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I N   A S S E M B L Y

May 29, 2014

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Introduced by COMMITTEE ON RULES -- (at request of M. of A. Gunther) --  
(at request of the Office for People with Developmental Disabilities)  
-- read once and referred to the Committee on Mental Health

AN ACT to amend the social services law, in relation to a developmental disabilities managed care plan; to amend the mental hygiene law, in relation to the development of certain methodologies; and to repeal certain provisions of the mental hygiene law relating thereto

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

1     Section 1. Subdivision 1 of section 364-j of the social services law  
2     is amended by adding a new paragraph (aa) to read as follows:  
3     (AA) "DEVELOPMENTAL DISABILITIES MANAGED CARE PLAN". A MANAGED CARE  
4     PLAN THAT HAS RECEIVED A CERTIFICATE OF AUTHORITY ISSUED BY THE COMMIS-  
5     SIONER AND THE COMMISSIONER OF DEVELOPMENTAL DISABILITIES PURSUANT TO  
6     SECTION FORTY-FOUR HUNDRED THREE-G OF THE PUBLIC HEALTH LAW.  
7     S 2. Paragraph (a) of subdivision 3 of section 364-j of the social  
8     services law, as amended by section 38 of part A of chapter 56 of the  
9     laws of 2013, is amended to read as follows:  
10    (a) Every person eligible for or receiving medical assistance under  
11    this article, who resides in a social services district providing  
12    medical assistance, which has implemented the state's managed care  
13    program shall participate in the program authorized by this section.  
14    Provided, however, that participation in a comprehensive HIV special  
15    needs plan also shall be in accordance with article forty-four of the  
16    public health law [and]; participation in a special needs managed care  
17    plan shall also be in accordance with article forty-four of the public  
18    health law and article thirty-one of the mental hygiene law AND PARTIC-  
19    IPATION AND ENROLLMENT IN A DEVELOPMENTAL DISABILITIES MANAGED CARE PLAN  
20    SHALL BE IN ACCORDANCE WITH SECTION FORTY-FOUR HUNDRED THREE-G OF THE  
21    PUBLIC HEALTH LAW AND SECTION 13.40 OF THE MENTAL HYGIENE LAW.  
22    S 3. Subparagraph (i) of paragraph (a) of subdivision 4 of section  
23    364-j of the social services law, as amended by section 14 of part C of  
24    chapter 58 of the laws of 2004, is amended to read as follows:

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

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1 (i) a managed care provider shall arrange for access to and enrollment  
2 of primary care practitioners and other medical services providers;  
3 PROVIDED, HOWEVER, THAT A DEVELOPMENTAL DISABILITIES MANAGED CARE PLAN  
4 SHALL ARRANGE FOR ACCESS TO AND ENROLLMENT OF PRIMARY CARE PRACTITIONERS  
5 IF SO AUTHORIZED. Each managed care provider shall possess the expertise  
6 and sufficient resources to assure the delivery of quality medical care  
7 to participants in an appropriate and timely manner and may include  
8 physicians, nurse practitioners, county health departments, providers of  
9 comprehensive health service plans licensed pursuant to article forty-  
10 four of the public health law, and hospitals and diagnostic and treat-  
11 ment centers licensed pursuant to article twenty-eight of the public  
12 health law or otherwise authorized by law to offer comprehensive health  
13 services or facilities licensed pursuant to articles sixteen, thirty-one  
14 and thirty-two of the mental hygiene law.

15 S 4. Paragraph (b) of subdivision 4 of section 364-j of the social  
16 services law, as amended by section 57 of part A of chapter 57 of the  
17 laws of 2006, is amended to read as follows:

