

4384--C

2011-2012 Regular Sessions

I N S E N A T E

April 4, 2011

Introduced by Sens. RANZENHOFER, ADDABBO, DeFRANCISCO, LARKIN, YOUNG, ZELDIN -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- 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 -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to establishing the Medicaid identification and anti-fraud biometric technology program; and to amend the social services law, in relation to conforming medical assistance identification with the Medicaid identification and anti-fraud biometric technology program

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

1 Section 1. The public health law is amended by adding a new article
2 2-B to read as follows:

3 ARTICLE 2-B

4 MEDICAID IDENTIFICATION AND ANTI-FRAUD BIOMETRIC
5 TECHNOLOGY PROGRAM

6 SECTION 290. MEDICAID IDENTIFICATION AND ANTI-FRAUD BIOMETRIC TECHNOLOGY
7 PROGRAM.

8 291. DEFINITIONS.

9 292. BIOMETRIC TECHNOLOGY USE REQUIREMENT.

10 293. RULES AND REGULATIONS.

11 S 290. MEDICAID IDENTIFICATION AND ANTI-FRAUD BIOMETRIC TECHNOLOGY
12 PROGRAM. THERE IS HEREBY ESTABLISHED IN THE DEPARTMENT THE MEDICAID
13 IDENTIFICATION AND ANTI-FRAUD BIOMETRIC TECHNOLOGY PROGRAM.

14 S 291. DEFINITIONS. AS USED IN THIS ARTICLE:

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

LBD09573-10-2

1 1. "BIOMETRIC TECHNOLOGY" MEANS TECHNOLOGY THAT MEASURES AND ANALYZES
2 BIOLOGICAL DATA, INCLUDING BUT NOT LIMITED TO DNA, FINGER IMAGING,
3 VASCULAR PATTERNS, EYE RETINAS AND IRISES, VOICE PATTERNS, FACIAL
4 PATTERNS AND HAND MEASUREMENTS, FOR AUTHENTICATION PURPOSES.

5 2. "BIOMETRIC VERIFICATION DEVICE" MEANS A DEVICE CAPABLE OF USING
6 BIOMETRIC VERIFICATION TECHNOLOGY TO VERIFY THE IDENTITY OF A MEDICAID
7 RECIPIENT OR PROVIDER.

8 S 292. BIOMETRIC TECHNOLOGY USE REQUIREMENT. 1. THE DEPARTMENT, IN
9 CONSULTATION WITH THE OFFICE OF THE MEDICAID INSPECTOR GENERAL AND THE
10 OFFICE OF THE ATTORNEY GENERAL, SHALL DEVELOP A REQUEST FOR PROPOSALS TO
11 IMPLEMENT A PROGRAM REQUIRING THE USE OF BIOMETRIC TECHNOLOGY BY HOSPI-
12 TALS, CLINICS AND PHARMACIES, FOR THE PURPOSES OF PATIENT AND PROVIDER
13 IDENTIFICATION AND FOR USE AS AN ANTI-FRAUD APPLICATION IN THE MEDICAID
14 PROGRAM.

15 2. SUCH REQUEST FOR PROPOSALS SHALL INCLUDE AT A MINIMUM THAT (A)
16 MEDICAID RECIPIENTS AND PROVIDERS SHALL PROVIDE BIOMETRIC PROOF OF THEIR
17 IDENTITY ALONG WITH OTHER INFORMATION DEEMED NECESSARY BY THE COMMIS-
18 SIONER.

19 (B) SUCH PROGRAM WILL BE CAPABLE OF STORING BIOMETRIC MARKERS AND A
20 LOG OF DOCTOR AND PHARMACY VISITS FOR EACH SERVICE BILLED TO THE MEDI-
21 CAID PROGRAM.

22 (C) MEDICAID IDENTIFICATION SHALL BE ISSUED TO AND ACCEPTED BY THE
23 ADMITTING STAFF OF HEALTH CARE FACILITIES, MEDICAL STAFF PROVIDING
24 SERVICE TO MEDICAID RECIPIENTS AND PHARMACY STAFF.

