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

7298--A

2015-2016 Regular Sessions

I N A S S E M B L Y

May 4, 2015

Introduced by M. of A. NOJAY, PALMESANO -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the social services law, in relation to medicaid reimbursement; and repealing certain provisions of such law relating thereto

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

Section 1. Section 368-a of the social services law is REPEALED and a new section 368-a is added to read as follows:

S 368-A. STATE REIMBURSEMENT. 1. THE DEPARTMENT SHALL REVIEW THE EXPENDITURES MADE BY LOCAL SOCIAL SERVICES DISTRICTS FOR MEDIAL ASSISTANCE FOR NEEDY PERSONS, AND THE ADMINISTRATION THEREOF, BEFORE MAKING REIMBURSEMENT. BEFORE APPROVING SUCH EXPENDITURES FOR REIMBURSEMENT, THE DEPARTMENT SHALL GIVE DUE CONSIDERATION TO THE RESULTS OF THE REVIEWS AND AUDITS CONDUCTED BY THE DEPARTMENT OF HEALTH PURSUANT TO SUBDIVISION TWO OF SECTION THREE HUNDRED SIXTY-FOUR OF THIS TITLE. IF APPROVED BY THE DEPARTMENT, SUCH EXPENDITURES SHALL NOT BE SUBJECT TO REIMBURSEMENT BY THE STATE PURSUANT TO SECTION ONE HUNDRED FIFTY-THREE OR ANY PROVISION OF THIS CHAPTER OTHER THAN THIS SECTION, BUT SHALL BE SUBJECT TO REIMBURSEMENT BY THE STATE IN ACCORDANCE WITH THIS SECTION AND THE REGULATIONS OF THE DEPARTMENT, AS FOLLOWS:

THERE SHALL BE PAID TO EACH SUCH DISTRICT:

(A) THE AMOUNT OF FEDERAL FUNDS, IF ANY, PROPERLY RECEIVED OR TO BE RECEIVED ON ACCOUNT OF SUCH EXPENDITURES;

(B) THE FULL AMOUNT EXPENDED ON BEHALF OF THE DEPARTMENT FOR MEDICAL ASSISTANCE FURNISHED UNDER THIS TITLE TO ELIGIBLE PATIENTS IN STATE INSTITUTIONS FOR THE MENTALLY DISABLED, IN FACILITIES OR PARTS THEREOF FOR THE CARE AND TREATMENT OF DRUG DEPENDENT PERSONS OPERATED PURSUANT TO THE MENTAL HYGIENE LAW AND IN OTHER HOSPITALS WHILE SUCH PATIENTS ARE ON RELEASE FROM AN INSTITUTION IN THE STATE DEPARTMENT OF MENTAL HYGIENE

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

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OR FROM A DRUG ABUSE TREATMENT FACILITY OR PART THEREOF OPERATED IN COMPLIANCE WITH APPLICABLE PROVISIONS OF LAW AND SUPERVISED BY THE OFFICE OF ALCOHOLISM AND SUBSTANCE ABUSE SERVICES, TO ELIGIBLE VETERANS AND THEIR DEPENDENTS IN THAT PART OF THE NEW YORK STATE HOME FOR VETERANS AND THEIR DEPENDANTS AT OXFORD THAT HAS BEEN APPROVED PURSUANT TO LAW AS A NURSING HOME AND IN A HOSPITAL WHILE ON RELEASE FROM THAT HOME FOR THE PURPOSE OF RECEIVING CARE IN SUCH HOSPITAL, IN THAT PART OF A PUBLIC INSTITUTION OPERATED FOR THE CARE OF THE MENTALLY DISABLED THAT HAS BEEN APPROVED PURSUANT TO LAW AS AN INTERMEDIATE CARE FACILITY, TO ELIGIBLE VETERANS AND THEIR DEPENDENTS IN THAT PART OF THE NEW YORK STATE HOME FOR VETERANS AND THEIR DEPENDENTS AT OXFORD THAT HAS BEEN APPROVED PURSUANT TO LAW AS AN INTERMEDIATE CARE FACILITY AND IN A HOSPITAL WHILE ON RELEASE FROM SUCH INTERMEDIATE CARE FACILITIES FOR THE PURPOSE OF RECEIVING CARE IN SUCH HOSPITAL, AND FOR THE ADMINISTRATION THEREOF, AFTER FIRST DEDUCTING THEREFROM ANY FEDERAL FUNDS PROPERLY RECEIVED OR TO BE RECEIVED ON ACCOUNT THEREOF;

