

6976

I N S E N A T E

April 9, 2014

Introduced by Sen. HANNON -- (at request of the Office for People with Developmental Disabilities) -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the social services law, in relation to a developmental disabilities managed care plan; to amend the mental hygiene law, in relation to the development of certain methodologies; and to repeal certain provisions of the mental hygiene law relating thereto

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

1 Section 1. Subdivision 1 of section 364-j of the social services law
2 is amended by adding a new paragraph (aa) to read as follows:
3 (AA) "DEVELOPMENTAL DISABILITIES MANAGED CARE PLAN". A MANAGED CARE
4 PLAN THAT HAS RECEIVED A CERTIFICATE OF AUTHORITY ISSUED BY THE COMMIS-
5 SIONER AND THE COMMISSIONER OF DEVELOPMENTAL DISABILITIES PURSUANT TO
6 SECTION FORTY-FOUR HUNDRED THREE-G OF THE PUBLIC HEALTH LAW.
7 S 2. Paragraph (a) of subdivision 3 of section 364-j of the social
8 services law, as amended by section 38 of part A of chapter 56 of the
9 laws of 2013, is amended to read as follows:
10 (a) Every person eligible for or receiving medical assistance under
11 this article, who resides in a social services district providing
12 medical assistance, which has implemented the state's managed care
13 program shall participate in the program authorized by this section.
14 Provided, however, that participation in a comprehensive HIV special
15 needs plan also shall be in accordance with article forty-four of the
16 public health law [and]; participation in a special needs managed care
17 plan shall also be in accordance with article forty-four of the public
18 health law and article thirty-one of the mental hygiene law AND PARTIC-
19 IPATION AND ENROLLMENT IN A DEVELOPMENTAL DISABILITIES MANAGED CARE PLAN
20 SHALL BE IN ACCORDANCE WITH SECTION FORTY-FOUR HUNDRED THREE-G OF THE
21 PUBLIC HEALTH LAW AND SECTION 13.40 OF THE MENTAL HYGIENE LAW.
22 S 3. Subparagraph (i) of paragraph (a) of subdivision 4 of section
23 364-j of the social services law, as amended by section 14 of part C of
24 chapter 58 of the laws of 2004, is amended to read as follows:

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

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1 (i) a managed care provider shall arrange for access to and enrollment
2 of primary care practitioners and other medical services providers;
3 PROVIDED, HOWEVER, THAT A DEVELOPMENTAL DISABILITIES MANAGED CARE PLAN
4 SHALL ARRANGE FOR ACCESS TO AND ENROLLMENT OF PRIMARY CARE PRACTITIONERS
5 IF SO AUTHORIZED. Each managed care provider shall possess the expertise
6 and sufficient resources to assure the delivery of quality medical care
7 to participants in an appropriate and timely manner and may include
8 physicians, nurse practitioners, county health departments, providers of
9 comprehensive health service plans licensed pursuant to article forty-
10 four of the public health law, and hospitals and diagnostic and treat-
11 ment centers licensed pursuant to article twenty-eight of the public
12 health law or otherwise authorized by law to offer comprehensive health
13 services or facilities licensed pursuant to articles sixteen, thirty-one
14 and thirty-two of the mental hygiene law.

15 S 4. Paragraph (b) of subdivision 4 of section 364-j of the social
16 services law, as amended by section 57 of part A of chapter 57 of the
17 laws of 2006, is amended to read as follows:

18 (b) Participants shall select a managed care provider from among those
19 designated under the managed care program, provided, however, a partic-
20 ipant shall be provided with a choice of no less than two managed care
21 providers. Notwithstanding the foregoing, a local social services
22 district designated a rural area as defined in 42 U.S.C. 1395ww may
23 limit a participant to one managed care provider, if the commissioner
24 and the local social services district find that only one managed care
25 provider is available, AND THE COMMISSIONER AND THE COMMISSIONER OF
26 DEVELOPMENTAL DISABILITIES MAY LIMIT A PARTICIPANT ELIGIBLE TO ENROLL IN
27 A DEVELOPMENTAL DISABILITIES MANAGED CARE PLAN TO ONE SUCH PLAN, IF
28 FEDERAL APPROVAL IS SECURED TO REQUIRE ENROLLMENT WHEN THERE ARE LESS
29 THAN TWO MANAGED CARE PLANS OPERATING IN THE PARTICIPANT'S COUNTY OF
30 RESIDENCE AUTHORIZED TO COORDINATE CARE OR PERSON WITH DEVELOPMENTAL
31 DISABILITIES PURSUANT TO ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW. A
32 managed care provider in a rural area shall offer a participant a choice
33 of at least three primary care practitioners and permit the individual
34 to obtain a service or seek a provider outside of the managed care
35 network where such service or provider is not available from within the
36 managed care provider network, PROVIDED, HOWEVER, THAT THIS REQUIREMENT
37 SHALL ONLY APPLY TO A DEVELOPMENTAL DISABILITIES MANAGED CARE PLAN TO
38 THE EXTENT IT IS AUTHORIZED TO COVER SUCH SERVICES.

39 S 5. Paragraph (c) of subdivision 4 of section 364-j of the social
40 services law, as amended by chapter 649 of the laws of 1996, is amended
41 to read as follows:

42 (c) Participants shall select a primary care practitioner from among
43 those designated by the managed care provider. In all districts, partic-
44 ipants shall be provided with a choice of no less than three primary
45 care practitioners. In the event that a participant does not select a
46 primary care practitioner, the participant's managed care provider shall
47 select a primary care practitioner for the participant, taking into
48 account geographic accessibility; PROVIDED, HOWEVER, THAT THIS PARAGRAPH
49 SHALL NOT APPLY IF A PARTICIPANT IS ENROLLED IN A DEVELOPMENTAL DISABIL-
50 ITIES MANAGED CARE PLAN THAT IS NOT AUTHORIZED TO ARRANGE FOR PRIMARY
51 CARE.

52 S 6. Subparagraphs (iv), (v), (vi) and (vii) of paragraph (e) of
53 subdivision 4 of section 364-j of the social services law, subparagraphs
54 (iv) and (vii) as amended by section 39 of part A of chapter 56 of the
55 laws of 2013, subparagraph (v) as amended by section 78 of part H of
56 chapter 59 of the laws of 2011, and subparagraph (vi) as amended by

1 section 14 of part C of chapter 58 of the laws of 2004, are amended to
2 read as follows:

3 (iv) Local social services districts or enrollment organizations
4 through their enrollment counselors, OR IN THE CASE OF DEVELOPMENTAL
5 DISABILITIES MANAGED CARE PLANS, THE OFFICE FOR PEOPLE WITH DEVELOP-
6 MENTAL DISABILITIES OR ENROLLMENT ORGANIZATIONS THROUGH THEIR ENROLLMENT
7 COUNSELORS, shall provide participants with the opportunity for face to
8 face counseling including individual counseling upon request of the
9 participant. Local social services districts or enrollment organizations
10 through their enrollment counselors shall also provide participants with
11 information in a culturally and linguistically appropriate and under-
12 standable manner, in light of the participant's needs, circumstances and
13 language proficiency, sufficient to enable the participant to make an
14 informed selection of a managed care provider. Such information shall
15 include, but shall not be limited to: how to access care within the
16 program; a description of the medical assistance services that can be
17 obtained other than through a managed care provider; the available
18 managed care providers and the scope of services covered by each; a
19 listing of the medical services providers associated with each managed
20 care provider; the participants' rights within the managed care program;
21 and how to exercise such rights. Enrollment counselors shall inquire
22 into each participant's existing relationships with medical services
23 providers and explain whether and how such relationships may be main-
24 tained within the managed care program. For enrollments made during face
25 to face counseling, if the participant has a preference for particular
26 medical services providers, enrollment counselors shall verify with the
27 medical services providers that such medical services providers whom the
28 participant prefers participate in the managed care provider's network
29 and are available to serve the participant.

