

9130

I N A S S E M B L Y

March 19, 2014

Introduced by M. of A. RUSSELL -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to telemedicine and telehealth; and to repeal certain provisions of such law relating thereto

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

1 Section 1. Section 2111 of the public health law is REPEALED.

2 S 2. Section 2805-u of the public health law, as added by chapter 390
3 of the laws of 2012, is REPEALED.

4 S 3. The opening paragraph of paragraph (uu) of subdivision 1 of
5 section 2807-v of the public health law, as amended by section 8 of part
6 C of chapter 59 of the laws of 2011, is amended to read as follows:

7 Funds shall be reserved and accumulated from year to year and shall be
8 available, including income from invested funds, for the purpose of
9 supporting disease management [and], telemedicine AND TELEHEALTH demon-
10 stration programs authorized pursuant to section [twenty-one]
11 THIRTY-NINE hundred [eleven] TWELVE of this chapter for the following
12 periods in the following amounts:

13 S 4. Subdivision 3-c of section 3614 of the public health law is
14 REPEALED.

15 S 5. Subparagraph (i) of paragraph (a) of subdivision 11 of section
16 3614 of the public health law is REPEALED.

17 S 6. The public health law is amended by adding a new article 39-A to
18 read as follows:

19 ARTICLE 39-A

20 TELEMEDICINE AND TELEHEALTH

21 SECTION 3910. DEFINITIONS.

22 3911. CREDENTIALING AND PRIVILEGING OF HEALTH CARE PRACTITION-
23 ERS.

24 3912. DISEASE MANAGEMENT DEMONSTRATION PROGRAMS.

25 3913. HOME TELEHEALTH.

26 S 3910. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE, THE FOLLOWING
27 TERMS SHALL HAVE THE FOLLOWING MEANINGS:

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

LBD04641-01-3

1 1. "DISTANT SITE HOSPITAL" MEANS A HOSPITAL LICENSED PURSUANT TO THIS
2 ARTICLE OR A HOSPITAL LICENSED BY ANOTHER STATE, THAT HAS ENTERED INTO
3 AN AGREEMENT WITH AN ORIGINATING HOSPITAL TO MAKE AVAILABLE ONE OR MORE
4 HEALTH CARE PRACTITIONERS THAT ARE MEMBERS OF ITS CLINICAL STAFF TO THE
5 ORIGINATING HOSPITAL FOR THE PURPOSES OF PROVIDING TELEMEDICINE
6 SERVICES. TO QUALIFY AS A DISTANT SITE HOSPITAL FOR PURPOSES OF THIS
7 ARTICLE, A HOSPITAL LICENSED BY ANOTHER STATE MUST COMPLY WITH THE
8 FEDERAL REGULATIONS GOVERNING PARTICIPATION BY HOSPITALS IN MEDICARE.

9 2. "HEALTH CARE PRACTITIONER" SHALL MEAN A PERSON LICENSED PURSUANT TO
10 ARTICLE ONE HUNDRED THIRTY-ONE, ONE HUNDRED THIRTY-ONE-B, ONE HUNDRED
11 THIRTY-THREE, ONE HUNDRED THIRTY-NINE, ONE HUNDRED FORTY, ONE HUNDRED
12 FORTY-ONE, ONE HUNDRED FORTY-THREE, ONE HUNDRED FORTY-FOUR, ONE HUNDRED
13 FIFTY-THREE, ONE HUNDRED FIFTY-FOUR OR ONE HUNDRED FIFTY-NINE OF THE
14 EDUCATION LAW, OR AS OTHERWISE AUTHORIZED BY THE COMMISSIONER.

15 3. "ORIGINATING HOSPITAL" MEANS THE HOSPITAL AT WHICH A PATIENT IS
16 LOCATED AT THE TIME TELEMEDICINE SERVICES ARE PROVIDED TO HIM OR HER.

17 4. "TELEMEDICINE" MEANS THE DELIVERY OF CLINICAL HEALTH CARE SERVICES
18 BY MEANS OF REAL TIME TWO-WAY ELECTRONIC AUDIO-VISUAL COMMUNICATIONS
19 WHICH FACILITATE THE ASSESSMENT, DIAGNOSIS, CONSULTATION, TREATMENT,
20 EDUCATION, CARE MANAGEMENT AND SELF MANAGEMENT OF A PATIENT'S HEALTH
21 CARE WHILE SUCH PATIENT IS AT THE ORIGINATING SITE AND THE HEALTH CARE
22 PROVIDER IS AT A DISTANT SITE.

