made. Adjustments made pursuant to this section shall
38 not be subject to subsequent correction or reconciliation.

39 S 97. Section 2808 of the public health law is amended by adding a new
40 subdivision 2-d to read as follows:

41 2-D. RESIDENTIAL HEALTH CARE FACILITY SUPPLEMENTAL PAYMENTS. NOTWITH-
42 STANDING ANY INCONSISTENT PROVISION OF LAW, RULE OR REGULATION AND
43 SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, FOR THE
44 PERIOD MAY FIRST, TWO THOUSAND ELEVEN THROUGH MAY THIRTY-FIRST, TWO
45 THOUSAND ELEVEN, THE COMMISSIONER SHALL ADJUST INPATIENT MEDICAID RATES
46 OF PAYMENT ESTABLISHED PURSUANT TO THIS ARTICLE FOR ELIGIBLE RESIDENTIAL
47 HEALTH CARE FACILITIES IN ACCORDANCE WITH THE FOLLOWING:

48 (A) RATE ADJUSTMENTS MADE PURSUANT TO THIS SUBDIVISION SHALL BE IN THE
49 FORM OF RATE ADD-ONS AND SHALL NOT EXCEED AN AGGREGATE AMOUNT OF TWO
50 HUNDRED TWENTY-ONE MILLION THREE HUNDRED THOUSAND DOLLARS.

51 (B) ELIGIBLE FACILITIES ARE THOSE FACILITIES WHICH THE COMMISSIONER
52 DETERMINES HAVE EXPERIENCED A NET REDUCTION IN THEIR INPATIENT MEDICAID
53 REIMBURSEMENT FOR THE PERIOD APRIL FIRST, TWO THOUSAND NINE THROUGH
54 MARCH THIRTY-FIRST, TWO THOUSAND ELEVEN AS A RESULT OF THE FOLLOWING:

55 (I) INPATIENT RATE ADJUSTMENTS MADE PURSUANT TO PARAGRAPH (B) OF
56 SUBDIVISION TWO-B OF THIS SECTION;

1 (II) USE OF THE CASE MIX METHODOLOGY DESCRIBED IN PARAGRAPH (G) OF
2 SUBDIVISION TWO-B OF THIS SECTION;

3 (III) INPATIENT RATE ADJUSTMENTS MADE PURSUANT TO SECTION TWO OF PART
4 D OF CHAPTER FIFTY-EIGHT OF THE LAWS OF TWO THOUSAND NINE, AS AMENDED.

5 (C) THE FOLLOWING ELIGIBLE FACILITIES SHALL RECEIVE RATE ADJUSTMENTS
6 PURSUANT TO THIS SUBDIVISION EQUAL TO ONE HUNDRED PERCENT OF THEIR NET
7 REIMBURSEMENT REDUCTION AS COMPUTED BY THE COMMISSIONER IN ACCORDANCE
8 WITH PARAGRAPH (B) OF THIS SUBDIVISION:

9 (I) FACILITIES THAT HAVE BEEN DETERMINED BY THE COMMISSIONER AS BEING
10 ELIGIBLE FOR DISTRIBUTIONS OF AMOUNTS AVAILABLE FOR THE TWO THOUSAND
11 NINE PERIOD AS PROVIDED IN SUBDIVISION TWENTY-ONE OF THIS SECTION;

12 (II) NON-PUBLIC FACILITIES WHOSE TOTAL OPERATING LOSSES EQUAL OR
13 EXCEED FIVE PERCENT OF TOTAL OPERATING REVENUE AND WHOSE MEDICAID UTILI-
14 ZATION EQUALS OR EXCEEDS SEVENTY PERCENT, BASED ON EITHER THEIR TWO
15 THOUSAND NINE COST REPORT OR BASED ON THE OTHERWISE MOST RECENTLY AVAIL-
16 ABLE COST REPORT, AS DETERMINED BY THE COMMISSIONER;

17 (III) FACILITIES OR DISTINCT UNITS OF FACILITIES PROVIDING INPATIENT
18 SERVICES PRIMARILY TO CHILDREN UNDER THE AGE OF TWENTY-ONE.

