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

3966--B

2013-2014 Regular Sessions

I N S E N A T E

March 1, 2013

Introduced by Sens. HANNON, DeFRANCISCO, MARTINS -- 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 -- 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 enacting the "home care stabilization act"; and providing for the repeal of certain provisions upon expiration thereof

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

Section 1. Short title. This act shall be known and may be cited as the "home care stabilization act".

S 2. Section 3622 of the public health law, as renumbered by section 22 of part C of chapter 58 of the laws of 2004, is renumbered section 3625 and two new sections 3614-d and 3622 are added to read as follows:

S 3614-D. STANDARDS FOR PROMPT, FAIR AND EQUITABLE SETTLEMENT OF CLAIMS FOR PAYMENTS FOR PERSONAL CARE, HOME HEALTH CARE SERVICES OR OTHER LONG TERM CARE SERVICES. 1. IN THE PROCESSING OF CLAIMS SUBMITTED UNDER CONTRACTS OR AGREEMENTS ISSUED OR ENTERED INTO OR BETWEEN CERTIFIED HOME HEALTH AGENCIES, LONG TERM HOME HEALTH CARE PROGRAMS, LICENSED HOME CARE SERVICES PROGRAMS, FISCAL INTERMEDIARIES OPERATING PURSUANT TO SECTION THREE HUNDRED SIXTY-FIVE-F OF THE SOCIAL SERVICES LAW, INSURERS, MANAGED LONG TERM CARE PLANS, MANAGED CARE PLANS OR ORGANIZATIONS LICENSED OR OPERATED PURSUANT TO THE PROVISIONS OF THIS CHAPTER, THE SOCIAL SERVICES LAW OR THE INSURANCE LAW AND FOR ALL BILLS FOR PERSONAL CARE, HOME HEALTH CARE SERVICES, CONSUMER DIRECTED PERSONAL ASSISTANCE SERVICES OPERATING PURSUANT TO SECTION THREE HUNDRED SIXTY-FIVE-F OF THE SOCIAL SERVICES LAW OR OTHER LONG TERM CARE SERVICES RENDERED BY LICENSED HOME CARE SERVICES PROGRAMS, CERTIFIED HOME HEALTH AGENCIES,

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

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LONG TERM HOME HEALTH CARE PROGRAMS OR A FISCAL INTERMEDIARY OPERATING PURSUANT TO SECTION THREE HUNDRED SIXTY-FIVE-F OF THE SOCIAL SERVICES LAW PURSUANT TO SUCH CONTRACTS OR AGREEMENTS, ANY CERTIFIED HOME HEALTH CARE AGENCY, LONG TERM HOME HEALTH CARE PROGRAM, INSURER, MANAGED LONG TERM CARE PLAN, MANAGED CARE PLAN OR ORGANIZATION LICENSED OR OPERATED PURSUANT TO THE PROVISIONS OF THIS CHAPTER, THE SOCIAL SERVICES LAW, THE EXECUTIVE LAW OR THE INSURANCE LAW, SHALL ADHERE TO THE FOLLOWING STANDARDS:

(A) SHALL PAY A CLEAN CLAIM SUBMITTED BY A LICENSED HOME CARE SERVICES PROGRAM, CERTIFIED HOME HEALTH AGENCY, LONG TERM HOME HEALTH CARE PROGRAM OR A FISCAL INTERMEDIARY OPERATING PURSUANT TO SECTION THREE HUNDRED SIXTY-FIVE-F OF THE SOCIAL SERVICES LAW WITHIN THIRTY DAYS OF RECEIPT OF THE CLEAN CLAIM FOR SERVICES RENDERED THAT IS TRANSMITTED VIA THE INTERNET OR ELECTRONIC MAIL, OR FORTY-FIVE DAYS OF RECEIPT OF THE CLEAN CLAIM FOR SERVICES RENDERED THAT IS SUBMITTED BY OTHER MEANS, SUCH AS PAPER OR FACSIMILE;

(B) SHALL PAY ANY UNDISPUTED PORTION OF A CLAIM AS A CLEAN CLAIM AS SET FORTH IN PARAGRAPH (A) OF THIS SUBDIVISION SUBMITTED BY A LICENSED HOME CARE SERVICES PROGRAM, CERTIFIED HOME HEALTH AGENCY, LONG TERM HOME HEALTH CARE PROGRAM OR FISCAL INTERMEDIARY OPERATING PURSUANT TO SECTION THREE HUNDRED SIXTY-FIVE-F OF THE SOCIAL SERVICES LAW;

(C) NOTIFY ANY SUCH AGENCY, PROGRAM OR FISCAL INTERMEDIARY IN WRITING WITHIN FIFTEEN CALENDAR DAYS OF THE RECEIPT OF AN INITIAL CLAIM OF ALL SPECIFIC DEFECTS OR DISPUTES OF SUCH CLAIM AND SPECIFICALLY REQUEST IN WRITING THE ADDITIONAL INFORMATION OR REMEDY NEEDED TO PROCESS ANY DISPUTED PORTIONS OF THE CLAIM; AND

(D) ANY DISPUTED CLAIM REMEDIED SHALL BE PAID AS A CLEAN CLAIM AS SET FORTH IN PARAGRAPH (A) OF THIS SUBDIVISION.

