STATE OF NEW YORK

8850--A

IN SENATE

May 24, 2018

Introduced by Sen. HANNON -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to excess reserves of certain health maintenance organizations; and to amend subpart B of part FFF of chapter 59 of the laws of 2018 amending the public health law relating to authorizing the commissioner of health to redeploy excess reserves of certain not-for-profit managed care organizations, in relation to the effectiveness thereof

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

Section 1. Subdivision 2 of section 4416 of the public health law, as added by section 1 of subpart B of part FFF of chapter 59 of the laws of 2018, is amended to read as follows:

2. Except for any public benefit corporation, the commissioner is authorized to promulgate regulations establishing a presumptive reserve ceiling for any comprehensive health services plan issued a special purpose certificate of authority under section forty-four hundred three-a of this article that satisfies the definition of corporation in subparagraph five of paragraph (a) of section one hundred two of the not-for-profit corporation law or that is exempt from taxation under section 501 of the Internal Revenue Code of 1986. Such regulations shall express the presumptive reserve ceiling as a percentage of the minimum contingent reserves applicable to such health maintenance organizations. The presumptive reserve ceiling shall be **defined as** no less than one hundred fifty percent of the minimum contingent reserves applicable to such plans. In the event that the commissioner determines that a plan subject to this subdivision has reserves in excess of the presumptive reserve ceiling for two consecutive quarters, the commissioner may make a preliminary determination that all or a portion of such reserves in excess of the ceiling should be redeployed by depositing such excess reserves in the health care transformation fund pursuant to subdivision three of this section. Prior to making a preliminary determination, the

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

LBD16062-03-8

commissioner shall consider whether such redeployment is consistent with financial soundness and efficiency and to the extent to which such reserves are being maintained consistent with the programmatic goals of the state. Upon making such a preliminary determination, the department shall notify the plan and the plan shall be afforded an opportunity to submit information to the department to justify why such reserves in excess of the ceiling are necessary and should not be so redeployed. Provided however, under no circumstances shall the redeployment of such reserves for any plan exceed seven hundred and fifty million dollars annually.

§ 2. Section 4416 of the public health law is amended by adding a new subdivision 5 to read as follows:

5. The provisions of subdivisions two, three and four of this section shall only apply to a comprehensive health services plan that has reserves, as of April first, two thousand eighteen, in excess of the presumptive reserve ceiling, as such term is defined in subdivision two of this section.

§ 3. Section 2 of subpart B of part FFF of chapter 59 of the laws of 2018 amending the public health law relating to authorizing the commissioner of health to redeploy excess reserves of certain not-for-profit managed care organizations is amended to read as follows:

§ 2. This act shall take effect August 1, 2018 and shall expire and be deemed repealed [~~**August 1, 2023**~~] **December 31, 2018**, but, shall not apply to any entity or any subsidiary or affiliate of such entity that disposes of all or a material portion of its assets pursuant to a transaction that: (1) was the subject of a request for regulatory approval first made to the commissioner of health between January 1, 2017, and December 31, 2017; and (2) receives regulatory approval from the commissioner of health prior to July 31, 2018.

§ 4. This act shall take effect immediately; provided that sections one and two of this act shall take effect on the same date and in the same manner as section 1 of subpart B of part FFF of chapter 59 of the laws of 2018, takes effect; and provided further that the amendments to section 4416 of the public health law made by sections one and two of this act shall not affect the repeal of such section and shall be deemed repealed therewith.