23 S 3911. CREDENTIALING AND PRIVILEGING OF HEALTH CARE PRACTITIONERS.

24 1. WHEN TELEMEDICINE SERVICES ARE PROVIDED TO AN ORIGINATING HOSPITAL'S
25 PATIENTS PURSUANT TO AN AGREEMENT WITH A DISTANT SITE HOSPITAL, THE
26 ORIGINATING HOSPITAL MAY, IN LIEU OF SATISFYING THE REQUIREMENTS SET
27 FORTH IN SECTION TWENTY-EIGHT HUNDRED FIVE-K OF THIS ARTICLE, RELY ON
28 THE CREDENTIALING AND PRIVILEGING DECISIONS MADE BY THE DISTANT SITE
29 HOSPITAL IN GRANTING OR RENEWING PRIVILEGES TO A HEALTH CARE PRACTITION-
30 ER WHO IS A MEMBER OF THE CLINICAL STAFF OF THE DISTANT SITE HOSPITAL,
31 PROVIDED THAT:

32 (A) THE DISTANT SITE HOSPITAL PARTICIPATES IN MEDICARE AND MEDICAID;

33 (B) EACH HEALTH CARE PRACTITIONER PROVIDING TELEMEDICINE IS LICENSED
34 TO PRACTICE IN THIS STATE;

35 (C) THE DISTANT SITE HOSPITAL, IN ACCORDANCE WITH REQUIREMENTS OTHER-
36 WISE APPLICABLE TO THAT HOSPITAL, COLLECTS AND EVALUATES ALL CREDENTIAL-
37 ING INFORMATION CONCERNING EACH HEALTH CARE PRACTITIONER PROVIDING TELE-
38 MEDICINE SERVICES, PERFORMS ALL REQUIRED VERIFICATION ACTIVITIES, AND
39 ACTS ON BEHALF OF THE ORIGINATING SITE HOSPITAL FOR SUCH CREDENTIALING
40 PURPOSES;

41 (D) THE DISTANT SITE HOSPITAL REVIEWS PERIODICALLY, AT LEAST EVERY TWO
42 YEARS, AND AS OTHERWISE WARRANTED BASED ON OUTCOMES, COMPLAINTS OR OTHER
43 CIRCUMSTANCES, THE CREDENTIALS, PRIVILEGES, PHYSICAL AND MENTAL CAPACI-
44 TY, AND COMPETENCE IN DELIVERING HEALTH CARE SERVICES OF EACH HEALTH
45 CARE PRACTITIONER PROVIDING TELEMEDICINE SERVICES, CONSISTENT WITH
46 REQUIREMENTS OTHERWISE APPLICABLE TO THAT HOSPITAL; REPORTS THE RESULTS
47 OF SUCH REVIEW TO THE ORIGINATING HOSPITAL; AND NOTIFIES THE ORIGINATING
48 HOSPITAL IMMEDIATELY UPON ANY SUSPENSION, REVOCATION, OR LIMITATION OF
49 SUCH PRIVILEGES;

50 (E) WITH RESPECT TO EACH DISTANT SITE HEALTH CARE PRACTITIONER WHO
51 HOLDS PRIVILEGES AT THE ORIGINATING HOSPITAL, THE ORIGINATING HOSPITAL
52 CONDUCTS A PERIODIC INTERNAL REVIEW, AT LEAST EVERY TWO YEARS, OF THE
53 DISTANT SITE PRACTITIONER'S PERFORMANCE OF THESE PRIVILEGES AND PROVIDES
54 THE DISTANT SITE HOSPITAL WITH SUCH PERFORMANCE INFORMATION FOR USE IN
55 THE DISTANT HOSPITAL'S PERIODIC APPRAISAL OF THE DISTANT SITE PHYSICIAN
56 OR HEALTH CARE PRACTITIONER. SUCH INFORMATION SHALL INCLUDE, AT A MINI-

MUM, ALL ADVERSE EVENTS THAT RESULT FROM THE TELEMEDICINE SERVICES PROVIDED BY THE DISTANT SITE HEALTH CARE PRACTITIONER TO THE ORIGINATING HOSPITAL'S PATIENTS, ALL COMPLAINTS THE ORIGINATING HOSPITAL HAS RECEIVED ABOUT THE DISTANT SITE PRACTITIONER, AND ANY REVOCATION, SUSPENSION OR LIMITATION OF THE DISTANT SITE PRACTITIONER'S PRIVILEGES BY THE ORIGINATING HOSPITAL; AND

(F) THE AGREEMENT ENTERED INTO BETWEEN THE ORIGINATING SITE HOSPITAL AND DISTANT SITE HOSPITAL SHALL BE IN WRITING AND SHALL, AT A MINIMUM:

(I) PROVIDE THE CATEGORIES OF HEALTH CARE PRACTITIONERS THAT ARE ELIGIBLE CANDIDATES FOR APPOINTMENT TO THE ORIGINATING HOSPITAL'S CLINICAL STAFF,

(II) REQUIRE THE GOVERNING BODY OF THE DISTANT SITE HOSPITAL TO COMPLY WITH THE MEDICARE CONDITIONS OF PARTICIPATION GOVERNING THE APPOINTMENT OF MEDICAL STAFF WITH REGARD TO THE HEALTH CARE PRACTITIONERS PROVIDING TELEMEDICINE SERVICES,

(III) ITEMIZE THE CREDENTIALING INFORMATION TO BE COLLECTED AND THE REQUIRED VERIFICATION ACTIVITIES TO BE PERFORMED BY THE DISTANT SITE HOSPITAL AND RELIED UPON BY THE ORIGINATING HOSPITAL IN CONSIDERING THE RECOMMENDATIONS OF THE DISTANT SITE HOSPITAL,

(IV) REQUIRE EACH DISTANT SITE HEALTH CARE PRACTITIONER PROVIDING TELEMEDICINE SERVICES TO BE LICENSED TO PRACTICE IN THIS STATE AND PRIVILEGED AT THE DISTANT SITE HOSPITAL,

(V) REQUIRE THE DISTANT SITE HOSPITAL TO PROVIDE TO THE ORIGINATING HOSPITAL A CURRENT LIST OF EACH DISTANT SITE HEALTH CARE PRACTITIONER'S PRIVILEGES AT THE DISTANT SITE HOSPITAL, AND

(VI) REQUIRE THE DISTANT SITE HOSPITAL TO CONDUCT A PERIODIC REVIEW CONSISTENT WITH REQUIREMENTS OTHERWISE APPLICABLE TO THAT HOSPITAL, AT LEAST EVERY TWO YEARS, AND AS OTHERWISE WARRANTED BASED ON OUTCOMES, COMPLAINTS OR OTHER CIRCUMSTANCES, THE CREDENTIALS, PRIVILEGES, PHYSICAL AND MENTAL CAPACITY, AND COMPETENCE IN DELIVERING HEALTH CARE SERVICES OF EACH HEALTH CARE PRACTITIONER PROVIDING TELEMEDICINE SERVICES; TO PROVIDE THE ORIGINATING HOSPITAL WITH THE RESULTS OF SUCH REVIEW; AND TO NOTIFY THE ORIGINATING HOSPITAL IMMEDIATELY UPON ANY SUSPENSION, REVOCATION, OR LIMITATION OF SUCH PRIVILEGES.

2. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS ALLOWING AN ORIGINATING HOSPITAL TO DELEGATE ITS AUTHORITY OVER AND RESPONSIBILITY FOR DECISIONS CONCERNING THE CREDENTIALING AND GRANTING STAFF MEMBERSHIP OR PROFESSIONAL PRIVILEGES TO HEALTH CARE PRACTITIONERS PROVIDING TELEMEDICINE SERVICES.

3. NOTWITHSTANDING ANY CONTRARY PROVISION OF LAW, AN ORIGINATING HOSPITAL SHALL NOT BE REQUIRED TO PROVIDE A PHYSICAL EXAMINATION OR TO MAINTAIN RECORDED MEDICAL HISTORY INCLUDING IMMUNIZATIONS FOR A HEALTH CARE PROVIDER PROVIDING CONSULTATIONS SOLELY THROUGH TELEMEDICINE FROM A DISTANT SITE HOSPITAL.

S 3912. DISEASE MANAGEMENT DEMONSTRATION PROGRAMS. 1. THE DEPARTMENT MAY ESTABLISH DISEASE MANAGEMENT DEMONSTRATION PROGRAMS THROUGH A REQUEST FOR PROPOSALS PROCESS TO ENHANCE THE QUALITY AND COST-EFFECTIVENESS OF CARE RENDERED TO MEDICAID-ELIGIBLE PERSONS WITH CHRONIC HEALTH PROBLEMS WHOSE CARE AND TREATMENT, BECAUSE OF ONE OR MORE HOSPITALIZATIONS, MULTIPLE DISABLING CONDITIONS REQUIRING RESIDENTIAL TREATMENT OR OTHER HEALTH CARE REQUIREMENTS, RESULTS IN HIGH MEDICAID EXPENDITURES. IN ORDER TO BE ELIGIBLE TO SPONSOR AND TO UNDERTAKE A DISEASE MANAGEMENT DEMONSTRATION PROGRAM, THE PROPOSED SPONSOR MAY BE A NOT-FOR-PROFIT, FOR-PROFIT OR LOCAL GOVERNMENT ORGANIZATION THAT HAS DEMONSTRATED EXPERIENCE IN THE MANAGEMENT OR COORDINATION OF CARE TO PERSONS WITH CHRONIC DISEASES OR THAT HAS THE EXPERIENCE OF PROVIDING COST-EFFECTIVE COMMUNI-

