

5389

2013-2014 Regular Sessions

I N   A S S E M B L Y

February 25, 2013

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Introduced by M. of A. GOTTFRIED, ABINANTI, BENEDETTO, BOYLAND, BRONSON, BROOK-KRASNY, COLTON, CRESPO, CYMBROWITZ, DINOWITZ, ENGLEBRIGHT, ESPI-NAL, GANTT, HIKIND, JACOBS, JAFFEE, KAVANAGH, KELLNER, LAVINE, LIFTON, LUPARDO, MAISEL, PEOPLES-STOKES, ROBERTS, ROSA, ROSENTHAL, SEPULVEDA, STECK, STEVENSON, SWEENEY, TITONE, TITUS, WEINSTEIN -- Multi-Sponsored by -- M. of A. ABBATE, AUBRY, BARRON, BRENNAN, CAHILL, CAMARA, CASTRO, CLARK, COOK, FARRELL, GIBSON, GLICK, GUNTHER, HEASTIE, HOOPER, LENTOL, V. LOPEZ, MAGEE, MAGNARELLI, MARKEY, MAYER, MILLMAN, MOSLEY, O'DONNELL, ORTIZ, PAULIN, PERRY, PRETLOW, RAMOS, RIVERA, ROBINSON, ROZIC, SCARBOROUGH, SCHIMEL, SKARTADOS, THIELE, WEISENBERG, WEPRIN, WRIGHT -- read once and referred to the Committee on Health

AN ACT to amend the public health law and the state finance law, in relation to establishing New York Health

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

1     Section 1. Legislative findings and intent. 1. The state constitution  
2     states: "The protection and promotion of the health of the inhabitants  
3     of the state are matters of public concern and provision therefor shall  
4     be made by the state and by such of its subdivisions and in such manner,  
5     and by such means as the legislature shall from time to time determine."  
6     (Article XVII, S3.) The legislature finds and declares that all resi-  
7     dents of the state have the right to health care. New Yorkers - as indi-  
8     viduals, employers, and taxpayers - have experienced a rapid rise in the  
9     cost of health care and coverage in recent years. This increase has  
10    resulted in a large number of people without health coverage. Businesses  
11    have also experienced extraordinary increases in the costs of health  
12    care benefits for their employees. An unacceptable number of New Yorkers  
13    have no health coverage, and many more are severely underinsured. Health  
14    care providers are also affected by inadequate health coverage in New  
15    York state. A large portion of voluntary and public hospitals, health  
16    centers and other providers now experience substantial losses due to the

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

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1 provision of care that is uncompensated. Individuals often find that  
2 they are deprived of affordable care and choice because of decisions by  
3 health plans guided by the plan's economic needs rather than their  
4 health care needs. To address the fiscal crisis facing the health care  
5 system and the state and to assure New Yorkers can exercise their right  
6 to health care, affordable and comprehensive health coverage must be  
7 provided. Pursuant to the state constitution's charge to the legislature  
8 to provide for the health of New Yorkers, this legislation is an enact-  
9 ment of state concern for the purpose of establishing a comprehensive  
10 universal single-payer health care coverage program and a health care  
11 cost control system for the benefit of all residents of the state of New  
12 York.

13 2. It is the intent of the Legislature to create the New York Health  
14 program to provide a universal health plan for every New Yorker, funded  
15 by broad-based revenue based on ability to pay. The state shall work to  
16 obtain waivers relating to Medicaid, Family Health Plus, Child Health  
17 Plus, Medicare, the Patient Protection and Affordable Care Act, and any  
18 other appropriate federal programs, under which federal funds and other  
19 subsidies that would otherwise be paid to New York State and New Yorkers  
20 for health coverage that will be equaled or exceeded by New York Health  
21 will be paid by the federal government to New York State and deposited  
22 in the New York Health trust fund. Under such a waiver, health coverage  
23 under those programs will be replaced and merged into New York Health,  
24 which will operate as a true single-payer program.

25 If such a waiver is not obtained, the state shall use state plan  
26 amendments and seek waivers to maximize, and make as seamless as possi-  
27 ble, the use of federally-matched health programs and federal health  
28 programs in New York Health. Thus, even where other programs such as  
29 Medicaid or Medicare may contribute to paying for care, it is the goal  
30 of this legislation that the coverage will be delivered by New York  
31 Health and, as much as possible, the multiple sources of funding will be  
32 pooled with other New York Health funds and not be apparent to New York  
33 Health members or participating providers. This program will promote  
34 movement away from fee-for-service payment, which tends to reward quan-  
35 tity and requires excessive administrative expense, and towards alter-  
36 nate payment methodologies, such as global or capitated payments to  
37 providers or health care organizations, that promote quality, efficien-  
38 cy, investment in primary and preventive care, and innovation and inte-  
39 gration in the organizing of health care.

40 3. This act does not create any employment benefit, nor does it  
41 require, prohibit, or limit the providing of any employment benefit.

42 4. In order to promote improved quality of, and access to, health care  
43 services and promote improved clinical outcomes, it is the policy of the  
44 state to encourage cooperative, collaborative and integrative arrange-  
45 ments among health care providers who might otherwise be competitors,  
46 under the active supervision of the commissioner of health. It is the  
47 intent of the state to supplant competition with such arrangements and  
48 regulation only to the extent necessary to accomplish the purposes of  
49 this act, and to provide state action immunity under the state and  
50 federal antitrust laws to health care providers, particularly with  
51 respect to their relations with the single-payer New York Health plan  
52 created by this act.

53 S 2. Article 50 and sections 5000, 5001, 5002 and 5003 of the public  
54 health law are renumbered article 80 and sections 8000, 8001, 8002 and  
55 8003, respectively, and a new article 51 is added to read as follows:

ARTICLE 51  
NEW YORK HEALTH

SECTION 5100. DEFINITIONS.

5101. PROGRAM CREATED.

5102. BOARD OF TRUSTEES.

5103. ELIGIBILITY AND ENROLLMENT.

5104. BENEFITS.

5105. HEALTH CARE PROVIDERS; CARE COORDINATION; PAYMENT METHODOLOGIES.

5106. HEALTH CARE ORGANIZATIONS.

5107. PROGRAM STANDARDS.

5108. REGULATIONS.

5109. PROVISIONS RELATING TO FEDERAL HEALTH PROGRAMS.

5110. ADDITIONAL PROVISIONS.

S 5100. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS, UNLESS THE CONTEXT CLEARLY REQUIRES OTHERWISE:

1. "BOARD" MEANS THE BOARD OF TRUSTEES OF THE NEW YORK HEALTH PROGRAM CREATED BY SECTION FIFTY-ONE HUNDRED TWO OF THIS ARTICLE, AND "TRUSTEE" MEANS A TRUSTEE OF THE BOARD.

2. "CARE COORDINATION" MEANS SERVICES PROVIDED BY A CARE COORDINATOR UNDER PARAGRAPH (B) OF SUBDIVISION TWO OF SECTION FIFTY-ONE HUNDRED FIVE OF THIS ARTICLE.

3. "CARE COORDINATOR" MEANS AN INDIVIDUAL OR ENTITY APPROVED TO PROVIDE CARE COORDINATION UNDER PARAGRAPH (B) OF SUBDIVISION TWO OF SECTION FIFTY-ONE HUNDRED FIVE OF THIS ARTICLE.

4. "FEDERALLY-MATCHED PUBLIC HEALTH PROGRAM" MEANS THE MEDICAL ASSISTANCE PROGRAM UNDER TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW, THE FAMILY HEALTH PLUS PROGRAM UNDER TITLE ELEVEN-D OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW, AND THE CHILD HEALTH PLUS PROGRAM UNDER TITLE ONE-A OF ARTICLE TWENTY-FIVE OF THIS CHAPTER.

5. "HEALTH CARE ORGANIZATION" MEANS AN ENTITY THAT IS APPROVED BY THE COMMISSIONER UNDER SECTION FIFTY-ONE HUNDRED SIX OF THIS ARTICLE TO PROVIDE HEALTH CARE SERVICES TO MEMBERS UNDER THE PROGRAM.

6. "HEALTH CARE SERVICE" MEANS ANY HEALTH CARE SERVICE, INCLUDING CARE COORDINATION, INCLUDED AS A BENEFIT UNDER THE PROGRAM.

7. "IMPLEMENTATION PERIOD" MEANS THE PERIOD UNDER SUBDIVISION THREE OF SECTION FIFTY-ONE HUNDRED ONE OF THIS ARTICLE DURING WHICH THE PROGRAM WILL BE SUBJECT TO SPECIAL ELIGIBILITY AND FINANCING PROVISIONS UNTIL IT IS FULLY IMPLEMENTED UNDER THAT SECTION.

8. "LONG TERM CARE" MEANS LONG TERM CARE, TREATMENT, MAINTENANCE, OR SERVICES NOT COVERED UNDER FAMILY HEALTH PLUS OR CHILD HEALTH PLUS, AS APPROPRIATE, WITH THE EXCEPTION OF SHORT TERM REHABILITATION, AS DEFINED BY THE COMMISSIONER.

9. "MEDICAID" OR "MEDICAL ASSISTANCE" MEANS TITLE ELEVEN OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW AND THE PROGRAM THEREUNDER. "FAMILY HEALTH PLUS" MEANS TITLE ELEVEN-D OF ARTICLE FIVE OF THE SOCIAL SERVICES LAW AND THE PROGRAM THEREUNDER. "CHILD HEALTH PLUS" MEANS TITLE ONE-A OF ARTICLE TWENTY-FIVE OF THIS CHAPTER AND THE PROGRAM THEREUNDER. "MEDICAL CARE" MEANS TITLE XVIII OF THE FEDERAL SOCIAL SECURITY ACT AND THE PROGRAMS THEREUNDER.

10. "MEMBER" MEANS AN INDIVIDUAL WHO IS ENROLLED IN THE PROGRAM.

11. "NEW YORK HEALTH TRUST FUND" MEANS THE NEW YORK HEALTH TRUST FUND ESTABLISHED UNDER SECTION EIGHTY-NINE-H OF THE STATE FINANCE LAW.

12. "PARTICIPATING PROVIDER" MEANS ANY INDIVIDUAL OR ENTITY THAT IS A HEALTH CARE PROVIDER THAT PROVIDES HEALTH CARE SERVICES TO MEMBERS UNDER THE PROGRAM, OR A HEALTH CARE ORGANIZATION.

13. "PATIENT PROTECTION AND AFFORDABLE CARE ACT" MEANS THE FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT, PUBLIC LAW 111-148, AS AMENDED BY THE HEALTH CARE AND EDUCATION RECONCILIATION ACT OF 2010, PUBLIC LAW 111-152, AND ANY REGULATIONS OR GUIDANCE ISSUED THEREUNDER.

14. "PERSON" MEANS ANY INDIVIDUAL OR NATURAL PERSON, TRUST, PARTNERSHIP, ASSOCIATION, UNINCORPORATED ASSOCIATION, CORPORATION, COMPANY, LIMITED LIABILITY COMPANY, PROPRIETORSHIP, JOINT VENTURE, FIRM, JOINT STOCK ASSOCIATION, DEPARTMENT, AGENCY, AUTHORITY, OR OTHER LEGAL ENTITY, WHETHER FOR-PROFIT, NOT-FOR-PROFIT OR GOVERNMENTAL.

15. "PROGRAM" MEANS THE NEW YORK HEALTH PROGRAM CREATED BY SECTION FIFTY-ONE HUNDRED ONE OF THIS ARTICLE.

16. "PRESCRIPTION AND NON-PRESCRIPTION DRUGS" SHALL MEAN PRESCRIPTION DRUGS AS DEFINED IN SECTION TWO HUNDRED SEVENTY OF THIS CHAPTER, AND NON-PRESCRIPTION SMOKING CESSATION PRODUCTS OR DEVICES.

17. "RESIDENT" MEANS AN INDIVIDUAL WHOSE PRIMARY PLACE OF ABODE IS IN THE STATE, AS DETERMINED ACCORDING TO REGULATIONS OF THE COMMISSIONER.

S 5101. PROGRAM CREATED. 1. THE NEW YORK HEALTH PROGRAM IS HEREBY CREATED IN THE DEPARTMENT. THE COMMISSIONER SHALL ESTABLISH AND IMPLEMENT THE PROGRAM UNDER THIS ARTICLE. THE PROGRAM SHALL PROVIDE COMPREHENSIVE HEALTH COVERAGE TO EVERY RESIDENT WHO ENROLLS IN THE PROGRAM.