18 (b) Participants shall select a managed care provider from among those  
19 designated under the managed care program, provided, however, a partic-  
20 ipant shall be provided with a choice of no less than two managed care  
21 providers. Notwithstanding the foregoing, a local social services  
22 district designated a rural area as defined in 42 U.S.C. 1395ww may  
23 limit a participant to one managed care provider, if the commissioner  
24 and the local social services district find that only one managed care  
25 provider is available, AND THE COMMISSIONER AND THE COMMISSIONER OF  
26 DEVELOPMENTAL DISABILITIES MAY LIMIT A PARTICIPANT ELIGIBLE TO ENROLL IN  
27 A DEVELOPMENTAL DISABILITIES MANAGED CARE PLAN TO ONE SUCH PLAN, IF  
28 FEDERAL APPROVAL IS SECURED TO REQUIRE ENROLLMENT WHEN THERE ARE LESS  
29 THAN TWO MANAGED CARE PLANS OPERATING IN THE PARTICIPANT'S COUNTY OF  
30 RESIDENCE AUTHORIZED TO COORDINATE CARE OR PERSON WITH DEVELOPMENTAL  
31 DISABILITIES PURSUANT TO ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW. A  
32 managed care provider in a rural area shall offer a participant a choice  
33 of at least three primary care practitioners and permit the individual  
34 to obtain a service or seek a provider outside of the managed care  
35 network where such service or provider is not available from within the  
36 managed care provider network, PROVIDED, HOWEVER, THAT THIS REQUIREMENT  
37 SHALL ONLY APPLY TO A DEVELOPMENTAL DISABILITIES MANAGED CARE PLAN TO  
38 THE EXTENT IT IS AUTHORIZED TO COVER SUCH SERVICES.

39 S 5. Paragraph (c) of subdivision 4 of section 364-j of the social  
40 services law, as amended by chapter 649 of the laws of 1996, is amended  
41 to read as follows:

42 (c) Participants shall select a primary care practitioner from among  
43 those designated by the managed care provider. In all districts, partic-  
44 ipants shall be provided with a choice of no less than three primary  
45 care practitioners. In the event that a participant does not select a  
46 primary care practitioner, the participant's managed care provider shall  
47 select a primary care practitioner for the participant, taking into  
48 account geographic accessibility; PROVIDED, HOWEVER, THAT THIS PARAGRAPH  
49 SHALL NOT APPLY IF A PARTICIPANT IS ENROLLED IN A DEVELOPMENTAL DISABIL-  
50 ITIES MANAGED CARE PLAN THAT IS NOT AUTHORIZED TO ARRANGE FOR PRIMARY  
51 CARE.

52 S 6. Subparagraphs (iv), (v), (vi) and (vii) of paragraph (e) of  
53 subdivision 4 of section 364-j of the social services law, subparagraphs  
54 (iv) and (vii) as amended by section 39 of part A of chapter 56 of the  
55 laws of 2013, subparagraph (v) as amended by section 78 of part H of  
56 chapter 59 of the laws of 2011, and subparagraph (vi) as amended by

1 section 14 of part C of chapter 58 of the laws of 2004, are amended to  
2 read as follows:

3 (iv) Local social services districts or enrollment organizations  
4 through their enrollment counselors, OR IN THE CASE OF DEVELOPMENTAL  
5 DISABILITIES MANAGED CARE PLANS, THE OFFICE FOR PEOPLE WITH DEVELOP-  
6 MENTAL DISABILITIES OR ENROLLMENT ORGANIZATIONS THROUGH THEIR ENROLLMENT  
7 COUNSELORS, shall provide participants with the opportunity for face to  
8 face counseling including individual counseling upon request of the  
9 participant. Local social services districts or enrollment organizations  
10 through their enrollment counselors shall also provide participants with  
11 information in a culturally and linguistically appropriate and under-  
12 standable manner, in light of the participant's needs, circumstances and  
13 language proficiency, sufficient to enable the participant to make an  
14 informed selection of a managed care provider. Such information shall  
15 include, but shall not be limited to: how to access care within the  
16 program; a description of the medical assistance services that can be  
17 obtained other than through a managed care provider; the available  
18 managed care providers and the scope of services covered by each; a  
19 listing of the medical services providers associated with each managed  
20 care provider; the participants' rights within the managed care program;  
21 and how to exercise such rights. Enrollment counselors shall inquire  
22 into each participant's existing relationships with medical services  
23 providers and explain whether and how such relationships may be main-  
24 tained within the managed care program. For enrollments made during face  
25 to face counseling, if the participant has a preference for particular  
26 medical services providers, enrollment counselors shall verify with the  
27 medical services providers that such medical services providers whom the  
28 participant prefers participate in the managed care provider's network  
29 and are available to serve the participant.

