

6002

2013-2014 Regular Sessions

I N S E N A T E

December 6, 2013

Introduced by Sens. HANNON, SEWARD, BONACIC, BOYLE, CARLUCCI, DeFRANCISCO, FARLEY, GOLDEN, GRISANTI, LARKIN, LAVALLE, LITTLE, MAZIARZ, RITCHIE -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the public health law, in relation to the financial responsibility for and reimbursement of payment for early intervention services by the state

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

1 Section 1. Subdivision 1 of section 2557 of the public health law, as
2 amended by section 4 of part C of chapter 1 of the laws of 2002, is
3 amended to read as follows:
4 1. The approved costs for an eligible child who receives an evaluation
5 and early intervention services pursuant to this title shall be a charge
6 upon the municipality wherein the eligible child resides AND THE STATE
7 or, where the services are covered by the medical assistance program,
8 upon the social services district of fiscal responsibility with respect
9 to those eligible children who are also eligible for medical assistance.
10 All approved costs shall be paid IN FULL AT THE STATE APPROVED EARLY
11 INTERVENTION RATE in the first instance [and at least quarterly by the
12 appropriate governing body or officer of the municipality upon vouchers
13 presented and audited in the same manner as the case of other claims
14 against the municipality] BY THE STATE OR ITS DESIGNATED FISCAL AGENT TO
15 A PROVIDER WITHIN THIRTY DAYS OF THE RECEIPT BY THE STATE OR ITS DESIG-
16 NATED STATE FISCAL AGENT OF AN INITIAL CLAIM FROM A PROVIDER. WHERE A
17 PROVIDER'S ASSIGNMENT IS CALLED FOR UNDER PARAGRAPH (D) OF SUBDIVISION
18 THREE OF SECTION TWENTY-FIVE HUNDRED FIFTY-NINE OF THIS TITLE, THE
19 ASSIGNMENT SHALL BE PART OF THE PROVIDER'S CLAIM. Notwithstanding the
20 insurance law or regulations thereunder relating to the permissible
21 exclusion of payments for services under governmental programs, no such
22 exclusion shall apply with respect to payments made pursuant to this

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

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1 title. Notwithstanding the insurance law or any other law or agreement
2 to the contrary, benefits under this title shall be considered secondary
3 to any plan of insurance or state government benefit program under which
4 an eligible child may have coverage. Nothing in this section shall
5 increase or enhance coverages provided for within an insurance contract
6 subject to the provisions of this title.

7 S 2. The opening paragraph of paragraph (a) of subdivision 3 of
8 section 2559 of the public health law, as amended by section 11 of part
9 A of chapter 56 of the laws of 2012, is amended to read as follows:

10 [Providers of evaluations and early intervention services, hereinafter
11 collectively referred to in this subdivision as "provider" or "provid-
12 ers",] THE STATE OR ITS DESIGNATED FISCAL AGENT shall [in the first
13 instance and], where applicable, seek payment from all third party
14 payors including governmental agencies [prior to claiming payment from a
15 given municipality] for evaluations conducted under the program and for
16 services rendered to eligible children, provided that, the obligation to
17 seek payment shall not apply to a payment from a third party payor who
18 is not prohibited from applying such payment, and will apply such
19 payment, to an annual or lifetime limit specified in the insured's poli-
20 cy. THE STATE OR ITS DESIGNATED FISCAL AGENT SHALL BE RESPONSIBLE FOR
21 FILING AND CONDUCTING ALL APPEALS OF PAYMENT DENIALS BY ALL THIRD PARTY
22 PAYORS INCLUDING GOVERNMENTAL AGENCIES, AND TRACKING CLAIMS SUBMITTED TO
23 ALL THIRD PARTY PAYORS INCLUDING GOVERNMENTAL AGENCIES.

24 S 3. Paragraph (a) of subdivision 3 of section 2559 of the public
25 health law is amended by adding a new subparagraph (iv) to read as
26 follows:

27 (IV) THE FISCAL AGENT SHALL, AT LEAST QUARTERLY, CONDUCT A RECONCIL-
28 IATION OF THIRD PARTY REIMBURSEMENT PURSUANT TO THIS SUBDIVISION AND
29 PROVIDE REIMBURSEMENT AT LEVELS IN ACCORDANCE WITH THIS TITLE TO THE
30 STATE AND MUNICIPALITIES.

31 S 4. Paragraph (d) of subdivision 3 of section 2559 of the public
32 health law, as amended by section 11 of part A of chapter 56 of the laws
33 of 2012, is amended to read as follows:

34 (d) A municipality, or its designee, and [a provider] THE STATE OR ITS
35 DESIGNATED FISCAL AGENT shall be subrogated, to the extent of the
36 expenditures by such municipality or for early intervention services
37 furnished to persons eligible for benefits under this title, to any
38 rights such person may have or be entitled to from third party
39 reimbursement. The [provider] STATE OR ITS DESIGNATED FISCAL AGENT shall
40 submit notice to the insurer or plan administrator of [his or her] ITS
41 exercise of such right of subrogation [upon the provider's assignment as
42 the early intervention service provider for the child]. The right of
43 subrogation does not attach to benefits paid or provided under any
44 health insurance policy or health benefits plan prior to receipt of
45 written notice of the exercise of subrogation rights by the insurer or
46 plan administrator providing such benefits.

47 S 5. This act shall take effect on the sixtieth day after it shall
48 have become a law, and (a) shall apply to any claim for payment by a
49 provider for services under title 2-A of article 25 of the public health
50 law that has not been fully paid pursuant to such title on or after such
51 effective date, whether filed before or after the effective date of this
52 act and (b) effective immediately, the commissioner of health is author-
53 ized and directed to promulgate regulations and take all actions neces-
54 sary and appropriate to implement the provisions of this act on its
55 effective date.