2. THE COMMISSIONER SHALL, TO THE MAXIMUM EXTENT POSSIBLE, ORGANIZE, ADMINISTER AND MARKET THE PROGRAM AND SERVICES AS A SINGLE PROGRAM UNDER THE NAME "NEW YORK HEALTH" OR SUCH OTHER NAME AS THE COMMISSIONER SHALL DETERMINE, REGARDLESS OF UNDER WHICH LAW OR SOURCE THE DEFINITION OF A BENEFIT IS FOUND INCLUDING (ON A VOLUNTARY BASIS) RETIREE HEALTH BENEFITS. IN IMPLEMENTING THIS SUBDIVISION, THE COMMISSIONER SHALL AVOID JEOPARDIZING FEDERAL FINANCIAL PARTICIPATION IN THESE PROGRAMS AND SHALL TAKE CARE TO PROMOTE PUBLIC UNDERSTANDING AND AWARENESS OF AVAILABLE BENEFITS AND PROGRAMS.

3. THE COMMISSIONER SHALL DETERMINE WHEN INDIVIDUALS MAY BEGIN ENROLLING IN THE PROGRAM. THERE SHALL BE AN IMPLEMENTATION PERIOD, WHICH SHALL BEGIN ON THE DATE THAT INDIVIDUALS MAY BEGIN ENROLLING IN THE PROGRAM AND SHALL END AS DETERMINED BY THE COMMISSIONER.

4. AN INSURER AUTHORIZED TO PROVIDE COVERAGE PURSUANT TO THE INSURANCE LAW OR A HEALTH MAINTENANCE ORGANIZATION CERTIFIED UNDER THIS CHAPTER MAY, IF OTHERWISE AUTHORIZED, OFFER BENEFITS THAT DO NOT DUPLICATE COVERAGE OFFERED TO AN INDIVIDUAL UNDER THE PROGRAM, BUT MAY NOT OFFER BENEFITS THAT DUPLICATE COVERAGE OFFERED TO AN INDIVIDUAL UNDER THE PROGRAM. PROVIDED, HOWEVER, THAT THIS SUBDIVISION SHALL NOT PROHIBIT (A) THE OFFERING OF ANY BENEFITS TO OR FOR INDIVIDUALS, INCLUDING THEIR FAMILIES, WHO ARE EMPLOYED OR SELF-EMPLOYED IN THE STATE BUT WHO ARE NOT RESIDENTS OF THE STATE, OR (B) THE OFFERING OF BENEFITS DURING THE IMPLEMENTATION PERIOD TO INDIVIDUALS WHO ENROLLED AS MEMBERS OF THE PROGRAM, OR (C) THE OFFERING OF RETIREE HEALTH BENEFITS.

5. A COLLEGE, UNIVERSITY OR OTHER INSTITUTION OF HIGHER EDUCATION IN THE STATE MAY PURCHASE COVERAGE UNDER THE PROGRAM FOR ANY STUDENT, OR STUDENT'S DEPENDENT, WHO IS NOT A RESIDENT OF THE STATE.

S 5102. BOARD OF TRUSTEES. 1. THE NEW YORK HEALTH BOARD OF TRUSTEES IS HEREBY CREATED IN THE DEPARTMENT. THE BOARD OF TRUSTEES SHALL, AT THE REQUEST OF THE COMMISSIONER, CONSIDER ANY MATTER TO EFFECTUATE THE PROVISIONS AND PURPOSES OF THIS ARTICLE, AND MAY ADVISE THE COMMISSIONER THEREON; AND IT MAY, FROM TIME TO TIME, SUBMIT TO THE COMMISSIONER ANY RECOMMENDATIONS TO EFFECTUATE THE PROVISIONS AND PURPOSES OF THIS ARTI-

CLE. THE COMMISSIONER MAY PROPOSE REGULATIONS UNDER THIS ARTICLE AND AMENDMENTS THERETO FOR CONSIDERATION BY THE BOARD. THE BOARD OF TRUSTEES SHALL HAVE NO EXECUTIVE, ADMINISTRATIVE OR APPOINTIVE DUTIES EXCEPT AS OTHERWISE PROVIDED BY LAW. THE BOARD OF TRUSTEES SHALL HAVE POWER TO ESTABLISH, AND FROM TIME TO TIME, AMEND REGULATIONS TO EFFECTUATE THE PROVISIONS AND PURPOSES OF THIS ARTICLE, SUBJECT TO APPROVAL BY THE COMMISSIONER.

2. THE BOARD SHALL BE COMPOSED OF:

(A) THE COMMISSIONER, THE SUPERINTENDENT OF FINANCIAL SERVICES, AND THE DIRECTOR OF THE BUDGET, OR THEIR DESIGNEES, AS EX OFFICIO MEMBERS;

(B) SEVENTEEN TRUSTEES APPOINTED BY THE GOVERNOR;

(I) FIVE OF WHOM SHALL BE REPRESENTATIVES OF HEALTH CARE CONSUMER ADVOCACY ORGANIZATIONS WHICH HAVE A STATEWIDE OR REGIONAL CONSTITUENCY, WHO HAVE BEEN INVOLVED IN ACTIVITIES RELATED TO HEALTH CARE CONSUMER ADVOCACY, INCLUDING ISSUES OF INTEREST TO LOW- AND MODERATE-INCOME INDIVIDUALS;

(II) TWO OF WHOM SHALL BE REPRESENTATIVES OF PROFESSIONAL ORGANIZATIONS REPRESENTING PHYSICIANS;

(III) TWO OF WHOM SHALL BE REPRESENTATIVES OF PROFESSIONAL ORGANIZATIONS REPRESENTING LICENSED OR REGISTERED HEALTH CARE PROFESSIONALS OTHER THAN PHYSICIANS;

(IV) THREE OF WHOM SHALL BE REPRESENTATIVES OF HOSPITALS, ONE OF WHOM SHALL BE A REPRESENTATIVE OF PUBLIC HOSPITALS;

(V) ONE OF WHOM SHALL BE REPRESENTATIVE OF COMMUNITY HEALTH CENTERS;

(VI) TWO OF WHOM SHALL BE REPRESENTATIVES OF HEALTH CARE ORGANIZATIONS; AND

(VIII) TWO OF WHOM SHALL BE REPRESENTATIVES OF ORGANIZED LABOR;

(C) THREE TRUSTEES APPOINTED BY THE SPEAKER OF THE ASSEMBLY; THREE TRUSTEES APPOINTED BY THE TEMPORARY PRESIDENT OF THE SENATE; ONE TRUSTEE APPOINTED BY THE MINORITY LEADER OF THE ASSEMBLY; AND ONE TRUSTEE APPOINTED BY THE MINORITY LEADER OF THE SENATE.

AFTER THE END OF THE IMPLEMENTATION PERIOD, NO PERSON SHALL BE A TRUSTEE UNLESS HE OR SHE IS A MEMBER OF THE PROGRAM, EXCEPT THE EX OFFICIO TRUSTEES. EACH TRUSTEE SHALL SERVE AT THE PLEASURE OF THE APPOINTING OFFICER, EXCEPT THE EX OFFICIO TRUSTEES.

3. THE CHAIR OF THE BOARD SHALL BE APPOINTED, AND MAY BE REMOVED AS CHAIR, BY THE GOVERNOR FROM AMONG THE TRUSTEES. THE BOARD SHALL MEET AT LEAST FOUR TIMES EACH CALENDAR YEAR. MEETINGS SHALL BE HELD UPON THE CALL OF THE CHAIR AND AS PROVIDED BY THE BOARD. A MAJORITY OF THE APPOINTED TRUSTEES SHALL BE A QUORUM OF THE BOARD, AND THE AFFIRMATIVE VOTE OF A MAJORITY OF THE TRUSTEES VOTING, BUT NOT LESS THAN TEN, SHALL BE NECESSARY FOR ANY ACTION TO BE TAKEN BY THE BOARD. THE BOARD MAY ESTABLISH AN EXECUTIVE COMMITTEE TO EXERCISE ANY POWERS OR DUTIES OF THE BOARD AS IT MAY PROVIDE, AND OTHER COMMITTEES TO ASSIST THE BOARD OR THE EXECUTIVE COMMITTEE. THE CHAIR OF THE BOARD SHALL CHAIR THE EXECUTIVE COMMITTEE AND SHALL APPOINT THE CHAIR AND MEMBERS OF ALL OTHER COMMITTEES. THE BOARD OF TRUSTEES MAY APPOINT ONE OR MORE ADVISORY COMMITTEES. MEMBERS OF ADVISORY COMMITTEES NEED NOT BE MEMBERS OF THE BOARD OF TRUSTEES.

4. TRUSTEES SHALL SERVE WITHOUT COMPENSATION BUT SHALL BE REIMBURSED FOR THEIR NECESSARY AND ACTUAL EXPENSES INCURRED WHILE ENGAGED IN THE BUSINESS OF THE BOARD.

5. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, NO OFFICER OR EMPLOYEE OF THE STATE OR ANY LOCAL GOVERNMENT SHALL FORFEIT OR BE DEEMED TO HAVE FORFEITED HIS OR HER OFFICE OR EMPLOYMENT BY REASON OF BEING A TRUSTEE.

1 6. THE BOARD AND ITS COMMITTEES AND ADVISORY COMMITTEES MAY REQUEST  
2 AND RECEIVE THE ASSISTANCE OF THE DEPARTMENT AND ANY OTHER STATE OR  
3 LOCAL GOVERNMENTAL ENTITY IN EXERCISING ITS POWERS AND DUTIES.

4 7. NO LATER THAN FIVE YEARS AFTER THE EFFECTIVE DATE OF THIS ARTICLE:

5 (A) THE BOARD SHALL DEVELOP A PROPOSAL, CONSISTENT WITH THE PRINCIPLES  
6 OF THIS ARTICLE, FOR PROVISION BY THE PROGRAM OF LONG-TERM CARE COVER-  
7 AGE, INCLUDING THE DEVELOPMENT OF A PROPOSAL, CONSISTENT WITH THE PRIN-  
8 CIPLES OF THIS ARTICLE, FOR ITS FUNDING. IN DEVELOPING THE PROPOSAL,  
9 THE BOARD SHALL CONSULT WITH AN ADVISORY COMMITTEE, APPOINTED BY THE  
10 CHAIR OF THE BOARD, INCLUDING REPRESENTATIVES OF CONSUMERS AND POTENTIAL  
11 CONSUMERS OF LONG-TERM CARE, PROVIDERS OF LONG-TERM CARE, LABOR, AND  
12 OTHER INTERESTED PARTIES. THE BOARD SHALL PRESENT ITS PROPOSAL TO THE  
13 GOVERNOR AND THE LEGISLATURE.

14 (B) THE BOARD SHALL DEVELOP A PROPOSAL FOR INCORPORATING RETIREE  
15 HEALTH BENEFITS INTO NEW YORK HEALTH.

16 S 5103. ELIGIBILITY AND ENROLLMENT. 1. EVERY RESIDENT OF THE STATE  
17 SHALL BE ELIGIBLE AND ENTITLED TO ENROLL AS A MEMBER UNDER THE PROGRAM.

18 2. NO MEMBER SHALL BE REQUIRED TO PAY ANY PREMIUM OR OTHER CHARGE FOR  
19 ENROLLING IN OR BEING A MEMBER UNDER THE PROGRAM.

20 S 5104. BENEFITS. 1. THE PROGRAM SHALL PROVIDE COMPREHENSIVE HEALTH  
21 COVERAGE TO EVERY MEMBER, WHICH SHALL INCLUDE ALL HEALTH CARE SERVICES  
22 REQUIRED TO BE COVERED UNDER ANY OF THE FOLLOWING, WITHOUT REGARD TO  
23 WHETHER THE MEMBER WOULD OTHERWISE BE ELIGIBLE FOR OR COVERED BY THE  
24 PROGRAM OR SOURCE REFERRED TO:

25 (A) FAMILY HEALTH PLUS;

26 (B) FOR EVERY MEMBER UNDER THE AGE OF TWENTY-ONE, CHILD HEALTH PLUS;

27 (C) MEDICAID;

28 (D) MEDICARE;

29 (E) ARTICLE FORTY-FOUR OF THIS CHAPTER OR ARTICLE THIRTY-TWO OR  
30 FORTY-THREE OF THE INSURANCE LAW;

31 (F) ARTICLE ELEVEN OF THE CIVIL SERVICE LAW, AS OF THE DATE ONE YEAR  
32 BEFORE THE BEGINNING OF THE IMPLEMENTATION PERIOD;

33 (G) ANY ADDITIONAL HEALTH CARE SERVICE AUTHORIZED TO BE ADDED TO THE  
34 PROGRAM'S BENEFITS BY THE PROGRAM; AND

35 (H) PROVIDED THAT NONE OF THE ABOVE SHALL INCLUDE LONG TERM CARE,  
36 UNTIL A PROPOSAL UNDER PARAGRAPH (A) OF SUBDIVISION SEVEN OF SECTION  
37 FIFTY-ONE HUNDRED TWO OF THIS ARTICLE IS ENACTED INTO LAW.