19 (D) ELIGIBLE FACILITIES, OTHER THAN ELIGIBLE FACILITIES DESCRIBED IN
20 PARAGRAPH (C) OF THIS SUBDIVISION, SHALL RECEIVE RATE ADJUSTMENTS PURSU-
21 ANT TO THIS SUBDIVISION EQUAL TO FIFTY PERCENT OF THEIR NET REIMBURSE-
22 MENT REDUCTION AS COMPUTED BY THE COMMISSIONER IN ACCORDANCE WITH PARA-
23 GRAPH (B) OF THIS SUBDIVISION.

24 (E) ELIGIBLE FACILITIES AS DESCRIBED IN PARAGRAPH (D) OF THIS SUBDIVI-
25 SION WHICH, AS DETERMINED BY THE COMMISSIONER, AFTER APPLICATION OF THE
26 RATE ADJUSTMENTS AUTHORIZED BY PARAGRAPH (D) OF THIS SUBDIVISION, REMAIN
27 SUBJECT TO A NET REDUCTION IN THEIR INPATIENT MEDICAID REVENUE THAT IS
28 IN EXCESS OF TWO PERCENT, AS MEASURED WITH REGARD TO THE NON-CAPITAL
29 COMPONENTS OF FACILITY INPATIENT RATES IN EFFECT ON MARCH THIRTY-FIRST,
30 TWO THOUSAND NINE AS COMPUTED PRIOR TO THE APPLICATION OF TREND FACTOR
31 ADJUSTMENTS ATTRIBUTABLE TO THE TWO THOUSAND EIGHT AND TWO THOUSAND NINE
32 CALENDAR YEARS, SHALL HAVE THEIR RATES FURTHER ADJUSTED SUCH THAT SUCH
33 NET REDUCTION DOES NOT EXCEED SUCH TWO PERCENT.

34 (F) ELIGIBLE FACILITIES AS DESCRIBED IN PARAGRAPH (D) OF THIS SUBDIVI-
35 SION WHICH, AS DETERMINED BY THE COMMISSIONER, HAVE EXPERIENCED A NET
36 REDUCTION IN THEIR INPATIENT RATES OF MORE THAN SIX MILLION DOLLARS AS A
37 RESULT OF THE APPLICATION OF THE FACTOR DESCRIBED IN SUBPARAGRAPH (III)
38 OF PARAGRAPH (B) OF THIS SUBDIVISION SHALL AFTER APPLICATION OF THE
39 PROVISIONS OF PARAGRAPH (E) OF THIS SUBDIVISION, HAVE THEIR RATES
40 FURTHER ADJUSTED SUCH THAT ANY SUCH NET REDUCTION REMAINING AFTER THE
41 APPLICATION OF THE OTHER PROVISIONS OF THIS SUBDIVISION IS REDUCED TO
42 ZERO.

43 (G) IN COMPUTING NET REDUCTIONS OF MEDICAID REIMBURSEMENT PURSUANT TO
44 PARAGRAPH (B) OF THIS SUBDIVISION THE COMMISSIONER SHALL:

45 (I) DISREGARD THE IMPACT OF CASE MIX ADJUSTMENTS AS OTHERWISE SCHED-
46 ULED FOR JULY FIRST, TWO THOUSAND TEN; AND,

47 (II) DISREGARD THE IMPACT OF ANY RATE ADJUSTMENTS ISSUED ON OR AFTER
48 JANUARY FIRST, TWO THOUSAND ELEVEN, INCLUDING ADJUSTMENTS TO RATE PERI-
49 ODS PRIOR TO JANUARY FIRST, TWO THOUSAND ELEVEN.

50 (H) PAYMENTS MADE PURSUANT TO THIS SUBDIVISION SHALL NOT BE SUBJECT TO
51 SUBSEQUENT ADJUSTMENT OR RECONCILIATION AND, FURTHER, THE COMPUTATION
52 AND APPLICATION OF LIMITATIONS ON MEDICAID RATES OF PAYMENT AS DESCRIBED
53 IN SECTION TWO OF PART D OF CHAPTER FIFTY-EIGHT OF THE LAWS OF TWO THOU-
54 SAND NINE, AS AMENDED, AND AS APPLICABLE TO THE RATE PERIODS DESCRIBED
55 IN PARAGRAPH (A) OF THIS SUBDIVISION, SHALL DISREGARD PAYMENTS MADE
56 PURSUANT TO THIS SUBDIVISION.