1 TY-BASED CARE TO SUCH PATIENTS, OR IN THE CASE OF A LOCAL GOVERNMENT
2 ORGANIZATION, HAS EXPRESSED A STRONG WILLINGNESS TO SPONSOR SUCH A
3 PROGRAM. THE DEPARTMENT MAY ALSO APPROVE DISEASE MANAGEMENT DEMON-
4 STRATION PROGRAMS WHICH INCLUDE, BUT ARE NOT LIMITED TO, THE PROMOTION
5 OF ADHERENCE TO EVIDENCE-BASED GUIDELINES, IMPROVEMENT OF PROVIDER AND
6 PATIENT COMMUNICATION AND PROVIDE INFORMATION ON PROVIDER AND BENEFICI-
7 ARY UTILIZATION OF SERVICES. THE DEPARTMENT SHALL GRANT NO FEWER THAN
8 SIX DEMONSTRATION PROGRAMS, NO MORE THAN ONE-THIRD OF SUCH PROGRAMS
9 SHALL BE SELECTED TO PROVIDE THESE SERVICES IN ANY SINGLE SOCIAL
10 SERVICES DISTRICT; PROVIDED FURTHER, WHERE THE DEPARTMENT GRANTS LESS
11 THAN SIX DEMONSTRATION PROGRAMS, NO MORE THAN ONE SUCH PROGRAM SHALL BE
12 SELECTED TO PROVIDE THESE SERVICES IN ANY SINGLE SOCIAL SERVICES
13 DISTRICT. THE DEPARTMENT SHALL APPROVE DISEASE MANAGEMENT DEMONSTRATION
14 PROGRAMS WHICH ARE GEOGRAPHICALLY DIVERSE AND REPRESENTATIVE OF BOTH
15 URBAN AND RURAL SOCIAL SERVICES DISTRICTS. THE PROGRAM SPONSOR MUST
16 ESTABLISH, TO THE SATISFACTION OF THE DEPARTMENT, ITS CAPACITY TO ENROLL
17 AND SERVE SUFFICIENT NUMBERS OF ENROLLEES TO DEMONSTRATE THE COST-EFFEC-
18 TIVENESS OF THE DEMONSTRATION PROGRAM.

19 2. THE DEPARTMENT SHALL ESTABLISH THE CRITERIA BY WHICH INDIVIDUALS
20 WILL BE IDENTIFIED AS ELIGIBLE FOR ENROLLMENT IN THE DEMONSTRATION
21 PROGRAMS. PERSONS ELIGIBLE FOR ENROLLMENT IN THE DISEASE MANAGEMENT
22 DEMONSTRATION PROGRAM SHALL BE LIMITED TO INDIVIDUALS WHO: RECEIVE
23 MEDICAL ASSISTANCE PURSUANT TO TITLE ELEVEN OF ARTICLE FIVE OF THE
24 SOCIAL SERVICES LAW AND MAY BE ELIGIBLE FOR BENEFITS PURSUANT TO TITLE
25 18 OF THE SOCIAL SECURITY ACT (MEDICARE); ARE NOT ENROLLED IN A MEDICAID
26 MANAGED CARE PLAN, INCLUDING INDIVIDUALS WHO ARE NOT REQUIRED OR NOT
27 ELIGIBLE TO PARTICIPATE IN MEDICAID MANAGED CARE PROGRAMS PURSUANT TO
28 SECTION THREE HUNDRED SIXTY-FOUR-J OF THE SOCIAL SERVICES LAW; ARE DIAG-
29 NOSED WITH CHRONIC HEALTH PROBLEMS AS MAY BE SPECIFIED BY THE ENTITY
30 UNDERTAKING THE DEMONSTRATION PROGRAM, INCLUDING, BUT NOT LIMITED TO ONE
31 OR MORE OF THE FOLLOWING: CONGESTIVE HEART FAILURE, CHRONIC OBSTRUCTIVE
32 PULMONARY DISEASE, ASTHMA, DIABETES OR OTHER CHRONIC HEALTH CONDITIONS
33 AS MAY BE SPECIFIED BY THE DEPARTMENT; OR HAVE EXPERIENCED OR ARE LIKELY
34 TO EXPERIENCE ONE OR MORE HOSPITALIZATIONS OR ARE OTHERWISE EXPECTED TO
35 INCUR EXCESSIVE COSTS AND HIGH UTILIZATION OF HEALTH CARE SERVICES.

