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I N   S E N A T E

March 16, 2012

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Introduced by Sens. HANNON, CARLUCCI, DeFRANCISCO, GOLDEN, JOHNSON, KLEIN, LARKIN, LAVALLE, MARTINS, McDONALD, SALAND, SAVINO, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to establishing the New York state workgroup on Medicaid reimbursement for medically fragile children

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 section  
2     2804-b to read as follows:  
3     S 2804-B. NEW YORK STATE WORKGROUP ON MEDICAID REIMBURSEMENT FOR  
4     MEDICALLY FRAGILE CHILDREN. 1. THE COMMISSIONER SHALL, WITHIN THIRTY  
5     DAYS OF THE EFFECTIVE DATE OF THIS SECTION, CONVENE AND CHAIR, DIRECTLY  
6     OR THROUGH A DESIGNEE OR DESIGNEES, A NEW YORK STATE WORKGROUP ON MEDI-  
7     CAID REIMBURSEMENT FOR MEDICALLY FRAGILE CHILDREN TO EXAMINE, EVALUATE  
8     AND PROVIDE RECOMMENDATIONS ON THE ADEQUACY AND VIABILITY OF MEDICAID  
9     REIMBURSEMENT RATES TO CERTAIN PEDIATRIC PROVIDERS WHO PROVIDE CRITICAL  
10    SERVICES FOR MEDICALLY FRAGILE CHILDREN.  
11    2. SUCH WORKGROUP SHALL BE COMPRISED OF STAKEHOLDERS OF MEDICALLY  
12    FRAGILE CHILDREN, INCLUDING PROVIDERS OF PEDIATRIC NURSING HOMES, HOME  
13    CARE AGENCIES AFFILIATED WITH PEDIATRIC NURSING HOMES AND DIAGNOSTIC AND  
14    TREATMENT CENTERS WHICH PRIMARILY SERVE MEDICALLY FRAGILE CHILDREN, AND  
15    OTHER EXPERTS CHOSEN BY THE COMMISSIONER. MEMBERS OF THE WORKGROUP SHALL  
16    HAVE DEMONSTRATED KNOWLEDGE AND EXPERIENCE IN PROVIDING CARE TO  
17    MEDICALLY FRAGILE CHILDREN IN PEDIATRIC NURSING HOMES, HOME CARE AGEN-  
18    CIES AFFILIATED WITH PEDIATRIC NURSING HOMES AND DIAGNOSTIC AND TREAT-  
19    MENT CENTERS WHICH PRIMARILY SERVE MEDICALLY FRAGILE CHILDREN, INCLUDING  
20    PROVIDERS WHO PROVIDE CARE PRIMARILY TO THE MEDICAID POPULATION. THE  
21    PRESENCE OF A MAJORITY OF THE MEMBERS SHALL CONSTITUTE A QUORUM. MEMBERS  
22    SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES, BUT SHALL BE ALLOWED  
23    ACTUAL AND NECESSARY EXPENSES IN THE PERFORMANCE OF THEIR DUTIES PURSU-  
24    ANT TO THIS SECTION.

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

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1 3. THE WORKGROUP SHALL DEVELOP AND RECOMMEND CHANGES TO MEDICAID  
2 REIMBURSEMENT RATES FOR PEDIATRIC NURSING HOMES, HOME CARE AGENCIES  
3 AFFILIATED WITH PEDIATRIC NURSING HOMES AND DIAGNOSTIC AND TREATMENT  
4 CENTERS PRIMARILY PROVIDING CARE TO MEDICALLY FRAGILE CHILDREN, INCLUD-  
5 ING BUT NOT LIMITED TO:

6 (A) THE ADEQUACY OF CURRENT AMBULATORY PATIENT GROUP RATES OF  
7 REIMBURSEMENT FOR PEDIATRIC DIAGNOSTIC AND TREATMENT CENTERS THAT PRIMA-  
8 RILY PROVIDE REHABILITATION AND CARE TO MEDICALLY FRAGILE CHILDREN,  
9 RECOMMENDING MODIFICATIONS, WHERE APPROPRIATE, TO PROTECT THE VIABILITY  
10 OF SUCH FACILITIES. SUCH RECOMMENDATIONS SHALL INCLUDE, BUT NOT BE  
11 LIMITED TO, AN ANALYSIS OF WHETHER SUCH FACILITIES SHALL RECEIVE SEPA-  
12 RATE AND DISTINCT AMBULATORY PATIENT GROUP BASE RATES, AND ANY OTHER  
13 MODIFICATIONS TO THE AMBULATORY PATIENT GROUP METHODOLOGY TO ENSURE THAT  
14 SUCH RATES ADEQUATELY REIMBURSE THE COST OF PROVIDING REHABILITATION AND  
15 CARE TO MEDICALLY FRAGILE CHILDREN;

