

8316--B

2013-2014 Regular Sessions

I N A S S E M B L Y

December 18, 2013

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 -- again reported from said committee with amendments, 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-

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

LBD13146-11-4

1 ble children who are also eligible for medical assistance. All approved
2 costs shall be paid IN FULL AT THE STATE APPROVED EARLY INTERVENTION
3 RATE in the first instance and at least quarterly [by the appropriate
4 governing body or officer of the municipality upon vouchers presented
5 and audited in the same manner as the case of other claims against the
6 municipality] BY THE STATE OR ITS DESIGNATED FISCAL AGENT ON BEHALF OF
7 THE MUNICIPALITY FOR CLAIMS OTHER THAN CLAIMS FOR MEDICAL ASSISTANCE.
8 Notwithstanding the insurance law or regulations thereunder relating to
9 the permissible exclusion of payments for services under governmental
10 programs, no such exclusion shall apply with respect to payments made
11 pursuant to this title. Notwithstanding the insurance law or any other
12 law or agreement to the contrary, benefits under this title shall be
13 considered secondary to any plan of insurance or state government bene-
14 fit program under which an eligible child may have coverage. Nothing in
15 this section shall increase or enhance coverages provided for within an
16 insurance contract subject to the provisions of this title.

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

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

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

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

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

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

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

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

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

41 3-A. COMMENCING ON AND AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION,
42 ONLY FOR THOSE THIRD PARTY PAYORS WHO ARE NOT SUBJECT TO THE PROVISIONS
43 OF SECTION THREE THOUSAND TWO HUNDRED THIRTY-FIVE-A OF THE INSURANCE
44 LAW, IF A PARENT PROVIDES CONSENT TO ACCESS COVERAGE AVAILABLE UNDER
45 SUCH THIRD PARTY PAYOR AND THE THIRD PARTY PAYOR HAS NOT, WITHIN NINETY
46 DAYS OF THE INITIAL SUBMISSION OF SAID CLAIM, MADE PAYMENT OF THE CLAIM
47 IN WHOLE OR IN PART OR RENDERED A DETERMINATION THAT IT IS NOT OBLIGATED
48 TO PAY THE CLAIM, THE PROVIDER SHALL BE AUTHORIZED TO SEEK PAYMENT OF
49 SUCH CLAIM FROM THE MUNICIPALITY, THROUGH THE FISCAL AGENT UNDER
50 CONTRACT WITH THE DEPARTMENT. IF SUCH THIRD PARTY PAYOR MAKES PAYMENT OF
51 THE CLAIM AFTER THE PROVIDER HAS RECEIVED PAYMENT FROM THE MUNICIPALITY
52 THROUGH THE FISCAL AGENT, THE THIRD PARTY PAYMENT SHALL BE RECONCILED
53 AGAINST FUTURE PAYMENTS DUE TO THE PROVIDER FROM THE MUNICIPALITY.

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

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

22 S 6. Paragraph 2 of subsection (d) of section 3224-a of the insurance
23 law, as amended by section 57-b of part A of chapter 56 of the laws of
24 2013, is amended to read as follows:

25 (2) "health care provider" shall mean an entity licensed or certified
26 pursuant to article twenty-eight, thirty-six or forty of the public
27 health law, a facility licensed pursuant to article nineteen or thirty-
28 one of the mental hygiene law, a fiscal intermediary operating under
29 section three hundred [sixty five-f] SIXTY-FIVE-F of the social services
30 law, AN INDIVIDUAL OR AGENCY APPROVED BY THE DEPARTMENT OF HEALTH PURSU-
31 ANT TO TITLE TWO-A OF ARTICLE TWENTY-FIVE OF THE PUBLIC HEALTH LAW, a
32 health care professional licensed, registered or certified pursuant to
33 title eight of the education law, a dispenser or provider of pharmaceu-
34 tical products, services or durable medical equipment, or a represen-
35 tative designated by such entity or person.

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

40 S 19. For claims for payment submitted by early intervention providers
41 to third party payors between the period April 1, 2013 until June 30,
42 2013 in accordance with title 2-A of article 25 of the public health
43 law, for which the third party payor has not, on the effective date of
44 this section, made payment of the claim in whole or in part or rendered
45 a determination that it is not obligated to pay the claim, the provider
46 shall be authorized to seek payment of such claim from the municipality,
47 through the fiscal agent under contract with the department of health;
48 provided, however, that the provider shall continue to render any
49 assistance needed, and provide any information and documentation
50 requested by the third party payor to facilitate payment of the claim
51 even if the provider has already received payment from the municipality.
52 If such third party payor makes payment of the claim after the provider
53 has received payment from the municipality, the third party payment
54 shall be reconciled against future payments due the provider from the
55 municipality. This section shall only apply to claims submitted by
56 approved early intervention providers to third party payors during the

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

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