

# STATE OF NEW YORK

8758

## IN SENATE

July 14, 2020

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

AN ACT to amend the social services law, in relation to prohibiting medical assistance providers from refusing to furnish care, services or supplies to any person who is entitled to receive such care, services or supplies under Medicaid because benefits payable under Medicaid are payable as secondary insurance

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

1 Section 1. Subdivisions 1 and 2 of section 366-d of the social  
2 services law, subdivision 1 as added by chapter 41 of the laws of 1992  
3 and subdivision 2 as amended by chapter 2 of the laws of 1998, are  
4 amended to read as follows:

5 1. Definitions. As used in this section, "medical assistance provider"  
6 means any person, firm, partnership, group, association, fiduciary,  
7 hospital, employer or representative thereof or other entity who is  
8 furnishing care, services or supplies under this title [~~eleven of arti-~~  
9 ~~cle five of this chapter~~].

10 2. No medical assistance provider shall:

11 (a) solicit, receive, accept or agree to receive or accept any  
12 payment or other consideration in any form from another person to the  
13 extent such payment or other consideration is given: (i) for the refer-  
14 ral of services for which payment is made under this title [~~eleven of~~  
15 ~~article five of this chapter~~]; or (ii) to purchase, lease or order any  
16 good, facility, service or item for which payment is made under this  
17 title [~~eleven of article five of this chapter~~]; or

18 (b) offer, agree to give or give any payment or other consideration  
19 in any form to another person to the extent such payment or other  
20 consideration is given: (i) for the referral of services for which  
21 payment is made under this title [~~eleven of article five of this chap-~~  
22 ~~ter~~]; or (ii) to purchase, lease or order any good, facility, service or  
23 item for which payment is made under this title [~~eleven of article five~~  
24 ~~of this chapter~~]; or

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

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1 (c) refuse to furnish care, services or supplies to any person who is  
2 entitled to receive such care, services or supplies under this title if  
3 such medical assistance provider furnishes the same care, services or  
4 supplies under the Medicare program pursuant to title XVIII of the  
5 federal social security act and the person is dually eligible under  
6 that program.

7 [~~(e) as~~] (d) As used in this section "person" shall have the meaning  
8 set forth in subdivision seven of section 10.00 of the penal law.

9 [~~(d) this~~] (e) This subdivision shall not apply to any activity  
10 specifically exempt by federal statute or federal regulations promulgat-  
11 ed thereunder.

12 § 2. The commissioner of health shall make any amendments to the state  
13 plan for medical assistance, or apply for any waiver or approval under  
14 the federal social security act that are necessary to carry out the  
15 provisions of this act.

16 § 3. This act shall take effect on the one hundred ninetieth day after  
17 it shall have become a law. Effective immediately the addition, amend-  
18 ment and/or repeal of any rule or regulation necessary for the implemen-  
19 tation of this act on its effective date are authorized to be made and  
20 completed on or before such date.