36 3. ENROLLMENT IN A DEMONSTRATION PROGRAM SHALL BE VOLUNTARY. A PARTIC-
37 IPATING INDIVIDUAL MAY DISCONTINUE HIS OR HER ENROLLMENT AT ANY TIME
38 WITHOUT CAUSE. THE COMMISSIONER SHALL REVIEW AND APPROVE ALL ENROLLMENT
39 AND MARKETING MATERIALS FOR A DEMONSTRATION PROGRAM.

40 4. THE DEMONSTRATION PROGRAM SHALL OFFER EVIDENCE-BASED SERVICES AND
41 INTERVENTIONS DESIGNED TO ENSURE THAT THE ENROLLEES RECEIVE HIGH QUALI-
42 TY, PREVENTATIVE AND COST-EFFECTIVE CARE, AIMED AT REDUCING THE NECESSI-
43 TY FOR HOSPITALIZATION OR EMERGENCY ROOM CARE OR AT REDUCING LENGTHS OF
44 STAY WHEN HOSPITALIZATION IS NECESSARY. THE DEMONSTRATION PROGRAM MAY
45 INCLUDE SCREENING OF ELIGIBLE ENROLLEES, DEVELOPING AN INDIVIDUALIZED
46 CARE MANAGEMENT PLAN FOR EACH ENROLLEE AND IMPLEMENTING THAT PLAN.
47 DISEASE MANAGEMENT DEMONSTRATION PROGRAMS THAT UTILIZE INFORMATION TECH-
48 NOLOGY SYSTEMS THAT ALLOW FOR CONTINUOUS APPLICATION OF EVIDENCE-BASED
49 GUIDELINES TO MEDICAL ASSISTANCE CLAIMS DATA AND OTHER AVAILABLE DATA TO
50 IDENTIFY SPECIFIC INSTANCES IN WHICH CLINICAL INTERVENTIONS ARE JUSTI-
51 FIED AND COMMUNICATE INDICATED INTERVENTIONS TO PHYSICIANS, HEALTH CARE
52 PROVIDERS AND/OR PATIENTS, AND MONITOR PHYSICIAN AND HEALTH CARE PROVID-
53 ER RESPONSE TO SUCH INTERVENTIONS, SHALL HAVE THE ENROLLEES, OR GROUPS
54 OF ENROLLEES, APPROVED BY THE DEPARTMENT FOR PARTICIPATION. THE SERVICES
55 PROVIDED BY THE DEMONSTRATION PROGRAM AS PART OF THE CARE MANAGEMENT
56 PLAN MAY INCLUDE, BUT ARE NOT LIMITED TO, CASE MANAGEMENT, SOCIAL WORK,

1 INDIVIDUALIZED HEALTH COUNSELORS, MULTI-BEHAVIORAL GOALS PLANS, CLAIMS
2 DATA MANAGEMENT, HEALTH AND SELF-CARE EDUCATION, DRUG THERAPY MANAGEMENT
3 AND OVERSIGHT, PERSONAL EMERGENCY RESPONSE SYSTEMS AND OTHER MONITORING
4 TECHNOLOGIES, TELEMEDICINE, TELEHEALTH AND SIMILAR SERVICES DESIGNED TO
5 IMPROVE THE QUALITY AND COST-EFFECTIVENESS OF HEALTH CARE SERVICES.

6 5. THE DEPARTMENT SHALL BE RESPONSIBLE FOR MONITORING THE QUALITY,
7 APPROPRIATENESS AND COST-EFFECTIVENESS OF A DEMONSTRATION PROGRAM. THE
8 DEPARTMENT SHALL UTILIZE, TO THE EXTENT POSSIBLE, ALL POTENTIAL SOURCES
9 OF FUNDING FOR DEMONSTRATION PROGRAMS, INCLUDING, BUT NOT LIMITED TO,
10 PRIVATE PAYMENTS AND DONATIONS. ALL SUCH FUNDS SHALL BE DEPOSITED BY THE
11 COMMISSIONER AND CREDITED TO THE DISEASE MANAGEMENT ACCOUNT WHICH SHALL
12 BE ESTABLISHED BY THE COMPTROLLER IN THE SPECIAL REVENUE-OTHER FUND.
13 ADDITIONALLY, TO THE EXTENT OF FUNDS APPROPRIATED THEREFOR, MEDICAL
14 ASSISTANCE FUNDS, INCLUDING ANY FUNDING OR SHARED SAVINGS AS MAY BECOME
15 AVAILABLE THROUGH FEDERAL WAIVERS OR OTHERWISE UNDER TITLES 18 AND 19 OF
16 THE FEDERAL SOCIAL SECURITY ACT, MAY BE USED BY THE DEPARTMENT FOR
17 EXPENDITURES IN SUPPORT OF THE DISEASE MANAGEMENT PROGRAM.