38 2. NO MEMBER SHALL BE REQUIRED TO PAY ANY DEDUCTIBLE, CO-PAYMENT OR  
39 CO-INSURANCE UNDER THE PROGRAM.

40 3. THE PROGRAM SHALL PROVIDE FOR PAYMENT UNDER THE PROGRAM FOR EMER-  
41 GENCY AND TEMPORARY HEALTH CARE SERVICES PROVIDED TO MEMBERS OR INDIVID-  
42 UALS ENTITLED TO BECOME MEMBERS WHO HAVE NOT HAD A REASONABLE OPPORTU-  
43 NITY TO BECOME A MEMBER OR TO ENROLL WITH A CARE COORDINATOR.

44 S 5105. HEALTH CARE PROVIDERS; CARE COORDINATION; PAYMENT METHODOL-  
45 OGIES. 1. CHOICE OF HEALTH CARE PROVIDER. (A) ANY HEALTH CARE PROVIDER  
46 QUALIFIED TO PARTICIPATE UNDER THIS SECTION MAY PROVIDE HEALTH CARE  
47 SERVICES UNDER THE PROGRAM, PROVIDED THAT THE HEALTH CARE PROVIDER IS  
48 OTHERWISE LEGALLY AUTHORIZED TO PERFORM THE HEALTH CARE SERVICE FOR THE  
49 INDIVIDUAL AND UNDER THE CIRCUMSTANCES INVOLVED.

50 (B) A MEMBER MAY CHOOSE TO RECEIVE HEALTH CARE SERVICES UNDER THE  
51 PROGRAM FROM ANY PARTICIPATING PROVIDER, CONSISTENT WITH PROVISIONS OF  
52 THIS ARTICLE RELATING TO CARE COORDINATION AND HEALTH CARE ORGANIZA-  
53 TIONS, THE WILLINGNESS OR AVAILABILITY OF THE PROVIDER (SUBJECT TO  
54 PROVISIONS OF THIS ARTICLE RELATING TO DISCRIMINATION), AND THE APPRO-  
55 PRIATE CLINICALLY-RELEVANT CIRCUMSTANCES.

1 2. CARE COORDINATION. (A) HEALTH CARE SERVICES PROVIDED TO A MEMBER  
2 SHALL NOT BE SUBJECT TO PAYMENT UNDER THE PROGRAM UNLESS THE MEMBER IS  
3 ENROLLED WITH A CARE COORDINATOR AT THE TIME THE HEALTH CARE SERVICE IS  
4 PROVIDED, EXCEPT WHERE PROVIDED UNDER SUBDIVISION THREE OF SECTION  
5 FIFTY-ONE HUNDRED FOUR OF THIS ARTICLE. EVERY MEMBER SHALL ENROLL WITH A  
6 CARE COORDINATOR THAT AGREES TO PROVIDE CARE COORDINATION TO THE MEMBER  
7 PRIOR TO RECEIVING HEALTH CARE SERVICES TO BE PAID FOR UNDER THE  
8 PROGRAM. THE MEMBER SHALL REMAIN ENROLLED WITH THAT CARE COORDINATOR  
9 UNTIL THE MEMBER BECOMES ENROLLED WITH A DIFFERENT CARE COORDINATOR OR  
10 CEASES TO BE A MEMBER. THE COMMISSIONER SHALL PROVIDE, BY REGULATION,  
11 THAT MEMBERS HAVE THE RIGHT TO CHANGE THEIR CARE COORDINATOR ON TERMS AT  
12 LEAST AS PERMISSIVE AS THE PROVISIONS OF SECTION THREE HUNDRED  
13 SIXTY-FOUR-J OF THE SOCIAL SERVICES LAW RELATING TO AN INDIVIDUAL CHANG-  
14 ING HIS OR HER PRIMARY CARE PROVIDER OR MANAGED CARE PROVIDER.

15 (B) CARE COORDINATION SHALL BE PROVIDED TO THE MEMBER BY THE MEMBER'S  
16 CARE COORDINATOR. A CARE COORDINATOR MAY EMPLOY OR UTILIZE THE SERVICES  
17 OF OTHER INDIVIDUALS OR ENTITIES TO ASSIST IN PROVIDING CARE COORDI-  
18 NATION FOR THE MEMBER, CONSISTENT WITH REGULATIONS OF THE COMMISSIONER.  
19 CARE COORDINATION SHALL INCLUDE, BUT NOT BE LIMITED TO, MANAGING, REFER-  
20 RING TO, LOCATING, COORDINATING, AND MONITORING HEALTH CARE SERVICES FOR  
21 THE MEMBER TO ASSURE THAT ALL MEDICALLY NECESSARY HEALTH CARE SERVICES  
22 ARE MADE AVAILABLE TO AND ARE EFFECTIVELY USED BY THE MEMBER IN A TIMELY  
23 MANNER, CONSISTENT WITH PATIENT AUTONOMY. CARE COORDINATION IS NOT A  
24 REQUIREMENT FOR PRIOR AUTHORIZATION FOR HEALTH CARE SERVICES AND REFER-  
25 RAL SHALL NOT BE REQUIRED FOR A MEMBER TO RECEIVE A HEALTH CARE SERVICE.  
26 HOWEVER: (I) A HEALTH CARE ORGANIZATION MAY ESTABLISH RULES RELATING TO  
27 CARE COORDINATION FOR MEMBERS IN THE HEALTH CARE ORGANIZATION, DIFFERENT  
28 FROM THIS SUBDIVISION BUT OTHERWISE CONSISTENT WITH THIS ARTICLE AND  
29 OTHER APPLICABLE LAWS; AND (II) NOTHING IN THIS SUBDIVISION SHALL  
30 AUTHORIZE ANY INDIVIDUAL TO ENGAGE IN ANY ACT IN VIOLATION OF TITLE  
31 EIGHT OF THE EDUCATION LAW.

32 (C) WHERE A MEMBER RECEIVES CHRONIC MENTAL HEALTH CARE SERVICES, AT  
33 THE OPTION OF THE MEMBER, THE MEMBER MAY ENROLL WITH A CARE COORDINATOR  
34 FOR HIS OR HER MENTAL HEALTH CARE SERVICES AND ANOTHER CARE COORDINATOR  
35 APPROVED FOR HIS OR HER OTHER HEALTH CARE SERVICES, CONSISTENT WITH  
36 STANDARDS ESTABLISHED BY THE COMMISSIONER IN CONSULTATION WITH THE  
37 COMMISSIONER OF MENTAL HEALTH. IN SUCH A CASE, THE TWO CARE COORDINATORS  
38 SHALL WORK IN CLOSE CONSULTATION WITH EACH OTHER.

39 (D) A CARE COORDINATOR MAY BE AN INDIVIDUAL OR ENTITY THAT IS APPROVED  
40 BY THE PROGRAM THAT IS:

41 (I) A HEALTH CARE PRACTITIONER WHO IS: (A) THE MEMBER'S PRIMARY CARE  
42 PRACTITIONER; (B) AT THE OPTION OF A FEMALE MEMBER, THE MEMBER'S PROVID-  
43 ER OF PRIMARY GYNECOLOGICAL CARE; OR (C) AT THE OPTION OF A MEMBER WHO  
44 HAS A CHRONIC CONDITION THAT REQUIRES SPECIALTY CARE, A SPECIALIST  
45 HEALTH CARE PRACTITIONER WHO REGULARLY AND CONTINUALLY PROVIDES TREAT-  
46 MENT FOR THAT CONDITION TO THE MEMBER;

47 (II) AN ENTITY LICENSED UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER OR  
48 CERTIFIED UNDER ARTICLE THIRTY-SIX OF THIS CHAPTER, A MANAGED LONG TERM  
49 CARE PLAN UNDER SECTION FORTY-FOUR HUNDRED THREE-F OF THIS CHAPTER OR  
50 OTHER PROGRAM MODEL UNDER PARAGRAPH (B) OF SUBDIVISION SEVEN OF SUCH  
51 SECTION, OR, WITH RESPECT TO A MEMBER WHO RECEIVES CHRONIC MENTAL HEALTH  
52 CARE SERVICES, AN ENTITY LICENSED UNDER ARTICLE THIRTY-ONE OF THE MENTAL  
53 HYGIENE LAW OR OTHER ENTITY APPROVED BY THE COMMISSIONER IN CONSULTATION  
54 WITH THE COMMISSIONER OF MENTAL HEALTH;

55 (III) A HEALTH CARE ORGANIZATION;

1 (IV) A TAFT-HARTLEY FUND, WITH RESPECT TO ITS MEMBERS AND THEIR FAMILY  
2 MEMBERS; PROVIDED THAT THIS PROVISION SHALL NOT PRECLUDE A TAFT-HARTLEY  
3 FUND FROM BECOMING A CARE COORDINATOR UNDER SUBPARAGRAPH (V) OF THIS  
4 PARAGRAPH OR A HEALTH CARE ORGANIZATION UNDER SECTION FIFTY-ONE HUNDRED  
5 SIX OF THIS ARTICLE; OR

6 (V) ANY NOT-FOR-PROFIT OR GOVERNMENTAL ENTITY APPROVED BY THE PROGRAM.

7 (E) THE COMMISSIONER SHALL DEVELOP AND IMPLEMENT PROCEDURES AND STAND-  
8 ARDS FOR AN INDIVIDUAL OR ENTITY TO BE APPROVED TO BE A CARE COORDINATOR  
9 IN THE PROGRAM, INCLUDING BUT NOT LIMITED TO PROCEDURES AND STANDARDS  
10 RELATING TO THE REVOCATION, SUSPENSION, LIMITATION, OR ANNULMENT OF  
11 APPROVAL ON A DETERMINATION THAT THE INDIVIDUAL OR ENTITY IS INCOMPETENT  
12 TO BE A CARE COORDINATOR OR HAS EXHIBITED A COURSE OF CONDUCT WHICH IS  
13 EITHER INCONSISTENT WITH PROGRAM STANDARDS AND REGULATIONS OR WHICH  
14 EXHIBITS AN UNWILLINGNESS TO MEET SUCH STANDARDS AND REGULATIONS, OR IS  
15 A POTENTIAL THREAT TO THE PUBLIC HEALTH OR SAFETY. SUCH PROCEDURES AND  
16 STANDARDS SHALL NOT LIMIT APPROVAL TO BE A CARE COORDINATOR IN THE  
17 PROGRAM FOR ECONOMIC PURPOSES AND SHALL BE CONSISTENT WITH GOOD PROFES-  
18 SIONAL PRACTICE. IN DEVELOPING THE PROCEDURES AND STANDARDS, THE COMMIS-  
19 SIONER SHALL: (I) CONSIDER EXISTING STANDARDS DEVELOPED BY NATIONAL  
20 ACCREDITING AND PROFESSIONAL ORGANIZATIONS; AND (II) CONSULT WITH  
21 NATIONAL AND LOCAL ORGANIZATIONS WORKING ON CARE COORDINATION OR SIMILAR  
22 MODELS, INCLUDING HEALTH CARE PRACTITIONERS, HOSPITALS, CLINICS, AND  
23 CONSUMERS AND THEIR REPRESENTATIVES. WHEN DEVELOPING AND IMPLEMENTING  
24 STANDARDS OF APPROVAL OF CARE COORDINATORS FOR INDIVIDUALS RECEIVING  
25 CHRONIC MENTAL HEALTH CARE SERVICES, THE COMMISSIONER SHALL CONSULT WITH  
26 THE COMMISSIONER OF MENTAL HEALTH. AN INDIVIDUAL OR ENTITY MAY NOT BE A  
27 CARE COORDINATOR UNLESS THE SERVICES INCLUDED IN CARE COORDINATION ARE  
28 WITHIN THE INDIVIDUAL'S PROFESSIONAL SCOPE OF PRACTICE OR THE ENTITY'S  
29 LEGAL AUTHORITY.