25 (D) MEDICAID RECIPIENTS SHALL BE REQUIRED TO PROVIDE BIOMETRIC PROOF
26 OF IDENTIFY AT THE TIME OF EACH VISIT TO A DOCTORS OFFICE OR CLINIC AT
27 THE POINT OF ACTUALLY BEING SEEN BY THE DOCTOR OR CLINICAL STAFF, AND
28 SHALL AGAIN PROVIDE PROOF OF IDENTITY UPON COMPLETION OF CARE OR
29 SERVICES.

30 (E) BIOMETRIC VERIFICATION DEVICES SHALL BE USED IN PHARMACIES TO
31 VERIFY THE IDENTITY OF THE MEDICAID RECIPIENT AND THE VALIDITY OF THE
32 MEDICAID COVERAGE PRIOR TO OR IN CONJUNCTION WITH FILLING A
33 PRESCRIPTION.

34 (F) PROVISIONS SHALL BE INCLUDED FOR EMERGENCY SERVICES OR
35 PRESCRIPTIONS AND ALTERNATE IDENTIFICATION METHODS FOR MEDICAID RECIPI-
36 ENTS PHYSICALLY OR MENTALLY UNABLE TO PROVIDE BIOMETRIC IDENTIFICATION.

37 (G) FRAUD PREVENTION MARKERS INCORPORATED INTO SOFTWARE WHICH SHALL BE
38 USED TO OPERATE THE HARDWARE COMPONENT OF THE BIOMETRIC TECHNOLOGY SHALL
39 PREVENT AND/OR REJECT THE PAYMENT BY THE MEDICAID PROGRAM AND ALERT THE
40 SERVICE PROVIDER AT POINT OF SERVICE IF FRAUD OR POTENTIAL FRAUD IS
41 IDENTIFIED BY THE BIOMETRIC TECHNOLOGY SYSTEM.

42 (H) PROVISIONS SHALL BE INCLUDED TO ENSURE THAT MEDICAID RECIPIENTS
43 HAVE ACCESS TO EMERGENCY HEALTH SERVICES IN THE CASE OF A BIOMETRIC
44 TECHNOLOGY SYSTEM MALFUNCTION OR FRAUD DETECTION ALARM.

45 (I) EVALUATION AND SELECTION OF AN IDENTIFY CREDENTIALING SYSTEM THAT
46 ADDRESSES THE REQUIREMENTS OF MEDICAID BENEFICIARIES AND PROVIDERS SHALL
47 BE BASED ON THE FOLLOWING CRITERIA: SECURITY, PRIVACY, USABILITY,
48 PERFORMANCE, HYGIENE, BIOMETRIC CAPTURE AND STORAGE REQUIREMENTS, AND
49 INTEROPERABILITY.

50 3. SUCH REQUEST FOR PROPOSALS SHALL SET FORTH REQUIREMENTS AS TO THE
51 RESULTS AND GOALS TO BE ACHIEVED, RATHER THAN SPECIFIC TECHNICAL METHODS
52 OR SYSTEMS, TO ALLOW CONSIDERATION OF THE WIDEST POSSIBLE CHOICE OF
53 AVAILABLE TECHNOLOGY.

54 4. SUCH REQUEST FOR PROPOSALS SHALL REQUIRE THAT THE PROGRAM SHALL BE
55 REVENUE NEUTRAL FROM INCEPTION, WHEREBY ANY PROGRAM COSTS ARE AT LEAST
56 OFFSET BY STATE MEDICAID SAVINGS, AND SHALL HAVE AS A PRIMARY GOAL

1 REDUCTION OF MEDICAID EXPENDITURES THROUGH ELIMINATION OF FRAUD AND
2 ABUSE.

3 5. (A) SUCH REQUEST FOR PROPOSALS FOR THE IMPLEMENTATION OF A PROGRAM
4 FOR BIOMETRIC TECHNOLOGY USE SHALL BE PUBLISHED ON OR BEFORE JANUARY
5 FIFTEENTH, TWO THOUSAND THIRTEEN, AND SHALL PROVIDE THAT PROPOSALS SHALL
6 BE OPENED ON OR BEFORE MARCH FIRST, TWO THOUSAND THIRTEEN.