30 (v) Upon delivery of the pre-enrollment information, the local  
31 district or the enrollment organization shall certify the participant's  
32 receipt of such information. Upon verification that the participant has  
33 received the pre-enrollment education information, a managed care  
34 provider, a local district or the enrollment organization may enroll a  
35 participant into a managed care provider. Managed care providers must  
36 submit enrollment forms to the local department of social services. Upon  
37 enrollment, participants will sign an attestation that they have been  
38 informed that: participants have a choice of managed care providers;  
39 participants have a choice of primary care practitioners; and, except as  
40 otherwise provided in this section, including but not limited to the  
41 exceptions listed in subparagraph (iii) of paragraph (a) of this subdi-  
42 vision, participants must exclusively use their primary care practition-  
43 ers and plan providers. The commissioner of health may suspend or  
44 curtail enrollment or impose sanctions for failure to appropriately  
45 notify clients as required in this subparagraph. ENROLLMENT IN A DEVEL-  
46 OPMENTAL DISABILITIES MANAGED CARE PLAN SHALL NOT BE GOVERNED BY THIS  
47 SUBPARAGRAPH.

48 (vi) Enrollment counselors or local social services districts, OR, AS  
49 APPROPRIATE, ENROLLMENT COUNSELORS OR THE OFFICE FOR PEOPLE WITH DEVEL-  
50 OPMENTAL DISABILITIES, shall further inquire into each participant's  
51 health status in order to identify physical or behavioral conditions  
52 that require immediate attention or continuity of care, and provide to  
53 participants information regarding health care options available to  
54 persons with HIV and other illnesses or conditions under the managed  
55 care program. Any information disclosed to counselors shall be kept

1 confidential in accordance with applicable provisions of the public  
2 health law, and as appropriate, the mental hygiene law.

3 (vii) Any marketing materials developed by a managed care provider  
4 shall be approved by the department of health or the local social  
5 services district, and the commissioner of mental health and the commis-  
6 sioner of alcoholism and substance abuse services, OR THE COMMISSIONER  
7 OF DEVELOPMENTAL DISABILITIES, where appropriate, within sixty days  
8 prior to distribution to recipients of medical assistance. All marketing  
9 materials shall be reviewed within sixty days of submission.

10 S 7. Paragraph (f) of subdivision 4 of section 364-j of the social  
11 services law is amended by adding a new subparagraph (vi) to read as  
12 follows:

13 (VI) THE PROVISIONS OF THIS PARAGRAPH SHALL NOT APPLY TO PARTICIPANTS  
14 ELIGIBLE TO ENROLL IN A DEVELOPMENT DISABILITIES MANAGED CARE PLAN.

15 S 8. Paragraph (g) of subdivision 4 of section 364-j of the social  
16 services law, as amended by section 39 of part A of chapter 56 of the  
17 laws of 2013, is amended to read as follows:

18 (g) If another managed care provider is available, participants may  
19 change such provider or plan without cause within thirty days of notifi-  
20 cation of enrollment or the effective date of enrollment, whichever is  
21 later with a managed care provider by making a request of the local  
22 social services district except that such period shall be forty-five  
23 days for participants who have been assigned to a provider by the  
24 commissioner of health. However, after such thirty or forty-five day  
25 period, whichever is applicable, a participant may be prohibited from  
26 changing managed care providers more frequently than once every twelve  
27 months, as permitted by federal law except for good cause as determined  
28 by the commissioner of health through regulations. NOTWITHSTANDING ANY  
29 PROVISION OF THIS PARAGRAPH, PARTICIPANTS MAY CHANGE A MANAGED CARE  
30 PROVIDER TO ENROLL IN A DEVELOPMENTAL DISABILITIES MANAGED CARE PLAN AT  
31 ANY TIME WITHOUT CAUSE AND MAY CHANGE DEVELOPMENTAL DISABILITIES MANAGED  
32 CARE PLANS AT ANY TIME WITHOUT CAUSE.