(I) ADDITIONAL RATE ADJUSTMENTS SHALL BE MADE PURSUANT TO THIS SUBDIVISION TO ELIGIBLE FACILITIES IN THE FORM OF RATE ADD-ONS FOR THE PERIOD MAY FIRST, TWO THOUSAND ELEVEN THROUGH MAY THIRTY-FIRST, TWO THOUSAND ELEVEN WHICH SHALL IN AGGREGATE BE EQUAL TO TWENTY-FIVE PERCENT OF THE AGGREGATE AMOUNT DESCRIBED IN PARAGRAPH (A) OF THIS SUBDIVISION AND WHICH SHALL BE DISTRIBUTED TO EACH ELIGIBLE FACILITY IN THE SAME PROPORTION AS THE TOTAL DISTRIBUTIONS OTHERWISE RECEIVED BY EACH FACILITY PURSUANT TO THIS SUBDIVISION.

(J) THE COMMISSIONER MAY, WITH THE APPROVAL OF THE DIRECTOR OF THE BUDGET, AND SUBJECT TO THE IDENTIFICATION OF SUFFICIENT NURSING HOME RELATED MEDICAID SAVINGS TO OFFSET THE EXPENDITURES AUTHORIZED BY THIS PARAGRAPH, MAKE ADDITIONAL RATE ADJUSTMENTS PURSUANT TO THIS SUBDIVISION TO ELIGIBLE FACILITIES IN THE FORM OF RATE ADD-ONS FOR THE PERIOD DECEMBER FIRST, TWO THOUSAND ELEVEN THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND ELEVEN WHICH SHALL IN AGGREGATE BE EQUAL TO TWELVE AND FIVE-TENTHS PERCENT OF THE AGGREGATE AMOUNT DESCRIBED IN PARAGRAPH (A) OF THIS SUBDIVISION AND WHICH SHALL BE DISTRIBUTED TO EACH ELIGIBLE FACILITY IN THE SAME PROPORTION AS THE TOTAL DISTRIBUTIONS OTHERWISE RECEIVED BY EACH FACILITY PURSUANT TO THIS SUBDIVISION.

S 98. Paragraph (b) of subdivision 17 of section 2808 of the public health law, as added by section 30 of part B of chapter 109 of the laws of 2010, is amended and a new paragraph (c) is added to read as follows:

(b) Notwithstanding any inconsistent provision of law or regulation to the contrary, for the state fiscal year beginning April first, two thousand ten and ending March thirty-first, two thousand [eleven] FIFTEEN, the commissioner shall not be required to revise certified rates of payment established pursuant to this article for rate periods prior to April first, two thousand [eleven] FIFTEEN, based on consideration of rate appeals filed by residential health care facilities or based upon adjustments to capital cost reimbursement as a result of approval by the commissioner of an application for construction under section twenty-eight hundred two of this article, in excess of an aggregate annual amount of eighty million dollars for EACH such state fiscal year PROVIDED, HOWEVER, THAT FOR THE PERIOD APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND TWELVE SUCH AGGREGATE ANNUAL AMOUNT SHALL BE FIFTY MILLION DOLLARS. In revising such rates within such fiscal limit, the commissioner shall, in prioritizing such rate appeals, include consideration of which facilities the commissioner determines are facing significant financial hardship as well as such other considerations as the commissioner deems appropriate and, further, the commissioner is authorized to enter into agreements with such facilities or any other facility to resolve multiple pending rate appeals based upon a negotiated aggregate amount and may offset such negotiated aggregate amounts against any amounts owed by the facility to the department, including, but not limited to, amounts owed pursuant to section twenty-eight hundred seven-d of this article; PROVIDED, HOWEVER, THAT THE COMMISSIONER'S AUTHORITY TO NEGOTIATE SUCH AGREEMENTS RESOLVING MULTIPLE PENDING RATE APPEALS AS HEREINBEFORE DESCRIBED SHALL CONTINUE ON AND AFTER APRIL FIRST, TWO THOUSAND FIFTEEN. Rate adjustments made pursuant to this paragraph remain fully subject to approval by the director of the budget in accordance with the provisions of subdivision two of section twenty-eight hundred seven of this article.

(C) NOTWITHSTANDING ANY OTHER CONTRARY PROVISION OF LAW, RULE OR REGULATION, FOR PERIODS ON AND AFTER APRIL FIRST, TWO THOUSAND ELEVEN THE COMMISSIONER SHALL PROMULGATE REGULATIONS, AND MAY PROMULGATE EMERGENCY REGULATIONS, ESTABLISHING PRIORITIES AND TIME FRAMES FOR PROCESSING RATE

1 APPEALS, INCLUDING RATE APPEALS FILED PRIOR TO APRIL FIRST, TWO THOUSAND
2 ELEVEN, WITHIN AVAILABLE ADMINISTRATIVE RESOURCES; PROVIDED, HOWEVER,
3 THAT SUCH REGULATIONS SHALL NOT BE INCONSISTENT WITH THE PROVISIONS OF
4 PARAGRAPH (B) OF THIS SUBDIVISION.

