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I N A S S E M B L Y

March 7, 2012

Introduced by M. of A. GOODELL -- Multi-Sponsored by -- M. of A. BLANK-
ENBUSH, GIGLIO, HANNA, P. LOPEZ, LOSQUADRO, MURRAY, TENNEY, WALTER --
read once and referred to the Committee on Health

AN ACT to amend the social services law, in relation to creating incen-
tives for counties to investigate and prosecute medicaid fraud

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

Section 1. The social services law is amended by adding a new article
5-A to read as follows:

ARTICLE 5-A

MEDICAID FRAUD REIMBURSEMENT

SECTION 370-BB. DISPOSITION OF MONEYS RECEIVED AS THE RESULT OF THE
PROSECUTION OF MEDICAID FRAUD.

S 370-BB. DISPOSITION OF MONEYS RECEIVED AS THE RESULT OF THE PROSE-
CUTION OF MEDICAID FRAUD. 1. FOR THE PURPOSES OF THIS SECTION, "MEDICAID
FRAUD" SHALL MEAN THE KNOWING COMMISSION OF ANY CRIME WITH INTENT TO
ILLEGALLY RECEIVE BENEFITS, OR REIMBURSEMENT FROM THE MEDICAL ASSISTANCE
FOR NEEDY PERSONS PROGRAM ESTABLISHED AND ADMINISTERED PURSUANT TO THE
SOCIAL SERVICES LAW, THE PUBLIC HEALTH LAW AND FEDERAL LAW.

2. SHOULD ANY COUNTY OR THE CITY OF NEW YORK SUCCESSFULLY PROSECUTE
ANY CASE FOR MEDICAID FRAUD AND A COURT AWARDS RESTITUTION OR CIVIL
FORFEITURE, THE FOLLOWING PORTION OF THE NON-FEDERAL SHARE OF THE
PROCEEDS OF SUCH RESTITUTION OR CIVIL FORFEITURE SHALL BE ALLOCATED AS
FOLLOWS:

(I) THE COUNTY OR THE CITY OF NEW YORK SHALL RECEIVE ONE HUNDRED
PERCENT OF THE LOCAL SHARE OF SUCH FUNDS, IN EFFECT IMMEDIATELY PRIOR TO
SUCH DATE AS CERTIFIED BY THE DIVISION OF BUDGET OR TEN PERCENT OF THE
TOTAL RECOVERY WHICHEVER NUMBER IS GREATER;

(II) THE REMAINDER THEREOF SHALL BE DEPOSITED INTO THE GENERAL FUND OF
THE STATE.

3. NOTHING IN THIS ARTICLE SHALL IMPAIR ANY COUNTY OR THE CITY OF NEW
YORK'S ABILITY TO SEEK DAMAGES UNDER SECTION ONE HUNDRED FORTY-FIVE-B OF
THE SOCIAL SERVICES LAW.

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

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1 S 2. Paragraph (a) of subdivision 2 of section 145-b of the social
2 services law, as amended by chapter 109 of the laws of 2007, is amended
3 to read as follows:

4 (a) For civil damages collected by a local social services district,
5 relating to the medical assistance program, pursuant to a judgment under
6 this subdivision, such amounts shall be apportioned between the local
7 social services district and the state. [If the violation occurred: (i)
8 prior to January first, two thousand six, the] THE amount apportioned to
9 the local social services district shall be ONE HUNDRED PERCENT OF the
10 local share [percentage] OF SUCH FUNDS, in effect immediately prior to
11 such date as certified by the division of budget[, or (ii) after January
12 first, two thousand six, the amount apportioned to the local social
13 services district shall be based on a reimbursement schedule, created by
14 the office of Medicaid inspector general, in effect at the time the
15 violation occurred; provided that, if there is no schedule in effect at
16 the time the violation occurred, the schedule to be used shall be the
17 first schedule adopted pursuant to this subdivision. Such schedule shall
18 provide for reimbursement to a local social services district in an
19 amount between ten and fifteen percent of the gross amount collected.
20 Such schedule shall be set on a county by county basis and shall be
21 periodically reviewed and updated as necessary; provided, however, that
22 any such updated schedule shall not be less than ten percent nor greater
23 than fifteen percent of the gross amount collected] OR TEN PERCENT OF
24 THE TOTAL RECOVERY WHICHEVER NUMBER IS GREATER; and

25 S 3. This act shall take effect immediately.