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

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I N S E N A T E

January 13, 2016

Introduced by Sens. KLEIN, CARLUCCI, SAVINO, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to including certain respiratory diseases and obesity within disease management demonstration programs directing the health research science board to study respiratory diseases and obesity; to amend the social services law, in relation to child day care facilities; and to amend the insurance law, in relation to expanding the kinds of qualified wellness programs that can be offered to enrollees

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

Section 1. Subdivisions 2 and 4 of section 2111 of the public health law, as added by section 21 of part C of chapter 58 of the laws of 2004, are amended to read as follows:

2. The department shall establish the criteria by which individuals will be identified as eligible for enrollment in the demonstration programs. Persons eligible for enrollment in the disease management demonstration program shall be limited to individuals who: receive medical assistance pursuant to title eleven of article five of the social services law and may be eligible for benefits pursuant to title 18 of the social security act (Medicare); are not enrolled in a Medicaid managed care plan, including individuals who are not required or not eligible to participate in Medicaid managed care programs pursuant to section three hundred sixty-four-j of the social services law; are diagnosed with chronic health problems as may be specified by the entity undertaking the demonstration program, including, but not limited to one or more of the following: congestive heart failure, chronic obstructive pulmonary disease, asthma, CHRONIC BRONCHITIS, OTHER CHRONIC RESPIRATORY DISEASES, diabetes, ADULT AND CHILDHOOD OBESITY, or other chronic health conditions as may be specified by the department; or have experienced or are likely to experience one or more hospitalizations or are otherwise expected to incur excessive costs and high utilization of health care services.

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

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4. The demonstration program shall offer evidence-based services and interventions designed to ensure that the enrollees receive high quality, preventative and cost-effective care, aimed at reducing the necessity for hospitalization or emergency room care or at reducing lengths of stay when hospitalization is necessary. The demonstration program may include screening of eligible enrollees, developing an individualized care management plan for each enrollee and implementing that plan. Disease management demonstration programs that utilize information technology systems that allow for continuous application of evidence-based guidelines to medical assistance claims data and other available data to identify specific instances in which clinical interventions are justified and communicate indicated interventions to physicians, health care providers and/or patients, and monitor physician and health care provider response to such interventions, shall have the enrollees, or groups of enrollees, approved by the department for participation. The services provided by the demonstration program as part of the care management plan may include, but are not limited to, case management, social work, individualized health counselors, multi-behavioral goals plans, claims data management, health and self-care education, drug therapy management and oversight, personal emergency response systems and other monitoring technologies, SYSTEMATIC CHRONIC HEALTH CONDITIONS IDENTIFIED FOR MONITORING, telehealth services and similar services designed to improve the quality and cost-effectiveness of health care services.

S 2. Paragraphs (a), (b) and (c) of subdivision 1 of section 2411 of the public health law, as amended by section 5 of part A of chapter 60 of the laws of 2014, are amended to read as follows:

(a) Survey state agencies, boards, programs and other state governmental entities to assess what, if any, relevant data has been or is being collected which may be of use to researchers engaged in breast cancer research, OR ADULT AND CHILDHOOD OBESITY, ASTHMA, CHRONIC BRONCHITIS OR OTHER CHRONIC RESPIRATORY DISEASE RESEARCH;

(b) Consistent with the survey conducted pursuant to paragraph (a) of this subdivision, compile a list of data collected by state agencies which may be of assistance to researchers engaged in breast cancer research as established in section twenty-four hundred twelve of this title, AND ADULT AND CHILDHOOD OBESITY, ASTHMA, CHRONIC BRONCHITIS OR OTHER CHRONIC RESPIRATORY DISEASE RESEARCH;

(c) Consult with the Centers for Disease Control and Prevention, the National Institutes of Health, the Federal Agency For Health Care Policy and Research, the National Academy of Sciences and other organizations or entities which may be involved in cancer research to solicit both information regarding breast cancer research projects, AND ADULT AND CHILDHOOD OBESITY, ASTHMA, CHRONIC BRONCHITIS OR OTHER CHRONIC RESPIRATORY DISEASE RESEARCH PROJECTS that are currently being conducted and recommendations for future research projects;

S 3. Paragraph (a) of subdivision 2-a of section 390 of the social services law, as added by chapter 416 of the laws of 2000, is amended to read as follows:

(a) The office of children and family services shall promulgate regulations which establish minimum quality program requirements for licensed and registered child day care homes, programs and facilities. Such requirements shall include but not be limited to (i) the need for age appropriate activities, materials and equipment to promote cognitive, educational, social, cultural, physical, emotional, language and recreational development of children in care in a safe, healthy and caring environment (ii) principles of childhood development (iii) appro-

priate staff/child ratios for family day care homes, group family day care homes, school age day care programs and day care centers, provided however that such staff/child ratios shall not be less stringent than applicable staff/child ratios as set forth in part four hundred fourteen, four hundred sixteen, four hundred seventeen or four hundred eighteen of title eighteen of the New York code of rules and regulations as of January first, two thousand (iv) appropriate levels of supervision of children in care (v) minimum standards for sanitation, health, infection control, nutrition, buildings and equipment, safety, security procedures, first aid, fire prevention, fire safety, evacuation plans and drills, prevention of child abuse and maltreatment, staff qualifications and training, record keeping, and child behavior management AND (VI) MAY INCLUDE GUIDELINES OR STANDARDS ON APPROPRIATE LEVELS OF PHYSICAL ACTIVITY AND NUTRITIONAL OFFERINGS TO ENCOURAGE HEALTHY EATING AND LIVING HABITS TO HELP TO LOWER THE INCIDENCE OF CHILDHOOD OBESITY.

S 4. Section 390-a of the social services law is amended by adding a new subdivision 6 to read as follows:

6. NO FAMILY DAY CARE HOME, GROUP FAMILY DAY CARE HOME, SCHOOL AGE CHILD CARE PROGRAM OR CHILD DAY CARE CENTER SHALL DISCOURAGE ACTIVITIES RELATING TO BREAST FEEDING A CHILD OR FEEDING A CHILD WITH EXPRESSED BREAST MILK.

S 5. Subsections (b) and (c) of section 3239 of the insurance law, as added by chapter 592 of the laws of 2008, paragraphs 6 and 7 of subsection (b) and subparagraphs (C) and (D) of paragraph 2 of subsection (c) as amended, and paragraph 8 of subsection (b) and subparagraphs (E) and (F) of paragraph 2 of subsection (c) as added by chapter 519 of the laws of 2013, are amended to read as follows:

(b) A wellness program may include, but is not limited to, the following programs or services:

(1) the use of a health risk assessment tool;

(2) a smoking cessation program;

(3) a weight management program;

(4) a stress AND/OR HYPERTENSION management program;

(5) a worker injury prevention program;

(6) a nutrition education program;

(7) health or fitness incentive programs; [and]

(8) a coordinated weight management, nutrition, stress management and physical fitness program to combat the high incidence of adult and childhood obesity, asthma and other chronic respiratory conditions[.];

(9) A SUBSTANCE OR ALCOHOL ABUSE CESSATION PROGRAM; AND

(10) A PROGRAM TO MANAGE AND COPE WITH CHRONIC PAIN.

(c)(1) A wellness program may use rewards and incentives for participation provided that where the group health insurance policy or subscriber contract is required to be community-rated, the rewards and incentives shall not include a discounted premium rate or a rebate or refund of premium.

(2) Permissible rewards and incentives MAY include:

(A) full or partial reimbursement of the cost of participating in smoking cessation [or], weight management, STRESS AND/OR HYPERTENSION, WORKER INJURY PREVENTION, NUTRITION EDUCATION, SUBSTANCE OR ALCOHOL ABUSE CESSATION, OR CHRONIC PAIN MANAGEMENT AND COPING programs;

(B) full or partial reimbursement of the cost of membership in a health club or fitness center;

(C) the waiver or reduction of copayments, coinsurance and deductibles for preventive services covered under the group policy or subscriber contract;

(D) monetary rewards in the form of gift cards or gift certificates, so long as the recipient of the reward is encouraged to use the reward for a product or a service that promotes good health, such as healthy cook books, over the counter vitamins or exercise equipment;

(E) full or partial reimbursement of the cost of participating in a stress management program or activity; and

(F) full or partial reimbursement of the cost of participating in a health or fitness program.

(3) Where the reward involves a group member's meeting a specified standard based on a health condition, the wellness program must meet the requirements of 45 CFR Part 146.

(4) A reward or incentive which involves a discounted premium rate or a rebate or refund of premium shall be based on actuarial demonstration that the wellness program can reasonably be expected to result in the overall good health and well being of the group.

S 6. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided that, effective immediately any rules and regulations necessary to implement the provisions of this act on its effective date are authorized and directed to be added, amended and/or repealed on or before such date.