7 (B) THE COMMISSIONER SHALL REPORT TO THE GOVERNOR, THE TEMPORARY PRES-
8 IDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY ON OR BEFORE MARCH
9 THIRTIETH, TWO THOUSAND THIRTEEN WITH REGARD TO THE PROGRESS MADE IN THE
10 DEVELOPMENT OF CRITERIA FOR A PROGRAM OF BIOMETRIC IDENTIFICATION AND OF
11 THE IMPLEMENTATION OF SUCH PROGRAM.

12 S 293. RULES AND REGULATIONS. THE COMMISSIONER IS AUTHORIZED AND
13 DIRECTED TO PROMULGATE SUCH RULES AND REGULATIONS AS HE OR SHE MAY DEEM
14 NECESSARY OR APPROPRIATE TO EFFECTUATE THE PURPOSES OF THIS ARTICLE.

15 S 2. Subdivision 1 of section 367-b of the social services law, as
16 added by chapter 639 of the laws of 1976, is amended to read as follows:

17 1. The department, IN CONSULTATION WITH THE COMMISSIONER OF HEALTH,
18 shall design and implement a statewide medical assistance information
19 and payments system for the purpose of providing individual and aggre-
20 gate data to social services districts to assist them in making basic
21 management decisions, to the department and other state agencies to
22 assist in the administration of the medical assistance program, and to
23 the governor and the legislature as may be necessary to assist in making
24 major administrative and policy decisions affecting such program. Such
25 system shall be designed so as to be capable of the following:

26 a. receiving and processing information relating to the eligibility of
27 each person applying for medical assistance and of issuing a medical
28 assistance identification card, AND WHEN AVAILABLE UTILIZING THE BIOME-
29 TRIC IDENTIFICATION ISSUED BY THE DEPARTMENT OF HEALTH, CONFORMING TO
30 THE REQUIREMENTS SET FORTH IN THE MEDICAID IDENTIFICATION AND ANTI-FRAUD
31 BIOMETRIC TECHNOLOGY PROGRAM ESTABLISHED PURSUANT TO ARTICLE TWO-B OF
32 THE PUBLIC HEALTH LAW to persons determined by a social services offi-
33 cial to be eligible for such assistance;

34 b. ACTIVATING MEDICAL ASSISTANCE IDENTIFICATION BY REQUIRING AN
35 APPLICANT RECEIVING SUCH IDENTIFICATION FROM THE DEPARTMENT TO HAVE IT
36 VERIFIED AT A SOCIAL SERVICES DISTRICT OFFICE IN THE SOCIAL SERVICES
37 DISTRICT IN WHICH THE APPLICANT RESIDES;

38 C. receiving and processing information relating to each qualified
39 provider of medical assistance furnishing care, services or supplies for
40 which claims for payment are made pursuant to this title;

41 [c.] D. receiving and processing, in a form and manner prescribed by
42 the department, all claims for medical care, services and supplies, and
43 making payments for valid claims to providers of medical care, services
44 and supplies on behalf of social services districts; AND

45 [d.] E. maintaining information necessary to allow the department,
46 consistent with the powers and duties of the department of health, to
47 review the appropriateness, scope and duration of medical care, services
48 and supplies provided to any eligible person pursuant to this chapter[;
49 and

50 e. initiating implementation of such a system for the district
51 comprising the city of New York, in a manner compatible with expansion
52 of such system to districts other than the district comprising the city
53 of New York].

54 S 3. This act shall take effect immediately.