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

4062--B

Cal. No. 196

2013-2014 Regular Sessions

I N A S S E M B L Y

January 30, 2013

Introduced by M. of A. GOTTFRIED, JAFFEE -- Multi-Sponsored by -- M. of A. McDONALD -- read once and referred to the Committee on Health -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the social services law, in relation to the special advisory review panel on Medicaid managed care

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

Section 1. Section 364-jj of the social services law, as amended by section 80-a of part A of chapter 56 of the laws of 2013, is amended to read as follows:

S 364-jj. Special advisory review panel on Medicaid managed care. (a) There is hereby established a special advisory review panel on Medicaid managed care AND RELATED PUBLIC HEALTH INSURANCE PROGRAMS, INCLUDING CHILD HEALTH PLUS, FAMILY HEALTH PLUS, MANAGED LONG TERM CARE PROGRAMS AND RELATED CARE COORDINATION MODELS, MANAGED CARE PROGRAMS DIRECTED AT COORDINATING CARE FOR DUALLY ELIGIBLE MEDICAID AND MEDICARE ENROLLEES, AND OTHER PUBLIC HEALTH COVERAGE CARE MANAGEMENT PROGRAMS, INCLUDING BUT NOT LIMITED TO HEALTH HOMES AND MEDICAL HOMES. The panel shall consist of [twelve] THIRTEEN members who shall be appointed as follows: [four] FIVE by the governor, one of which shall serve as the chair, TWO OF WHICH SHALL BRING EXPERTISE IN ACCESS ISSUES FACING MEDICAID CONSUMERS WITH DISABILITIES, AND ONE OF WHICH SHALL BEING EXPERTISE IN ACCESS ISSUES FACING CHILDREN, AND ONE SHALL BE A MEDICAID BENEFICIARY; three each by the temporary president of the senate and the speaker of the assembly; and one each by the minority leader of the senate and the minority leader of the assembly. At least three members of such panel shall be members of the joint advisory panel established under section 13.40 of the mental hygiene law. Members shall serve without compen-

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

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sation but shall be reimbursed for appropriate expenses. The department shall provide technical assistance and access to data as is required for the panel to effectuate the mission and purposes established herein. THE PANEL SHALL BE REQUIRED TO SEEK PUBLIC COMMENT ON MATTERS WITHIN ITS JURISDICTION. PANEL MEETING TIMES, AGENDAS, AND MINUTES SHALL BE POSTED PUBLICLY ON THE DEPARTMENT'S WEBSITE AT LEAST ONE WEEK PRIOR TO EACH MEETING.

(b) The panel shall MEET NO LESS THAN SIX TIMES PER YEAR, WITH ADDITIONAL SUBCOMMITTEE MEETINGS AS DEEMED NECESSARY TO ADDRESS SPECIALIZED ISSUES, IN ORDER TO:

(i) determine whether there is sufficient managed care provider participation in the Medicaid managed care program AND RELATED PROGRAMS;

(ii) determine whether managed care providers meet proper enrollment targets that permit as many Medicaid recipients as possible to make their own health plan decisions, thus minimizing the number of automatic assignments;

(iii) review AND DETERMINE THE APPROPRIATENESS OF the phase-in schedule, AND THE AVAILABILITY OF SPECIALTY SERVICES for enrollment[,] of ADDITIONAL POPULATIONS AND managed care providers under both the voluntary and mandatory programs AND EVALUATE STEPS TAKEN TO ENSURE CONTINUITY OF CARE DURING AND AFTER THE TRANSITION;

(iv) assess the impact of managed care provider marketing and enrollment strategies, [and the] INCLUDING public education [campaign conducted in New York city, on enrollees] CAMPAIGNS, ENROLLEE participation in Medicaid managed care plans AND RELATED PROGRAMS;

(v) evaluate the adequacy of managed care provider capacity by reviewing established capacity measurements and monitoring actual access to plan practitioners, INCLUDING TIMELY ACCESS TO SPECIALTY CARE FOR PEOPLE WITH DISABILITIES AND OTHERS IN NEED OF SUCH CARE, WITH PARTICULAR ATTENTION TO CAPACITY FOR SERVICES PREVIOUSLY PROVIDED IN THE TRADITIONAL FEE FOR SERVICE ENVIRONMENT;

(vi) examine the [cost] implications of [populations excluded and exempted from Medicaid managed care] FEDERAL HEALTH CARE REFORM ON THE MEDICAID MANAGED CARE PROGRAM AND RELATED PROGRAMS, WITH PARTICULAR ATTENTION TO THE INTEGRATION OF PUBLIC PROGRAM FUNCTIONS WITH SUBSIDIZED PRODUCTS AVAILABLE IN ANY POTENTIAL STATE INSURANCE EXCHANGE AND ANY OTHER SUBSIDIZED PRODUCTS, SUCH AS A BASIC HEALTH PLAN;