30 (v) Upon delivery of the pre-enrollment information, the local
31 district or the enrollment organization shall certify the participant's
32 receipt of such information. Upon verification that the participant has
33 received the pre-enrollment education information, a managed care
34 provider, a local district or the enrollment organization may enroll a
35 participant into a managed care provider. Managed care providers must
36 submit enrollment forms to the local department of social services. Upon
37 enrollment, participants will sign an attestation that they have been
38 informed that: participants have a choice of managed care providers;
39 participants have a choice of primary care practitioners; and, except as
40 otherwise provided in this section, including but not limited to the
41 exceptions listed in subparagraph (iii) of paragraph (a) of this subdi-
42 vision, participants must exclusively use their primary care practition-
43 ers and plan providers. The commissioner of health may suspend or
44 curtail enrollment or impose sanctions for failure to appropriately
45 notify clients as required in this subparagraph. ENROLLMENT IN A DEVEL-
46 OPMENTAL DISABILITIES MANAGED CARE PLAN SHALL NOT BE GOVERNED BY THIS
47 SUBPARAGRAPH.

48 (vi) Enrollment counselors or local social services districts, OR, AS
49 APPROPRIATE, ENROLLMENT COUNSELORS OR THE OFFICE FOR PEOPLE WITH DEVEL-
50 OPMENTAL DISABILITIES, shall further inquire into each participant's
51 health status in order to identify physical or behavioral conditions
52 that require immediate attention or continuity of care, and provide to
53 participants information regarding health care options available to
54 persons with HIV and other illnesses or conditions under the managed
55 care program. Any information disclosed to counselors shall be kept

1 confidential in accordance with applicable provisions of the public
2 health law, and as appropriate, the mental hygiene law.

3 (vii) Any marketing materials developed by a managed care provider
4 shall be approved by the department of health or the local social
5 services district, and the commissioner of mental health and the commis-
6 sioner of alcoholism and substance abuse services, OR THE COMMISSIONER
7 OF DEVELOPMENTAL DISABILITIES, where appropriate, within sixty days
8 prior to distribution to recipients of medical assistance. All marketing
9 materials shall be reviewed within sixty days of submission.

10 S 7. Paragraph (f) of subdivision 4 of section 364-j of the social
11 services law is amended by adding a new subparagraph (vi) to read as
12 follows:

13 (VI) THE PROVISIONS OF THIS PARAGRAPH SHALL NOT APPLY TO PARTICIPANTS
14 ELIGIBLE TO ENROLL IN A DEVELOPMENT DISABILITIES MANAGED CARE PLAN.

15 S 8. Paragraph (g) of subdivision 4 of section 364-j of the social
16 services law, as amended by section 39 of part A of chapter 56 of the
17 laws of 2013, is amended to read as follows:

18 (g) If another managed care provider is available, participants may
19 change such provider or plan without cause within thirty days of notifi-
20 cation of enrollment or the effective date of enrollment, whichever is
21 later with a managed care provider by making a request of the local
22 social services district except that such period shall be forty-five
23 days for participants who have been assigned to a provider by the
24 commissioner of health. However, after such thirty or forty-five day
25 period, whichever is applicable, a participant may be prohibited from
26 changing managed care providers more frequently than once every twelve
27 months, as permitted by federal law except for good cause as determined
28 by the commissioner of health through regulations. NOTWITHSTANDING ANY
29 PROVISION OF THIS PARAGRAPH, PARTICIPANTS MAY CHANGE A MANAGED CARE
30 PROVIDER TO ENROLL IN A DEVELOPMENTAL DISABILITIES MANAGED CARE PLAN AT
31 ANY TIME WITHOUT CAUSE AND MAY CHANGE DEVELOPMENTAL DISABILITIES MANAGED
32 CARE PLANS AT ANY TIME WITHOUT CAUSE.