5 S 99. Subdivision 2-b of section 2808 of the public health law is
6 amended by adding a new paragraph (h) to read as follows:

7 (H) NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW AND SUBJECT TO THE
8 AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, FOR THE PERIOD APRIL
9 FIRST, TWO THOUSAND ELEVEN THROUGH JUNE THIRTIETH, TWO THOUSAND ELEVEN,
10 THE NON-CAPITAL COMPONENTS OF RATES SHALL BE SUBJECT TO A UNIFORM
11 PERCENTAGE REDUCTION SUFFICIENT TO REDUCE SUCH RATES BY AN AGGREGATE
12 AMOUNT OF TWENTY-SEVEN MILLION ONE HUNDRED THOUSAND DOLLARS, AND
13 PROVIDED FURTHER, HOWEVER, THAT SUCH REDUCTIONS SHALL BE DISREGARDED IN
14 COMPUTATIONS MADE PURSUANT TO SECTION TWO OF PART D OF CHAPTER
15 FIFTY-EIGHT OF THE LAWS OF TWO THOUSAND NINE, AS AMENDED.

16 S 100. Paragraph (a) of subdivision 21 of section 2808 of the public
17 health law, as amended by section 8 of part D of chapter 58 of the laws
18 of 2009, is amended to read as follows:

19 (a) Notwithstanding any inconsistent provision of law or regulation to
20 the contrary, for the purposes specified in subdivision nineteen of this
21 section, the commissioner shall adjust medical assistance rates of
22 payment established pursuant to this article for services provided on
23 and after October first, two thousand four through December thirty-
24 first, two thousand four and annually thereafter for services provided
25 on and after January first, two thousand five THROUGH APRIL THIRTIETH,
26 TWO THOUSAND ELEVEN AND ON AND AFTER MAY FIRST, TWO THOUSAND TWELVE, to
27 include a rate adjustment to assist qualifying facilities pursuant to
28 this subdivision, provided, however, that public residential health care
29 facilities shall not be eligible for rate adjustments pursuant to this
30 subdivision for rate periods on and after April first, two thousand
31 nine[.], PROVIDED FURTHER, HOWEVER, THAT NOTWITHSTANDING ANY CONTRARY
32 PROVISION OF LAW AND SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL
33 PARTICIPATION, EACH FACILITY THAT RECEIVES A RATE ADJUSTMENT PURSUANT TO
34 THIS SUBDIVISION FOR THE PERIOD MAY FIRST, TWO THOUSAND TEN THROUGH
35 APRIL THIRTIETH, TWO THOUSAND ELEVEN SHALL HAVE ITS MEDICAID RATES
36 REDUCED FOR THE RATE PERIOD DECEMBER FIRST, TWO THOUSAND ELEVEN THROUGH
37 DECEMBER THIRTY-FIRST, TWO THOUSAND ELEVEN BY AN AMOUNT EQUAL IN AGGRE-
38 GATE TO THE AGGREGATE AMOUNT OF THE FUNDS SUCH FACILITY RECEIVED PURSU-
39 ANT TO THIS SUBDIVISION FOR THE PERIOD MAY FIRST, TWO THOUSAND TEN
40 THROUGH APRIL THIRTIETH, TWO THOUSAND ELEVEN.

