

8316--A

2013-2014 Regular Sessions

I N   A S S E M B L Y

December 18, 2013

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Introduced by M. of A. GOTTFRIED, CAHILL, HEVESI, ABINANTI, BRAUNSTEIN, BRONSON, BUCHWALD, FAHY, JACOBS, JAFFEE, LUPARDO, MARKEY, MILLER, MILLMAN, O'DONNELL, OTIS, PAULIN, RAIA, ROBERTS, ROSA, SCHIMEL, SEPULVEDA, SKARTADOS, SKOUFIS, STECK, STIRPE, SWEENEY, THIELE, WEISENBERG, ZEBROWSKI, SCARBOROUGH, ROSENTHAL, COOK, GUNTHER, LIFTON, BENEDETTO, WEPRIN, ROZIC, GALEF, CLARK, TITONE, ROBINSON, RUSSELL, CUSICK, SALADINO, LAVINE, COLTON, BARRETT, BROOK-KRASNY, McDONALD, BRINDISI, GOODELL, MAGNARELLI -- Multi-Sponsored by -- M. of A. ARROYO, BRENNAN, CROUCH, DUPREY, HEASTIE, KEARNS, LUPINACCI, MAYER, McDONOUGH, RA, RODRIGUEZ, SIMANOWITZ, WALTER, WRIGHT -- read once and referred to the Committee on Health -- recommitted to the Committee on Health in accordance with Assembly Rule 3, sec. 2 -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, the insurance law and chapter 60 of the laws of 2014 amending the public health law relating to payments submitted by early intervention providers to certain third party payors, in relation to the financial responsibility for and reimbursement of payment for early intervention services by the state

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

1     Section 1. Subdivision 1 of section 2557 of the public health law, as  
2 amended by section 4 of part C of chapter 1 of the laws of 2002, is  
3 amended to read as follows:  
4     1. The approved costs for an eligible child who receives an evaluation  
5 and early intervention services pursuant to this title shall be a charge  
6 upon the municipality wherein the eligible child resides or, where the  
7 services are covered by the medical assistance program, upon the social  
8 services district of fiscal responsibility with respect to those eligi-  
9 ble children who are also eligible for medical assistance. All approved  
10 costs shall be paid IN FULL AT THE STATE APPROVED EARLY INTERVENTION

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

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1 RATE in the first instance [and at least quarterly by the appropriate  
2 governing body or officer of the municipality upon vouchers presented  
3 and audited in the same manner as the case of other claims against the  
4 municipality] BY THE STATE OR ITS DESIGNATED FISCAL AGENT ON BEHALF OF  
5 THE MUNICIPALITY UPON SUBMISSION OF A CLAIM BY A PROVIDER OTHER THAN A  
6 CLAIM FOR MEDICAL ASSISTANCE. THE STATE OR ITS DESIGNATED FISCAL AGENT  
7 SHALL NOTIFY A PROVIDER IN WRITING WITHIN FIFTEEN BUSINESS DAYS OF  
8 SUBMISSION OF ANY CLAIM OF ALL SPECIFIC DEFECTS OR DISPUTES OF SUCH  
9 CLAIM AND SPECIFICALLY REQUEST IN WRITING THE ADDITIONAL INFORMATION OR  
10 REMEDY NEEDED TO PROCESS FOR PAYMENT ANY DISPUTED PORTIONS OF THE CLAIM.  
11 Notwithstanding the insurance law or regulations thereunder relating to  
12 the permissible exclusion of payments for services under governmental  
13 programs, no such exclusion shall apply with respect to payments made  
14 pursuant to this title. Notwithstanding the insurance law or any other  
15 law or agreement to the contrary, benefits under this title shall be  
16 considered secondary to any plan of insurance or state government bene-  
17 fit program under which an eligible child may have coverage. Nothing in  
18 this section shall increase or enhance coverages provided for within an  
19 insurance contract subject to the provisions of this title.

20 S 2. The opening paragraph of paragraph (a) of subdivision 5 of  
21 section 2557 of the public health law is designated subparagraph (i) and  
22 a new subparagraph (ii) is added to read as follows:

23 (II) THE FISCAL AGENT'S DUTIES SHALL INCLUDE, BUT NOT BE LIMITED TO,  
24 THE FOLLOWING:

25 (1) COLLABORATING WITH PROVIDERS TO PROCESS PAYABLE CLAIMS WITH ALL  
26 THIRD PARTY PAYORS, INCLUDING BUT NOT LIMITED TO, OVERSEEING AND FACILI-  
27 TATING THE RESUBMISSION OF CLAIMS WHEN FURTHER INFORMATION HAS BEEN  
28 REQUESTED BY SUCH THIRD PARTY PAYOR;

