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

9830

I N A S S E M B L Y

April 13, 2012

Introduced by M. of A. TENNEY -- read once and referred to the Committee on Ways and Means

AN ACT 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 2012-2013 state fiscal year; and in relation to directing limits on state reimbursement for executive compensation and administrative costs; to amend the public health law, in relation to prescription drug coverage for minors being treated in residential settings or juvenile detention centers upon their release from such settings; and to amend the public health law, in relation to establishing the supportive housing development reinvestment program

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

Section 1. Section 4 of part C of chapter 57 of the laws of 2006, relating to establishing a cost of living adjustment for designated human services programs, as amended by section 2 of part F of chapter 59 of the laws of 2011, is amended to read as follows:

S 4. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2006; provided section one of this act shall expire and be deemed repealed April 1, [2015] 2012; provided, further, that sections two and three of this act shall expire and be deemed repealed December 31, 2009.

S 2. Notwithstanding any other provision of law to the contrary, effective April 1, 2013 and annually thereafter, state agencies including, but not limited to, the office for people with developmental disabilities, office of mental health, office of alcoholism and substance abuse services, office of children and family services, office of temporary and disability assistance, department of health, office for the aging, division of criminal justice services, office of victim services, and state education department that operate, license, certify, or fund providers of services shall develop and calculate annual adjustments to established payments to providers of such services, based on factors to be determined by the commissioner of the agency. Such adjustments shall

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

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be based on performance metrics to be developed by the commissioners of such agencies which shall include, but not be limited to the following to the extent practicable: the actual costs of providing such services, the percentages of administrative costs, the determination and levels of executive compensation, and such other criteria as such commissioners may determine. Such annual adjustments shall be subject to any necessary federal approvals and restrictions. The amount of any annual adjustment and the metrics used to determine such adjustment shall be subject to the review and approval by vote of both houses of the state legislature.

S 3. Notwithstanding any other provision of law to the contrary, commencing on April 1, 2012, the commissioner or director of each state agency subject to section two of this act shall have the authority, subject to approval by both houses of the state legislature, to promulgate regulations or to address by other means the extent and nature of a provider's administrative costs and executive compensation which shall be eligible to be reimbursed with state financial assistance or state-authorized payments for operating expenses. Each agency shall require that providers of services that receive reimbursements directly or indirectly from such agency must comply with the following restrictions:

(a) No less than seventy-five percent of the state financial assistance or state-authorized payments for operating expenses shall be directed to provide direct care or services rather than to support the costs of administration, as these terms are defined by the applicable state agency in implementing these requirements. This percentage shall increase by five percent each year until it shall, no later than April 1, 2015, remain at no less than eighty-five percent thereafter.

(b) To the extent practicable, reimbursement shall not be provided for compensation paid or given to any executive by such provider in an amount greater than $199,000 per annum; provided, however, that the commissioner of each state agency shall have discretion to adjust this figure annually based on appropriate factors subject to the approval of both houses of the state legislature. The applicable state agency shall define these terms as necessary in implementing these requirements. A provider's failure to comply with the requirements established by the applicable state agency and the legislature may, at the discretion of the commissioner of each state agency, form the basis for termination or non-renewal of the agency's contract with or continued support of the provider. Upon a showing of good cause, a provider may be granted a waiver from compliance with these requirements in whole or in part subject to the approval of the applicable state agency and both houses of the state legislature.

S 4. Section 272 of the public health law is amended by adding a new subdivision 12 to read as follows:

12. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, ANY PHYSICIAN TREATING A MINOR AS DEFINED IN SECTION TWENTY-NINE HUNDRED SIXTY-ONE OF THIS CHAPTER, RELEASED FROM A RESIDENTIAL SETTING OR JUVENILE DETENTION CENTER SHALL BE ALLOWED TO CHOOSE THE DRUG OR DRUGS MOST APPROPRIATE FOR THE PATIENT'S TREATMENT REGARDLESS OF WHETHER SUCH DRUG IS A PREFERRED DRUG OR NOT. THE PHYSICIAN'S CHOICE OF DRUG SHALL BE HONORED AND REIMBURSED FOR A PERIOD NOT TO EXCEED THREE HUNDRED SIXTY-FIVE DAYS AFTER THE MINOR'S RELEASE FROM A RESIDENTIAL SETTING OR JUVENILE DETENTION CENTER.

S 5. The public health law is amended by adding a new section 2823 to read as follows:

S 2823. SUPPORTIVE HOUSING DEVELOPMENT REINVESTMENT PROGRAM. 1. NOTWITHSTANDING SECTIONS ONE HUNDRED TWELVE AND ONE HUNDRED SIXTY-THREE

OF THE STATE FINANCE LAW OR SECTIONS ONE HUNDRED FORTY-TWO AND ONE HUNDRED FORTY-THREE OF THE ECONOMIC DEVELOPMENT LAW OR ANY OTHER CONTRARY PROVISION OF LAW, REINVESTMENT FUNDS FOR SUPPORTIVE HOUSING FOR VULNERABLE POPULATIONS SHALL BE ALLOCATED ANNUALLY BY THE COMMISSIONER AND THE COMMISSIONERS OF THE OFFICE OF CHILDREN AND FAMILY SERVICES AND THE OFFICE OF MENTAL HEALTH BASED UPON THE FOLLOWING CRITERIA:

(A) THE EFFICIENCY AND EFFECTIVENESS OF THE USE OF FUNDING FOR THE DEVELOPMENT OF ADEQUATE AND ACCESSIBLE HOUSING TO SUPPORT VULNERABLE PERSONS IN THE COMMUNITY AND TO ENSURE ACCESS TO SUPPORTS NECESSARY TO MAXIMIZE EXPECTED OUTCOMES; AND

(B) OTHER RELEVANT FACTORS RELATING TO THE MAINTENANCE OF EXISTING SUPPORTIVE HOUSING AND THE DEVELOPMENT OF NEW SUPPORTIVE HOUSING AND ASSOCIATED SERVICES.