41 S 101. The public health law is amended by adding a new section 2807-
42 dd to read as follows:

43 S 2807-DD. TEMPORARY NURSING HOME STABILITY CONTRIBUTIONS. 1.
44 NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW AND SUBJECT TO THE RECEIPT
45 OF ALL NECESSARY FEDERAL APPROVALS OR WAIVERS, FOR PERIODS ON AND AFTER
46 APRIL FIRST, TWO THOUSAND ELEVEN, A TEMPORARY NURSING HOME STABILITY
47 CONTRIBUTION SHALL BE IMPOSED ON THE GROSS RECEIPTS OF EACH RESIDENTIAL
48 HEALTH CARE FACILITY EQUAL TO FOUR TENTHS OF ONE PERCENT OF SUCH
49 RECEIPTS AND PROVIDED FURTHER, HOWEVER, THAT ON AND AFTER APRIL FIRST,
50 TWO THOUSAND TWELVE THROUGH OCTOBER THIRTY-FIRST, TWO THOUSAND TWELVE
51 SUCH CONTRIBUTIONS SHALL BE REDUCED TO TWO TENTHS OF ONE PERCENT, AND
52 PROVIDED FURTHER, HOWEVER, THAT ON AND AFTER NOVEMBER FIRST, TWO THOU-
53 SAND TWELVE, SUCH CONTRIBUTIONS SHALL BE REDUCED TO ZERO.

54 2. THE GROSS RECEIPTS SUBJECT TO THIS SECTION SHALL BE AS DEFINED IN
55 PARAGRAPH (B) OF SUBDIVISION THREE OF SECTION TWENTY-EIGHT HUNDRED
56 SEVEN-D OF THIS ARTICLE AND SHALL INCLUDE INCOME FROM ALL PATIENT CARE

SERVICES AND OTHER OPERATING INCOME ON A CASH BASIS, BUT EXCLUDING REVENUE RECEIVED PURSUANT TO THE FEDERAL MEDICARE PROGRAM. THE CONTRIBUTIONS DESCRIBED IN THIS SECTION SHALL BE ADMINISTERED IN ACCORDANCE WITH AND SUBJECT TO THE PROVISIONS OF SUBDIVISIONS FOUR, FIVE, SIX, SEVEN, EIGHT, NINE AND TWELVE OF SECTION TWENTY-EIGHT HUNDRED SEVEN-D OF THIS ARTICLE, PROVIDED, HOWEVER, THAT SUCH CONTRIBUTIONS SHALL NOT BE AN ALLOWABLE COST IN THE DETERMINATION OF REIMBURSEMENT RATES OF PAYMENT COMPUTED PURSUANT TO THIS ARTICLE.

S 102. Subparagraph (vi) of paragraph (b) of subdivision 2 of section 2807-d of the public health law, as amended by section 37 of part C of chapter 58 of the laws of 2007, is amended to read as follows:

(vi) Notwithstanding any contrary provision of this paragraph or any other provision of law or regulation to the contrary, for residential health care facilities the assessment shall be six percent of each residential health care facility's gross receipts received from all patient care services and other operating income on a cash basis for the period April first, two thousand two through March thirty-first, two thousand three for hospital or health-related services, including adult day services; provided, however, that residential health care facilities' gross receipts attributable to payments received pursuant to title XVIII of the federal social security act (medicare) shall be excluded from the assessment; provided, however, that for all such gross receipts received on or after April first, two thousand three through March thirty-first, two thousand five, such assessment shall be five percent, and further provided that for all such gross receipts received on or after April first, two thousand five through March thirty-first, two thousand nine, and on or after April first, two thousand nine through March thirty-first, two thousand eleven such assessment shall be six percent, AND FURTHER PROVIDED THAT FOR ALL SUCH GROSS RECEIPTS RECEIVED ON OR AFTER APRIL FIRST, TWO THOUSAND ELEVEN THROUGH MARCH THIRTY-FIRST, TWO THOUSAND THIRTEEN SUCH ASSESSMENT SHALL BE SIX PERCENT.

S 103. Paragraph (c) of subdivision 10 of section 2807-d of the public health law, as amended by section 2 of part H of chapter 686 of the laws of 2003, is amended to read as follows:

(c) provided, however, that for the purposes of determining rates of payment pursuant to this article for residential health care facilities, the assessment imposed pursuant to subparagraph (vi) of paragraph (b) of subdivision two of this section shall be a reimbursable cost to be reflected as timely as practicable, and subsequently reconciled to actual cost, in rates of payment applicable within the assessment period, PROVIDED FURTHER, HOWEVER, THAT INsofar AS SUCH ASSESSMENT IS IN EXCESS OF SIX PERCENT IT SHALL NOT BE DEEMED A REIMBURSABLE COST AND SHALL NOT BE REFLECTED IN SUCH RATES OF PAYMENT.

