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

2844

2013-2014 Regular Sessions

I N A S S E M B L Y

January 18, 2013

Introduced by M. of A. GOTTFRIED, BARRON, GALEF, PAULIN, ROSENTHAL, TITONE, ENGLEBRIGHT, MILLMAN, JAFFEE, ABINANTI, STEVENSON -- Multi-Sponsored by -- M. of A. BRENNAN, CLARK, FARRELL, McDONALD -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to the distribution of funds to support the provision of general hospital indigent care; and to amend chapter 119 of the laws of 1997 relating to authorizing the department of health to establish certain payments to general hospitals, in relation to the effectiveness thereof

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

Section 1. Section 2807-k of the public health law is amended by adding a new subdivision 5-d to read as follows:

5-D. (A) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF THIS SECTION, SECTION TWENTY-EIGHT HUNDRED SEVEN-W OF THIS ARTICLE OR ANY OTHER CONTRARY PROVISION OF LAW, AND SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTICIPATION, FOR PERIODS ON AND AFTER JANUARY FIRST, TWO THOUSAND THIRTEEN THROUGH DECEMBER THIRTY-FIRST, TWO THOUSAND FIFTEEN, ALL FUNDS AVAILABLE FOR DISTRIBUTION PURSUANT TO THIS SECTION AND SECTION TWENTY-EIGHT HUNDRED SEVEN-W OF THIS ARTICLE, SHALL BE RESERVED AND SET ASIDE AND DISTRIBUTED IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBDIVISION.

(B) THE COMMISSIONER SHALL MAKE REGULATIONS UNDER THIS SECTION, INCLUDING EMERGENCY REGULATIONS, ESTABLISHING METHODOLOGIES FOR THE DISTRIBUTION OF FUNDS, IN ACCORDANCE WITH FEDERAL REQUIREMENTS. THE REGULATIONS SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING:

(I) THE REGULATIONS SHALL ESTABLISH METHODOLOGIES FOR DETERMINING EACH FACILITY'S RELATIVE UNCOMPENSATED CARE NEED AMOUNT BASED ON UNINSURED INPATIENT AND OUTPATIENT UNITS OF SERVICE FROM THE COST REPORTING YEAR TWO YEARS PRIOR TO THE DISTRIBUTION YEAR, MULTIPLIED BY THE APPLICABLE MEDICAID RATES IN EFFECT JANUARY FIRST OF THE DISTRIBUTION YEAR, AS

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

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SUMMED AND ADJUSTED BY A STATEWIDE COST ADJUSTMENT FACTOR AND REDUCED BY THE SUM OF ALL PAYMENT AMOUNTS COLLECTED FROM SUCH UNINSURED PATIENTS, AND AS FURTHER ADJUSTED BY APPLICATION OF A GRADUATED NOMINAL NEED COMPUTATION THAT SHALL TAKE INTO ACCOUNT EACH FACILITY'S MEDICAID INPATIENT SHARE.

(II) ANNUAL DISTRIBUTIONS UNDER THIS SUBDIVISION SHALL BE IN ACCORD WITH THE FOLLOWING:

(A) ONE HUNDRED THIRTY-NINE MILLION FOUR HUNDRED THOUSAND DOLLARS SHALL BE DISTRIBUTED AS MEDICAID DISPROPORTIONATE SHARE HOSPITAL ("DSH") PAYMENTS TO MAJOR PUBLIC GENERAL HOSPITALS; AND

(B) NINE HUNDRED NINETY-FOUR MILLION NINE HUNDRED THOUSAND DOLLARS SHALL BE DISTRIBUTED AS MEDICAID DSH PAYMENTS TO ELIGIBLE GENERAL HOSPITALS, OTHER THAN MAJOR PUBLIC GENERAL HOSPITALS.

(III) (A) FOR THE TWO THOUSAND THIRTEEN AND TWO THOUSAND FOURTEEN CALENDAR YEARS, THE REGULATIONS SHALL ESTABLISH TRANSITION ADJUSTMENTS TO THE DISTRIBUTIONS MADE UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH SO THAT NO FACILITY EXPERIENCES A REDUCTION IN INDIGENT CARE POOL PAYMENTS UNDER THIS SUBDIVISION THAT IS GREATER THAN THE PERCENTAGES, AS SPECIFIED IN THE REGULATIONS, AS COMPARED TO THE AVERAGE DISTRIBUTION THAT EACH SUCH FACILITY RECEIVED FOR THE THREE CALENDAR YEARS PRIOR TO TWO THOUSAND THIRTEEN PURSUANT TO THIS SECTION AND SECTION TWENTY-EIGHT HUNDRED SEVEN-W OF THIS ARTICLE.