33 S 9. Paragraph (h) of subdivision 4 of section 364-j of the social  
34 services law, as amended by section 39 of part A of chapter 56 of the  
35 laws of 2013, is amended to read as follows:

36 (h) If another medical services provider is available, a participant  
37 may change his or her provider of medical services (including primary  
38 care practitioners) without cause within thirty days of the partic-  
39 ipant's first appointment with a medical services provider by making a  
40 request of the managed care provider. However, after that thirty day  
41 period, no participant shall be permitted to change his or her provider  
42 of medical services other than once every six months except for good  
43 cause as determined by the commissioner through regulations. THIS PARA-  
44 GRAPH SHALL NOT APPLY TO PARTICIPANTS ENROLLED IN DEVELOPMENTAL DISABIL-  
45 ITIES MANAGED CARE PLANS.

46 S 10. Paragraph (i) of subdivision 4 of section 364-j of the social  
47 services law, as amended by section 39 of part A of chapter 56 of the  
48 laws of 2013, is amended to read as follows:

49 (i) A managed care provider requesting a disenrollment shall not  
50 disenroll a participant without the prior approval of the local social  
51 services district in which the participant resides, OR, IN THE CASE OF A  
52 DEVELOPMENTAL DISABILITIES MANAGED CARE PLAN, WITHOUT THE PRIOR APPROVAL  
53 OF THE COMMISSIONER OF DEVELOPMENTAL DISABILITIES, provided that disen-  
54 rollment from a special needs managed care plan must comply with the  
55 standards of the commissioner of health, the commissioner of alcoholism  
56 and substance abuse services, and the commissioner of mental health AND

1 DISENROLLMENT FROM A DEVELOPMENTAL DISABILITIES MANAGED CARE PLAN MUST  
2 COMPLY WITH THE STANDARDS OF THE COMMISSIONER OF HEALTH AND THE COMMIS-  
3 SIONER OF DEVELOPMENTAL DISABILITIES. A managed care provider shall not  
4 request disenrollment of a participant based on any diagnosis, condi-  
5 tion, or perceived diagnosis or condition, or a participant's efforts to  
6 exercise his or her rights under a grievance process, provided however,  
7 that a managed care provider may, where medically appropriate, request  
8 permission to refer participants to a managed care provider that is a  
9 special needs managed care plan or a comprehensive HIV special needs  
10 plan after consulting with such participant and upon obtaining his/her  
11 consent to such referral, and provided further that a special needs  
12 managed care plan may, where clinically appropriate, disenroll individ-  
13 uals who no longer require the level of services provided by a special  
14 needs managed care plan.

15 S 11. Paragraph (m) of subdivision 4 of section 364-j of the social  
16 services law, as amended by chapter 649 of the laws of 1996, is amended  
17 to read as follows:

18 (m) A managed care provider shall provide all early periodic screening  
19 diagnosis and treatment services, as well as interperiodic screening and  
20 referral, to each participant under the age of twenty-one, at regular  
21 intervals, as medically appropriate, EXCEPT THAT A DEVELOPMENTAL DISA-  
22 BILITIES MANAGED CARE PLAN SHALL ONLY BE REQUIRED TO PROVIDE SUCH  
23 SERVICES IF SO AUTHORIZED.

24 S 12. Paragraph (n) of subdivision 4 of section 364-j of the social  
25 services law, as amended by chapter 484 of the laws of 2009, is amended  
26 to read as follows:

27 (n) A managed care provider shall provide or arrange, directly or  
28 indirectly (including by referral) for the provision of comprehensive  
29 prenatal care services to all pregnant participants in accordance with  
30 standards adopted by the department of health, EXCEPT THAT A DEVELOP-  
31 MENTAL DISABILITIES MANAGED CARE PLAN SHALL ONLY BE REQUIRED TO PROVIDE  
32 OR ARRANGE FOR SUCH SERVICES IF SO AUTHORIZED.