S 104. Subdivision 17-a of section 2808 of the public health law, as amended by section 4 of part D of chapter 58 of the laws of 2009, is amended to read as follows:

17-a. Notwithstanding any inconsistent provision of law or regulation to the contrary, for purposes of establishing rates of payment by governmental agencies for residential health care facilities for services provided on and after January first, nineteen hundred ninety-eight, the regional direct and indirect input price adjustment factors to be applied to any such facility's rate calculation shall be based upon the utilization of either nineteen hundred eighty-three, nineteen hundred eighty-seven or nineteen hundred ninety-three calendar year financial and statistical data and for periods beginning April first, two thousand four through March thirty-first, two thousand nine based on

1 either nineteen hundred eighty-three, nineteen hundred eighty-seven,
2 nineteen hundred ninety-three or two thousand one calendar year finan-
3 cial and statistical data; provided, however, the state share amount for
4 the utilization of two thousand one calendar year data shall be no more
5 than twenty-two million dollars on a pro rata basis per calendar year.
6 The determination of which calendar year's data to utilize shall be
7 based upon a methodology that ensures that the particular year chosen by
8 each facility results in a factor that yields no less reimbursement to
9 the facility than would result from the use of any of the other three
10 years' data. Such methodology shall utilize the nineteen hundred eight-
11 y-three and nineteen hundred eighty-seven regional direct and indirect
12 input price adjustment factor corridor percentages in existence on Janu-
13 ary first, nineteen hundred ninety-seven as well as nineteen hundred
14 ninety-three regional direct and indirect input price adjustment factor
15 corridor percentage in existence on January first, two thousand four as
16 well as a two thousand one regional direct and indirect input price
17 adjustment factor corridor percentage calculated in the same manner as
18 the nineteen hundred ninety-three direct and indirect input price
19 adjustment factor corridor percentages in existence on January first,
20 two thousand four; provided, however, for rate periods on and after
21 April first, two thousand nine, the regional input price adjustment
22 factors shall be based on the case mix predicted staffing for registered
23 nurses, licensed practical nurses, nurses' aides, licensed therapists
24 and therapist aides. For the rate period beginning April first, two
25 thousand nine through [March thirty-first, two thousand ten,] THE DAY
26 IMMEDIATELY PRIOR TO THE DAY THE PROVISIONS OF SUBDIVISION TWO-C OF THIS
27 SECTION TAKE EFFECT, the regional direct and indirect input price
28 adjustment factors to be applied to a facility's rate calculation shall
29 be based upon the utilization of two thousand two calendar year finan-
30 cial and statistical data. Such methodology shall utilize two thousand
31 two regional direct and indirect input price adjustment factor corridor
32 percentages calculated in the same manner as the two thousand one
33 regional direct and indirect input price adjustment factor corridor
34 percentages in existence on December thirty-first, two thousand six
35 except that every region shall receive a corridor to reflect the
36 region's actual variation subject to a maximum statewide average vari-
37 able corridor percentage of ten percent.

38 S 105. Notwithstanding any inconsistent provision of sections 112 and
39 163 of the state finance law, or section 142 of the economic development
40 law, or any other law, the commissioner of health is authorized to enter
41 into a contract without a competitive bid or request for proposal proc-
42 ess for the purposes set forth in the Early Innovator federal grant
43 awarded to the department of health by the federal centers for medicare
44 and medicaid services pursuant to the Patient Protection and Affordable
45 Care Act (P.L. 111-148) and the Health Care and Education Reconciliation
46 Act of 2010 (P.L. 111-152), provided, however, that:

47 (i) the department of health shall post on its website, for a period
48 of no less than thirty days:

49 (1) a description of the proposed services to be provided pursuant to
50 the contract or contracts;

51 (2) the criteria for selection of a contractor or contractors which
52 shall include but not be limited to the ability of the contractor to
53 meet the federal grant requirements;

54 (3) the period of time during which a prospective contractor may seek
55 selection, which shall be no less than thirty days after such informa-
56 tion is first posted on the website; and

1 (4) the manner by which a prospective contractor may seek such
2 selection, which may include submission by electronic means;

3 (ii) all reasonable and responsive submissions that are received from
4 prospective contractors in timely fashion shall be reviewed by the
5 commissioner of health;

6 (iii) the commissioner of health shall select such contractor or
7 contractors that, in his or her discretion, are best suited to carry out
8 the purposes set forth in the Early Innovator federal grant awarded to
9 the department of health; and

10 (iv) prior to the execution of any resulting contract, the commission-
11 er of health shall submit a copy to the office of the state comptroller
12 for review and approval.