18 6. PAYMENTS SHALL BE MADE BY THE DEPARTMENT TO THE ENTITY RESPONSIBLE
19 FOR THE OPERATION OF THE DEMONSTRATION PROGRAM ON A FIXED AMOUNT PER
20 MEMBER PER MONTH OF ENROLLMENT AND SHALL REIMBURSE THE PROGRAM SPONSOR
21 FOR THE SERVICES RENDERED PURSUANT TO SUBDIVISION FOUR OF THIS SECTION.
22 THE AMOUNT PAID SHALL BE AN AMOUNT REASONABLY NECESSARY TO MEET THE
23 COSTS OF PROVIDING SUCH SERVICES, PROVIDED THAT THE TOTAL AMOUNT PAID
24 FOR MEDICAL ASSISTANCE TO ENROLLEES IN ANY SUCH DISEASE MANAGEMENT
25 DEMONSTRATION PROGRAM, INCLUDING ANY DEMONSTRATION PROGRAM EXPENDITURES,
26 SHALL NOT EXCEED NINETY-FIVE PERCENT OF THE MEDICAL ASSISTANCE EXPENDI-
27 TURE RELATED TO SUCH ENROLLEE THAT WOULD REASONABLY HAVE BEEN ANTIC-
28 IPATED IF THE ENROLLEE HAD NOT BEEN ENROLLED IN SUCH DEMONSTRATION
29 PROGRAM. THE DEPARTMENT MAY MAKE PAYMENTS TO DEMONSTRATION PROGRAMS THAT
30 PROVIDE ADMINISTRATIVE SERVICES ONLY, PROVIDED THAT EXPENDITURES MADE
31 FOR ENROLLEES, OR A GROUP OF ENROLLEES, PARTICIPATING IN THE DEMON-
32 STRATION PROGRAM SHALL PROVIDE SUFFICIENT SAVINGS AS DETERMINED BY THE
33 DEPARTMENT, HAD THE ENROLLEES, OR GROUPS OF ENROLLEES, NOT BEEN ENROLLED
34 IN SUCH DEMONSTRATION. THE DEPARTMENT SHALL PROVIDE AN INTERIM REPORT TO
35 THE GOVERNOR, AND THE LEGISLATURE ON OR BEFORE DECEMBER THIRTY-FIRST,
36 TWO THOUSAND SIX AND A FINAL REPORT ON OR BEFORE DECEMBER THIRTY-FIRST,
37 TWO THOUSAND SEVEN ON THE RESULTS OF DEMONSTRATION PROGRAMS. BOTH
38 REPORTS SHALL INCLUDE FINDINGS AS TO THE DEMONSTRATION PROGRAMS'
39 CONTRIBUTION TO IMPROVING QUALITY OF CARE AND THEIR COST-EFFECTIVENESS.
40 IN THE FINAL REPORT, THE DEPARTMENT SHALL OFFER RECOMMENDATIONS AS TO
41 WHETHER DEMONSTRATION PROGRAMS SHOULD BE EXTENDED, MODIFIED, ELIMINATED
42 OR MADE PERMANENT.

43 S 3913. HOME TELEHEALTH. 1. DEMONSTRATION RATES OF PAYMENT OR FEES
44 SHALL BE ESTABLISHED FOR TELEHEALTH PROVIDED BY A CERTIFIED HOME HEALTH
45 AGENCY, A LONG TERM HOME HEALTH CARE PROGRAM OR AIDS HOME CARE PROGRAM,
46 OR FOR TELEMEDICINE BY A LICENSED HOME CARE SERVICES AGENCY UNDER
47 CONTRACT WITH SUCH AN AGENCY OR PROGRAM, IN ORDER TO ENSURE THE AVAIL-
48 ABILITY OF TECHNOLOGY-BASED PATIENT MONITORING, COMMUNICATION AND HEALTH
49 MANAGEMENT. REIMBURSEMENT FOR TELEHEALTH PROVIDED PURSUANT TO THIS
50 SECTION SHALL BE PROVIDED ONLY IN CONNECTION WITH FEDERAL FOOD AND DRUG
51 ADMINISTRATION-APPROVED AND INTEROPERABLE DEVICES, AND INCORPORATED AS
52 PART OF THE PATIENT'S PLAN OF CARE. THE COMMISSIONER SHALL SEEK FEDERAL
53 FINANCIAL PARTICIPATION WITH REGARD TO THIS DEMONSTRATION INITIATIVE.