33 S 9. Paragraph (h) of subdivision 4 of section 364-j of the social
34 services law, as amended by section 39 of part A of chapter 56 of the
35 laws of 2013, is amended to read as follows:

36 (h) If another medical services provider is available, a participant
37 may change his or her provider of medical services (including primary
38 care practitioners) without cause within thirty days of the partic-
39 ipant's first appointment with a medical services provider by making a
40 request of the managed care provider. However, after that thirty day
41 period, no participant shall be permitted to change his or her provider
42 of medical services other than once every six months except for good
43 cause as determined by the commissioner through regulations. THIS PARA-
44 GRAPH SHALL NOT APPLY TO PARTICIPANTS ENROLLED IN DEVELOPMENTAL DISABIL-
45 ITIES MANAGED CARE PLANS.

46 S 10. Paragraph (i) of subdivision 4 of section 364-j of the social
47 services law, as amended by section 39 of part A of chapter 56 of the
48 laws of 2013, is amended to read as follows:

49 (i) A managed care provider requesting a disenrollment shall not
50 disenroll a participant without the prior approval of the local social
51 services district in which the participant resides, OR, IN THE CASE OF A
52 DEVELOPMENTAL DISABILITIES MANAGED CARE PLAN, WITHOUT THE PRIOR APPROVAL
53 OF THE COMMISSIONER OF DEVELOPMENTAL DISABILITIES, provided that disen-
54 rollment from a special needs managed care plan must comply with the
55 standards of the commissioner of health, the commissioner of alcoholism
56 and substance abuse services, and the commissioner of mental health AND

1 DISENROLLMENT FROM A DEVELOPMENTAL DISABILITIES MANAGED CARE PLAN MUST
2 COMPLY WITH THE STANDARDS OF THE COMMISSIONER OF HEALTH AND THE COMMIS-
3 SIONER OF DEVELOPMENTAL DISABILITIES. A managed care provider shall not
4 request disenrollment of a participant based on any diagnosis, condi-
5 tion, or perceived diagnosis or condition, or a participant's efforts to
6 exercise his or her rights under a grievance process, provided however,
7 that a managed care provider may, where medically appropriate, request
8 permission to refer participants to a managed care provider that is a
9 special needs managed care plan or a comprehensive HIV special needs
10 plan after consulting with such participant and upon obtaining his/her
11 consent to such referral, and provided further that a special needs
12 managed care plan may, where clinically appropriate, disenroll individ-
13 uals who no longer require the level of services provided by a special
14 needs managed care plan.

15 S 11. Paragraph (m) of subdivision 4 of section 364-j of the social
16 services law, as amended by chapter 649 of the laws of 1996, is amended
17 to read as follows:

18 (m) A managed care provider shall provide all early periodic screening
19 diagnosis and treatment services, as well as interperiodic screening and
20 referral, to each participant under the age of twenty-one, at regular
21 intervals, as medically appropriate, EXCEPT THAT A DEVELOPMENTAL DISA-
22 BILITIES MANAGED CARE PLAN SHALL ONLY BE REQUIRED TO PROVIDE SUCH
23 SERVICES IF SO AUTHORIZED.

24 S 12. Paragraph (n) of subdivision 4 of section 364-j of the social
25 services law, as amended by chapter 484 of the laws of 2009, is amended
26 to read as follows:

27 (n) A managed care provider shall provide or arrange, directly or
28 indirectly (including by referral) for the provision of comprehensive
29 prenatal care services to all pregnant participants in accordance with
30 standards adopted by the department of health, EXCEPT THAT A DEVELOP-
31 MENTAL DISABILITIES MANAGED CARE PLAN SHALL ONLY BE REQUIRED TO PROVIDE
32 OR ARRANGE FOR SUCH SERVICES IF SO AUTHORIZED.

