

2338

2011-2012 Regular Sessions

I N A S S E M B L Y

January 18, 2011

Introduced by M. of A. SCHIMMINGER, GABRYSZAK -- Multi-Sponsored by --
M. of A. HOOPER, MAGEE, N. RIVERA -- read once and referred to the
Committee on Health

AN ACT to amend the social services law, in relation to mandatory
managed care for certain recipients of medical assistance

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

1 Section 1. Paragraph (b) of subdivision 1 of section 364-j of the
2 social services law, as amended by chapter 649 of the laws of 1996,
3 subparagraphs (i) and (ii) as amended by chapter 433 of the laws of
4 1997, is amended to read as follows:
5 (b) "Managed care provider". An entity that provides or arranges for
6 the provision of medical assistance services and supplies to partic-
7 ipants directly or indirectly (including by referral), including case
8 management; and:
9 (i) is authorized to operate under article forty-four of the public
10 health law or article forty-three of the insurance law and provides or
11 arranges, directly or indirectly (including by referral) for covered
12 comprehensive health services on a full capitation basis; [or]
13 (ii) is authorized as a partially capitated program pursuant to
14 section three hundred sixty-four-f of this title or section forty-four
15 hundred three-e of the public health law or section 1915b of the social
16 security act;
17 (III) IS A RURAL HEALTH NETWORK AS DEFINED IN SUBDIVISION TWO OF
18 SECTION TWENTY-NINE HUNDRED FIFTY-ONE OF THE PUBLIC HEALTH LAW; OR
19 (IV) HOLDS A COMPREHENSIVE HIV SPECIAL NEEDS PLAN CERTIFICATE OF
20 AUTHORITY PURSUANT TO SECTION FORTY-FOUR HUNDRED THREE-C OF THE PUBLIC
21 HEALTH LAW.
22 S 2. Paragraph (g) of subdivision 3 of section 364-j of the social
23 services law, as amended by chapter 649 of the laws of 1996, subpara-

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

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1 graph (i) as amended by section 30 of part C of chapter 58 of the laws
2 of 2008, is amended to read as follows:

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

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

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

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

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

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

31 (ii) an individual eligible for supplemental security income;

32 (iii) HIV positive individuals; and

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

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

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

43 26. THE COMMISSIONER OF HEALTH SHALL SUBMIT THE APPROPRIATE WAIVERS,
44 STATE PLAN AMENDMENTS AND FEDERAL APPLICATIONS, INCLUDING BUT NOT LIMIT-
45 ED TO, WAIVER REQUESTS AUTHORIZED PURSUANT TO SECTIONS ELEVEN HUNDRED
46 FIFTEEN AND NINETEEN HUNDRED FIFTEEN OF THE FEDERAL SOCIAL SECURITY ACT,
47 OR SUCCESSOR PROVISIONS, AS THE COMMISSIONER OF HEALTH SHALL DEEM NECES-
48 SARY TO SECURE APPROPRIATE FEDERAL FINANCIAL SUPPORT FOR THE COST OF A
49 PROGRAM TO AUTHORIZE MANDATORY MANAGED CARE FOR MEDICAL ASSISTANCE
50 RECIPIENTS RESIDING IN ALL AREAS OF THE STATE, INCLUDING RECIPIENTS OF
51 SUPPLEMENTAL INCOME AND PERSONS ENROLLED OR ELIGIBLE TO BE ENROLLED IN A
52 MEDICARE TEFRA PLAN.

53 S 4. Section two of this act shall not take effect unless and until
54 the commissioner of health receives all necessary approvals under feder-
55 al law and regulation to implement its provisions, and provided that
56 such provisions do not prevent the receipt of federal financial partic-

1 ipation under the medical assistance program. The commissioner of health
2 shall submit such waiver applications and/or state plan amendments as
3 may be necessary to obtain such approvals and to ensure continued feder-
4 al financial participation.

5 S 5. This act shall take effect immediately; provided, however, that
6 the amendments to section 364-j of the social services law made by
7 sections one, two and three of this act shall not affect the repeal of
8 such section pursuant to chapter 710 of the laws of 1988, as amended,
9 and shall be deemed repealed therewith; provided that the commissioner
10 of health shall notify the legislative bill drafting commission upon the
11 occurrence of the enactment of the legislation provided for in section
12 two of this act in order that the commission may maintain an accurate
13 and timely effective data base of the official text of the laws of the
14 state of New York in furtherance of effecting the provisions of section
15 44 of the legislative law and section 70-b of the public officers law.