29 (2) FACILITATING THE SUBMISSION OF SUBROGATION NOTICES BY THE PROVIDER  
30 TO THIRD PARTY PAYORS;

31 (3) PROCESSING AND TRANSMITTING CLAIMS FROM THE DEPARTMENT'S DATA  
32 SYSTEM FOR SERVICES THAT MAY BE COVERED BY A THIRD PARTY PAYOR; AND

33 (4) ISSUING PAYMENT TO PROVIDERS FOR SERVICES NOT COVERED BY A THIRD  
34 PARTY PAYOR IN ACCORDANCE WITH THIS TITLE.

35 S 3. Paragraph (a) of subdivision 3 of section 2559 of the public  
36 health law is amended by adding a new subparagraph (iv) to read as  
37 follows:

38 (IV) THE FISCAL AGENT SHALL, AT LEAST QUARTERLY, CONDUCT A RECONCIL-  
39 IATION OF THIRD PARTY REIMBURSEMENT PURSUANT TO THIS SUBDIVISION AND  
40 PROVIDE REIMBURSEMENT AT LEVELS IN ACCORDANCE WITH THIS TITLE TO THE  
41 STATE AND MUNICIPALITIES.

42 S 4. Section 2559 of the public health law is amended by adding a new  
43 subdivision 3-a to read as follows:

44 3-A. COMMENCING ON AND AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION,  
45 ONLY FOR THOSE THIRD PARTY PAYORS WHO ARE NOT SUBJECT TO THE PROVISIONS  
46 OF SECTION THREE THOUSAND TWO HUNDRED THIRTY-FIVE-A OF THE INSURANCE  
47 LAW, IF A PARENT PROVIDES CONSENT TO ACCESS COVERAGE AVAILABLE UNDER  
48 SUCH THIRD PARTY PAYOR AND THE THIRD PARTY PAYOR HAS NOT, WITHIN NINETY  
49 DAYS OF THE INITIAL SUBMISSION OF SAID CLAIM, MADE PAYMENT OF THE CLAIM  
50 IN WHOLE OR IN PART OR RENDERED A DETERMINATION THAT IT IS NOT OBLIGATED  
51 TO PAY THE CLAIM, THE PROVIDER SHALL BE AUTHORIZED TO SEEK PAYMENT OF  
52 SUCH CLAIM FROM THE MUNICIPALITY, THROUGH THE FISCAL AGENT UNDER  
53 CONTRACT WITH THE DEPARTMENT. IF SUCH THIRD PARTY PAYOR MAKES PAYMENT OF  
54 THE CLAIM AFTER THE PROVIDER HAS RECEIVED PAYMENT FROM THE MUNICIPALITY  
55 THROUGH THE FISCAL AGENT, THE THIRD PARTY PAYMENT SHALL BE RECONCILED  
56 AGAINST FUTURE PAYMENTS DUE TO THE PROVIDER FROM THE MUNICIPALITY.

1 S 5. Subsection (c) of section 3235-a of the insurance law, as  
2 amended by section 17 of part A of chapter 56 of the laws of 2012, is  
3 amended to read as follows:

4 (c) Any right of subrogation to benefits which a municipality or  
5 provider is entitled in accordance with paragraph (d) of subdivision  
6 three of section twenty-five hundred fifty-nine of the public health law  
7 shall be valid and enforceable to the extent benefits are available  
8 under any accident and health insurance policy. The right of subrogation  
9 does not attach to insurance benefits paid or provided under any acci-  
10 dent and health insurance policy prior to receipt by the insurer of  
11 written notice from the municipality or provider, as applicable. IF AN  
12 INSURER MAKES PAYMENT IN WHOLE OR IN PART FOR A CLAIM OR BILL FOR  
13 SERVICES RENDERED UNDER THE EARLY INTERVENTION PROGRAM ESTABLISHED IN  
14 TITLE TWO-A OF ARTICLE TWENTY-FIVE OF THE PUBLIC HEALTH LAW, SUCH  
15 PAYMENT SHALL BE MADE TO THE PROVIDER WHO SUBMITTED THE CLAIM AND NOT TO  
16 THE COVERED PERSON REGARDLESS OF WHETHER SUCH PROVIDER IS IN THE INSUR-  
17 ER'S NETWORK, AND A REMITTANCE ADVICE SHALL BE TRANSMITTED TO THE  
18 DEPARTMENT OF HEALTH'S DESIGNATED FISCAL AGENT. The insurer shall  
19 provide the municipality and service coordinator with information on the  
20 extent of benefits available to the covered person under such policy  
21 within fifteen days of the insurer's receipt of written request and  
22 notice authorizing such release. The service coordinator shall provide  
23 such information to the rendering provider assigned to provide services  
24 to the child.