(C) THE FULL AMOUNT EXPENDED FOR MEDICAL ASSISTANCE FURNISHED UNDER THIS TITLE TO ELIGIBLE INDIANS AND MEMBERS OF THEIR FAMILIES RESIDING ON ANY INDIAN RESERVATION IN THIS STATE, AND FOR THE ADMINISTRATION THEREOF, AFTER FIRST DEDUCTING THEREFROM ANY FEDERAL FUNDS PROPERLY RECEIVED OR TO BE RECEIVED ON ACCOUNT THEREOF;

(D) THE FULL AMOUNT EXPENDED FOR MEDICAL ASSISTANCE FURNISHED UNDER THIS TITLE TO OTHER ELIGIBLE PERSONS, AND FOR THE ADMINISTRATION THEREOF, AFTER FIRST DEDUCTING THEREFROM ANY FEDERAL FUNDS PROPERLY RECEIVED OR TO BE RECEIVED ON ACCOUNT THEREOF INCLUDING:

(I) THE DEVELOPMENT OF MEDICAL ASSISTANCE DATA SYSTEMS;

(II) MEDICAL ASSISTANCE FURNISHED TO PERSONS DESCRIBED IN SUBDIVISION FIVE OF SECTION THREE HUNDRED SIXTY-FIVE OF THIS TITLE;

(III) THE FOLLOWING SERVICES: CARE, TREATMENT, MAINTENANCE AND NURSING SERVICES IN NURSING HOMES AND HEALTH RELATED CARE AND SERVICES IN INTERMEDIATE CARE FACILITIES PROVIDED IN ACCORDANCE WITH PARAGRAPH (B) OF SUBDIVISION TWO OF SECTION THREE HUNDRED SIXTY-FIVE-A OF THIS TITLE; HOME HEALTH SERVICES PROVIDED IN ACCORDANCE WITH PARAGRAPH (D) OF SUBDIVISION TWO OF SECTION THREE HUNDRED SIXTY-FIVE-A OF THIS TITLE; PERSONAL CARE SERVICES PROVIDED IN ACCORDANCE WITH PARAGRAPH (E) OF SUBDIVISION TWO OF SECTION THREE HUNDRED SIXTY-FIVE-A OF THIS TITLE; LONG TERM HOME HEALTH CARE PROGRAMS SERVICES PROVIDED IN ACCORDANCE WITH SECTION THREE HUNDRED SIXTY-SEVEN-C OF THIS TITLE; AND NURSING HOME TRANSITION AND DIVERSION SERVICES PROVIDED IN ACCORDANCE WITH SUBDIVISION SIX-A OF SECTION THREE HUNDRED SIXTY-SIX OF THIS TITLE;

(IV) MEDICAL ASSISTANCE FOR THOSE INDIVIDUALS WHO ARE ELIGIBLE PURSUANT TO SECTION THREE HUNDRED SIXTY-SIX OF THIS ARTICLE AS A RESULT OF A MENTAL DISABILITY AS DETERMINED BY THE COMMISSIONER IN CONSULTATION WITH THE COMMISSIONER OF THE OFFICE OF MENTAL HEALTH AND THE COMMISSIONER OF THE OFFICE FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES AND WITH THE APPROVAL OF THE DIRECTOR OF THE BUDGET;

(V) MEDICAL ASSISTANCE FURNISHED TO PERSONS DESCRIBED IN SUBDIVISION EIGHT OF SECTION THREE HUNDRED SIXTY-FIVE OF THIS ARTICLE, INCLUDING THE ADMINISTRATION THEREOF;

(VI) REIMBURSEMENTS FOR THE CARE AND SERVICES PROVIDED TO THOSE PERSONS ELIGIBLE PURSUANT TO SUBPARAGRAPHS SEVEN OF PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION THREE HUNDRED SIXTY-SIX OF THIS TITLE;

(VII) PAYMENTS MADE, WHETHER BY THE DEPARTMENT ON BEHALF OF A LOCAL SOCIAL SERVICES DISTRICT PURSUANT TO SECTION THREE HUNDRED SIXTY-SEVEN-B OF THIS ARTICLE OR BY A LOCAL SOCIAL SERVICES DISTRICT DIRECTLY, FOR A SUPPLEMENTARY BAD DEBT AND CHARITY CARE ADJUSTMENT COMPONENT OF RATES OF