2. FOR THE PURPOSES OF THIS SECTION, A "CLEAN CLAIM" SHALL:

(A) IDENTIFY THE LICENSED HOME CARE SERVICES PROGRAM, CERTIFIED HOME HEALTH AGENCY, LONG TERM HOME HEALTH CARE PROGRAM OR FISCAL INTERMEDIARY OPERATING PURSUANT TO SECTION THREE HUNDRED SIXTY-FIVE-F OF THE SOCIAL SERVICES LAW;

(B) SUFFICIENTLY IDENTIFY THE ELIGIBLE COVERED PERSON;

(C) LIST THE DATE AND PLACE OF SERVICE;

(D) SUBSTANTIATE THE APPROPRIATENESS OF THE SERVICE PROVIDED;

(E) STATE IF PRIOR AUTHORIZATION IS REQUIRED FOR SUCH ELIGIBLE COVERED PERSON AND SERVICE; AND

(F) STATE ANY DOCUMENTATION AS REASONABLY REQUIRED BY ANY ENTITY REFERENCED IN THIS SECTION.

3. EACH CLEAN CLAIM OR PAYMENT FOR SERVICES PROCESSED IN VIOLATION OF THIS SECTION SHALL CONSTITUTE A SEPARATE VIOLATION. IN ADDITION TO THE PENALTIES PROVIDED IN THIS CHAPTER, ANY ORGANIZATION OR CORPORATION THAT FAILS TO ADHERE TO THE STANDARDS CONTAINED IN THIS SECTION SHALL BE OBLIGATED TO PAY TO CERTIFIED HOME HEALTH AGENCIES, LONG TERM HOME HEALTH CARE PROGRAMS, LICENSED HOME HEALTH CARE PROGRAMS OR FISCAL INTERMEDIARIES OPERATING PURSUANT TO SECTION THREE HUNDRED SIXTY-FIVE-F OF THE SOCIAL SERVICES LAW IN FULL SETTLEMENT OF THE BILL, CLAIM OR PAYMENT PLUS INTEREST ON THE AMOUNT OF SUCH BILL, CLAIM OR PAYMENT OF THE GREATER OF THE RATE EQUAL TO THE RATE SET BY THE COMMISSIONER OF TAXATION AND FINANCE FOR CORPORATE TAXES PURSUANT TO PARAGRAPH ONE OF SUBSECTION (E) OF SECTION ONE THOUSAND NINETY-SIX OF THE TAX LAW OR TWELVE PERCENT PER ANNUM, TO BE COMPUTED FROM THE DATE THE BILL, CLAIM OR PAYMENT WAS REQUIRED TO BE MADE.

S 3622. MEDICAL ASSISTANCE RECOUPMENTS AND REDUCTIONS. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, ON AND AFTER APRIL

FIRST, TWO THOUSAND NINE, ANY RECOUPMENTS OR REDUCTIONS IN MEDICAL ASSISTANCE PAYMENTS FOR LICENSED HOME CARE SERVICES AGENCIES AND CERTIFIED HOME HEALTH AGENCIES LICENSED PURSUANT TO THIS ARTICLE OR FISCAL INTERMEDIARIES OPERATING PURSUANT TO SECTION THREE HUNDRED SIXTY-FIVE-F OF THE SOCIAL SERVICES LAW SHALL NOT BE SUBJECT TO INTEREST OR INTEREST PENALTIES.

S 3. Section 4406-c of the public health law is amended by adding a new subdivision 9 to read as follows:

9. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, CONTRACTS WITH CERTIFIED HOME HEALTH AGENCIES, LONG TERM HOME HEALTH CARE PROGRAMS, LICENSED HOME CARE SERVICES PROGRAMS OR FISCAL INTERMEDIARIES OPERATING PURSUANT TO SECTION THREE HUNDRED SIXTY-FIVE-F OF THE SOCIAL SERVICES LAW TO PROVIDE HOME CARE AIDE SERVICES AS DEFINED IN SECTION THIRTY-SIX HUNDRED FOURTEEN-C OF THIS CHAPTER OR CONSUMER DIRECTED PERSONAL ASSISTANCE SERVICES AS AUTHORIZED PURSUANT TO SECTION THREE HUNDRED SIXTY-FIVE-F OF THE SOCIAL SERVICES LAW SHALL AT A MINIMUM ENSURE THAT THE RESOURCES MADE AVAILABLE BY SUCH CONTRACTS SHALL SUPPORT COMPENSATION FOR PERSONS PROVIDING SUCH HOME CARE AIDE SERVICES AND CONSUMER DIRECTED PERSONAL ASSISTANCE SERVICES TO ENSURE THE RETENTION OF A QUALIFIED WORKFORCE CAPABLE OF PROVIDING HIGH QUALITY CARE TO RECIPIENTS OF SUCH SERVICES CONSISTENT WITH THE PROVISIONS OF SUCH SECTION.

S 4. This act shall take effect immediately, provided that section 3622 of the public health law, as added by section two of this act, shall expire and be deemed repealed March 31, 2015.