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

4384--D

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 -- 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:

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

ARTICLE 2-B

MEDICAID IDENTIFICATION AND ANTI-FRAUD BIOMETRIC TECHNOLOGY PROGRAM

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

291. DEFINITIONS.

292. BIOMETRIC TECHNOLOGY USE REQUIREMENT.

293. RULES AND REGULATIONS.

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

S 291. DEFINITIONS. AS USED IN THIS ARTICLE:

1. "BIOMETRIC TECHNOLOGY" MEANS TECHNOLOGY THAT MEASURES AND ANALYZES BIOLOGICAL DATA, INCLUDING BUT NOT LIMITED TO DNA, FINGER IMAGING,

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

LBD09573-14-2

VASCULAR PATTERNS, EYE RETINAS AND IRISES, VOICE PATTERNS, FACIAL PATTERNS AND HAND MEASUREMENTS, FOR AUTHENTICATION PURPOSES.

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

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

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

(B) SUCH PROGRAM WILL BE CAPABLE OF STORING BIOMETRIC MARKERS AND A LOG OF DOCTOR AND PHARMACY VISITS FOR EACH SERVICE BILLED TO THE MEDICAID PROGRAM.

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

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

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

(F) PROVISIONS SHALL BE INCLUDED FOR EMERGENCY SERVICES OR PRESCRIPTIONS AND ALTERNATE IDENTIFICATION METHODS FOR MEDICAID RECIPIENTS PHYSICALLY OR MENTALLY UNABLE TO PROVIDE BIOMETRIC IDENTIFICATION.

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

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

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

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

4. SUCH REQUEST FOR PROPOSALS SHALL REQUIRE: (A) THAT THE PROGRAM SHALL BE REVENUE NEUTRAL FROM INCEPTION, WHEREBY ANY PROGRAM COSTS ARE AT LEAST OFFSET BY STATE MEDICAID SAVINGS, AND SHALL HAVE AS A PRIMARY GOAL REDUCTION OF MEDICAID EXPENDITURES THROUGH ELIMINATION OF FRAUD AND ABUSE; AND (B) THAT THE PROGRAM SHALL BE COST NEUTRAL TO PROVIDERS FROM

INCEPTION, WHEREBY ANY PROVIDER COSTS ARE AT LEAST OFFSET BY PROVIDER SAVINGS, AND SHALL HAVE AS A PRIMARY GOAL PROVIDER SAVINGS THROUGH INCREASED EFFICIENCIES.

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

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

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

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

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

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

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

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

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

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

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

S 3. This act shall take effect immediately.