33 S 13. Paragraph (v) of subdivision 4 of section 364-j of the social  
34 services law, as added by section 39 of part A of chapter 56 of the laws  
35 of 2013, is amended to read as follows:

36 (v) A managed care provider must allow enrollees to access chemical  
37 dependence treatment services from facilities certified by the office of  
38 alcoholism and substance abuse services, even if such services are  
39 rendered by a practitioner who would not otherwise be separately reim-  
40 bursed, including but not limited to a credentialed alcoholism and  
41 substance abuse counselor (CASAC), EXCEPT THAT A DEVELOPMENTAL DISABILI-  
42 TIES MANAGED CARE PLAN SHALL ONLY BE REQUIRED TO ALLOW ACCESS TO SUCH  
43 SERVICES IF SO AUTHORIZED.

44 S 14. Paragraph (g) of subdivision 5 of section 364-j of the social  
45 services law, as added by section 15 of part C of chapter 58 of the laws  
46 of 2004, is amended to read as follows:

47 (g) The commissioner of health may delegate some or all of the tasks  
48 identified in this section to the local districts, EXCEPT THAT THE  
49 COMMISSIONER OF HEALTH MAY NOT MAKE ANY SUCH DELEGATION WITH RESPECT TO  
50 DEVELOPMENTAL DISABILITIES MANAGED CARE PLANS.

51 S 15. Paragraph (b) of subdivision 6 of section 364-j of the social  
52 services law, as added by chapter 649 of the laws of 1996, is amended to  
53 read as follows:

54 (b) distribute marketing materials to recipients of medical assist-  
55 ance, unless such materials are approved by the department of health

1 and, as appropriate, the office of mental health OR THE OFFICE FOR  
2 PEOPLE WITH DEVELOPMENTAL DISABILITIES.

3 S 16. Subparagraph (ii) of paragraph (f) of subdivision 8 of section  
4 364-j of the social services law, as added by chapter 649 of the laws of  
5 1996, is amended to read as follows:

6 (ii) there are opportunities to select from at least three primary  
7 care providers, PROVIDED HOWEVER THAT THIS REQUIREMENT SHALL NOT APPLY  
8 TO DEVELOPMENTAL DISABILITY MANAGED CARE PLANS THAT ARE NOT AUTHORIZED  
9 TO OFFER OR ARRANGE FOR PRIMARY CARE; and

10 S 17. The opening paragraph of paragraph (f) of subdivision 27 of  
11 section 364-j of the social services law, as added by section 72 of part  
12 A of chapter 56 of the laws of 2013, is amended to read as follows:

13 Notwithstanding any inconsistent provisions of this section and  
14 sections one hundred twelve and one hundred sixty-three of the state  
15 finance law, or section one hundred forty-two of the economic develop-  
16 ment law, or any other law to the contrary, the commissioner of health  
17 and, in the case of FIDAs authorized exclusively to enroll persons with  
18 developmental disabilities, the commissioner of health and the commis-  
19 sioner of the office for people with developmental disabilities, may  
20 contract with FIDAs approved under this section without a competitive  
21 bid or request for proposal process, [are authorized to enter into a  
22 contract or contracts under this section,] provided, however, that:

23 S 18. The opening paragraph of subdivision (g) of section 13.40 of the  
24 mental hygiene law, as added by section 72-b of part A of chapter 56 of  
25 the laws of 2013, is amended to read as follows:

26 Notwithstanding any inconsistent provision of sections one hundred  
27 twelve and one hundred sixty-three of the state finance law, or section  
28 one hundred forty-two of the economic development law, or any other law  
29 to the contrary, the commissioner and the commissioner of health are  
30 authorized to enter into a contract or contracts under section forty-  
31 four hundred three-g of the public health law, subdivision eight of  
32 section forty-four hundred three of the public health law, and subdivi-  
33 sion twelve of section forty-four hundred three-f of the public health  
34 law, AND TO ENTER INTO CONTRACTS WITH APPLICANTS FOR A CERTIFICATE OF  
35 AUTHORITY PURSUANT TO SECTION FORTY-FOUR HUNDRED THREE-G OF THE PUBLIC  
36 HEALTH LAW FOR COSTS ASSOCIATED WITH DEVELOPING INFORMATION TECHNOLOGY,  
37 HUMAN RESOURCES AND CARE COORDINATION SYSTEMS NECESSARY TO OPERATE A  
38 DISCO, provided, however, that:

39 S 19. Section 13.40 of the mental hygiene law is amended by adding a  
40 new subdivision (h) to read as follows:

41 (H) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF SECTIONS ONE HUNDRED  
42 TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, OR SECTION  
43 ONE HUNDRED FORTY-TWO OF THE ECONOMIC DEVELOPMENT LAW, OR ANY OTHER LAW  
44 TO THE CONTRARY, THE COMMISSIONER AND THE COMMISSIONER OF HEALTH ARE  
45 AUTHORIZED TO ENTER INTO CONTRACTS FOR ANY OF THE FOLLOWING AS NECESSARY  
46 TO OVERSEE AND DEVELOP, OPERATE AND OVERSEE A MANAGED CARE SYSTEM UNDER  
47 THE PEOPLE FIRST WAIVER PROGRAM: QUALITY ASSESSMENT, QUALITY IMPROVE-  
48 MENT, ASSESSMENTS OF ENROLLEES, ENROLLMENT COUNSELING AND ENROLLMENT  
49 PROCESSING, OUTSIDE ADVOCACY AND INFORMATION TECHNOLOGY, PROVIDED,  
50 HOWEVER, THAT:

51 1. THE OFFICE SHALL POST ON ITS WEBSITE, FOR A PERIOD OF NO LESS THAN  
52 THIRTY DAYS:

53 (1) A DESCRIPTION OF THE PROPOSED SERVICES TO BE PROVIDED PURSUANT TO  
54 THE CONTRACT OR CONTRACTS;

55 (2) THE CRITERIA FOR SELECTION OF A CONTRACTOR OR CONTRACTORS;

1 (3) THE PERIOD OF TIME DURING WHICH A PROSPECTIVE CONTRACTOR MAY SEEK  
2 SELECTION, WHICH SHALL BE NO LESS THAN THIRTY DAYS AFTER SUCH INFORMA-  
3 TION IS FIRST POSTED ON THE WEBSITE; AND

4 (4) THE MANNER BY WHICH A PROSPECTIVE CONTRACTOR MAY SEEK SUCH  
5 SELECTION, WHICH MAY INCLUDE SUBMISSION BY ELECTRONIC MEANS;

6 2. ALL REASONABLE AND RESPONSIVE SUBMISSIONS THAT ARE RECEIVED FROM  
7 PROSPECTIVE CONTRACTORS IN A TIMELY FASHION SHALL BE REVIEWED BY THE  
8 COMMISSIONERS; AND

9 3. THE COMMISSIONER AND THE COMMISSIONER OF HEALTH MAY JOINTLY SELECT  
10 SUCH CONTRACTOR OR CONTRACTORS THAT, IN THEIR DISCRETION, HAVE DEMON-  
11 STRATED THE ABILITY TO PERFORM THE SERVICES REQUESTED IN A COST-EFFEC-  
12 TIVE MANNER AND TO PERFORM SUCH SERVICES AND DELIVER WORK PRODUCTS THAT  
13 WILL BE OF ADEQUATE QUALITY TO MEET THE NEEDS OF THE OFFICE AND THE  
14 DEPARTMENT OF HEALTH AND THE INTERESTS OF INDIVIDUALS PARTICIPATING IN  
15 THE PEOPLE FIRST WAIVER PROGRAM.

16 S 20. Subdivisions (a), (b), (c), (d), (e), (f), (g), (h), (i), (j),  
17 (k), (l), (m) and (o) of section 41.36 of the mental hygiene law are  
18 REPEALED.