25 S 6. Paragraph 2 of subsection (d) of section 3224-a of the insurance  
26 law, as amended by section 57-b of part A of chapter 56 of the laws of  
27 2013, is amended to read as follows:

28 (2) "health care provider" shall mean an entity licensed or certified  
29 pursuant to article twenty-eight, thirty-six or forty of the public  
30 health law, a facility licensed pursuant to article nineteen or thirty-  
31 one of the mental hygiene law, a fiscal intermediary operating under  
32 section three hundred sixty five-f of the social services law, AN INDI-  
33 VIDUAL OR AGENCY APPROVED BY THE DEPARTMENT OF HEALTH PURSUANT TO TITLE  
34 TWO-A OF ARTICLE TWENTY-FIVE OF THE PUBLIC HEALTH LAW, a health care  
35 professional licensed, registered or certified pursuant to title eight  
36 of the education law, a dispenser or provider of pharmaceutical  
37 products, services or durable medical equipment, or a representative  
38 designated by such entity or person.

39 S 7. Section 19 of part A of chapter 60 of the laws of 2014 amending  
40 the public health law relating to payments submitted by early inter-  
41 vention providers to certain third party payors is amended to read as  
42 follows:

43 S 19. For claims for payment submitted by early intervention providers  
44 to third party payors between the period April 1, 2013 until June 30,  
45 2013 in accordance with title 2-A of article 25 of the public health  
46 law, for which the third party payor has not, on the effective date of  
47 this section, made payment of the claim in whole or in part or rendered  
48 a determination that it is not obligated to pay the claim, the provider  
49 shall be authorized to seek payment of such claim from the municipality,  
50 through the fiscal agent under contract with the department of health;  
51 provided, however, that the provider shall continue to render any  
52 assistance needed, and provide any information and documentation  
53 requested by the third party payor to facilitate payment of the claim  
54 even if the provider has already received payment from the municipality.  
55 If such third party payor makes payment of the claim after the provider  
56 has received payment from the municipality, the third party payment

1 shall be reconciled against future payments due the provider from the  
2 municipality. This section shall only apply to claims submitted by  
3 approved early intervention providers to third party payors during the  
4 period April 1, 2013 until June 30, 2013 for which no payment or deter-  
5 mination has been made, as specified in this section, on April 1, 2014.  
6 PROVIDED, HOWEVER, IN THE EVENT THAT FUNDS APPROPRIATED FOR THE PURPOSE  
7 OF THIS SECTION EXCEED THE AMOUNTS NECESSARY TO PAY STATE REIMBURSEMENT  
8 TO MUNICIPALITIES FOR SUCH CLAIMS, THE PERIOD SET FORTH HEREIN SHALL BE  
9 EXPANDED, AS DETERMINED BY THE DEPARTMENT OF HEALTH SUBJECT TO THE  
10 AVAILABILITY OF FUNDING, TO INCLUDE ADDITIONAL CLAIMS SUBMITTED ON OR  
11 AFTER APRIL 1, 2013 BY EARLY INTERVENTION PROVIDERS TO THIRD PARTY  
12 PAYORS FOR WHICH THE THIRD PARTY PAYOR HAS NOT, ON THE EFFECTIVE DATE OF  
13 THIS SECTION, MADE PAYMENT OF THE CLAIM IN WHOLE OR IN PART OR RENDERED  
14 A DETERMINATION THAT IT IS NOT OBLIGATED TO PAY SUCH CLAIM; PROVIDED,  
15 FURTHER THAT ALL OTHER PROVISIONS OF THIS SECTION SHALL APPLY TO SUCH  
16 CLAIMS TO BE PAID BY A MUNICIPALITY IN ACCORDANCE WITH THIS SECTION.  
17 Payment shall be made on the forty-fifth day after this act shall take  
18 effect. The provisions in subdivision 2 of section 2557 of the public  
19 health law that prohibit state reimbursement from being paid prior to  
20 April first of the year in which the approved costs are paid by the  
21 municipality shall not apply to the municipal payments made under this  
22 section.

23 S 8. This act shall take effect January 1, 2015, and shall apply to  
24 all claims for payment, other than claims for medical assistance,  
25 submitted by an early intervention provider to third party payors after  
26 June 30, 2013; provided, however, that the commissioner of health is  
27 authorized and directed to promulgate regulations and take all actions  
28 necessary and appropriate to implement the provisions of this act on its  
29 effective date.