PAYMENT DETERMINED IN ACCORDANCE WITH SUBDIVISION FOURTEEN-A OF SECTION TWENTY-EIGHT HUNDRED SEVEN-C OF THE PUBLIC HEALTH LAW FOR GENERAL HOSPITAL INPATIENT HOSPITAL SERVICES PROVIDED IN ACCORDANCE WITH PARAGRAPH (B) OF SUBDIVISION TWO OF SECTION THREE HUNDRED SIXTY-FIVE-A OF THIS ARTICLE, LIMITED TO THE AMOUNT OF FEDERAL FUNDS PROPERLY RECEIVED OR TO BE RECEIVED ON ACCOUNT OF SUCH EXPENDITURES; PROVIDED, HOWEVER, THAT REIMBURSEMENT SHALL BE MADE BY THE STATE FOR THE FULL AMOUNT EXPENDED FOR A SUPPLEMENTARY BAD DEBT AND CHARITY CARE ADJUSTMENT FOR A GENERAL HOSPITAL OPERATED BY THE STATE OF NEW YORK OR BY THE STATE UNIVERSITY OF NEW YORK;

(VIII) PAYMENTS MADE FOR A SUPPLEMENTARY LOW INCOME PATIENT ADJUSTMENT COMPONENT OF RATES OF PAYMENT FOR A PUBLIC GENERAL HOSPITAL DETERMINED IN ACCORDANCE WITH SUBDIVISION FOURTEEN-D OF SECTION TWENTY-EIGHT HUNDRED SEVEN-C OF THE PUBLIC HEALTH LAW FOR GENERAL HOSPITAL INPATIENT HOSPITAL SERVICES PROVIDED IN ACCORDANCE WITH PARAGRAPH (B) OF SUBDIVISION TWO OF SECTION THREE HUNDRED SIXTY-FIVE-A OF THIS ARTICLE, LIMITED TO THE AMOUNT OF FEDERAL FUNDS PROPERLY RECEIVED OR TO BE RECEIVED ON ACCOUNT OF SUCH EXPENDITURES; PROVIDED, HOWEVER, THAT REIMBURSEMENT SHALL BE MADE BY THE STATE FOR THE FULL AMOUNT EXPENDED FOR A SUPPLEMENTARY LOW INCOME PATIENT ADJUSTMENT FOR A GENERAL HOSPITAL OPERATED BY THE STATE OF NEW YORK OR BY THE STATE UNIVERSITY OF NEW YORK;

(IX) MEDICAL ASSISTANCE FURNISHED UNDER THIS TITLE TO ELIGIBLE PERSONS PURSUANT TO A STATEWIDE MANAGED CARE PLAN OR MANAGED CARE DEMONSTRATION PROGRAM, OR TO ELIGIBLE PERSONS ENROLLED IN ANY HEALTH MAINTENANCE ORGANIZATION OR OTHER ENTITY AUTHORIZED BY LAW TO FURNISH COMPREHENSIVE HEALTH SERVICES PURSUANT TO A PLAN;

(X) PAYMENTS MADE FOR THE COMPONENT OF RATES OF PAYMENT FOR A GENERAL HOSPITAL DETERMINED IN ACCORDANCE WITH PARAGRAPH (S) OF SUBDIVISION ELEVEN OF SECTION TWENTY-EIGHT HUNDRED SEVEN-C OF THE PUBLIC HEALTH LAW FOR GENERAL HOSPITAL INPATIENT HOSPITAL SERVICES PROVIDED IN ACCORDANCE WITH PARAGRAPH (B) OF SUBDIVISION TWO OF SECTION THREE HUNDRED SIXTY-FIVE-A OF THIS ARTICLE;

(XI) PAYMENTS MADE FOR A PUBLIC GENERAL HOSPITAL INDIGENT CARE ADJUSTMENT PAYMENT FOR A PUBLIC GENERAL HOSPITAL DETERMINED IN ACCORDANCE WITH SUBDIVISION FOURTEEN-F OF SECTION TWENTY-EIGHT HUNDRED SEVEN-C OF THE PUBLIC HEALTH LAW FOR GENERAL HOSPITAL INPATIENT HOSPITAL SERVICES PROVIDED IN ACCORDANCE WITH PARAGRAPH (B) OF SUBDIVISION TWO OF SECTION THREE HUNDRED SIXTY-FIVE-A OF THIS ARTICLE, LIMITED TO THE AMOUNT OF FEDERAL FUNDS PROPERLY RECEIVED OR TO BE RECEIVED ON ACCOUNT OF SUCH EXPENDITURES; PROVIDED, HOWEVER, THAT REIMBURSEMENT SHALL BE MADE BY THE STATE FOR THE FULL AMOUNT EXPENDED FOR A PUBLIC GENERAL HOSPITAL INDIGENT CARE ADJUSTMENT FOR A GENERAL HOSPITAL OPERATED BY THE STATE OF NEW YORK OR BY THE STATE UNIVERSITY OF NEW YORK;