33 S 13. Paragraph (v) of subdivision 4 of section 364-j of the social
34 services law, as added by section 39 of part A of chapter 56 of the laws
35 of 2013, is amended to read as follows:

36 (v) A managed care provider must allow enrollees to access chemical
37 dependence treatment services from facilities certified by the office of
38 alcoholism and substance abuse services, even if such services are
39 rendered by a practitioner who would not otherwise be separately reim-
40 bursed, including but not limited to a credentialed alcoholism and
41 substance abuse counselor (CASAC), EXCEPT THAT A DEVELOPMENTAL DISABILI-
42 TIES MANAGED CARE PLAN SHALL ONLY BE REQUIRED TO ALLOW ACCESS TO SUCH
43 SERVICES IF SO AUTHORIZED.

44 S 14. Paragraph (g) of subdivision 5 of section 364-j of the social
45 services law, as added by section 15 of part C of chapter 58 of the laws
46 of 2004, is amended to read as follows:

47 (g) The commissioner of health may delegate some or all of the tasks
48 identified in this section to the local districts, EXCEPT THAT THE
49 COMMISSIONER OF HEALTH MAY NOT MAKE ANY SUCH DELEGATION WITH RESPECT TO
50 DEVELOPMENTAL DISABILITIES MANAGED CARE PLANS.

51 S 15. Paragraph (b) of subdivision 6 of section 364-j of the social
52 services law, as added by chapter 649 of the laws of 1996, is amended to
53 read as follows:

54 (b) distribute marketing materials to recipients of medical assist-
55 ance, unless such materials are approved by the department of health

1 and, as appropriate, the office of mental health OR THE OFFICE FOR
2 PEOPLE WITH DEVELOPMENTAL DISABILITIES.

3 S 16. Subparagraph (ii) of paragraph (f) of subdivision 8 of section
4 364-j of the social services law, as added by chapter 649 of the laws of
5 1996, is amended to read as follows:

6 (ii) there are opportunities to select from at least three primary
7 care providers, PROVIDED HOWEVER THAT THIS REQUIREMENT SHALL NOT APPLY
8 TO DEVELOPMENTAL DISABILITY MANAGED CARE PLANS THAT ARE NOT AUTHORIZED
9 TO OFFER OR ARRANGE FOR PRIMARY CARE; and

10 S 17. The opening paragraph of paragraph (f) of subdivision 27 of
11 section 364-j of the social services law, as added by section 72 of part
12 A of chapter 56 of the laws of 2013, is amended to read as follows:

13 Notwithstanding any inconsistent provisions of this section and
14 sections one hundred twelve and one hundred sixty-three of the state
15 finance law, or section one hundred forty-two of the economic develop-
16 ment law, or any other law to the contrary, the commissioner of health
17 and, in the case of FIDAs authorized exclusively to enroll persons with
18 developmental disabilities, the commissioner of health and the commis-
19 sioner of the office for people with developmental disabilities, may
20 contract with FIDAs approved under this section without a competitive
21 bid or request for proposal process, [are authorized to enter into a
22 contract or contracts under this section,] provided, however, that:

23 S 18. The opening paragraph of subdivision (g) of section 13.40 of the
24 mental hygiene law, as added by section 72-b of part A of chapter 56 of
25 the laws of 2013, is amended to read as follows:

26 Notwithstanding any inconsistent provision of sections one hundred
27 twelve and one hundred sixty-three of the state finance law, or section
28 one hundred forty-two of the economic development law, or any other law
29 to the contrary, the commissioner and the commissioner of health are
30 authorized to enter into a contract or contracts under section forty-
31 four hundred three-g of the public health law, subdivision eight of
32 section forty-four hundred three of the public health law, and subdivi-
33 sion twelve of section forty-four hundred three-f of the public health
34 law, AND TO ENTER INTO CONTRACTS WITH APPLICANTS FOR A CERTIFICATE OF
35 AUTHORITY PURSUANT TO SECTION FORTY-FOUR HUNDRED THREE-G OF THE PUBLIC
36 HEALTH LAW FOR COSTS ASSOCIATED WITH DEVELOPING INFORMATION TECHNOLOGY,
37 HUMAN RESOURCES AND CARE COORDINATION SYSTEMS NECESSARY TO OPERATE A
38 DISCO, provided, however, that:

