

6527--A

2013-2014 Regular Sessions

I N A S S E M B L Y

April 4, 2013

Introduced by M. of A. RODRIGUEZ, RIVERA, COLTON, WEPRIN, RAIA, DUPREY, MONTESANO, HEASTIE, CRESPO -- Multi-Sponsored by -- M. of A. BOYLAND, BROOK-KRASNY, CAMARA, CROUCH, JOHNS, MAGEE, MALLIOTAKIS, McDONOUGH, MOYA, TENNEY -- read once and referred to the Committee on Health -- recommitted to the Committee on Health in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to establishing the Medicaid identification and anti-fraud biometric technology pilot program; and to amend the social services law, in relation to conforming medical assistance identification with the Medicaid identification and anti-fraud biometric technology program; and making an appropriation therefor

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

1 Section 1. The public health law is amended by adding a new article
2 2-B to read as follows:

3 ARTICLE 2-B

4 MEDICAID IDENTIFICATION AND ANTI-FRAUD BIOMETRIC
5 TECHNOLOGY PILOT PROGRAM

6 SECTION 290. MEDICAID IDENTIFICATION AND ANTI-FRAUD BIOMETRIC TECHNOLOGY
7 PILOT PROGRAM.

8 291. DEFINITIONS.

9 292. BIOMETRIC TECHNOLOGY USE REQUIREMENT.

10 293. RULES AND REGULATIONS.

11 S 290. MEDICAID IDENTIFICATION AND ANTI-FRAUD BIOMETRIC TECHNOLOGY
12 PILOT PROGRAM. THERE IS HEREBY ESTABLISHED THE MEDICAID IDENTIFICATION
13 AND ANTI-FRAUD BIOMETRIC TECHNOLOGY PILOT PROGRAM.

14 S 291. DEFINITIONS. AS USED IN THIS ARTICLE:

15 1. "BIOMETRIC TECHNOLOGY" MEANS TECHNOLOGY THAT MEASURES AND ANALYZES
16 BIOLOGICAL DATA, INCLUDING BUT NOT LIMITED TO DNA, FINGER IMAGING,

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

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VASCULAR PATTERNS, EYE RETINAS AND IRISES, VOICE PATTERNS, FACIAL PATTERNS AND HAND MEASUREMENTS, FOR AUTHENTICATION PURPOSES.

2. "BIOMETRIC VERIFICATION DEVICE" MEANS A DEVICE CAPABLE OF USING BIOMETRIC VERIFICATION TECHNOLOGY TO VERIFY THE IDENTITY OF A MEDICAID RECIPIENT OR PROVIDER.

S 292. BIOMETRIC TECHNOLOGY USE REQUIREMENT. 1. THE DEPARTMENT, IN CONSULTATION WITH THE OFFICE OF THE MEDICAID INSPECTOR GENERAL AND THE OFFICE OF THE ATTORNEY GENERAL, SHALL DEVELOP A REQUEST FOR PROPOSALS TO IMPLEMENT A PROGRAM AUTHORIZING THE USE OF BIOMETRIC TECHNOLOGY FOR THE PURPOSES OF PATIENT AND PROVIDER IDENTIFICATION AND FOR USE AS AN ANTI-FRAUD APPLICATION IN THE MEDICAID PROGRAM.

2. SUCH REQUEST FOR PROPOSALS SHALL INCLUDE AT A MINIMUM THAT (A) MEDICAID RECIPIENTS AND PROVIDERS SHALL PROVIDE BIOMETRIC PROOF OF THEIR IDENTITY ALONG WITH OTHER INFORMATION DEEMED NECESSARY BY THE COMMISSIONER.

(B) SUCH PROGRAM WILL BE CAPABLE OF STORING BIOMETRIC MARKERS AND A LOG OF DOCTOR AND PHARMACY VISITS FOR EACH SERVICE BILLED TO THE MEDICAID PROGRAM.

(C) MEDICAID IDENTIFICATION SHALL BE ISSUED TO AND ACCEPTED BY THE ADMITTING STAFF OF THE HEALTH CARE FACILITY.

(D) MEDICAID RECIPIENTS SHALL BE REQUIRED TO PROVIDE BIOMETRIC PROOF OF IDENTITY AT THE TIME OF EACH VISIT TO A DOCTOR'S OFFICE OR CLINIC AT THE POINT OF ACTUALLY BEING SEEN BY THE DOCTOR OR CLINICAL STAFF, AND SHALL AGAIN PROVIDE PROOF OF IDENTITY UPON COMPLETION OF CARE OR SERVICES.