(XII) HEALTH CARE SERVICES AS DETERMINED IN ACCORDANCE WITH PARAGRAPH (C) OF SUBDIVISION TEN OF SECTION TWENTY-EIGHT HUNDRED SEVEN-D OF THE PUBLIC HEALTH LAW; AND

(XIII) HEALTH CARE SERVICES DESCRIBED IN SECTIONS THREE HUNDRED SIXTY-EIGHT-D AND THREE HUNDRED SIXTY-EIGHT-E OF THIS TITLE.

2. (A) FOR THE PURPOSE OF STATE REIMBURSEMENT UNDER THIS TITLE, EXPENDITURES FOR ADMINISTRATION OF MEDICAL ASSISTANCE FOR NEEDY PERSONS SHALL INCLUDE EXPENDITURES FOR SALARIES OF EMPLOYEES OF LOCAL WELFARE DEPARTMENTS, EXCEPT FOR THOSE EXCLUDED UNDER PARAGRAPH (B) OF THIS SUBDIVISION; OPERATION, MAINTENANCE AND SERVICE COSTS; AND SUCH OTHER EXPENDITURES, SUCH AS EQUIPMENT COSTS, DEPRECIATION CHARGES, AND RENTAL VALUES, AS MAY BE APPROVED BY THE DEPARTMENT. IT SHALL NOT INCLUDE EXPENDITURES FOR CAPITAL ADDITIONS OR IMPROVEMENTS.

(B) STATE REIMBURSEMENT SHALL NOT BE MADE FOR ANY PART OF THE SALARY OF A SOCIAL SERVICES OFFICIAL, OR A CHIEF EXECUTIVE OFFICER OF A SOCIAL SERVICES DEPARTMENT, WHOSE QUALIFICATIONS DO NOT CONFORM TO THOSE FIXED BY THE DEPARTMENT, OR A CITY OR TOWN SERVICE OFFICER; NOR SHALL SUCH REIMBURSEMENT BE MADE ON THE SALARY OF A DEPUTY COMMISSIONER, OR DEPUTY DIRECTOR OR AN EMPLOYEE, UNLESS HIS EMPLOYMENT IS NECESSARY FOR THE ADMINISTRATION OF MEDICAL ASSISTANCE AND HIS QUALIFICATIONS CONFORM TO THOSE FIXED BY THE DEPARTMENT.

(C) STATE REIMBURSEMENT SHALL NOT BE MADE FOR ANY PART OF THE SALARY OF A LOCAL MEDICAL DIRECTOR APPOINTED AFTER THE EFFECTIVE DATE OF THIS SECTION WHOSE QUALIFICATIONS DO NOT CONFORM TO THOSE ESTABLISHED PURSUANT TO SECTION THREE HUNDRED SIXTY-FOUR OF THIS TITLE.

(D) STATE REIMBURSEMENT SHALL NOT BE MADE FOR ANY PART OF THE COST OF THOSE ITEMS OF CARE, SERVICES, SUPPLIES AND EQUIPMENT, AND DRUGS WHICH REPRESENT CO-PAYMENT AMOUNTS FOR WHICH A PROVIDER OF MEDICAL ASSISTANCE IS AUTHORIZED TO CHARGE A RECIPIENT IN ACCORDANCE WITH SUBDIVISION SIX OF SECTION THREE HUNDRED SIXTY-SEVEN-A OF THIS ARTICLE.

3. (A) CLAIMS FOR STATE REIMBURSEMENT SHALL BE MADE IN SUCH FORM AND MANNER AND AT SUCH TIMES AND FOR SUCH PERIODS AS THE DEPARTMENT SHALL DETERMINE.

(B) WHEN CERTIFIED BY THE DEPARTMENT, STATE REIMBURSEMENT SHALL BE PAID FROM THE STATE TREASURY UPON THE AUDIT AND WARRANT OF THE COMPTROLLER OUT OF FUNDS MADE AVAILABLE THEREFOR.