16 (B) THE ADEQUACY AND APPROPRIATENESS OF THE CURRENT REIMBURSEMENT  
17 METHODOLOGY FOR PEDIATRIC NURSING HOMES, AND HOME CARE AGENCIES AFFIL-  
18 IATED WITH PEDIATRIC NURSING HOMES RECOMMENDING MODIFICATIONS, WHERE  
19 APPROPRIATE, TO PROTECT THE VIABILITY OF SUCH FACILITIES. SUCH RECOMMEN-  
20 DATIONS, SHALL INCLUDE, BUT NOT BE LIMITED TO, THE DEVELOPMENT OF A NEW  
21 PEDIATRIC NURSING HOME RATE, THE DEVELOPMENT OF NEW RATES FOR HOME CARE  
22 AGENCIES AFFILIATED WITH PEDIATRIC NURSING HOMES THE APPROPRIATE USE OF  
23 CASE MIX ADJUSTMENTS FOR THIS POPULATION, ANY ADDITIONAL SUPPLEMENTAL  
24 ADJUSTMENTS THAT ARE DEEMED NECESSARY AND APPROPRIATE, AND ANY OTHER  
25 REVISIONS NECESSARY TO ENSURE THAT SUCH RATES ADEQUATELY REIMBURSE THE  
26 COST OF PROVIDING REHABILITATION AND CARE TO MEDICALLY FRAGILE CHILDREN;

27 (C) THE MEDICAID MANAGED CARE PREMIUM METHODOLOGY TO PEDIATRIC DIAG-  
28 NOSTIC AND TREATMENT CENTERS PRIMARILY PROVIDING REHABILITATION AND CARE  
29 TO MEDICALLY FRAGILE CHILDREN, AND WHETHER SUCH PLAN PREMIUMS SHALL  
30 INCLUDE AN ADD-ON TO REFLECT THE AMBULATORY PATIENT GROUP RATE OF  
31 REIMBURSEMENT;

32 (D) THE TRANSITION OF THE PEDIATRIC NURSING HOME POPULATION AND BENE-  
33 FIT INTO MEDICAID MANAGED CARE, INCLUDING HOME CARE AGENCIES AFFILIATED  
34 WITH PEDIATRIC NURSING HOMES AND WHETHER SUCH A TRANSITION WOULD PROVIDE  
35 ADEQUATE REIMBURSEMENT TO SUCH FACILITIES TAKING INTO ACCOUNT THE COST  
36 OF PROVIDING CARE TO MEDICALLY FRAGILE CHILDREN NECESSARY AND APPROPRI-  
37 ATE TO MEET THEIR NURSING AND RELATED CARE NEEDS AS WELL AS THEIR DEVEL-  
38 OPMENTAL NEEDS. SUCH ANALYSIS SHALL ALSO INCLUDE AN EXAMINATION OF THE  
39 DEPARTMENT'S CASE MIX INDEX AND CONSIDERATION OF THE DEVELOPMENT OF A  
40 NEW OR MODIFIED CASE MIX INDEX THAT ADEQUATELY CAPTURES THE COST OF  
41 PROVIDING CARE TO MEDICALLY FRAGILE CHILDREN;

42 (E) THE EVALUATION OF ALTERNATIVES TO MAINSTREAM MEDICAID MANAGED CARE  
43 FOR MEDICALLY FRAGILE CHILDREN RESIDING IN PEDIATRIC NURSING HOMES AND  
44 PEDIATRIC DIAGNOSTIC AND TREATMENT CENTERS PRIMARILY SERVING MEDICALLY  
45 FRAGILE CHILDREN, OR SERVED BY HOME CARE AGENCIES AFFILIATED WITH PEDIA-  
46 TRIC NURSING HOMES INCLUDING THE DEVELOPMENT OF DEMONSTRATION PROJECTS,  
47 TO TEST ALTERNATIVE PAYMENT AND CARE MANAGEMENT MODELS FOR THIS COMPLEX  
48 PATIENT POPULATION. SUCH EVALUATION SHALL INCLUDE CONSIDERATION OF  
49 WHETHER PEDIATRIC NURSING HOMES AND/OR PEDIATRIC SPECIALTY DIAGNOSTIC  
50 AND TREATMENT CENTERS SHALL REMAIN IN FEE-FOR-SERVICE MEDICAID;