30 (F) TO MAINTAIN APPROVAL UNDER THE PROGRAM, A CARE COORDINATOR MUST:

31 (I) RENEW ITS STATUS AT A FREQUENCY DETERMINED BY THE COMMISSIONER; AND  
32 (II) PROVIDE DATA TO THE DEPARTMENT AS REQUIRED BY THE COMMISSIONER TO  
33 ENABLE THE COMMISSIONER TO EVALUATE THE IMPACT OF CARE COORDINATORS ON  
34 QUALITY, OUTCOMES AND COST.

35 3. HEALTH CARE PROVIDERS. THE COMMISSIONER SHALL ESTABLISH AND MAIN-  
36 TAIN PROCEDURES AND STANDARDS FOR HEALTH CARE PROVIDERS TO BE QUALIFIED  
37 TO PARTICIPATE IN THE PROGRAM, INCLUDING BUT NOT LIMITED TO PROCEDURES  
38 AND STANDARDS RELATING TO THE REVOCATION, SUSPENSION, LIMITATION, OR  
39 ANNULMENT OF QUALIFICATION TO PARTICIPATE ON A DETERMINATION THAT THE  
40 HEALTH CARE PROVIDER IS AN INCOMPETENT PROVIDER OF SPECIFIC HEALTH CARE  
41 SERVICES OR HAS EXHIBITED A COURSE OF CONDUCT WHICH IS EITHER INCONSIST-  
42 ENT WITH PROGRAM STANDARDS AND REGULATIONS OR WHICH EXHIBITS AN UNWILL-  
43 INGNESS TO MEET SUCH STANDARDS AND REGULATIONS, OR IS A POTENTIAL THREAT  
44 TO THE PUBLIC HEALTH OR SAFETY. SUCH PROCEDURES AND STANDARDS SHALL NOT  
45 LIMIT HEALTH CARE PROVIDER PARTICIPATION IN THE PROGRAM FOR ECONOMIC  
46 PURPOSES AND SHALL BE CONSISTENT WITH GOOD PROFESSIONAL PRACTICE. ANY  
47 HEALTH CARE PROVIDER WHO IS QUALIFIED TO PARTICIPATE UNDER MEDICAID,  
48 FAMILY HEALTH PLUS, CHILD HEALTH PLUS OR MEDICARE SHALL BE DEEMED TO BE  
49 QUALIFIED TO PARTICIPATE IN THE PROGRAM, AND ANY HEALTH CARE PROVIDER'S  
50 REVOCATION, SUSPENSION, LIMITATION, OR ANNULMENT OF QUALIFICATION TO  
51 PARTICIPATE IN ANY OF THOSE PROGRAMS SHALL APPLY TO THE HEALTH CARE  
52 PROVIDER'S QUALIFICATION TO PARTICIPATE IN THE PROGRAM; PROVIDED THAT A  
53 HEALTH CARE PROVIDER QUALIFIED UNDER THIS SENTENCE SHALL FOLLOW THE  
54 PROCEDURES TO BECOME QUALIFIED UNDER THE PROGRAM BY THE END OF THE  
55 IMPLEMENTATION PERIOD.



1 4. PAYMENT FOR HEALTH CARE SERVICES. (A) HEALTH CARE SERVICES PROVIDED  
2 TO MEMBERS UNDER THE PROGRAM SHALL BE PAID FOR ON A FEE-FOR-SERVICE  
3 BASIS, EXCEPT FOR CARE COORDINATION. HOWEVER, THE COMMISSIONER MAY  
4 ESTABLISH BY REGULATION OTHER PAYMENT METHODOLOGIES FOR HEALTH CARE  
5 SERVICES AND CARE COORDINATION PROVIDED TO MEMBERS UNDER THE PROGRAM BY  
6 PARTICIPATING PROVIDERS, CARE COORDINATORS, AND HEALTH CARE ORGANIZA-  
7 TIONS. THERE MAY BE A VARIETY OF DIFFERENT PAYMENT METHODOLOGIES,  
8 INCLUDING THOSE ESTABLISHED ON A DEMONSTRATION BASIS. ALL PAYMENT RATES  
9 UNDER THE PROGRAM SHALL BE REASONABLE AND REASONABLY RELATED TO THE COST  
10 OF EFFICIENTLY PROVIDING THE HEALTH CARE SERVICE AND ASSURING AN  
11 ADEQUATE AND ACCESSIBLE SUPPLY OF HEALTH CARE SERVICE.

12 (B) THE PROGRAM SHALL ENGAGE IN GOOD FAITH NEGOTIATIONS WITH HEALTH  
13 CARE PROVIDERS' REPRESENTATIVES UNDER TITLE III OF ARTICLE FORTY-NINE OF  
14 THIS CHAPTER, INCLUDING, BUT NOT LIMITED TO, IN RELATION TO RATES OF  
15 PAYMENT AND PAYMENT METHODOLOGIES.

16 (C) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, PAYMENT FOR  
17 DRUGS PROVIDED BY PHARMACIES UNDER THE PROGRAM SHALL BE MADE PURSUANT TO  
18 ARTICLE TWO-A OF THIS CHAPTER AND SUBDIVISION FOUR OF SECTION THREE  
19 HUNDRED SIXTY-FIVE-A OF THE SOCIAL SERVICES LAW. HOWEVER, THE PROGRAM  
20 SHALL PROVIDE FOR PAYMENT FOR PRESCRIPTION DRUGS UNDER SECTION 340B OF  
21 THE FEDERAL PUBLIC SERVICE ACT WHERE APPLICABLE. PAYMENT FOR  
22 PRESCRIPTION DRUGS PROVIDED BY HEALTH CARE PROVIDERS OTHER THAN PHARMA-  
23 CIES SHALL BE PURSUANT TO OTHER PROVISIONS OF THIS ARTICLE.

24 (D) PAYMENT FOR HEALTH CARE SERVICES ESTABLISHED UNDER THIS ARTICLE  
25 SHALL BE CONSIDERED PAYMENT IN FULL. A PARTICIPATING PROVIDER SHALL NOT  
26 CHARGE ANY RATE IN EXCESS OF THE PAYMENT ESTABLISHED UNDER THIS ARTICLE  
27 FOR ANY HEALTH CARE SERVICE UNDER THE PROGRAM PROVIDED TO A MEMBER AND  
28 SHALL NOT SOLICIT OR ACCEPT PAYMENT FROM ANY MEMBER OR THIRD PARTY FOR  
29 ANY SUCH SERVICE EXCEPT AS PROVIDED UNDER THIS ARTICLE. HOWEVER, THIS  
30 PARAGRAPH SHALL NOT PRECLUDE THE PROGRAM FROM ACTING AS A PRIMARY OR  
31 SECONDARY PAYER IN CONJUNCTION WITH ANOTHER THIRD-PARTY PAYER WHERE  
32 PERMITTED UNDER THIS ARTICLE.

33 (E) THE PROGRAM MAY PROVIDE IN PAYMENT METHODOLOGIES FOR PAYMENT FOR  
34 CAPITAL RELATED EXPENSES FOR SPECIFICALLY IDENTIFIED CAPITAL EXPENDI-  
35 TURES INCURRED BY NOT-FOR-PROFIT OR GOVERNMENTAL ENTITIES CERTIFIED  
36 UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER. ANY CAPITAL RELATED EXPENSE  
37 GENERATED BY A CAPITAL EXPENDITURE THAT REQUIRES OR REQUIRED APPROVAL  
38 UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER MUST HAVE RECEIVED THAT  
39 APPROVAL FOR THE CAPITAL RELATED EXPENSE TO BE PAID FOR UNDER THE  
40 PROGRAM.

41 5. (A) FOR PURPOSES OF THIS SUBDIVISION, "INCOME-ELIGIBLE MEMBER"  
42 MEANS A MEMBER WHO IS ENROLLED IN A FEDERALLY-MATCHED PUBLIC HEALTH  
43 PROGRAM AND (I) THERE IS FEDERAL FINANCIAL PARTICIPATION IN THE INDIVID-  
44 UAL'S HEALTH COVERAGE, OR (II) THE MEMBER IS ELIGIBLE TO ENROLL IN THE  
45 FEDERALLY-MATCHED PUBLIC HEALTH PROGRAM BY REASON OF INCOME, AGE, AND  
46 RESOURCES (WHERE APPLICABLE) UNDER STATE LAW IN EFFECT ON THE EFFECTIVE  
47 DATE OF THIS SECTION, BUT THERE IS NO FEDERAL FINANCIAL PARTICIPATION IN  
48 THE INDIVIDUAL'S HEALTH COVERAGE. A PERSON WHO IS ELIGIBLE TO ENROLL IN  
49 A FEDERALLY-MATCHED PUBLIC HEALTH PROGRAM SOLELY BY REASON OF SECTION  
50 THREE HUNDRED SIXTY-NINE-FF OF THE SOCIAL SERVICES LAW (EMPLOYER PART-  
51 NERSHIPS FOR FAMILY HEALTH PLUS) IS NOT AN INCOME-ELIGIBLE MEMBER.

52 (B) THE PROGRAM, WITH RESPECT TO INCOME-ELIGIBLE MEMBERS, SHALL BE  
53 CONSIDERED A FEDERALLY-MATCHED PUBLIC HEALTH PROGRAM OR GOVERNMENT PAYOR  
54 UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER WITH RESPECT TO THE FOLLOWING  
55 PROVISIONS, AND WITH RESPECT TO THOSE MEMBERS WHO ARE NOT INCOME-ELIGI-  
56 BLE MEMBERS, SHALL NOT BE CONSIDERED A FEDERALLY-MATCHED PUBLIC HEALTH

PROGRAM OR GOVERNMENTAL PAYOR UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER WITH RESPECT TO THE FOLLOWING PROVISIONS:

(I) PATIENT SERVICES PAYMENTS IN ACCORDANCE WITH SECTION TWENTY-EIGHT HUNDRED SEVEN-J OF THIS CHAPTER;

(II) PROFESSIONAL EDUCATION POOL FUNDING UNDER SECTION TWENTY-EIGHT HUNDRED SEVEN-S OF THIS CHAPTER; OR

(III) ASSESSMENTS ON COVERED LIVES UNDER SECTION TWENTY-EIGHT HUNDRED SEVEN-T OF THIS CHAPTER.

S 5106. HEALTH CARE ORGANIZATIONS. 1. A MEMBER MAY CHOOSE TO ENROLL WITH AND RECEIVE HEALTH CARE SERVICES UNDER THE PROGRAM FROM A HEALTH CARE ORGANIZATION.

2. A HEALTH CARE ORGANIZATION SHALL BE A NOT-FOR-PROFIT OR GOVERNMENTAL ENTITY THAT IS APPROVED BY THE COMMISSIONER THAT IS:

(A) AN ACCOUNTABLE CARE ORGANIZATION UNDER ARTICLE TWENTY-NINE-E OF THIS CHAPTER; OR

(B) A TAFT-HARTLEY FUND (I) WITH RESPECT TO ITS MEMBERS AND THEIR FAMILY MEMBERS, AND (II) IF ALLOWED BY APPLICABLE LAW AND APPROVED BY THE COMMISSIONER, FOR OTHER MEMBERS OF THE PROGRAM; PROVIDED THAT THE COMMISSIONER SHALL PROVIDE BY REGULATION THAT WHERE A TAFT-HARTLEY FUND IS ACTING UNDER THIS SUBPARAGRAPH THERE ARE PROTECTIONS FOR HEALTH CARE PROVIDERS AND PATIENTS COMPARABLE TO THOSE APPLICABLE TO ACCOUNTABLE CARE ORGANIZATIONS.

3. A HEALTH CARE ORGANIZATION MAY BE RESPONSIBLE FOR ALL OR PART OF THE HEALTH CARE SERVICES TO WHICH ITS MEMBERS ARE ENTITLED UNDER THE PROGRAM, CONSISTENT WITH THE TERMS OF ITS APPROVAL BY THE COMMISSIONER.