39 S 19. Section 13.40 of the mental hygiene law is amended by adding a
40 new subdivision (h) to read as follows:

41 (H) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SECTIONS ONE HUNDRED
42 TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, OR SECTION
43 ONE HUNDRED FORTY-TWO OF THE ECONOMIC DEVELOPMENT LAW, OR ANY OTHER LAW
44 TO THE CONTRARY, THE COMMISSIONER AND THE COMMISSIONER OF HEALTH ARE
45 AUTHORIZED TO ENTER INTO CONTRACTS FOR ANY OF THE FOLLOWING AS NECESSARY
46 TO OVERSEE AND DEVELOP, OPERATE AND OVERSEE A MANAGED CARE SYSTEM UNDER
47 THE PEOPLE FIRST WAIVER PROGRAM: QUALITY ASSESSMENT, QUALITY IMPROVE-
48 MENT, ASSESSMENTS OF ENROLLEES, ENROLLMENT COUNSELING AND ENROLLMENT
49 PROCESSING, OUTSIDE ADVOCACY AND INFORMATION TECHNOLOGY, PROVIDED,
50 HOWEVER, THAT:

51 1. THE OFFICE SHALL POST ON ITS WEBSITE, FOR A PERIOD OF NO LESS THAN
52 THIRTY DAYS:

53 (1) A DESCRIPTION OF THE PROPOSED SERVICES TO BE PROVIDED PURSUANT TO
54 THE CONTRACT OR CONTRACTS;

55 (2) THE CRITERIA FOR SELECTION OF A CONTRACTOR OR CONTRACTORS;

1 (3) THE PERIOD OF TIME DURING WHICH A PROSPECTIVE CONTRACTOR MAY SEEK
2 SELECTION, WHICH SHALL BE NO LESS THAN THIRTY DAYS AFTER SUCH INFORMA-
3 TION IS FIRST POSTED ON THE WEBSITE; AND

4 (4) THE MANNER BY WHICH A PROSPECTIVE CONTRACTOR MAY SEEK SUCH
5 SELECTION, WHICH MAY INCLUDE SUBMISSION BY ELECTRONIC MEANS;

6 2. ALL REASONABLE AND RESPONSIVE SUBMISSIONS THAT ARE RECEIVED FROM
7 PROSPECTIVE CONTRACTORS IN A TIMELY FASHION SHALL BE REVIEWED BY THE
8 COMMISSIONERS; AND

9 3. THE COMMISSIONER AND THE COMMISSIONER OF HEALTH MAY JOINTLY SELECT
10 SUCH CONTRACTOR OR CONTRACTORS THAT, IN THEIR DISCRETION, HAVE DEMON-
11 STRATED THE ABILITY TO PERFORM THE SERVICES REQUESTED IN A COST-EFFEC-
12 TIVE MANNER AND TO PERFORM SUCH SERVICES AND DELIVER WORK PRODUCTS THAT
13 WILL BE OF ADEQUATE QUALITY TO MEET THE NEEDS OF THE OFFICE AND THE
14 DEPARTMENT OF HEALTH AND THE INTERESTS OF INDIVIDUALS PARTICIPATING IN
15 THE PEOPLE FIRST WAIVER PROGRAM.

16 S 20. Subdivisions (a), (b), (c), (d), (e), (f), (g), (h), (i), (j),
17 (k), (l), (m) and (o) of section 41.36 of the mental hygiene law are
18 REPEALED.

