S T A T E  O F  N E W  Y O R K

6002

2013-2014 Regular Sessions

I N  S E N A T E

December 6, 2013

Introduced by Sens. HANNON, SEWARD, BONACIC, BOYLE, CARLUCCI, DeFRANCISCO, FARLEY, GOLDEN, GRISANTI, LARKIN, LAVALLE, LITTLE, MAZIARZ, RITCHIE -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the public health law, 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:

Section 1. Subdivision 1 of section 2557 of the public health law, as amended by section 4 of part C of chapter 1 of the laws of 2002, is amended to read as follows:

1. The approved costs for an eligible child who receives an evaluation and early intervention services pursuant to this title shall be a charge upon the municipality wherein the eligible child resides AND THE STATE or, where the services are covered by the medical assistance program, upon the social services district of fiscal responsibility with respect to those eligible children who are also eligible for medical assistance. All approved costs shall be paid IN FULL AT THE STATE APPROVED EARLY INTERVENTION RATE in the first instance [and at least quarterly by the appropriate governing body or officer of the municipality upon vouchers presented and audited in the same manner as the case of other claims against the municipality] BY THE STATE OR ITS DESIGNATED FISCAL AGENT TO A PROVIDER WITHIN THIRTY DAYS OF THE RECEIPT BY THE STATE OR ITS DESIGNATED STATE FISCAL AGENT OF AN INITIAL CLAIM FROM A PROVIDER. WHERE A PROVIDER'S ASSIGNMENT IS CALLED FOR UNDER PARAGRAPH (D) OF SUBDIVISION THREE OF SECTION TWENTY-FIVE HUNDRED FIFTY-NINE OF THIS TITLE, THE ASSIGNMENT SHALL BE PART OF THE PROVIDER'S CLAIM. Notwithstanding the insurance law or regulations thereunder relating to the permissible exclusion of payments for services under governmental programs, no such exclusion shall apply with respect to payments made pursuant to this

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

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title. Notwithstanding the insurance law or any other law or agreement to the contrary, benefits under this title shall be considered secondary to any plan of insurance or state government benefit program under which an eligible child may have coverage. Nothing in this section shall increase or enhance coverages provided for within an insurance contract subject to the provisions of this title.

S 2. The opening paragraph of paragraph (a) of subdivision 3 of section 2559 of the public health law, as amended by section 11 of part A of chapter 56 of the laws of 2012, is amended to read as follows:

[Providers of evaluations and early intervention services, hereinafter collectively referred to in this subdivision as "provider" or "providers",] THE STATE OR ITS DESIGNATED FISCAL AGENT shall [in the first instance and], where applicable, seek payment from all third party payors including governmental agencies [prior to claiming payment from a given municipality] for evaluations conducted under the program and for services rendered to eligible children, provided that, the obligation to seek payment shall not apply to a payment from a third party payor who is not prohibited from applying such payment, and will apply such payment, to an annual or lifetime limit specified in the insured's policy. THE STATE OR ITS DESIGNATED FISCAL AGENT SHALL BE RESPONSIBLE FOR FILING AND CONDUCTING ALL APPEALS OF PAYMENT DENIALS BY ALL THIRD PARTY PAYORS INCLUDING GOVERNMENTAL AGENCIES, AND TRACKING CLAIMS SUBMITTED TO ALL THIRD PARTY PAYORS INCLUDING GOVERNMENTAL AGENCIES.

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

(IV) THE FISCAL AGENT SHALL, AT LEAST QUARTERLY, CONDUCT A RECONCILIATION OF THIRD PARTY REIMBURSEMENT PURSUANT TO THIS SUBDIVISION AND PROVIDE REIMBURSEMENT AT LEVELS IN ACCORDANCE WITH THIS TITLE TO THE STATE AND MUNICIPALITIES.

S 4. Paragraph (d) of subdivision 3 of section 2559 of the public health law, as amended by section 11 of part A of chapter 56 of the laws of 2012, is amended to read as follows:

(d) A municipality, or its designee, and [a provider] THE STATE OR ITS DESIGNATED FISCAL AGENT shall be subrogated, to the extent of the expenditures by such municipality or for early intervention services furnished to persons eligible for benefits under this title, to any rights such person may have or be entitled to from third party reimbursement. The [provider] STATE OR ITS DESIGNATED FISCAL AGENT shall submit notice to the insurer or plan administrator of [his or her] ITS exercise of such right of subrogation [upon the provider's assignment as the early intervention service provider for the child]. The right of subrogation does not attach to benefits paid or provided under any health insurance policy or health benefits plan prior to receipt of written notice of the exercise of subrogation rights by the insurer or plan administrator providing such benefits.

S 5. This act shall take effect on the sixtieth day after it shall have become a law, and (a) shall apply to any claim for payment by a provider for services under title 2-A of article 25 of the public health law that has not been fully paid pursuant to such title on or after such effective date, whether filed before or after the effective date of this act and (b) effective immediately, the commissioner of health is authorized and directed to promulgate regulations and take all actions necessary and appropriate to implement the provisions of this act on its effective date.