

5042--A

2013-2014 Regular Sessions

I N A S S E M B L Y

February 14, 2013

Introduced by M. of A. GOODELL, TENNEY -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the social services law, in relation to creating incentives for counties to investigate and prosecute medicaid fraud

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

1 Section 1. The social services law is amended by adding a new article
2 5-A to read as follows:

3 ARTICLE 5-A

4 MEDICAID FRAUD REIMBURSEMENT

5 SECTION 370-BB. DISPOSITION OF MONEYS RECEIVED AS THE RESULT OF THE
6 PROSECUTION OF MEDICAID FRAUD.

7 S 370-BB. DISPOSITION OF MONEYS RECEIVED AS THE RESULT OF THE PROSE-
8 CUTION OF MEDICAID FRAUD. 1. FOR THE PURPOSES OF THIS SECTION, "MEDICAID
9 FRAUD" SHALL MEAN THE KNOWING COMMISSION OF ANY CRIME WITH INTENT TO
10 ILLEGALLY RECEIVE BENEFITS, OR REIMBURSEMENT FROM THE MEDICAL ASSISTANCE
11 FOR NEEDY PERSONS PROGRAM ESTABLISHED AND ADMINISTERED PURSUANT TO THIS
12 CHAPTER, THE PUBLIC HEALTH LAW AND FEDERAL LAW.

13 2. SHOULD ANY COUNTY OR THE CITY OF NEW YORK SUCCESSFULLY PROSECUTE
14 ANY CASE FOR MEDICAID FRAUD AND A COURT AWARDS RESTITUTION OR CIVIL
15 FORFEITURE, THE FOLLOWING PORTION OF THE NON-FEDERAL SHARE OF THE
16 PROCEEDS OF SUCH RESTITUTION OR CIVIL FORFEITURE SHALL BE ALLOCATED AS
17 FOLLOWS:

18 (I) THE COUNTY OR THE CITY OF NEW YORK SHALL RECEIVE ONE HUNDRED
19 PERCENT OF THE LOCAL SHARE OF SUCH FUNDS, IN EFFECT IMMEDIATELY PRIOR TO
20 SUCH DATE AS CERTIFIED BY THE DIVISION OF BUDGET OR TEN PERCENT OF THE
21 TOTAL RECOVERY WHICHEVER NUMBER IS GREATER;

22 (II) THE REMAINDER THEREOF SHALL BE DEPOSITED INTO THE GENERAL FUND OF
23 THE STATE.

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

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1 3. NOTHING IN THIS ARTICLE SHALL IMPAIR ANY COUNTY OR THE CITY OF NEW
2 YORK'S ABILITY TO SEEK DAMAGES UNDER SECTION ONE HUNDRED FORTY-FIVE-B OF
3 THIS CHAPTER.

4 S 2. Paragraph (a) of subdivision 2 of section 145-b of the social
5 services law, as amended by chapter 109 of the laws of 2007, is amended
6 to read as follows:

7 (a) For civil damages collected by a local social services district,
8 relating to the medical assistance program, pursuant to a judgment OR
9 SETTLEMENT under this subdivision, such amounts shall be apportioned
10 between the local social services district and the state. [If the
11 violation occurred: (i) prior to January first, two thousand six, the]
12 THE amount apportioned to the local social services district shall be
13 ONE HUNDRED PERCENT OF the local share [percentage] OF SUCH FUNDS, in
14 effect immediately prior to such date as certified by the division of
15 budget[, or (ii) after January first, two thousand six, the amount
16 apportioned to the local social services district shall be based on a
17 reimbursement schedule, created by the office of Medicaid inspector
18 general, in effect at the time the violation occurred; provided that, if
19 there is no schedule in effect at the time the violation occurred, the
20 schedule to be used shall be the first schedule adopted pursuant to this
21 subdivision. Such schedule shall provide for reimbursement to a local
22 social services district in an amount between ten and fifteen percent of
23 the gross amount collected. Such schedule shall be set on a county by
24 county basis and shall be periodically reviewed and updated as neces-
25 sary; provided, however, that any such updated schedule shall not be
26 less than ten percent nor greater than fifteen percent of the gross
27 amount collected] OR TEN PERCENT OF THE TOTAL RECOVERY WHICHEVER NUMBER
28 IS GREATER; and

29 S 3. This act shall take effect immediately.