54 2. THE PURPOSES OF SUCH SERVICES SHALL BE TO ASSIST IN THE EFFECTIVE
55 MONITORING AND MANAGEMENT OF PATIENTS WHOSE MEDICAL, FUNCTIONAL AND/OR
56 ENVIRONMENTAL NEEDS CAN BE APPROPRIATELY AND COST-EFFECTIVELY MET AT

1 HOME THROUGH THE APPLICATION OF TELEHEALTH INTERVENTION. REIMBURSEMENT
2 PROVIDED PURSUANT TO THIS SECTION SHALL BE FOR SERVICES TO PATIENTS WITH
3 CONDITIONS OR CLINICAL CIRCUMSTANCES ASSOCIATED WITH THE NEED FOR
4 FREQUENT MONITORING, AND/OR THE NEED FOR FREQUENT PHYSICIAN, SKILLED
5 NURSING OR ACUTE CARE SERVICES, AND WHERE THE PROVISION OF TELEHEALTH
6 CAN APPROPRIATELY REDUCE THE NEED FOR ON-SITE OR IN-OFFICE VISITS OR
7 ACUTE OR LONG TERM CARE FACILITY ADMISSIONS. SUCH CONDITIONS AND CLIN-
8 ICAL CIRCUMSTANCES SHALL INCLUDE, BUT NOT BE LIMITED TO, CONGESTIVE
9 HEART FAILURE, DIABETES, CHRONIC PULMONARY OBSTRUCTIVE DISEASE, WOUND
10 CARE, POLYPHARMACY, MENTAL OR BEHAVIORAL PROBLEMS LIMITING SELF-MANAGE-
11 MENT, AND TECHNOLOGY-DEPENDENT CARE SUCH AS CONTINUOUS OXYGEN, VENTILA-
12 TOR CARE, TOTAL PARENTERAL NUTRITION OR ENTERAL FEEDING.

13 3. DEMONSTRATION RATES OR FEES ESTABLISHED BY THE COMMISSIONER AND
14 APPROVED BY THE DIRECTOR OF THE BUDGET, FOR SUCH TELEHEALTH SHALL
15 REFLECT THE COSTS THEREOF ON A MONTHLY BASIS IN ORDER TO ACCOUNT FOR
16 DAILY VARIATION IN THE INTENSITY AND COMPLEXITY OF PATIENTS' TELEHEALTH
17 NEEDS; PROVIDED THAT SUCH DEMONSTRATION RATES SHALL FURTHER REFLECT THE
18 COST OF THE DAILY OPERATION AND PROVISION OF SUCH SERVICES, WHICH COSTS
19 SHALL INCLUDE THE FOLLOWING FUNCTIONS UNDERTAKEN BY THE PARTICIPATING
20 CERTIFIED HOME HEALTH AGENCY, LONG TERM HOME HEALTH CARE PROGRAM, AIDS
21 HOME CARE PROGRAM OR LICENSED HOME CARE SERVICES AGENCY:

- 22 (A) MONITORING OF PATIENT VITAL SIGNS;
- 23 (B) PATIENT EDUCATION;
- 24 (C) MEDICATION MANAGEMENT;
- 25 (D) EQUIPMENT MAINTENANCE;
- 26 (E) REVIEW OF PATIENT TRENDS AND/OR OTHER CHANGES IN PATIENT CONDITION
27 NECESSITATING PROFESSIONAL INTERVENTION; AND
- 28 (F) SUCH OTHER ACTIVITIES AS THE COMMISSIONER MAY DEEM NECESSARY AND
29 APPROPRIATE TO THIS SECTION.

30 4. THE COMMISSIONER SHALL TAKE SUCH ADDITIONAL STEPS AS MAY BE REASON-
31 ABLY NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION; PROVIDED
32 HOWEVER THAT THE COMMISSIONER SHALL ESTABLISH INITIAL DEMONSTRATION
33 RATES OR FEES FOR TELEHEALTH AS PROVIDED FOR IN THIS SECTION BY NO LATER
34 THAN OCTOBER FIRST, TWO THOUSAND SEVEN; AND PROVIDED, FURTHER, HOWEVER,
35 THAT THE COMMISSIONER SHALL SEEK THE INPUT OF REPRESENTATIVES FROM
36 PARTICIPATING PROVIDERS AND OTHER INTERESTED PARTIES IN THE DEVELOPMENT
37 OF SUCH RATES OR FEES AND ANY APPLICABLE REQUIREMENTS ESTABLISHED PURSU-
38 ANT TO THIS SUBDIVISION.