(E) PROVISIONS SHALL BE INCLUDED FOR EMERGENCY SERVICES OR PRESCRIPTIONS AND ALTERNATE IDENTIFICATION METHODS FOR MEDICAID RECIPIENTS PHYSICALLY OR MENTALLY UNABLE TO PROVIDE BIOMETRIC IDENTIFICATION.

(F) FRAUD PREVENTION MARKERS INCORPORATED INTO SOFTWARE WHICH SHALL BE USED TO OPERATE THE HARDWARE COMPONENT OF THE BIOMETRIC TECHNOLOGY SHALL PREVENT AND/OR REJECT THE PAYMENT BY THE MEDICAID PROGRAM AND ALERT THE SERVICE PROVIDER AT POINT OF SERVICE IF FRAUD OR POTENTIAL FRAUD IS IDENTIFIED BY THE BIOMETRIC TECHNOLOGY SYSTEM.

(G) PROVISIONS SHALL BE INCLUDED TO ENSURE THAT MEDICAID RECIPIENTS HAVE ACCESS TO EMERGENCY HEALTH SERVICES IN THE CASE OF A BIOMETRIC TECHNOLOGY SYSTEM MALFUNCTION OR FRAUD DETECTION ALARM.

(H) EVALUATION AND SELECTION OF AN IDENTITY CREDENTIALING SYSTEM THAT ADDRESSES THE REQUIREMENTS OF MEDICAID BENEFICIARIES AND PROVIDERS SHALL BE BASED ON THE FOLLOWING CRITERIA: SECURITY, PRIVACY, USABILITY, PERFORMANCE, HYGIENE, BIOMETRIC CAPTURE AND STORAGE REQUIREMENTS, AND INTEROPERABILITY.

(I) SUCH PROGRAM SHALL BE OPERATIONAL WITHIN TWELVE MONTHS OF PROGRAM APPROVAL AND WILL OPERATE FOR THREE YEARS.

3. SUCH REQUEST FOR PROPOSALS SHALL SET FORTH REQUIREMENTS AS TO THE RESULTS AND GOALS TO BE ACHIEVED, RATHER THAN SPECIFIC TECHNICAL METHODS OR SYSTEMS, TO ALLOW CONSIDERATION OF THE WIDEST POSSIBLE CHOICE OF AVAILABLE TECHNOLOGY.

4. SUCH REQUEST FOR PROPOSALS SHALL REQUIRE: (A) THAT THE PROGRAM SHALL BE REVENUE NEUTRAL FROM INCEPTION, WHEREBY ANY PROGRAM COSTS ARE AT LEAST OFFSET BY STATE MEDICAID SAVINGS, AND SHALL HAVE AS A PRIMARY GOAL REDUCTION OF MEDICAID EXPENDITURES THROUGH ELIMINATION OF FRAUD AND ABUSE; AND (B) THAT THE PROGRAM SHALL BE COST NEUTRAL TO PROVIDERS FROM INCEPTION, WHEREBY ANY PROVIDER COSTS ARE AT LEAST OFFSET BY PROVIDER SAVINGS, AND SHALL HAVE AS A PRIMARY GOAL PROVIDER SAVINGS THROUGH INCREASED EFFICIENCIES.

1 5. (A) SUCH REQUEST FOR PROPOSALS FOR THE IMPLEMENTATION OF A PROGRAM
2 FOR BIOMETRIC TECHNOLOGY USE SHALL BE PUBLISHED ON OR BEFORE JANUARY
3 FIFTEENTH, TWO THOUSAND SIXTEEN, AND SHALL PROVIDE THAT PROPOSALS SHALL
4 BE OPENED ON OR BEFORE MARCH FIRST, TWO THOUSAND SIXTEEN.

5 (B) THE COMMISSIONER SHALL REPORT TO THE GOVERNOR, THE TEMPORARY PRES-
6 IDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, AND THE CHAIRS OF THE
7 SENATE AND ASSEMBLY HEALTH COMMITTEES ON OR BEFORE MARCH THIRTIETH, TWO
8 THOUSAND SIXTEEN WITH REGARD TO THE PROGRESS MADE IN THE DEVELOPMENT OF
9 CRITERIA FOR A PROGRAM OF BIOMETRIC IDENTIFICATION AND OF THE IMPLEMEN-
10 TATION OF SUCH PROGRAM.