4. (A) THE COMMISSIONER SHALL DEVELOP AND IMPLEMENT PROCEDURES AND STANDARDS FOR AN ENTITY TO BE APPROVED TO BE A HEALTH CARE ORGANIZATION IN THE PROGRAM, INCLUDING BUT NOT LIMITED TO PROCEDURES AND STANDARDS RELATING TO THE REVOCATION, SUSPENSION, LIMITATION, OR ANNULMENT OF APPROVAL ON A DETERMINATION THAT THE ENTITY IS INCOMPETENT TO BE A HEALTH CARE ORGANIZATION OR HAS EXHIBITED A COURSE OF CONDUCT WHICH IS EITHER INCONSISTENT WITH PROGRAM STANDARDS AND REGULATIONS OR WHICH EXHIBITS AN UNWILLINGNESS TO MEET SUCH STANDARDS AND REGULATIONS, OR IS A POTENTIAL THREAT TO THE PUBLIC HEALTH OR SAFETY. SUCH PROCEDURES AND STANDARDS SHALL NOT LIMIT APPROVAL TO BE A HEALTH CARE ORGANIZATION IN THE PROGRAM FOR ECONOMIC PURPOSES AND SHALL BE CONSISTENT WITH GOOD PROFESSIONAL PRACTICE. IN DEVELOPING THE PROCEDURES AND STANDARDS, THE COMMISSIONER SHALL: (I) CONSIDER EXISTING STANDARDS DEVELOPED BY NATIONAL ACCREDITING AND PROFESSIONAL ORGANIZATIONS; AND (II) CONSULT WITH NATIONAL AND LOCAL ORGANIZATIONS WORKING IN THE FIELD OF HEALTH CARE ORGANIZATIONS, INCLUDING HEALTH CARE PRACTITIONERS, HOSPITALS, CLINICS, AND CONSUMERS AND THEIR REPRESENTATIVES. WHEN DEVELOPING AND IMPLEMENTING STANDARDS OF APPROVAL OF HEALTH CARE ORGANIZATIONS, THE COMMISSIONER SHALL CONSULT WITH THE COMMISSIONER OF MENTAL HEALTH AND THE COMMISSIONER OF DEVELOPMENTAL DISABILITIES.

(B) TO MAINTAIN APPROVAL UNDER THE PROGRAM, A HEALTH CARE ORGANIZATION MUST: (I) RENEW ITS STATUS AT A FREQUENCY DETERMINED BY THE COMMISSIONER; AND (II) PROVIDE DATA TO THE DEPARTMENT AS REQUIRED BY THE COMMISSIONER TO ENABLE THE COMMISSIONER TO EVALUATE THE HEALTH CARE ORGANIZATION IN RELATION TO QUALITY OF HEALTH CARE SERVICES, HEALTH CARE OUTCOMES, AND COST.

5. THE COMMISSIONER SHALL MAKE REGULATIONS RELATING TO HEALTH CARE ORGANIZATIONS CONSISTENT WITH AND TO ENSURE COMPLIANCE WITH THIS ARTICLE.

6. THE PROVISION OF HEALTH CARE SERVICES DIRECTLY OR INDIRECTLY BY A HEALTH CARE ORGANIZATION THROUGH HEALTH CARE PROVIDERS SHALL NOT BE

1 CONSIDERED THE PRACTICE OF A PROFESSION UNDER TITLE EIGHT OF THE EDUCA-  
2 TION LAW BY THE HEALTH CARE ORGANIZATION.

3 S 5107. PROGRAM STANDARDS. 1. THE COMMISSIONER SHALL ESTABLISH  
4 REQUIREMENTS AND STANDARDS FOR THE PROGRAM AND FOR HEALTH CARE ORGANIZA-  
5 TIONS, CARE COORDINATORS, AND HEALTH CARE PROVIDERS, INCLUDING REQUIRE-  
6 MENTS AND STANDARDS FOR, AS APPLICABLE:

7 (A) THE SCOPE, QUALITY AND ACCESSIBILITY OF HEALTH CARE SERVICES;

8 (B) RELATIONS BETWEEN HEALTH CARE ORGANIZATIONS OR HEALTH CARE PROVID-  
9 ERS AND MEMBERS, INCLUDING APPROVAL OF HEALTH CARE SERVICES; AND

10 (C) RELATIONS BETWEEN HEALTH CARE ORGANIZATIONS AND HEALTH CARE  
11 PROVIDERS, INCLUDING (I) CREDENTIALING AND PARTICIPATION IN HEALTH CARE  
12 ORGANIZATION NETWORKS; AND (II) TERMS, METHODS AND RATES OF PAYMENT.

13 2. REQUIREMENTS AND STANDARDS UNDER THE PROGRAM SHALL INCLUDE, BUT NOT  
14 BE LIMITED TO, PROVISIONS TO PROMOTE THE FOLLOWING:

15 (A) SIMPLIFICATION, TRANSPARENCY, UNIFORMITY, AND FAIRNESS IN HEALTH  
16 CARE PROVIDER CREDENTIALING AND PARTICIPATION IN HEALTH CARE ORGANIZA-  
17 TION NETWORKS, REFERRALS, PAYMENT PROCEDURES AND RATES, CLAIMS PROCESS-  
18 ING, AND APPROVAL OF HEALTH CARE SERVICES, AS APPLICABLE;

19 (B) PRIMARY AND PREVENTIVE CARE, CARE COORDINATION, EFFICIENT AND  
20 EFFECTIVE HEALTH CARE SERVICES, QUALITY ASSURANCE, AND COORDINATION AND  
21 INTEGRATION OF HEALTH CARE SERVICES, INCLUDING USE OF APPROPRIATE TECH-  
22 NOLOGY;

23 (C) ELIMINATION OF HEALTH CARE DISPARITIES;

24 (D) NON-DISCRIMINATION WITH RESPECT TO MEMBERS AND HEALTH CARE PROVID-  
25 ERS ON THE BASIS OF RACE, ETHNICITY, NATIONAL ORIGIN, RELIGION, DISABIL-  
26 ITY, AGE, SEX, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, OR  
27 ECONOMIC CIRCUMSTANCES; PROVIDED THAT HEALTH CARE SERVICES PROVIDED  
28 UNDER THE PROGRAM SHALL BE APPROPRIATE TO THE PATIENT'S CLINICALLY-RELE-  
29 VANT CIRCUMSTANCES; AND

30 (E) ACCESSIBILITY OF CARE COORDINATION, HEALTH CARE ORGANIZATION  
31 SERVICES AND HEALTH CARE SERVICES, INCLUDING ACCESSIBILITY FOR PEOPLE  
32 WITH DISABILITIES AND PEOPLE WITH LIMITED ABILITY TO SPEAK OR UNDERSTAND  
33 ENGLISH, AND THE PROVIDING OF HEALTH CARE ORGANIZATION SERVICES AND  
34 HEALTH CARE SERVICES IN A CULTURALLY COMPETENT MANNER.

35 3. ANY PARTICIPATING PROVIDER OR CARE COORDINATOR THAT IS ORGANIZED AS  
36 A FOR-PROFIT ENTITY SHALL BE REQUIRED TO MEET THE SAME REQUIREMENTS AND  
37 STANDARDS AS ENTITIES ORGANIZED AS NOT-FOR-PROFIT ENTITIES, AND PAYMENTS  
38 UNDER THE PROGRAM PAID TO SUCH ENTITIES SHALL NOT BE CALCULATED TO  
39 ACCOMMODATE THE GENERATION OF PROFIT OR REVENUE FOR DIVIDENDS OR OTHER  
40 RETURN ON INVESTMENT OR THE PAYMENT OF TAXES THAT WOULD NOT BE PAID BY A  
41 NOT-FOR-PROFIT ENTITY.

42 4. EVERY PARTICIPATING PROVIDER SHALL FURNISH TO THE PROGRAM SUCH  
43 INFORMATION TO, AND PERMIT EXAMINATION OF ITS RECORDS BY, THE PROGRAM,  
44 AS MAY BE REASONABLY REQUIRED FOR PURPOSES OF UTILIZATION REVIEW, QUALI-  
45 TY ASSURANCE, AND COST CONTAINMENT, FOR THE MAKING OF PAYMENTS, AND FOR  
46 STATISTICAL OR OTHER STUDIES OF THE OPERATION OF THE PROGRAM.

47 5. IN DEVELOPING REQUIREMENTS AND STANDARDS AND MAKING OTHER POLICY  
48 DETERMINATIONS UNDER THIS ARTICLE, THE COMMISSIONER SHALL CONSULT WITH  
49 REPRESENTATIVES OF MEMBERS, HEALTH CARE PROVIDERS, HEALTH CARE ORGANIZA-  
50 TIONS AND OTHER INTERESTED PARTIES.

51 6. THE PROGRAM SHALL MAINTAIN THE CONFIDENTIALITY OF ALL DATA AND  
52 OTHER INFORMATION COLLECTED UNDER THE PROGRAM WHEN SUCH DATA WOULD BE  
53 NORMALLY CONSIDERED CONFIDENTIAL DATA BETWEEN A PATIENT AND HEALTH CARE  
54 PROVIDER. AGGREGATE DATA OF THE PROGRAM WHICH IS DERIVED FROM CONFIDEN-  
55 TIAL DATA BUT DOES NOT VIOLATE PATIENT CONFIDENTIALITY SHALL BE PUBLIC  
56 INFORMATION.

1 S 5108. REGULATIONS. THE COMMISSIONER MAY APPROVE REGULATIONS AND  
2 AMENDMENTS THERETO, UNDER SUBDIVISION ONE OF SECTION FIFTY-ONE HUNDRED  
3 TWO OF THIS ARTICLE. THE COMMISSIONER MAY MAKE REGULATIONS OR AMENDMENTS  
4 THERETO TO EFFECTUATE THE PROVISIONS AND PURPOSES OF THIS ARTICLE ON AN  
5 EMERGENCY BASIS UNDER SECTION TWO HUNDRED TWO OF THE STATE ADMINISTRA-  
6 TIVE PROCEDURE ACT, PROVIDED THAT SUCH REGULATIONS OR AMENDMENTS SHALL  
7 NOT BECOME PERMANENT UNLESS ADOPTED UNDER SUBDIVISION ONE OF SECTION  
8 FIFTY-ONE HUNDRED TWO OF THIS ARTICLE.

9 S 5109. PROVISIONS RELATING TO FEDERAL HEALTH PROGRAMS. 1. THE COMMIS-  
10 SIONER SHALL SEEK ALL FEDERAL WAIVERS AND OTHER FEDERAL APPROVALS AND  
11 ARRANGEMENTS AND SUBMIT STATE PLAN AMENDMENTS NECESSARY TO OPERATE THE  
12 PROGRAM CONSISTENT WITH THIS ARTICLE.

13 2. (A) THE COMMISSIONER SHALL APPLY TO THE SECRETARY OF HEALTH AND  
14 HUMAN SERVICES OR OTHER APPROPRIATE FEDERAL OFFICIAL FOR ALL WAIVERS OF  
15 REQUIREMENTS, AND MAKE OTHER ARRANGEMENTS, UNDER MEDICARE, ANY FEDERAL-  
16 LY-MATCHED PUBLIC HEALTH PROGRAM, THE PATIENT PROTECTION AND AFFORDABLE  
17 CARE ACT, AND ANY OTHER FEDERAL PROGRAMS THAT PROVIDE FEDERAL FUNDS FOR  
18 PAYMENT FOR HEALTH CARE SERVICES, THAT ARE NECESSARY TO ENABLE ALL NEW  
19 YORK HEALTH MEMBERS TO RECEIVE ALL BENEFITS UNDER THE PROGRAM THROUGH  
20 THE PROGRAM TO ENABLE THE STATE TO IMPLEMENT THIS ARTICLE AND TO RECEIVE  
21 AND DEPOSIT ALL FEDERAL PAYMENTS UNDER THOSE PROGRAMS (INCLUDING FUNDS  
22 THAT MAY BE PROVIDED IN LIEU OF PREMIUM TAX CREDITS, COST-SHARING SUBSI-  
23 DIES, AND SMALL BUSINESS TAX CREDITS) IN THE STATE TREASURY TO THE CRED-  
24 IT OF THE NEW YORK HEALTH TRUST FUND CREATED UNDER SECTION EIGHTY-NINE-H  
25 OF THE STATE FINANCE LAW AND TO USE THOSE FUNDS FOR THE NEW YORK HEALTH  
26 PROGRAM AND OTHER PROVISIONS UNDER THIS ARTICLE. TO THE EXTENT POSSIBLE,  
27 THE COMMISSIONER SHALL NEGOTIATE ARRANGEMENTS WITH THE FEDERAL GOVERN-  
28 MENT IN WHICH BULK OR LUMP-SUM FEDERAL PAYMENTS ARE PAID TO NEW YORK  
29 HEALTH IN PLACE OF FEDERAL SPENDING OR TAX BENEFITS FOR  
30 FEDERALLY-MATCHED HEALTH PROGRAMS OR FEDERAL HEALTH PROGRAMS.