39 5. THE COMMISSIONER SHALL, WITHIN MONIES APPROPRIATED THEREFOR, ESTAB-
40 LISH A RURAL HOME TELEHEALTH DELIVERY DEMONSTRATION STUDY PROGRAM IN
41 COUNTIES HAVING A POPULATION OF NOT LESS THAN ONE HUNDRED THIRTY THOU-
42 SAND AND NOT MORE THAN ONE HUNDRED FORTY THOUSAND, ACCORDING TO THE TWO
43 THOUSAND TEN DECENNIAL FEDERAL CENSUS. THE COMMISSIONER SHALL DIRECT A
44 HOME HEALTH ORGANIZATION SERVING IN SUCH COUNTY TO STUDY PATIENTS
45 RECEIVING TELEMEDICINE, PURSUANT TO THIS SECTION, WHO HAVE BEEN DIAG-
46 NOSED WITH CONGESTIVE HEART FAILURE, DIABETES AND/OR CHRONIC PULMONARY
47 OBSTRUCTIVE DISEASE, AND WHOSE MEDICAL, FUNCTIONAL AND/OR ENVIRONMENTAL
48 NEEDS ARE APPROPRIATELY MET AT HOME THROUGH THE APPLICATION OF TELE-
49 HEALTH INTERVENTIONS. SUCH A STUDY SHALL DETERMINE THE COST OF PROVIDING
50 TELEHEALTH, THE QUALITY OF CARE PROVIDED THROUGH TELEHEALTH AND THE
51 OUTCOMES OF PATIENTS RECEIVING SUCH TELEHEALTH. THE COMMISSIONER SHALL
52 REIMBURSE THE HOME HEALTH ORGANIZATION FOR CONDUCTING THE STUDY WITH
53 AMOUNTS APPROPRIATED UNDER THIS SECTION. THE HOME HEALTH ORGANIZATION
54 SHALL EVALUATE THE FINDINGS OF THE STUDY AND REPORT TO THE GOVERNOR, THE
55 TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE ASSEMBLY, THE
56 COMMISSIONER, AND THE CHAIR OF THE LEGISLATIVE COMMISSION ON RURAL

1 RESOURCES ON ITS FINDINGS OF PROVIDING TELEHEALTH FOR EACH CONDITION, SO
2 AS TO PROVIDE THE COST BENCHMARKS WITH AND WITHOUT TELEHEALTH CARE, AS
3 WELL AS PROVIDING COST BENEFIT MEASUREMENTS IN TERMS OF THE QUALITY
4 BENEFIT OUTCOMES FOR EACH OF THE CONDITIONS ADDRESSED VIA TELEHEALTH.

5 6. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, RULE OR REGU-
6 LATION AND SUBJECT TO THE AVAILABILITY OF FEDERAL FINANCIAL PARTIC-
7 IPATION, THE COMMISSIONER IS AUTHORIZED AND DIRECTED TO IMPLEMENT A
8 PROGRAM WHEREBY HE OR SHE SHALL ADJUST MEDICAL ASSISTANCE RATES OF
9 PAYMENT FOR SERVICES PROVIDED BY CERTIFIED HOME HEALTH AGENCIES, LONG
10 TERM HOME HEALTH CARE PROGRAMS, AIDS HOME CARE PROGRAMS AND PROVIDERS OF
11 PERSONAL CARE SERVICES AND/OR PROVIDERS OF PRIVATE DUTY NURSING SERVICES
12 UNDER THE SOCIAL SERVICES LAW IN ACCORDANCE WITH THIS SUBDIVISION FOR
13 PURPOSES OF ENHANCING THE PROVISION, ACCESSIBILITY, QUALITY AND/OR EFFI-
14 CIENCY OF HOME CARE SERVICES. SUCH RATE ADJUSTMENTS SHALL BE FOR THE
15 PURPOSES OF ASSISTING SUCH PROVIDERS, LOCATED IN SOCIAL SERVICES
16 DISTRICTS WHICH DO NOT INCLUDE A CITY WITH A POPULATION OF OVER ONE
17 MILLION PERSONS, IN MEETING THE COST OF INCREASED USE OF TECHNOLOGY IN
18 THE DELIVERY OF SERVICES, INCLUDING TELEHEALTH AND CLINICAL AND ADMINIS-
19 TRATIVE MANAGEMENT INFORMATION SYSTEM.

20 S 7. This act shall take effect on the first of April next succeeding
21 the date on which it shall have become a law.