(C) WHEN THE MONEYS ALLOTTED TO THE STATE BY THE FEDERAL DEPARTMENT OF HEALTH, EDUCATION AND WELFARE OR OTHER AUTHORIZED FEDERAL AGENCY FOR ANY QUARTER SHALL HAVE BEEN RECEIVED BY THE DEPARTMENT OF TAXATION AND FINANCE, THE DEPARTMENT SHALL, AS SOON AS POSSIBLE, CERTIFY TO THE COMPTROLLER THE AMOUNT TO WHICH EACH PUBLIC WELFARE DISTRICT IS ENTITLED FOR SUCH QUARTER AND SUCH AMOUNT SHALL BE PAID OUT OF THE STATE TREASURY AFTER AUDIT BY THE COMPTROLLER TO THE RESPECTIVE PUBLIC WELFARE DISTRICTS.

(D) THE DEPARTMENT IS AUTHORIZED IN ITS DISCRETION TO MAKE ADVANCES TO PUBLIC WELFARE DISTRICTS IN ANTICIPATION OF THE STATE REIMBURSEMENT PROVIDED FOR IN THIS SECTION.

4. PAYMENT OF STATE REIMBURSEMENT AND ADVANCES SHALL BE MADE TO THE FISCAL OFFICER OF THE PUBLIC WELFARE DISTRICT ENTITLED THERETO PURSUANT TO THE PROVISIONS OF THIS CHAPTER.

S 2. Section 368-b of the social services law, as added by chapter 256 of the laws of 1966, is amended to read as follows:

S 368-b. State reimbursement to local health districts; chargebacks. 1. Each approved local health district which enters into a contract with the department of health pursuant to section three hundred sixty-four-a of this title shall submit to the department of health a quarterly report of expenditures for administrative expenses incurred in the performance of such contract. The department of health shall review such expenditures and, upon approval, shall submit the report to the department. Upon receipt of such approved report, there shall be paid to each such district

(a) the amount of federal funds, if any, properly received or to be received on account of such expenditures; and

(b) [fifty] ONE HUNDRED per centum of the amount expended for such administrative expenses, after first deducting therefrom any federal funds properly received or to be received on account thereof.

2. The department of health shall submit a quarterly report to the department of expenditures for administrative expenses incurred by each of the state health districts in the performance of the cooperative

agreement entered into pursuant to section three hundred sixty-four-a of this title. Upon receipt of such report, the department shall deduct the amount of federal funds, if any, properly received or to be received on account of such expenditures from the total amounts reported for each such district [Fifty]. ONE HUNDRED per centum of the balance shall be apportioned among the public welfare districts served by such district [in the ratio that the total expenditures by each such public welfare district for medical assistance for needy persons for the quarter bears to the total expenditures by all such public welfare districts for such quarter. The proportionate share shall be deducted from the next payment due each of such public welfare districts pursuant to section three hundred sixty-eight-a of this title].

S 3. The commissioners of the department of family assistance shall study and propose all necessary legislative adjustments needed to correct erroneous references throughout the social services law necessitated through this act.

S 4. State assumption of non-federal share Medicaid costs. 1. Notwithstanding any other provision of law, the state shall assume one hundred percent of the non-federal share of Medicaid costs by January first, two thousand twenty.

2. (a) Commencing state fiscal year two thousand sixteen the local share/county share of Medicaid costs expended through the medical assistance amount for social services districts shall be reduced by twenty percent under the year 2015 expenditure.

(b) Commencing state fiscal year two thousand seventeen the local share/county share of Medicaid costs expended through the medical assistance amount for social services districts shall be reduced by forty percent under the year 2015 expenditure.

(c) Commencing state fiscal year two thousand eighteen the local share/county share of Medicaid costs expended through the medical assistance amount for social services districts shall be reduced by sixty percent under the year 2015 expenditure.

(d) Commencing state fiscal year two thousand nineteen the local share/county share of Medicaid costs expended through the medical assistance amount for social services districts shall be reduced by eighty percent under the year 2015 expenditure.

(e) Commencing state fiscal year two thousand twenty the local share/county share of Medicaid costs expended through the medical assistance amount for social services districts shall be reduced by one hundred percent under the year 2015 expenditure.

(f) The state by and through the governor may choose to override the cap established in this section after the year two thousand twenty, however, any increases to expenditures approved by the governor shall be funded through the state budget.

(g) As used in this section the following term shall have the following meaning: "Local share/county share" shall mean the portion of any expenses covered by counties for the administration, benefits and service provided under the state's Medicaid program.

S 5. This act shall take effect April 1, 2016.