51 (F) THE EXAMINATION OF PROVIDING RETROACTIVE, TEMPORARY, OR PROSPEC-  
52 TIVE RATE RELIEF TO PROVIDERS WITH DEMONSTRATED FINANCIAL HARDSHIP WHO  
53 EXCLUSIVELY PROVIDE CARE TO MEDICALLY FRAGILE CHILDREN;

54 (G) A COST-BENEFIT ANALYSIS, INCLUDING BUT NOT LIMITED TO, EXAMINING  
55 HOW SUCH SERVICES PROVIDED TO MEDICALLY FRAGILE CHILDREN IN NURSING  
56 HOMES, HOME CARE AGENCIES AFFILIATED WITH PEDIATRIC NURSING HOMES AND

1 PEDIATRIC DIAGNOSTIC AND TREATMENT CENTERS ARE COST EFFECTIVE COMPARED  
2 TO OTHER ALTERNATIVES OF CARE SUCH AS ACUTE CARE SETTINGS;

3 (H) CONSIDERATION OF THE MEASURES NEEDED TO MAINTAIN FINANCIALLY  
4 VIABLE PEDIATRIC PROVIDERS IN THE STATE SUFFICIENT TO MEET THE NEEDS OF  
5 THE STATE'S MEDICALLY FRAGILE CHILDREN; AND

6 (I) ANY OTHER AREAS DEEMED APPROPRIATE BY THE COMMISSIONER OR MEMBERS  
7 OF THE WORKGROUP.

8 4. PRIOR TO JANUARY FIRST, TWO THOUSAND THIRTEEN, THE WORKGROUP SHALL  
9 PRESENT ITS FINDINGS AND RECOMMENDATIONS IN A REPORT, AND SHALL PROVIDE  
10 SUCH REPORT TO THE COMMISSIONER, THE CHAIR OF THE SENATE FINANCE COMMIT-  
11 TEE, THE CHAIR OF THE ASSEMBLY WAYS AND MEANS COMMITTEE, THE CHAIR OF  
12 THE SENATE HEALTH COMMITTEE AND THE CHAIR OF THE ASSEMBLY HEALTH COMMIT-  
13 TEE.

14 5. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY,  
15 SERVICES PROVIDED TO MEDICALLY FRAGILE CHILDREN RESIDING IN PEDIATRIC  
16 NURSING HOMES RECEIVING SERVICES AT HOME CARE AGENCIES AFFILIATED WITH  
17 PEDIATRIC NURSING HOMES OR RECEIVING SERVICES AT PEDIATRIC REHABILI-  
18 TATION DIAGNOSTIC AND TREATMENT CENTERS ESTABLISHED PURSUANT TO THIS  
19 ARTICLE SHALL BE REIMBURSED AT A FEE-FOR-SERVICE MEDICAID RATE DURING  
20 THE DELIBERATIONS OF THE WORKGROUP AND UNTIL SUCH REPORT IS FINALIZED  
21 AND DISTRIBUTED TO THE COMMISSIONER, THE CHAIR OF THE SENATE FINANCE  
22 COMMITTEE, THE CHAIR OF THE ASSEMBLY WAYS AND MEANS COMMITTEE, THE CHAIR  
23 OF THE SENATE HEALTH COMMITTEE AND THE CHAIR OF THE ASSEMBLY HEALTH  
24 COMMITTEE. ANY CHANGE IN REIMBURSEMENT METHODOLOGY NECESSARY AS A RESULT  
25 OF THIS SECTION SHALL BE IMPLEMENTED BY THE DEPARTMENT WITHIN THIRTY  
26 DAYS OF THE EFFECTIVE DATE OF THIS SECTION. THE FINDINGS AND RECOMMEN-  
27 DATIONS IN THE WORKGROUP'S REPORT SHALL BE APPROVED, REVISED OR REJECTED  
28 BY THE LEGISLATURE PRIOR TO THE ADOPTION OF AN ALTERNATIVE REIMBURSEMENT  
29 METHODOLOGY.

30 S 2. This act shall take effect immediately.