31 (B) THE COMMISSIONER MAY REQUIRE MEMBERS OR APPLICANTS TO BE MEMBERS  
32 TO PROVIDE INFORMATION NECESSARY FOR THE PROGRAM TO COMPLY WITH ANY  
33 WAIVER OR ARRANGEMENT UNDER THIS SUBDIVISION.

34 3. (A) IF ACTIONS TAKEN UNDER SUBDIVISION TWO OF THIS SECTION DO NOT  
35 ACCOMPLISH ALL RESULTS INTENDED UNDER THAT SUBDIVISION, THEN THIS SUBDI-  
36 VISION SHALL APPLY AND SHALL AUTHORIZE ADDITIONAL ACTIONS TO EFFECTIVELY  
37 IMPLEMENT NEW YORK HEALTH TO THE MAXIMUM EXTENT POSSIBLE AS A  
38 SINGLE-PAYER PROGRAM CONSISTENT WITH THIS ARTICLE.

39 (B) THE COMMISSIONER MAY TAKE ACTIONS CONSISTENT WITH THIS ARTICLE TO  
40 ENABLE NEW YORK HEALTH TO ADMINISTER MEDICARE IN NEW YORK STATE AND TO  
41 BE A PROVIDER OF DRUG COVERAGE UNDER MEDICARE PART D FOR ELIGIBLE  
42 MEMBERS OF NEW YORK HEALTH.

43 (C) THE COMMISSIONER MAY WAIVE OR MODIFY THE APPLICABILITY OF  
44 PROVISIONS OF THIS SECTION RELATING TO ANY FEDERALLY-MATCHED PUBLIC  
45 HEALTH PROGRAM OR MEDICARE AS NECESSARY TO IMPLEMENT ANY WAIVER OR  
46 ARRANGEMENT UNDER THIS SECTION OR TO MAXIMIZE THE BENEFIT TO THE NEW  
47 YORK HEALTH PROGRAM UNDER THIS SECTION, PROVIDED THAT THE COMMISSIONER,  
48 IN CONSULTATION WITH THE DIRECTOR OF THE BUDGET, SHALL DETERMINE THAT  
49 SUCH WAIVER OR MODIFICATION IS IN THE BEST INTERESTS OF THE MEMBERS  
50 AFFECTED BY THE ACTION AND THE STATE.

51 (D) THE COMMISSIONER MAY APPLY FOR COVERAGE UNDER ANY  
52 FEDERALLY-MATCHED PUBLIC HEALTH PROGRAM ON BEHALF OF ANY MEMBER AND  
53 ENROLL THE MEMBER IN THE FEDERALLY-MATCHED PUBLIC HEALTH PROGRAM IF THE  
54 MEMBER IS ELIGIBLE FOR IT. ENROLLMENT IN A FEDERALLY-MATCHED PUBLIC  
55 HEALTH PROGRAM SHALL NOT CAUSE ANY MEMBER TO LOSE ANY HEALTH CARE  
56 SERVICE PROVIDED BY THE PROGRAM.

1 (E) THE COMMISSIONER SHALL BY REGULATION INCREASE THE INCOME ELIGIBIL-  
2 ITY LEVEL, INCREASE OR ELIMINATE THE RESOURCE TEST FOR ELIGIBILITY,  
3 SIMPLIFY ANY PROCEDURAL OR DOCUMENTATION REQUIREMENT FOR ENROLLMENT, AND  
4 INCREASE THE BENEFITS FOR ANY FEDERALLY-MATCHED PUBLIC HEALTH PROGRAM,  
5 NOTWITHSTANDING ANY LAW OR REGULATION TO THE CONTRARY. THE COMMISSIONER  
6 MAY ACT UNDER THIS PARAGRAPH UPON A FINDING, APPROVED BY THE DIRECTOR OF  
7 THE BUDGET, THAT THE ACTION (I) WILL HELP TO INCREASE THE NUMBER OF  
8 MEMBERS WHO ARE ELIGIBLE FOR AND ENROLLED IN FEDERALLY-MATCHED PUBLIC  
9 HEALTH PROGRAMS; (II) WILL NOT DIMINISH ANY INDIVIDUAL'S ACCESS TO ANY  
10 HEALTH CARE SERVICE; AND (III) DOES NOT REQUIRE OR HAS RECEIVED ANY  
11 NECESSARY FEDERAL WAIVERS OR APPROVALS TO ENSURE FEDERAL FINANCIAL  
12 PARTICIPATION. ACTIONS UNDER THIS PARAGRAPH SHALL NOT APPLY TO ELIGIBIL-  
13 ITY FOR PAYMENT FOR LONG TERM CARE.

14 (F) TO ENABLE THE COMMISSIONER TO APPLY FOR COVERAGE UNDER ANY FEDER-  
15 ALLY-MATCHED PUBLIC HEALTH PROGRAM ON BEHALF OF ANY MEMBER AND ENROLL  
16 THE MEMBER IN THE FEDERALLY-MATCHED PUBLIC HEALTH PROGRAM IF THE MEMBER  
17 IS ELIGIBLE FOR IT, THE COMMISSIONER MAY REQUIRE THAT EVERY MEMBER OR  
18 APPLICANT TO BE A MEMBER SHALL PROVIDE INFORMATION TO ENABLE THE COMMIS-  
19 SIONER TO DETERMINE WHETHER THE APPLICANT IS ELIGIBLE FOR A  
20 FEDERALLY-MATCHED PUBLIC HEALTH PROGRAM AND FOR MEDICARE (AND ANY  
21 PROGRAM OR BENEFIT UNDER MEDICARE). THE PROGRAM SHALL MAKE A REASONABLE  
22 EFFORT TO NOTIFY MEMBERS OF THEIR OBLIGATIONS UNDER THIS PARAGRAPH.  
23 AFTER A REASONABLE EFFORT HAS BEEN MADE TO CONTACT THE MEMBER, THE  
24 MEMBER SHALL BE NOTIFIED IN WRITING THAT HE OR SHE HAS SIXTY DAYS TO  
25 PROVIDE SUCH REQUIRED INFORMATION. IF SUCH INFORMATION IS NOT PROVIDED  
26 WITHIN THE SIXTY DAY PERIOD, THE MEMBER'S COVERAGE UNDER THE PROGRAM MAY  
27 BE TERMINATED.

28 (G) AS A CONDITION OF CONTINUED ELIGIBILITY FOR HEALTH CARE SERVICES  
29 UNDER THE PROGRAM, A MEMBER WHO IS ELIGIBLE FOR BENEFITS UNDER MEDICARE  
30 SHALL ENROLL IN MEDICARE, INCLUDING PARTS A, B AND D.

31 (H) THE PROGRAM SHALL PROVIDE PREMIUM ASSISTANCE FOR ALL MEMBERS  
32 ENROLLING IN A MEDICARE PART D DRUG COVERAGE UNDER SECTION 1860D OF  
33 TITLE XVIII OF THE FEDERAL SOCIAL SECURITY ACT LIMITED TO THE LOW-INCOME  
34 BENCHMARK PREMIUM AMOUNT ESTABLISHED BY THE FEDERAL CENTERS FOR MEDICARE  
35 AND MEDICAID SERVICES AND ANY OTHER AMOUNT WHICH SUCH AGENCY ESTABLISHES  
36 UNDER ITS DE MINIMIS PREMIUM POLICY, EXCEPT THAT SUCH PAYMENTS MADE ON  
37 BEHALF OF MEMBERS ENROLLED IN A MEDICARE ADVANTAGE PLAN MAY EXCEED THE  
38 LOW-INCOME BENCHMARK PREMIUM AMOUNT IF DETERMINED TO BE COST EFFECTIVE  
39 TO THE PROGRAM.

40 (I) IF THE COMMISSIONER HAS REASONABLE GROUNDS TO BELIEVE THAT A  
41 MEMBER COULD BE ELIGIBLE FOR AN INCOME-RELATED SUBSIDY UNDER SECTION  
42 1860D-14 OF TITLE XVIII OF THE FEDERAL SOCIAL SECURITY ACT, THE MEMBER  
43 SHALL PROVIDE, AND AUTHORIZE THE PROGRAM TO OBTAIN, ANY INFORMATION OR  
44 DOCUMENTATION REQUIRED TO ESTABLISH THE MEMBER'S ELIGIBILITY FOR SUCH  
45 SUBSIDY, PROVIDED THAT THE COMMISSIONER SHALL ATTEMPT TO OBTAIN AS MUCH  
46 OF THE INFORMATION AND DOCUMENTATION AS POSSIBLE FROM RECORDS THAT ARE  
47 AVAILABLE TO HIM OR HER.

48 (J) THE PROGRAM SHALL MAKE A REASONABLE EFFORT TO NOTIFY MEMBERS OF  
49 THEIR OBLIGATIONS UNDER THIS SUBDIVISION. AFTER A REASONABLE EFFORT HAS  
50 BEEN MADE TO CONTACT THE MEMBER, THE MEMBER SHALL BE NOTIFIED IN WRITING  
51 THAT HE OR SHE HAS SIXTY DAYS TO PROVIDE SUCH REQUIRED INFORMATION. IF  
52 SUCH INFORMATION IS NOT PROVIDED WITHIN THE SIXTY DAY PERIOD, THE  
53 MEMBER'S COVERAGE UNDER THE PROGRAM MAY BE TERMINATED.

54 S 5110. ADDITIONAL PROVISIONS. 1. THE COMMISSIONER SHALL CONTRACT  
55 WITH NOT-FOR-PROFIT ORGANIZATIONS TO PROVIDE:

1 (A) CONSUMER ASSISTANCE TO INDIVIDUALS WITH RESPECT TO SELECTION OF A  
2 CARE COORDINATOR OR HEALTH CARE ORGANIZATION, ENROLLING, OBTAINING  
3 HEALTH CARE SERVICES, DISENROLLING, AND OTHER MATTERS RELATING TO THE  
4 PROGRAM;

5 (B) HEALTH CARE PROVIDER ASSISTANCE TO HEALTH CARE PROVIDERS PROVIDING  
6 AND SEEKING OR CONSIDERING WHETHER TO PROVIDE, HEALTH CARE SERVICES  
7 UNDER THE PROGRAM, WITH RESPECT TO PARTICIPATING IN A HEALTH CARE ORGAN-  
8 IZATION AND DEALING WITH A HEALTH CARE ORGANIZATION; AND

9 (C) CARE COORDINATOR ASSISTANCE TO INDIVIDUALS AND ENTITIES PROVIDING  
10 AND SEEKING OR CONSIDERING WHETHER TO PROVIDE, CARE COORDINATION TO  
11 MEMBERS.

12 2. THE COMMISSIONER SHALL PROVIDE GRANTS FROM FUNDS IN THE NEW YORK  
13 HEALTH TRUST FUND OR OTHERWISE APPROPRIATED FOR THIS PURPOSE, TO HEALTH  
14 SYSTEMS AGENCIES UNDER SECTION TWENTY-NINE HUNDRED FOUR-B OF THIS CHAP-  
15 TER TO SUPPORT THE OPERATION OF SUCH HEALTH SYSTEMS AGENCIES.

16 S 3. Financing of New York Health. 1. The governor shall submit to the  
17 legislature a plan and legislative bills to implement the plan (referred  
18 to collectively in this section as the "revenue proposal") to provide  
19 the revenue necessary to finance the New York Health program, as created  
20 by article 51 of the public health law (referred to in this section as  
21 the "program"), taking into consideration anticipated federal revenue  
22 available for the program. The revenue proposal shall be submitted to  
23 the legislature as part of the executive budget under article VII of the  
24 state constitution, for the fiscal year commencing on the first day of  
25 April in the calendar year after this act shall become a law. In devel-  
26 oping the revenue proposal, the governor shall consult with appropriate  
27 officials of the executive branch; the temporary president of the  
28 senate; the speaker of the assembly; the chairs of the fiscal and health  
29 committees of the senate and assembly; and representatives of business,  
30 labor, consumers and local government.

31 2. (a) Basic structure. The basic structure of the revenue proposal  
32 shall be as follows: Revenue for the program shall come from two assess-  
33 ments (referred to collectively in this section as the "assessments").  
34 First, there shall be an assessment on all payroll and self-employed  
35 income (referred to in this section as the "payroll assessment"), paid  
36 by employers, employees and self-employed, similar to the Medicare tax.  
37 Higher brackets of income subject to this assessment shall be assessed  
38 at a higher marginal rate than lower brackets. Second, there shall be a  
39 progressively-graduated assessment on taxable income (such as interest,  
40 dividends, and capital gains) not subject to the payroll assessment  
41 (referred to in this section as the "non-payroll assessment"). The  
42 assessments will be set at levels anticipated to produce sufficient  
43 revenue to finance the program and other provisions of article 51 of the  
44 public health law, to be scaled up as enrollment grows, taking into  
45 consideration anticipated federal revenue available for the program.  
46 Provision shall be made for state residents (who are eligible for the  
47 program) who are employed out-of-state, and non-residents (who are not  
48 eligible for the program) who are employed in the state.