(vii) in accordance with the recommendations of the joint advisory council established pursuant to section 13.40 of the mental hygiene law, advise the commissioners of health and developmental disabilities with respect to the oversight of DISCOs and of health maintenance organizations and managed long term care plans providing services authorized, funded, approved or certified by the office for people with developmental disabilities, and review all managed care options provided to persons with developmental disabilities, including: the adequacy of support for habilitation services; the record of compliance with requirements for person-centered planning, person-centered services and community integration; the adequacy of rates paid to providers in accordance with the provisions of paragraph [1] (L) of subdivision four of section forty-four hundred [three] THREE-G of the public health law, paragraph (a-2) of subdivision eight of section forty-four hundred three of the public health law or paragraph (a-2) of subdivision twelve of section forty-four hundred three-f of the public health law; and the quality of life, health, safety and community integration of persons with developmental disabilities enrolled in managed care; [and]

(viii) EVALUATE TRENDS IN SERVICE DENIALS BY MEDICAID MANAGED CARE PLANS AND RELATED PROGRAMS, ASSESS EFFECTIVENESS OF GRIEVANCE AND APPEAL MECHANISMS FOR CONSUMERS;

(IX) EVALUATE DATA COLLECTION AND REPORTING ON HEALTH CARE ACCESS AND QUALITY BY RACE, ETHNICITY, LANGUAGE, DISABILITY AND OTHER FACTORS AND THE AVAILABILITY OF SERVICES AND PROGRAMS THAT ADDRESS THE DISPARITIES IN ACCESS TO CARE AND OUTCOMES OF CARE;

(X) EVALUATE IMPLEMENTATION OF CONSUMER PROTECTIONS;

(XI) REVIEW WAIVER APPLICATIONS BEFORE ANY DRAFT PROPOSALS ARE SUBMITTED TO THE FEDERAL GOVERNMENT AND AMENDMENTS AND STATE PLAN AMENDMENTS RELATED TO TOPICS AND PROGRAMS WITHIN ITS JURISDICTION, AND SOLICIT PUBLIC INVOLVEMENT IN THE PROPOSALS;

(XII) REVIEW AND DETERMINE THE ADEQUACY AND APPROPRIATENESS OF PROGRAM MATERIALS AND PLAN-FINDING AIDS, INCLUDING BUT NOT LIMITED TO, NETWORK, CONTRACT PROVISIONS, ELIGIBILITY AND BENEFIT APPEAL PROCEDURES; AND

(XIII) examine other issues as it deems appropriate.

(c) Commencing January first, [nineteen hundred ninety-seven] TWO THOUSAND FIFTEEN and quarterly thereafter the panel shall [submit a report regarding the status of Medicaid managed care in the state and provide recommendations if it] PROVIDE WRITTEN RECOMMENDATIONS AND INPUT AS IT deems appropriate to the governor, the temporary president and the minority leader of the senate, and the speaker and the minority leader of the assembly ON MATTERS WITHIN ITS JURISDICTION.

S 2. Section 364-jj of the social services law, as added by chapter 649 of the laws of 1996, is amended to read as follows:

S 364-jj. Special advisory review panel on Medicaid managed care. (a) There is hereby established a special advisory review panel on Medicaid managed care AND RELATED PUBLIC HEALTH INSURANCE PROGRAMS, INCLUDING CHILD HEALTH PLUS, FAMILY HEALTH PLUS, MANAGED LONG TERM CARE PROGRAMS AND RELATED CARE COORDINATION MODELS, MANAGED CARE PROGRAMS DIRECTED AT COORDINATING CARE FOR DUALLY ELIGIBLE MEDICAID AND MEDICARE ENROLLEES, AND OTHER PUBLIC HEALTH COVERAGE CARE MANAGEMENT PROGRAMS, INCLUDING BUT NOT LIMITED TO HEALTH HOMES AND MEDICAL HOMES. The panel shall consist of [nine] ELEVEN members who shall be appointed as follows: [three] FIVE by the governor, one of which shall serve as the chair, TWO OF WHICH SHALL BRING EXPERTISE IN ACCESS ISSUES FACING MEDICAID CONSUMERS WITH DISABILITIES, AND ONE OF WHICH SHALL BRING EXPERTISE IN ACCESS ISSUES FACING CHILDREN, AND ONE SHALL BE A MEDICAID BENEFICIARY; two each by the temporary president of the senate and the speaker of the assembly; and one each by the minority leader of the senate and the minority leader of the assembly. [All members shall be appointed no later than September first, nineteen hundred ninety-six.] Members shall serve without compensation but shall be reimbursed for appropriate expenses. The department shall provide technical assistance and access to data as is required for the panel to effectuate the mission and purposes established herein. THE PANEL SHALL BE REQUIRED TO SEEK PUBLIC COMMENT ON MATTERS WITHIN ITS JURISDICTION. PANEL MEETING TIMES, AGENDAS, AND MINUTES SHALL BE POSTED PUBLICLY ON THE DEPARTMENT'S WEBSITE AT LEAST ONE WEEK PRIOR TO EACH MEETING.