19 S 21. Subdivision (n) of section 41.36 of the mental hygiene law, as  
20 amended by chapter 525 of the laws of 1985, is amended to read as  
21 follows:

22 (n) The commissioner OF DEVELOPMENTAL DISABILITIES shall establish a  
23 procedure, subject to the approval of the state comptroller, whereby  
24 payments in addition to the [client's] personal allowance OF AN INDIVID-  
25 UAL LIVING IN A COMMUNITY RESIDENTIAL FACILITY may be made to providers  
26 of services for one or more of the following needs of [clients] INDIVID-  
27 UALS residing in such facilities, limited to two hundred fifty dollars  
28 per [client] INDIVIDUAL per year and paid semi-annually in the manner  
29 specified by such procedures:

30 1. Replacement of necessary clothing;

31 2. Personal requirements and incidental needs of [clients] INDIVIDUALS  
32 RESIDING IN THE FACILITY;

33 3. Recreational and cultural activities of [clients] INDIVIDUALS  
34 RESIDING IN THE FACILITY. Such payments may be made from monies appro-  
35 priated to the office for this purpose. Such payments shall be audited  
36 by the office pursuant to an audit plan approved by the comptroller.

37 S 22. Subdivision (a) of section 43.02 of the mental hygiene law, as  
38 amended by chapter 168 of the laws of 2010, is amended to read as  
39 follows:

40 (a) Notwithstanding any inconsistent provision of law, payment made by  
41 government agencies pursuant to title eleven of article five of the  
42 social services law for services provided by any facility licensed by  
43 the office of mental health pursuant to article thirty-one of this chap-  
44 ter or licensed or operated by the office for people with developmental  
45 disabilities pursuant to article sixteen of this chapter or certified by  
46 the office of alcoholism and substance abuse services pursuant to this  
47 chapter to provide inpatient chemical dependence services, as defined in  
48 section 1.03 of this chapter, shall be at rates or fees certified by the  
49 commissioner of the respective office and approved by the director of  
50 the division of the budget, provided, however, the commissioner of  
51 mental health shall annually certify such rates or fees which may vary  
52 for distinct geographical areas of the state and, provided, further,  
53 that rates or fees for service for inpatient psychiatric services or  
54 inpatient chemical dependence services, at hospitals otherwise licensed  
55 pursuant to article twenty-eight of the public health law shall be  
56 established in accordance with section two thousand eight hundred seven

1 of the public health law AND, PROVIDED, FURTHER, THAT RATES OR FEES FOR  
2 SERVICES PROVIDED BY ANY FACILITY LICENSED OR OPERATED BY THE OFFICE FOR  
3 PEOPLE WITH DEVELOPMENTAL DISABILITIES PURSUANT TO ARTICLE SIXTEEN OF  
4 THIS CHAPTER AND DEVELOPED PURSUANT TO REVISED METHODOLOGIES DEVELOPED  
5 AS A CONDITION OF FEDERAL APPROVAL OF THE PEOPLE FIRST WAIVER PROGRAM  
6 SHALL BE CERTIFIED BY THE COMMISSIONER OF HEALTH; PROVIDED, HOWEVER,  
7 THAT SUCH METHODOLOGIES SHALL TAKE INTO ACCOUNT THE POLICIES AND GOALS  
8 OF THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES.

9 S 23. Paragraph (ii) of subdivision (c) of section 43.02 of the mental  
10 hygiene law, as amended by chapter 168 of the laws of 2010, is amended  
11 to read as follows:

12 (ii) methodologies used in the establishment of the schedules of rates  
13 or fees pursuant to this section, PROVIDED, HOWEVER THAT THE COMMISSION-  
14 ER OF HEALTH SHALL ADOPT RULES AND REGULATIONS INCLUDING METHODOLOGIES  
15 DEVELOPED BY HIM OR HER FOR SERVICES PROVIDED BY ANY FACILITY LICENSED  
16 OR OPERATED BY THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES  
17 PURSUANT TO SUBDIVISION (A) OF THIS SECTION.

18 S 24. This act shall take effect immediately; provided, however, that  
19 the amendments to section 364-j of the social services law made by  
20 sections one, two, three, four, five, six, seven, eight, nine, ten,  
21 eleven, twelve, thirteen, fourteen, fifteen, sixteen and seventeen of  
22 this act shall not affect the repeal of such section and shall be deemed  
23 repealed therewith.