49 (b) Payroll assessment. The income to be subject to the payroll  
50 assessment shall be all income subject to the Medicare tax. The assess-  
51 ment shall be set at a particular percentage of that income, which shall  
52 be progressively graduated, so the percentage is higher on higher brack-  
53 ets of income. For employed individuals, the employer shall pay eighty  
54 percent of the assessment and the employee shall pay twenty percent  
55 (unless the employer agrees to pay a higher percentage). A self-employed  
56 individual shall pay the full assessment.

1 (c) Non-payroll income assessment. There shall be a second assessment,  
2 on upper-bracket taxable income that is not subject to the payroll  
3 assessment. It shall be progressively graduated and structured as a  
4 percentage of the personal income tax on that income.

5 (d) Phased-in rates. Early in the program, when enrollment is growing,  
6 the amount of the assessments shall be at an appropriate level, and  
7 shall be raised as anticipated enrollment grows, to cover the actual  
8 cost of the program and other provisions of article 51 of the public  
9 health law. The revenue proposal shall include a mechanism for determin-  
10 ing the rates of the assessments.

11 (e) Cross-border employees. (i) State residents employed out-of-state.  
12 If an individual is employed out-of-state by an employer that is subject  
13 to New York state law, the employer and employee shall be required to  
14 pay the payroll assessment as if the employment were in the state. If an  
15 individual is employed out-of-state by an employer that is not subject  
16 to New York state law, either (A) the employer and employee shall volun-  
17 tarily comply with the assessment or (B) the employee shall pay the  
18 assessment as if he or she were self-employed.

19 (ii) Out-of-state residents employed in the state. (A) The payroll  
20 assessment shall apply to any out-of-state resident who is employed or  
21 self-employed in the state. (B) In the case of an out-of-state resident  
22 who is employed or self-employed in the state, such individual's employ-  
23 er (which term shall include a Taft-Hartley fund) shall be able to take  
24 a credit against the payroll assessments they would otherwise pay, for  
25 amounts they spend on health benefits that would otherwise be covered by  
26 the program. For employers, the credit shall be available regardless of  
27 the form of the health benefit (e.g., health insurance, a self-insured  
28 plan, direct services, or reimbursement for services), to make sure that  
29 the revenue proposal does not relate to employment benefits in violation  
30 of the federal ERISA. An employee may take the credit for his or her  
31 contribution to an employment-based health benefit. For non-employment-  
32 based spending by individuals, the credit shall be available for and  
33 limited to spending for health coverage (not out-of-pocket health spend-  
34 ing). The credit shall be available without regard to how little is  
35 spent or how sparse the benefit. The credit may only be taken against  
36 the payroll assessments. Any excess amount may not be applied to other  
37 tax liability. For employment-based health benefits, the credit shall be  
38 distributed between the employer and employee in the same proportion as  
39 the spending by each for the benefit. The employer and employee may each  
40 apply their respective portion of the credit to their respective portion  
41 of the assessment. If any provision of this clause (B) or any applica-  
42 tion of it shall be ruled to violate federal ERISA, the provision or the  
43 application of it shall be null and void and the ruling shall not affect  
44 any other provision or application of this section or the act that  
45 enacted it.

46 3. The revenue proposal shall include a plan and legislative  
47 provisions for ending the requirement for local social services  
48 districts to pay part of the cost of Medicaid and replacing those  
49 payments with revenue from the assessments under the revenue proposal.

50 4. To the extent that the revenue proposal differs from the terms of  
51 subdivision 2 of this section, the revenue proposal shall state how it  
52 differs from those terms and reasons for and the effects of the differ-  
53 ences.

54 5. All revenue from the assessments shall be deposited in the New York  
55 Health trust fund account under section 89-h of the state finance law.

1 S 4. Article 49 of the public health law is amended by adding a new  
2 title 3 to read as follows:

3 TITLE III  
4 COLLECTIVE NEGOTIATIONS BY HEALTH CARE PROVIDERS WITH  
5 NEW YORK HEALTH

6 SECTION 4920. DEFINITIONS.

7 4921. COLLECTIVE NEGOTIATION AUTHORIZED.

8 4922. COLLECTIVE NEGOTIATION REQUIREMENTS.

9 4923. REQUIREMENTS FOR HEALTH CARE PROVIDERS' REPRESENTATIVE.

10 4924. CERTAIN COLLECTIVE ACTION PROHIBITED.

11 4925. FEES.

12 4926. CONFIDENTIALITY.

13 4927. SEVERABILITY AND CONSTRUCTION.

14 S 4920. DEFINITIONS. FOR PURPOSES OF THIS TITLE:

15 1. "NEW YORK HEALTH" MEANS THE PROGRAM UNDER ARTICLE FIFTY-ONE OF THIS  
16 CHAPTER.

17 2. "PERSON" MEANS AN INDIVIDUAL, ASSOCIATION, CORPORATION, OR ANY  
18 OTHER LEGAL ENTITY.

19 3. "HEALTH CARE PROVIDERS' REPRESENTATIVE" MEANS A THIRD PARTY WHO IS  
20 AUTHORIZED BY HEALTH CARE PROVIDERS TO NEGOTIATE ON THEIR BEHALF WITH  
21 NEW YORK HEALTH OVER TERMS AND CONDITIONS AFFECTING THOSE HEALTH CARE  
22 PROVIDERS.

23 4. "STRIKE" MEANS A WORK STOPPAGE IN PART OR IN WHOLE, DIRECT OR INDI-  
24 RECT, BY A BODY OF WORKERS TO GAIN COMPLIANCE WITH DEMANDS MADE ON AN  
25 EMPLOYER.

26 5. "HEALTH CARE PROVIDER" MEANS A PERSON WHO IS LICENSED, CERTIFIED,  
27 OR REGISTERED PURSUANT TO TITLE EIGHT OF THE EDUCATION LAW AND WHO PRAC-  
28 TICES AS A HEALTH CARE PROVIDER AS AN INDEPENDENT CONTRACTOR OR WHO IS  
29 AN OWNER, OFFICER, SHAREHOLDER, OR PROPRIETOR OF A HEALTH CARE PROVIDER;  
30 OR AN ENTITY THAT EMPLOYS OR UTILIZES HEALTH CARE PROVIDERS TO PROVIDE  
31 HEALTH CARE SERVICES, INCLUDING BUT NOT LIMITED TO A HOSPITAL LICENSED  
32 UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER OR AN ACCOUNTABLE CARE ORGAN-  
33 IZATION UNDER ARTICLE TWENTY-NINE-E OF THIS CHAPTER. A HEALTH CARE  
34 PROVIDER UNDER TITLE EIGHT OF THE EDUCATION LAW WHO PRACTICES AS AN  
35 EMPLOYEE OF A HEALTH CARE PROVIDER SHALL NOT BE DEEMED A HEALTH CARE  
36 PROVIDER FOR PURPOSES OF THIS TITLE.

37 S 4921. COLLECTIVE NEGOTIATION AUTHORIZED. 1. HEALTH CARE PROVIDERS  
38 MAY MEET AND COMMUNICATE FOR THE PURPOSE OF COLLECTIVELY NEGOTIATING THE  
39 FOLLOWING TERMS AND CONDITIONS OF PROVIDER CONTRACTS WITH NEW YORK  
40 HEALTH:

41 (A) THE DETAILS OF THE UTILIZATION REVIEW PLAN AS DEFINED PURSUANT TO  
42 SUBDIVISION TEN OF SECTION FORTY-NINE HUNDRED OF THIS ARTICLE;

43 (B) THE DEFINITION OF MEDICAL NECESSITY;

44 (C) THE CLINICAL PRACTICE GUIDELINES USED TO MAKE MEDICAL NECESSITY  
45 AND UTILIZATION REVIEW DETERMINATIONS;

46 (D) PREVENTIVE CARE AND OTHER MEDICAL COORDINATION PRACTICES;

47 (E) DRUG FORMULARIES AND STANDARDS AND PROCEDURES FOR PRESCRIBING  
48 OFF-FORMULARY DRUGS;

49 (F) THE DETAILS OF RISK TRANSFER ARRANGEMENTS WITH PROVIDERS;

50 (G) ADMINISTRATIVE PROCEDURES;

51 (H) PROCEDURES TO BE UTILIZED TO RESOLVE DISPUTES BETWEEN NEW YORK  
52 HEALTH AND HEALTH CARE PROVIDERS;

53 (I) PATIENT REFERRAL PROCEDURES;

54 (J) THE FORMULATION AND APPLICATION OF HEALTH CARE PROVIDER REIMBURSE-  
55 MENT PROCEDURES;

56 (K) QUALITY ASSURANCE PROGRAMS;



1 (L) THE PROCESS FOR RENDERING UTILIZATION REVIEW DETERMINATIONS  
2 INCLUDING: ESTABLISHMENT OF A PROCESS FOR RENDERING UTILIZATION REVIEW  
3 DETERMINATIONS WHICH SHALL, AT A MINIMUM, INCLUDE: WRITTEN PROCEDURES TO  
4 ASSURE THAT UTILIZATION REVIEWS AND DETERMINATIONS ARE CONDUCTED WITHIN  
5 THE TIMEFRAMES ESTABLISHED IN THIS ARTICLE; PROCEDURES TO NOTIFY AN  
6 ENROLLEE, AN ENROLLEE'S DESIGNEE AND/OR AN ENROLLEE'S HEALTH CARE  
7 PROVIDER OF ADVERSE DETERMINATIONS; AND PROCEDURES FOR APPEAL OF ADVERSE  
8 DETERMINATIONS, INCLUDING THE ESTABLISHMENT OF AN EXPEDITED APPEALS  
9 PROCESS FOR DENIALS OF CONTINUED INPATIENT CARE OR WHERE THERE IS IMMI-  
10 NENT OR SERIOUS THREAT TO THE HEALTH OF THE ENROLLEE;

11 (M) HEALTH CARE PROVIDER SELECTION AND TERMINATION CRITERIA USED BY  
12 NEW YORK HEALTH;

13 (N) THE FEES ASSESSED BY NEW YORK HEALTH FOR SERVICES, INCLUDING FEES  
14 ESTABLISHED THROUGH THE APPLICATION OF REIMBURSEMENT PROCEDURES;

15 (O) THE CONVERSION FACTORS USED BY NEW YORK HEALTH IN A RESOURCE-BASED  
16 RELATIVE VALUE SCALE REIMBURSEMENT METHODOLOGY OR OTHER SIMILAR METHOD-  
17 OLOGY; PROVIDED THE SAME ARE NOT OTHERWISE ESTABLISHED BY STATE OR  
18 FEDERAL LAW OR REGULATION;

19 (P) THE AMOUNT OF ANY DISCOUNT GRANTED BY NEW YORK HEALTH ON THE FEE  
20 OF HEALTH CARE SERVICES TO BE RENDERED BY HEALTH CARE PROVIDERS;

21 (Q) THE DOLLAR AMOUNT OF CAPITATION OR FIXED PAYMENT FOR HEALTH CARE  
22 SERVICES RENDERED BY HEALTH CARE PROVIDERS TO NEW YORK HEALTH MEMBERS;

23 (R) THE PROCEDURE CODE OR OTHER DESCRIPTION OF A HEALTH CARE SERVICE  
24 COVERED BY A PAYMENT AND THE APPROPRIATE GROUPING OF THE PROCEDURE  
25 CODES; AND

26 (S) THE AMOUNT OF ANY OTHER COMPONENT OF THE REIMBURSEMENT METHODOLOGY  
27 FOR A HEALTH CARE SERVICE.

28 2. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO ALLOW OR AUTHORIZE AN  
29 ALTERATION OF THE TERMS OF THE INTERNAL AND EXTERNAL REVIEW PROCEDURES  
30 SET FORTH IN LAW.

31 3. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO ALLOW A STRIKE OF NEW  
32 YORK HEALTH BY HEALTH CARE PROVIDERS.