(b) The panel shall MEET NO LESS THAN SIX TIMES PER YEAR, WITH ADDITIONAL SUBCOMMITTEE MEETINGS AS DEEMED NECESSARY TO ADDRESS SPECIALIZED ISSUES, IN ORDER TO:

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(ii) determine whether managed care providers meet proper enrollment targets that permit as many Medicaid recipients as possible to make

their own health plan decisions, thus minimizing the number of automatic assignments;

(iii) review AND DETERMINE THE APPROPRIATENESS OF the phase-in schedule, AND THE AVAILABILITY OF SPECIALTY SERVICES for enrollment[,] of ADDITIONAL POPULATIONS AND managed care providers under both the voluntary and mandatory programs AND EVALUATE STEPS TAKEN TO ENSURE CONTINUITY OF CARE DURING AND AFTER THE TRANSITION;

(iv) assess the impact of managed care provider marketing and enrollment strategies, [and the] INCLUDING public education [campaign conducted in New York city, on enrollees] CAMPAIGNS, ENROLLEE participation in Medicaid managed care plans AND RELATED PROGRAMS;

(v) evaluate the adequacy of managed care provider capacity by reviewing established capacity measurements and monitoring actual access to plan practitioners, INCLUDING TIMELY ACCESS TO SPECIALTY CARE FOR PEOPLE WITH DISABILITIES AND OTHERS IN NEED OF SUCH CARE, WITH PARTICULAR ATTENTION TO CAPACITY FOR SERVICES PREVIOUSLY PROVIDED IN THE TRADITIONAL FEE FOR SERVICE ENVIRONMENT;

(vi) examine the [cost] implications of [populations excluded and exempted from Medicaid managed care; and] FEDERAL HEALTH CARE REFORM ON THE MEDICAID MANAGED CARE PROGRAM AND RELATED PROGRAMS, WITH PARTICULAR ATTENTION TO THE INTEGRATION OF PUBLIC PROGRAM FUNCTIONS WITH SUBSIDIZED PRODUCTS AVAILABLE IN ANY POTENTIAL STATE INSURANCE EXCHANGE AND ANY OTHER SUBSIDIZED PRODUCTS, SUCH AS A BASIC HEALTH PLAN;

(vii) EVALUATE TRENDS IN SERVICE DENIALS BY MEDICAID MANAGED CARE PLANS AND RELATED PROGRAMS, ASSESS EFFECTIVENESS OF GRIEVANCE AND APPEAL MECHANISMS FOR CONSUMERS;

(VIII) EVALUATE DATA COLLECTION AND REPORTING ON HEALTH CARE ACCESS AND QUALITY BY RACE, ETHNICITY, LANGUAGE, DISABILITY AND OTHER FACTORS AND THE AVAILABILITY OF SERVICES AND PROGRAMS THAT ADDRESS THE DISPARITIES IN ACCESS TO CARE AND OUTCOMES OF CARE;

(IX) EVALUATE IMPLEMENTATION OF CONSUMER PROTECTIONS;

(X) REVIEW WAIVER APPLICATIONS BEFORE ANY DRAFT PROPOSALS ARE SUBMITTED TO THE FEDERAL GOVERNMENT AND AMENDMENTS AND STATE PLAN AMENDMENTS RELATED TO TOPICS AND PROGRAMS WITHIN ITS JURISDICTION, AND SOLICIT PUBLIC INVOLVEMENT IN THE PROPOSALS;

(XI) REVIEW AND DETERMINE THE ADEQUACY AND APPROPRIATENESS OF PROGRAM MATERIALS AND PLAN-FINDING AIDS, INCLUDING BUT NOT LIMITED TO, NETWORK, CONTRACT PROVISIONS, ELIGIBILITY AND BENEFIT APPEAL PROCEDURES; AND

(XII) examine other issues as it deems appropriate.

(c) Commencing January first, [nineteen hundred ninety-seven] TWO THOUSAND FIFTEEN and quarterly thereafter the panel shall [submit a report regarding the status of Medicaid managed care in the state and provide recommendations if it] PROVIDE WRITTEN RECOMMENDATIONS AND INPUT AS IT deems appropriate to the governor, the temporary president and the minority leader of the senate, and the speaker and the minority leader of the assembly ON MATTERS WITHIN ITS JURISDICTION.

S 3. This act shall take effect immediately; provided that the amendments to section 364-jj of the social services law made by section one of this act shall be subject to the expiration and reversion of such section pursuant to section 84 of part A of chapter 56 of the laws of 2013, as amended, when upon such date the provisions of section two of this act shall take effect.