13 S 106. Section 2 of chapter 385 of the laws of 2008 amending the
14 insurance law relating to an exemption to certain provisions of law
15 relating to risk-based capital for property/casualty insurance companies
16 is amended to read as follows:

17 S 2. This act shall take effect immediately, and shall expire and be
18 deemed repealed [December 31, 2011] JUNE 30, 2014.

19 S 106-a. Subsection (c) of section 2343 of the insurance law, as
20 amended by section 27 of part B of chapter 58 of the laws of 2008, is
21 amended to read as follows:

22 (c) Notwithstanding any other provision of this chapter, no applica-
23 tion for an order of rehabilitation or liquidation of a domestic insurer
24 whose primary liability arises from the business of medical malpractice
25 insurance, as that term is defined in subsection (b) of section five
26 thousand five hundred one of this chapter, shall be made on the grounds
27 specified in subsection (a) or (c) of section seven thousand four
28 hundred two of this chapter at any time prior to June thirtieth, two
29 thousand [eleven] FOURTEEN.

30 S 107. Section 4 of chapter 19 of the laws of 1998, amending the
31 social services law relating to limiting the method of payment for
32 prescription drugs under the medical assistance program, as amended by
33 section 68 of part C of chapter 58 of the laws of 2008, is amended to
34 read as follows:

35 S 4. This act shall take effect 120 days after it shall have become a
36 law and shall expire and be deemed repealed March 31, [2012] 2014.

37 S 108. Notwithstanding any inconsistent provision of law, rule or
38 regulation, for purposes of implementing the provisions of the public
39 health law and the social services law, references to titles XIX and XXI
40 of the federal social security act in the public health law and the
41 social services law shall be deemed to include and also to mean any
42 successor titles thereto under the federal social security act.

43 S 109. Notwithstanding any inconsistent provision of law, rule or
44 regulation, the effectiveness of the provisions of sections 2807 and
45 3614 of the public health law, section 18 of chapter 2 of the laws of
46 1988, and 18 NYCRR 505.14(h), as they relate to time frames for notice,
47 approval or certification of rates of payment, are hereby suspended and
48 without force or effect for purposes of implementing the provisions of
49 this act.

50 S 110. Severability clause. If any clause, sentence, paragraph, subdi-
51 vision, section or part of this act shall be adjudged by any court of
52 competent jurisdiction to be invalid, such judgment shall not affect,
53 impair or invalidate the remainder thereof, but shall be confined in its
54 operation to the clause, sentence, paragraph, subdivision, section or
55 part thereof directly involved in the controversy in which such judgment
56 shall have been rendered. It is hereby declared to be the intent of the

1 legislature that this act would have been enacted even if such invalid
2 provisions had not been included herein.

3 S 111. This act shall take effect immediately and shall be deemed to
4 have been in full force and effect on and after April 1, 2011; provided
5 however, that:

6 (a) regulations retroactive to April 1, 2011 may be promulgated for
7 the regulations authorized pursuant to sections three, ninety-eight,
8 twenty-six, thirty-six, thirty-five-a, and fifty of this act;

9 (b) the amendments to section 272 of the public health law, made by
10 sections nine and seventeen of this act shall not affect the repeal of
11 such section and shall expire and be deemed repealed therewith;

12 (c) the amendments to subdivision 9 of section 367-a of the social
13 services law, made by sections ten, ten-a, and ten-b of this act shall
14 not affect the expiration of such subdivision and shall be deemed to
15 expire therewith;

16 (d) the amendments to section 271 of the public health law, made by
17 sections thirteen, fourteen and fifteen of this act shall not affect the
18 repeal of such section and shall expire and be deemed repealed there-
19 with;

20 (e) the amendments to subparagraph (i) of paragraph (b-1) of subdivi-
21 sion 1 of section 2807-c of the public health law, made by section thir-
22 ty-two of this act shall not affect the expiration of such paragraph and
23 shall be deemed to expire therewith;

24 (f) the amendments to section 4403-f of the public health law, made by
25 sections forty-one, forty-one-a and forty-one-b of this act shall not
26 affect the repeal of such section and shall be deemed repealed there-
27 with;

28 (g) sections fifty and fifty-one of this act shall take effect on the
29 ninetieth day after it shall have become a law;

30 (h) sections five, twenty, twenty-one, twenty-seven, thirty-nine,
31 forty-one, forty-one-a, forty-one-b, forty-eight, fifty-four and fifty-
32 eight of this act shall take effect on the one hundred eightieth day
33 after it shall have become a law;