2. AMOUNTS PROVIDED PURSUANT TO THIS SECTION SHALL BE USED ONLY TO FUND HOUSING DEVELOPMENT ACTIVITIES AND OTHER GENERAL PROGRAMMATIC ACTIVITIES TO HELP ENSURE A STABLE SYSTEM OF SUPPORTIVE HOUSING FOR VULNERABLE PERSONS IN THE COMMUNITY.

3. SUCH COMMISSIONERS ARE AUTHORIZED AND EMPOWERED TO MAKE INSPECTIONS AND EXAMINE RECORDS OF ANY ENTITY FUNDED PURSUANT TO SUBDIVISION TWO OF THIS SECTION. SUCH EXAMINATION SHALL INCLUDE ALL MEDICAL, SERVICE AND FINANCIAL RECORDS, RECEIPTS, DISBURSEMENTS, CONTRACTS, LOANS AND OTHER MONEYS RELATING TO THE FINANCIAL OPERATION OF THE PROVIDER.

4. THE AMOUNT OF SUPPORTIVE HOUSING DEVELOPMENT REINVESTMENT FUNDS FOR SUCH AGENCIES SHALL BE ITEMIZED IN THE ANNUAL BUDGET IN AN AMOUNT DETERMINED BY SUCH COMMISSIONERS, SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE BUDGET. THIS AMOUNT SHALL INCLUDE THE AMOUNT OF GENERAL FUND SAVINGS DIRECTLY RELATED TO INPATIENT HOSPITAL AND NURSING HOME BED DECERTIFICATION AND/OR FACILITY CLOSURE. THE METHODOLOGIES USED TO CALCULATE THE SAVINGS SHALL BE DEVELOPED BY SUCH COMMISSIONERS AND THE DIRECTOR OF THE BUDGET. IN NO EVENT SHALL THE FULL ANNUAL VALUE OF SUPPORTIVE HOUSING DEVELOPMENT REINVESTMENT PROGRAMS ATTRIBUTABLE TO INPATIENT HOSPITAL AND NURSING HOME BED DECERTIFICATION AND/OR FACILITY CLOSURE EXCEED THE TWELVE MONTH VALUE OF THE DEPARTMENT OF HEALTH GENERAL FUND REDUCTIONS RESULTING FROM SUCH DECERTIFICATION AND/OR FACILITY CLOSURE.

5. THE ANNUAL SUPPORTIVE HOUSING DEVELOPMENT REINVESTMENT APPROPRIATION SHALL REFLECT A PROPORTION OF THE AMOUNT OF GENERAL FUND SAVINGS RESULTING FROM SUBDIVISION FOUR OF THIS SECTION. WITHIN ANY FISCAL YEAR WHERE APPROPRIATION INCREASES ARE RECOMMENDED FOR THE SUPPORTIVE HOUSING DEVELOPMENT REINVESTMENT PROGRAM, INSOFAR AS PROJECTED BED DECERTIFICATION AND/OR FACILITY CLOSURES DO NOT OCCUR AS ESTIMATED, AND GENERAL FUND SAVINGS DO NOT RESULT, THEN THE REINVESTMENT APPROPRIATIONS MAY BE REDUCED IN THE NEXT YEAR'S ANNUAL BUDGET ITEMIZATION.

6. AMOUNTS MADE AVAILABLE TO THE SUPPORTIVE HOUSING DEVELOPMENT REINVESTMENT PROGRAM OF SUCH AGENCIES SHALL BE SUBJECT TO ANNUAL APPROPRIATIONS THEREFOR.

7. NO PROVISION IN THIS SECTION SHALL CREATE OR BE DEEMED TO CREATE ANY RIGHT, INTEREST OR ENTITLEMENT TO SERVICES OR FUNDS THAT ARE SUBJECT TO THIS SECTION, OR TO ANY OTHER SERVICES OR FUNDS, WHETHER TO INDIVIDUALS, LOCALITIES, PROVIDERS OR OTHERS, INDIVIDUALLY OR COLLECTIVELY.

8. ALL APPROPRIATIONS FOR SUPPORTIVE HOUSING DEVELOPMENT SHALL BE ADJUSTED IN THE FOLLOWING FISCAL YEAR TO REFLECT THE VARIANCE BETWEEN THE INITIAL AND REVISED ESTIMATES OF BED DECERTIFICATION AND/OR FACILITY CLOSURE.

9. SUCH COMMISSIONERS SHALL PROMULGATE REGULATIONS, AND MAY PROMULGATE EMERGENCY REGULATIONS, TO EFFECTUATE THE PROVISIONS OF THIS SECTION.

S 6. This act shall take effect immediately; provided, however, that the amendments to section 272 of the public health law made by section four of this act shall not affect the repeal of such section and shall be deemed repealed therewith.