(B) THE REGULATIONS SHALL ALSO ESTABLISH ADJUSTMENTS LIMITING THE INCREASES IN INDIGENT CARE POOL PAYMENTS EXPERIENCED BY FACILITIES UNDER THIS SUBDIVISION BY AN AMOUNT THAT WILL BE, AS DETERMINED BY THE COMMISSIONER AND IN CONJUNCTION WITH SUCH OTHER FUNDING AS MAY BE AVAILABLE FOR THIS PURPOSE, SUFFICIENT TO ENSURE FULL FUNDING FOR THE TRANSITION ADJUSTMENT PAYMENTS AUTHORIZED BY CLAUSE (A) OF THIS SUBPARAGRAPH.

(IV) THE REGULATIONS SHALL RESERVE ONE PERCENT OF THE FUNDS AVAILABLE FOR DISTRIBUTION IN THE TWO THOUSAND FOURTEEN THROUGH TWO THOUSAND SEVENTEEN CALENDAR YEARS UNDER THIS SUBDIVISION, PARAGRAPH (I) OF SUBDIVISION THIRTY-FIVE OF SECTION TWENTY-EIGHT HUNDRED SEVEN-C OF THIS ARTICLE, AND SECTIONS TWO HUNDRED ELEVEN AND TWO HUNDRED TWELVE OF CHAPTER FOUR HUNDRED SEVENTY-FOUR OF THE LAWS OF NINETEEN HUNDRED NINETY-SIX, IN A "FINANCIAL ASSISTANCE COMPLIANCE POOL." THE REGULATIONS SHALL ESTABLISH METHODOLOGIES AND STANDARDS UNDER WHICH SUCH POOL FUNDS SHALL BE DISTRIBUTED TO FACILITIES BASED ON THEIR LEVEL OF COMPLIANCE, AS DETERMINED BY THE COMMISSIONER, WITH THE PROVISIONS OF SUBDIVISION NINE-A OF THIS SECTION.

(C) THE COMMISSIONER SHALL ANNUALLY REPORT TO THE GOVERNOR AND THE LEGISLATURE ON THE DISTRIBUTION OF FUNDS UNDER THIS SUBDIVISION INCLUDING, BUT NOT LIMITED TO:

(I) THE IMPACT ON SAFETY NET PROVIDERS, INCLUDING SOLE COMMUNITY PROVIDERS, RURAL GENERAL HOSPITALS AND MAJOR PUBLIC GENERAL HOSPITALS;

(II) THE PROVISION OF INDIGENT CARE BY UNITS OF SERVICE AND FUNDS DISTRIBUTED BY GENERAL HOSPITALS; AND

(III) THE EXTENT TO WHICH ACCESS TO CARE HAS BEEN ENHANCED.

S 2. Section 3 of chapter 119 of the laws of 1997 relating to authorizing the department of health to establish certain payments to general hospitals, as amended by section 1 of part N of chapter 58 of the laws of 2009, is amended to read as follows:

S 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 1997. This act shall expire April 1, [2012] 2015.

S 3. The opening paragraph of subparagraph (i) of paragraph (i) of subdivision 35 of section 2807-c of the public health law, as added by

section 3-a of part B of chapter 109 of the laws of 2010, is amended to read as follows:

Notwithstanding any inconsistent provision of this subdivision or any other contrary provision of law and subject to the availability of federal financial participation, for the period July first, two thousand ten through March thirty-first, two thousand eleven, and each state fiscal year period thereafter, the commissioner shall make additional inpatient hospital payments up to the aggregate upper payment limit for inpatient hospital services after all other medical assistance payments, but not to exceed two hundred thirty-five million five hundred thousand dollars for the period July first, two thousand ten through March thirty-first, two thousand eleven [and], three hundred fourteen million dollars for each state fiscal year BEGINNING APRIL FIRST, TWO THOUSAND ELEVEN, THROUGH MARCH THIRTY-FIRST, TWO THOUSAND THIRTEEN, AND NO LESS THAN THREE HUNDRED THIRTY-NINE MILLION DOLLARS FOR EACH STATE FISCAL YEAR thereafter, to general hospitals, other than major public general hospitals, providing emergency room services and including safety net hospitals, which shall, for the purpose of this paragraph, be defined as having either: a Medicaid share of total inpatient hospital discharges of at least thirty-five percent, including both fee-for-service and managed care discharges for acute and exempt services; or a Medicaid share of total discharges of at least thirty percent, including both fee-for-service and managed care discharges for acute and exempt services, and also providing obstetrical services. Eligibility to receive such additional payments shall be based on data from the period two years prior to the rate year, as reported on the institutional cost report submitted to the department as of October first of the prior rate year. Such payments shall be made as medical assistance payments for fee-for-service inpatient hospital services pursuant to title eleven of article five of the social services law for patients eligible for federal financial participation under title XIX of the federal social security act and in accordance with the following:

S 4. This act shall take effect immediately; provided, however, that section two of this act shall be deemed to have been in full force and effect on and after April 1, 2012.