11 6. THE COMMISSIONER SHALL, UPON SUBMISSION OF SATISFACTORY EVIDENCE
12 OF COMPLIANCE WITH THE PROVISIONS OF THIS TITLE, APPROVE TWO MEDICAID
13 IDENTIFICATION AND ANTI-FRAUD BIOMETRIC TECHNOLOGY PILOT PROGRAMS, ONE
14 TO BE LOCATED IN AN UPSTATE HOSPITAL AND ONE TO BE LOCATED IN A DOWN-
15 STATE HOSPITAL.

16 7. EACH HOSPITAL WILL BE APPROPRIATED THREE HUNDRED THOUSAND DOLLARS
17 TO ASSIST IN ENABLING THE MEDICAID IDENTIFICATION AND ANTI-FRAUD BIOME-
18 TRIC TECHNOLOGY PILOT PROGRAM.

19 S 293. RULES AND REGULATIONS. THE COMMISSIONER IS AUTHORIZED AND
20 DIRECTED TO PROMULGATE SUCH RULES AND REGULATIONS AS HE OR SHE MAY DEEM
21 NECESSARY OR APPROPRIATE TO EFFECTUATE THE PURPOSES OF THIS ARTICLE.

22 S 2. Subdivision 1 of section 367-b of the social services law, as
23 added by chapter 639 of the laws of 1976, is amended to read as follows:

24 1. The department, IN CONSULTATION WITH THE COMMISSIONER OF HEALTH,
25 shall design and implement a statewide medical assistance information
26 and payments system for the purpose of providing individual and aggre-
27 gate data to social services districts to assist them in making basic
28 management decisions, to the department and other state agencies to
29 assist in the administration of the medical assistance program, and to
30 the governor and the legislature as may be necessary to assist in making
31 major administrative and policy decisions affecting such program. Such
32 system shall be designed so as to be capable of the following:

33 a. receiving and processing information relating to the eligibility of
34 each person applying for medical assistance and of issuing a medical
35 assistance identification card, AND WHEN AVAILABLE UTILIZING THE BIOME-
36 TRIC IDENTIFICATION ISSUED BY THE DEPARTMENT OF HEALTH, CONFORMING TO
37 THE REQUIREMENTS SET FORTH IN THE MEDICAID IDENTIFICATION AND ANTI-FRAUD
38 BIOMETRIC TECHNOLOGY PILOT PROGRAM ESTABLISHED PURSUANT TO ARTICLE TWO-B
39 OF THE PUBLIC HEALTH LAW to persons determined by a social services
40 official to be eligible for such assistance;

41 b. ACTIVATING MEDICAL ASSISTANCE IDENTIFICATION BY REQUIRING AN
42 APPLICANT RECEIVING SUCH IDENTIFICATION FROM THE DEPARTMENT TO HAVE IT
43 VERIFIED AT A SOCIAL SERVICES DISTRICT OFFICE IN THE SOCIAL SERVICES
44 DISTRICT IN WHICH THE APPLICANT RESIDES;

45 C. receiving and processing information relating to each qualified
46 provider of medical assistance furnishing care, services or supplies for
47 which claims for payment are made pursuant to this title;

48 [c.] D. receiving and processing, in a form and manner prescribed by
49 the department, all claims for medical care, services and supplies, and
50 making payments for valid claims to providers of medical care, services
51 and supplies on behalf of social services districts; AND

52 [d.] E. maintaining information necessary to allow the department,
53 consistent with the powers and duties of the department of health, to
54 review the appropriateness, scope and duration of medical care, services
55 and supplies provided to any eligible person pursuant to this chapter;
56 and

1 [e.] F. initiating implementation of such a system for the district
2 comprising the city of New York, in a manner compatible with expansion
3 of such system to districts other than the district comprising the city
4 of New York.

5 S 3. The sum of six hundred thousand dollars (\$600,000), or so much
6 thereof as may be necessary, is hereby appropriated to the department of
7 health out of any moneys in the state treasury in the general fund to
8 the credit of the Medicaid identification and anti-fraud biometric tech-
9 nology pilot program, not otherwise appropriated, and made immediately
10 available, for the purpose of carrying out the provisions of this act.
11 Such moneys shall be payable on the audit and warrant of the comptroller
12 on vouchers certified or approved by the department of health in the
13 manner prescribed by law.

14 S 4. This act shall take effect immediately.