33 4. NOTHING IN THIS SECTION SHALL BE CONSTRUED TO ALLOW OR AUTHORIZE  
34 TERMS OR CONDITIONS WHICH WOULD IMPEDE THE ABILITY OF NEW YORK HEALTH TO  
35 OBTAIN OR RETAIN ACCREDITATION BY THE NATIONAL COMMITTEE FOR QUALITY  
36 ASSURANCE OR A SIMILAR BODY OR TO COMPLY WITH APPLICABLE STATE OR FEDER-  
37 AL LAW.

38 5. NOTHING IN THIS SECTION SHALL BE DEEMED TO AFFECT OR LIMIT THE  
39 RIGHT OF A HEALTH CARE PROVIDER OR GROUP OF HEALTH CARE PROVIDERS TO  
40 COLLECTIVELY PETITION A GOVERNMENT ENTITY FOR A CHANGE IN A LAW, RULE,  
41 OR REGULATION.

42 S 4922. COLLECTIVE NEGOTIATION REQUIREMENTS. 1. COLLECTIVE NEGOTIATION  
43 RIGHTS GRANTED BY THIS TITLE MUST CONFORM TO THE FOLLOWING REQUIREMENTS:

44 (A) HEALTH CARE PROVIDERS MAY COMMUNICATE WITH OTHER HEALTH CARE  
45 PROVIDERS REGARDING THE TERMS AND CONDITIONS TO BE NEGOTIATED WITH NEW  
46 YORK HEALTH;

47 (B) HEALTH CARE PROVIDERS MAY COMMUNICATE WITH HEALTH CARE PROVIDERS'  
48 REPRESENTATIVES;

49 (C) A HEALTH CARE PROVIDERS' REPRESENTATIVE IS THE ONLY PARTY AUTHOR-  
50 IZED TO NEGOTIATE WITH NEW YORK HEALTH ON BEHALF OF THE HEALTH CARE  
51 PROVIDERS AS A GROUP;

52 (D) A HEALTH CARE PROVIDER CAN BE BOUND BY THE TERMS AND CONDITIONS  
53 NEGOTIATED BY THE HEALTH CARE PROVIDERS' REPRESENTATIVES; AND

54 (E) IN COMMUNICATING OR NEGOTIATING WITH THE HEALTH CARE PROVIDERS'  
55 REPRESENTATIVE, NEW YORK HEALTH IS ENTITLED TO OFFER AND PROVIDE DIFFER-  
56 ENT TERMS AND CONDITIONS TO INDIVIDUAL COMPETING HEALTH CARE PROVIDERS.

1 2. NOTHING IN THIS TITLE SHALL BE CONSTRUED TO PROHIBIT OR LIMIT  
2 COLLECTIVE ACTION OR COLLECTIVE BARGAINING ON THE PART OF ANY HEALTH  
3 CARE PROVIDER WITH HIS OR HER EMPLOYER OR ANY OTHER LAWFUL COLLECTIVE  
4 ACTION OR COLLECTIVE BARGAINING.

5 S 4923. REQUIREMENTS FOR HEALTH CARE PROVIDERS' REPRESENTATIVE. BEFORE  
6 ENGAGING IN COLLECTIVE NEGOTIATIONS WITH NEW YORK HEALTH ON BEHALF OF  
7 HEALTH CARE PROVIDERS, A HEALTH CARE PROVIDERS' REPRESENTATIVE SHALL  
8 FILE WITH THE COMMISSIONER, IN THE MANNER PRESCRIBED BY THE COMMISSION-  
9 ER, INFORMATION IDENTIFYING THE REPRESENTATIVE, THE REPRESENTATIVE'S  
10 PLAN OF OPERATION, AND THE REPRESENTATIVE'S PROCEDURES TO ENSURE COMPLI-  
11 ANCE WITH THIS TITLE.

12 S 4924. CERTAIN COLLECTIVE ACTION PROHIBITED. 1. THIS TITLE IS NOT  
13 INTENDED TO AUTHORIZE COMPETING HEALTH CARE PROVIDERS TO ACT IN CONCERT  
14 IN RESPONSE TO A HEALTH CARE PROVIDERS' REPRESENTATIVE'S DISCUSSIONS OR  
15 NEGOTIATIONS WITH NEW YORK HEALTH.

16 2. NO HEALTH CARE PROVIDERS' REPRESENTATIVE SHALL NEGOTIATE ANY AGREE-  
17 MENT THAT EXCLUDES, LIMITS THE PARTICIPATION OR REIMBURSEMENT OF, OR  
18 OTHERWISE LIMITS THE SCOPE OF SERVICES TO BE PROVIDED BY ANY HEALTH CARE  
19 PROVIDER OR GROUP OF HEALTH CARE PROVIDERS WITH RESPECT TO THE PERFORM-  
20 ANCE OF SERVICES THAT ARE WITHIN THE HEALTH CARE PROVIDER'S SCOPE OF  
21 PRACTICE, LICENSE, REGISTRATION, OR CERTIFICATE.

22 S 4925. FEES. EACH PERSON WHO ACTS AS THE REPRESENTATIVE OR NEGOTIAT-  
23 ING PARTIES UNDER THIS TITLE SHALL PAY TO THE DEPARTMENT A FEE TO ACT AS  
24 A REPRESENTATIVE. THE COMMISSIONER, BY RULE, SHALL SET FEES IN AMOUNTS  
25 DEEMED REASONABLE AND NECESSARY TO COVER THE COSTS INCURRED BY THE  
26 DEPARTMENT IN ADMINISTERING THIS TITLE.

27 S 4926. CONFIDENTIALITY. ALL REPORTS AND OTHER INFORMATION REQUIRED TO  
28 BE REPORTED TO THE DEPARTMENT UNDER THIS TITLE SHALL NOT BE SUBJECT TO  
29 DISCLOSURE UNDER ARTICLE SIX OF THE PUBLIC OFFICERS LAW OR ARTICLE THIR-  
30 TY-ONE OF THE CIVIL PRACTICE LAW AND RULES.

31 S 4927. SEVERABILITY AND CONSTRUCTION. IF ANY PROVISION OR APPLICATION  
32 OF THIS TITLE SHALL BE HELD TO BE INVALID, OR TO VIOLATE OR BE INCON-  
33 SISTENT WITH ANY APPLICABLE FEDERAL LAW OR REGULATION, THAT SHALL NOT  
34 AFFECT OTHER PROVISIONS OR APPLICATIONS OF THIS TITLE WHICH CAN BE GIVEN  
35 EFFECT WITHOUT THAT PROVISION OR APPLICATION; AND TO THAT END, THE  
36 PROVISIONS AND APPLICATIONS OF THIS TITLE ARE SEVERABLE. THE PROVISIONS  
37 OF THIS TITLE SHALL BE LIBERALLY CONSTRUED TO GIVE EFFECT TO THE  
38 PURPOSES THEREOF.

39 S 5. Subdivision 11 of section 270 of the public health law, as  
40 amended by section 2-a of part C of chapter 58 of the laws of 2008, is  
41 amended to read as follows:

42 11. "State public health plan" means the medical assistance program  
43 established by title eleven of article five of the social services law  
44 (referred to in this article as "Medicaid"), the elderly pharmaceutical  
45 insurance coverage program established by title three of article two of  
46 the elder law (referred to in this article as "EPIC"), [and] the family  
47 health plus program established by section three hundred sixty-nine-ee  
48 of the social services law to the extent that section provides that the  
49 program shall be subject to this article, AND THE NEW YORK HEALTH  
50 PROGRAM ESTABLISHED BY ARTICLE FIFTY-ONE OF THIS CHAPTER.

51 S 6. The state finance law is amended by adding a new section 89-h to  
52 read as follows:

53 S 89-H. NEW YORK HEALTH TRUST FUND. 1. THERE IS HEREBY ESTABLISHED IN  
54 THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXA-  
55 TION AND FINANCE A SPECIAL REVENUE FUND TO BE KNOWN AS THE "NEW YORK  
56 HEALTH TRUST FUND", HEREINAFTER KNOWN AS "THE FUND". THE DEFINITIONS IN

SECTION FIFTY-ONE HUNDRED OF THE PUBLIC HEALTH LAW SHALL APPLY TO THIS SECTION.

2. THE FUND SHALL CONSIST OF:

(A) ALL MONIES OBTAINED FROM ASSESSMENTS PURSUANT TO LEGISLATION ENACTED AS PROPOSED UNDER SECTION THREE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND THIRTEEN THAT ADDED THIS SECTION;

(B) FEDERAL PAYMENTS RECEIVED AS A RESULT OF ANY WAIVER OF REQUIREMENTS GRANTED OR OTHER ARRANGEMENTS AGREED TO BY THE UNITED STATES SECRETARY OF HEALTH AND HUMAN SERVICES OR OTHER APPROPRIATE FEDERAL OFFICIALS FOR HEALTH CARE PROGRAMS ESTABLISHED UNDER MEDICARE, ANY FEDERALLY-MATCHED PUBLIC HEALTH PROGRAM, OR THE PATIENT PROTECTION AND AFFORDABLE CARE ACT;

(C) THE AMOUNTS PAID BY THE DEPARTMENT OF HEALTH AND BY LOCAL SOCIAL SERVICES DISTRICTS THAT ARE EQUIVALENT TO THOSE AMOUNTS THAT ARE PAID ON BEHALF OF RESIDENTS OF THIS STATE UNDER MEDICARE, ANY FEDERALLY-MATCHED PUBLIC HEALTH PROGRAM, OR THE PATIENT PROTECTION AND AFFORDABLE CARE ACT FOR HEALTH BENEFITS WHICH ARE EQUIVALENT TO HEALTH BENEFITS COVERED UNDER NEW YORK HEALTH;

(D) ALL SURCHARGES THAT ARE IMPOSED ON RESIDENTS OF THIS STATE TO REPLACE PAYMENTS MADE BY THE RESIDENTS UNDER THE COST-SHARING PROVISIONS OF MEDICARE;

(E) FEDERAL, STATE AND LOCAL FUNDS FOR PURPOSES OF THE PROVISION OF SERVICES AUTHORIZED UNDER TITLE XX OF THE FEDERAL SOCIAL SECURITY ACT THAT WOULD OTHERWISE BE COVERED UNDER ARTICLE FIFTY-ONE OF THE PUBLIC HEALTH LAW; AND

(F) STATE AND LOCAL GOVERNMENT MONIES THAT WOULD OTHERWISE BE APPROPRIATED TO ANY GOVERNMENTAL AGENCY, OFFICE, PROGRAM, INSTRUMENTALITY OR INSTITUTION WHICH PROVIDES HEALTH SERVICES, FOR SERVICES AND BENEFITS COVERED UNDER NEW YORK HEALTH. PAYMENTS TO THE FUND PURSUANT TO THIS PARAGRAPH SHALL BE IN AN AMOUNT EQUAL TO THE MONEY APPROPRIATED FOR SUCH PURPOSES IN THE FISCAL YEAR IMMEDIATELY PRECEDING THE EFFECTIVE DATE OF ARTICLE FIFTY-ONE OF THE PUBLIC HEALTH LAW.

3. MONIES IN THE FUND SHALL ONLY BE USED FOR PURPOSES ESTABLISHED UNDER ARTICLE FIFTY-ONE OF THE PUBLIC HEALTH LAW.

S 7. Temporary commission on implementation. 1. There is hereby established a temporary commission on implementation of the New York Health program, hereinafter to be known as the commission, consisting of fifteen members: five members, including the chair, shall be appointed by the governor; four members shall be appointed by the temporary president of the senate, one member shall be appointed by the senate minority leader; four members shall be appointed by the speaker of the assembly, and one member shall be appointed by the assembly minority leader. The commissioner of health, the superintendent of financial services, and the commissioner of taxation and finance, or their designees shall serve as non-voting ex-officio members of the commission.

2. Members of the commission shall receive such assistance as may be necessary from other state agencies and entities, and shall receive necessary expenses incurred in the performance of their duties. The commission may employ staff as needed, prescribe their duties, and fix their compensation within amounts appropriate for the commission.

3. The commission shall examine the laws and regulations of the state and make such recommendations as are necessary to conform the laws and regulations of the state and article 51 of the public health law establishing the New York Health program and other provisions of law relating to the New York Health program, and to improve and implement the

1 program. The commission shall report its recommendations to the governor  
2 and the legislature.

3 S 8. Severability. If any provision or application of this act shall  
4 be held to be invalid, or to violate or be inconsistent with any appli-  
5 cable federal law or regulation, that shall not affect other provisions  
6 or applications of this act which can be given effect without that  
7 provision or application; and to that end, the provisions and applica-  
8 tions of this act are severable.

9 S 9. This act shall take effect immediately.