19 S 21. Subdivision (n) of section 41.36 of the mental hygiene law, as
20 amended by chapter 525 of the laws of 1985, is amended to read as
21 follows:

22 (n) The commissioner OF DEVELOPMENTAL DISABILITIES shall establish a
23 procedure, subject to the approval of the state comptroller, whereby
24 payments in addition to the [client's] personal allowance OF AN INDIVID-
25 UAL LIVING IN A COMMUNITY RESIDENTIAL FACILITY may be made to providers
26 of services for one or more of the following needs of [clients] INDIVID-
27 UALS residing in such facilities, limited to two hundred fifty dollars
28 per [client] INDIVIDUAL per year and paid semi-annually in the manner
29 specified by such procedures:

30 1. Replacement of necessary clothing;

31 2. Personal requirements and incidental needs of [clients] INDIVIDUALS
32 RESIDING IN THE FACILITY;

33 3. Recreational and cultural activities of [clients] INDIVIDUALS
34 RESIDING IN THE FACILITY. Such payments may be made from monies appro-
35 priated to the office for this purpose. Such payments shall be audited
36 by the office pursuant to an audit plan approved by the comptroller.

37 S 22. Subdivision (a) of section 43.02 of the mental hygiene law, as
38 amended by chapter 168 of the laws of 2010, is amended to read as
39 follows:

40 (a) Notwithstanding any inconsistent provision of law, payment made by
41 government agencies pursuant to title eleven of article five of the
42 social services law for services provided by any facility licensed by
43 the office of mental health pursuant to article thirty-one of this chap-
44 ter or licensed or operated by the office for people with developmental
45 disabilities pursuant to article sixteen of this chapter or certified by
46 the office of alcoholism and substance abuse services pursuant to this
47 chapter to provide inpatient chemical dependence services, as defined in
48 section 1.03 of this chapter, shall be at rates or fees certified by the
49 commissioner of the respective office and approved by the director of
50 the division of the budget, provided, however, the commissioner of
51 mental health shall annually certify such rates or fees which may vary
52 for distinct geographical areas of the state and, provided, further,
53 that rates or fees for service for inpatient psychiatric services or
54 inpatient chemical dependence services, at hospitals otherwise licensed
55 pursuant to article twenty-eight of the public health law shall be
56 established in accordance with section two thousand eight hundred seven

1 of the public health law AND, PROVIDED, FURTHER, THAT RATES OR FEES FOR
2 SERVICES PROVIDED BY ANY FACILITY LICENSED OR OPERATED BY THE OFFICE FOR
3 PEOPLE WITH DEVELOPMENTAL DISABILITIES PURSUANT TO ARTICLE SIXTEEN OF
4 THIS CHAPTER AND DEVELOPED PURSUANT TO REVISED METHODOLOGIES DEVELOPED
5 AS A CONDITION OF FEDERAL APPROVAL OF THE PEOPLE FIRST WAIVER PROGRAM
6 SHALL BE CERTIFIED BY THE COMMISSIONER OF HEALTH; PROVIDED, HOWEVER,
7 THAT SUCH METHODOLOGIES SHALL TAKE INTO ACCOUNT THE POLICIES AND GOALS
8 OF THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES.

9 S 23. Paragraph (ii) of subdivision (c) of section 43.02 of the mental
10 hygiene law, as amended by chapter 168 of the laws of 2010, is amended
11 to read as follows:

12 (ii) methodologies used in the establishment of the schedules of rates
13 or fees pursuant to this section, PROVIDED, HOWEVER THAT THE COMMISSION-
14 ER OF HEALTH SHALL ADOPT RULES AND REGULATIONS INCLUDING METHODOLOGIES
15 DEVELOPED BY HIM OR HER FOR SERVICES PROVIDED BY ANY FACILITY LICENSED
16 OR OPERATED BY THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES
17 PURSUANT TO SUBDIVISION (A) OF THIS SECTION.

18 S 24. This act shall take effect immediately; provided, however, that
19 the amendments to section 364-j of the social services law made by
20 sections one, two, three, four, five, six, seven, eight, nine, ten,
21 eleven, twelve, thirteen, fourteen, fifteen, sixteen and seventeen of
22 this act shall not affect the repeal of such section and shall be deemed
23 repealed therewith.