STATE OF NEW YORK

5237

2017-2018 Regular Sessions

IN SENATE

March 16, 2017

Introduced by Sen. MARCELLINO -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to reimbursement for special education services and programs for preschool children with handicapping conditions

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subparagraph (i) of paragraph a of subdivision 10 of section 4410 of the education law is amended by adding a new clause (D) to read as follows:

(D) Notwithstanding any other provision of law, rule or regulation to the contrary, commencing with the two thousand seventeen--two thousand eighteen school year, for approved services or programs provided to preschool children pursuant to this section reimbursment for such services shall be made based on an alternative methodology for reimbursement to be established by the commissioner. The alternative methodology, subject to the approval of the director of the budget, shall be proposed by the department no later than August thirty-first, two thousand seventeen.

§ 2. Subparagraph (iii) of paragraph a of subdivision 9 of section 4410 of the education law, as amended by section 57-a of part H of chapter 83 of the laws of 2002, is amended to read as follows:

(iii) Commencing July first, nineteen hundred ninety-six and continuing through June thirtieth, two thousand three, a moratorium on the approval of any new or expanded programs in settings which include only preschool children with disabilities is established. Exceptions shall be made for cases in which school districts document a critical need for a new or expanded program in a setting which includes only preschool children with disabilities, to meet the projected demand for services for preschool children in the least restrictive environment. Applications for new or expanded programs may be made directly to the state education

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

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department. Nothing herein shall prohibit the commissioner from approving the modification of a full-day program into half-day sessions.

Commencing July 1, 1999 the department shall only approve any new or expanded programs in settings which include only preschool children with disabilities, if the applicant can document a critical need for a new or expanded program in a setting which includes only preschool children with disabilities to meet the projected demand for services for preschool children in the least restrictive environment. If the department determines that approval will not be granted, it must notify the applicant, in writing, of its reasons for not granting such approval. The department shall establish guidelines, within 90 days of the effective date of this section which shall state the criteria used to determine if the applicant has demonstrated such a critical need. The department is authorized to consult with the local school district to verify any data submitted.

On [~~December 1, 2003~~] **January 1, 2018** the commissioner shall submit a report to the board of regents, the majority leader of the senate, the speaker of the assembly and governor evaluating the impact of such moratorium on the availability of preschool special education services. The report shall include: (i) information regarding the number of applications for new programs and program expansions and the disposition of those applications by the commissioner; (ii) an assessment of the projected need for additional classes serving only disabled children and those serving disabled children with their non-disabled peers and in other less restrictive settings; (iii) an assessment of the projected need for additional programs due to program closings in the region, number of children receiving early intervention services and existing waiting lists; (iv) an assessment of the distance that children must be transported to receive preschool special education services; (v) an evaluation of the programmatic performance and cost-effectiveness of existing programs; (vi) recommendations regarding ways in which improved quality and cost-effectiveness could be achieved through the selective expansion of effective programs and/or the curtailment of less effective programs; and (vii) an assessment of the availability and effectiveness of approved programs providing services to preschool children with autism.

§ 3. This act shall take effect immediately.