34 (i) the amendments to paragraph (b) and subparagraph (i) of paragraph
35 (g) of subdivision 7 of section 4403-f of the public health law made by
36 section forty-one-b of this act shall expire and be repealed April 1,
37 2015;

38 (j) the amendments to section 364-j of the social services law made by
39 sections nineteen, forty-two-b, forty-two-c, seventy-seven, seventy-sev-
40 en-a, seventy-eight, seventy-nine and eighty of this act shall not
41 affect the repeal of such section and shall be deemed repealed there-
42 with;

43 (k) the amendments to paragraph (k) of subdivision 2 of section 365-a
44 of the social services law made by section eighty-one of this act shall
45 not affect the expiration of such subdivision and shall be deemed to
46 expire therewith;

47 (l) sections thirteen, fourteen, fifteen and seventeen of this act
48 shall take effect May 1, 2011;

49 (m) section forty of this act shall take effect September 1, 2011;

50 (n) sections sixty-nine and eighty-two of this act shall take effect
51 on January 1, 2012 and, further, section eighty-two of this act shall
52 apply to taxable years beginning on or after January 1, 2012;

53 (o) sections thirty-eight and thirty-eight-a of this act shall expire
54 and be deemed repealed March 31, 2015;

55 (p) section ninety-one of this act shall take effect April 1, 2012;

1 (q) the operation of the fund established by section fifty-two of this
2 act shall commence on October 1, 2011; provided, however, that the
3 provisions of section fifty-two of this act shall apply to birth-related
4 neurological injury lawsuits as to which no judgment has been entered
5 and no settlement agreement has been entered into by the parties before
6 the date of enactment; provided, however, that notwithstanding any
7 inconsistent provision of law, nothing in this act shall be construed to
8 prevent a qualified plaintiff from obtaining medical care and assistance
9 through the medicaid program or services provided in private physician
10 practices on the basis of one hundred percent of the usual and customary
11 rates as defined by the commissioner of health in regulation during the
12 period of time subsequent to the date of enactment of this act and prior
13 to the date upon which the operation of such fund commences and, if such
14 costs are qualifying health costs as defined in this act, having such
15 costs paid from the fund; and provided, further, that the commissioner
16 of health shall be authorized to promulgate any regulations as necessary
17 to implement such sections prior to such effective date, including on an
18 emergency basis;

19 (r) sections fifty-two-a through fifty-two-h of this act shall take
20 effect on the ninetieth day after it shall have become law;

21 (s) the amendments to subdivision 7 of section 2807-s of the public
22 health law made by section thirty of this act shall not affect the expi-
23 ration of such section and shall be deemed to expire therewith;

24 (t) any rules or regulations necessary to implement the provisions of
25 this act may be promulgated and any procedures, forms, or instructions
26 necessary for such implementation may be adopted and issued on or after
27 the date this act shall have become a law, provided that the (i) commis-
28 sioner of health (ii) the superintendent of financial services or, prior
29 to October 3, 2011, the superintendent of insurance, or (iii) any appro-
30 priate council may promulgate regulations including on an emergency
31 basis, necessary to implement this act, prior to its effective date and
32 may take any steps necessary to implement this act prior to its effec-
33 tive date;

34 (u) this act shall not be construed to alter, change, affect, impair
35 or defeat any rights, obligations, duties or interests accrued, incurred
36 or conferred prior to the effective date of this act; and

37 (v) the provisions of this act shall become effective notwithstanding
38 the failure of the commissioner of health, the superintendent of finan-
39 cial services or, prior to October 3, 2011, the superintendent of insur-
40 ance or any council to adopt or amend or promulgate regulations imple-
41 menting this act.

42 S 2. Severability clause. If any clause, sentence, paragraph, subdivi-
43 sion, section or part of this act shall be adjudged by any court of
44 competent jurisdiction to be invalid, such judgment shall not affect,
45 impair, or invalidate the remainder thereof, but shall be confined in
46 its operation to the clause, sentence, paragraph, subdivision, section
47 or part thereof directly involved in the controversy in which such judg-
48 ment shall have been rendered. It is hereby declared to be the intent of
49 the legislature that this act would have been enacted even if such
50 invalid provisions had not been included herein.

51 S 3. This act shall take effect immediately provided, however, that
52 the applicable effective date of Parts A through H of this act shall be
53 as specifically set forth in the last section of such Parts.