STATE OF NEW YORK

1137

2021-2022 Regular Sessions

IN ASSEMBLY

January 7, 2021

Introduced by M. of A. BUTTENSCHON, WILLIAMS, CRUZ, DICKENS, DARLING -- Multi-Sponsored by -- M. of A. SAYEGH -- read once and referred to the Committee on Health

AN ACT to amend the public health law, the insurance law and the public authorities law, in relation to payments to home care services providers and authorizing the commissioner of health to establish a program to provide loans, through the dormitory authority, to home care to finance health care reform efforts

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

Section 1. Section 4406-c of the public health law is amended by adding a new subdivision 11 to read as follows:

11. Notwithstanding any inconsistent provision of law, contracts with certified home health agencies, long term home health care programs, licensed home care services programs or fiscal intermediaries operating pursuant to section three hundred sixty-five-f of the social services law to provide home care aide services as defined in section thirty-six hundred fourteen-c of this chapter, or consumer directed personal assistance services as authorized pursuant to section three hundred sixty-five-f of the social services law shall at a minimum ensure that the resources made available by such contracts shall support compensation for persons providing such home care aide services and consumer directed personal assistance services to ensure the retention of a qualified workforce capable of providing high quality care to recipients of such services consistent with the provisions of such section.

§ 2. Subsection (a) of section 3224-a of the insurance law, as amended by chapter 237 of the laws of 2009, is amended to read as follows:

(a) Except in a case where the obligation of an insurer or an organization or corporation licensed or certified pursuant to article forty-three or forty-seven of this chapter or article forty-four of the public health law to pay a claim submitted by a policyholder or person covered

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

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under such policy ("covered person") or make a payment to a health care provider is not reasonably clear, or when there is a reasonable basis supported by specific information available for review by the superintendent that such claim or bill for health care services rendered was submitted fraudulently, such insurer or organization or corporation shall pay the claim to a policyholder or covered person or make a payment to a health care provider within thirty days of receipt of a claim or bill for services rendered that is transmitted via the internet or electronic mail, or forty-five days of receipt of a claim or bill for services rendered that is submitted by other means, such as paper or facsimile**. Provided, however, any payment for services to health care providers licensed under article thirty-six of the public health law or fiscal intermediaries operating pursuant to section three hundred sixty-five-f of the social services law shall be paid within fifteen days of the receipt of a claim or a bill for services rendered during the transition period from fee for service to Medicaid managed long term care consistent with the state Medicaid plan for such health care providers and for the twelve month period beyond the final transition of Medicaid beneficiaries in that county. In addition, payments for any disputed claim or bill for services shall be paid to such health care providers by an insurer or an organization or corporation licensed or certified pursuant to article forty-three or forty-seven of this chapter or article forty-four of the public health law within twenty days of the receipt of a claim or a bill for services; provided that at the option of such insurer or organization or corporation licensed or certified pursuant to article forty-three or forty-seven of this chapter or article forty-four of the public health law, such claim or bill for services shall subsequently be subject to arbitration pursuant to article seventy-five of the civil practice law and rules**.

§ 3. Section 2801-a of the public health law is amended by adding a new subdivision 17 to read as follows:

17. (a) The commissioner is authorized to establish a program to assist in restructuring long term home health care delivery systems by providing credit enhancement to health care providers licensed pursuant to article thirty-six of this chapter that lack the credit resources necessary to transition from fee for service to managed long term care consistent with the goals of the state's Medicaid program multi-year action as adopted by the Medicaid redesign team. The program shall apply to health care providers who can demonstrate financial need and advance the state's health reform agenda of better care, better health for populations, lower costs, and transitioning the state's long term care system.

(b) Applicants must commit that the uses of the credit-enhanced loans will promote agreed upon goals of transitioning the long term home health care delivery systems. Applicants shall submit a comprehensive program and business plan, and such plan must promote agreed objectives of transition. Loan documents shall contain health reform covenants, milestone dates and statistical targets to be attained by the borrower. The application must address how the applicant will undertake the improvements in formal or informal cooperation with other health care providers in the region. To the extent required to provide legal protection for such cooperative endeavors, the commissioner shall exercise all necessary powers pursuant to article twenty-nine-F of this chapter and any fees associated with such oversight may be included in the project financing costs.

(c) The credit enhancement program shall be administered by the dormitory authority, or a not-for-profit corporation designated by the dormitory authority. The commissioner shall chair the credit enhancement application and approval committee. The commissioner shall designate three or more members of the Medicaid redesign team as additional members of the credit enhancement application and approval committee. The chair of the dormitory authority shall also serve as a member of the committee, and shall determine all rules for reviewing and approving applications, and administering approved credit enhancements. Notwithstanding any other law, no person serving as a member of the credit enhancement application and approval committee shall have any personal liability, or incur liability for their employer, by virtue of their role or vote in the credit enhancement application and approval process.

(d) A debt service reserve fund may be created to facilitate the credit enhancement.

(e)(i) In the event of a default by a borrower to a lender, the amount of the defaulted payment shall be paid by the commissioner to the lender. To finance the commissioner's remittance of those defaulted payments, the commissioner shall first draw upon funds allocated for such potential defaults, including but not limited to funds made available for that purpose pursuant to the state's August sixth, two thousand twelve section 1115 partnership plan waiver application and additional federal funds made available through implementation of the federal Affordable Care Act (health reform).

(ii) All payments of defaulted amounts shall be made solely from the allocated funds and as such amounts are actually collected and made available to the commissioner for remittance to lenders pursuant to subparagraph (i) of this paragraph. Neither the state, the commissioner, the department, the dormitory authority, nor any other instrumentality of the state, shall be legally responsible for payment of the defaulted amounts, other than pursuant to the process and financial resources described in subparagraph (i) of this paragraph. No assets or resources of the state shall be pledged, or considered to be pledged or obligated in any form, to payment of the defaults, other than pursuant to the process and financial resources described in subparagraph (i) of this paragraph, as actually collected and made available to the commissioner for the purposes of paying defaulted amounts pursuant to subparagraph (i) of this paragraph.

§ 4. Paragraph (b) of subdivision 2 of section 1676 of the public authorities law is amended by adding a new undesignated paragraph to read as follows:

Such health care providers licensed pursuant to article thirty-six of the public health law as are approved for the credit enhancement program pursuant to subdivision seventeen of section twenty-eight hundred one-a of the public health law.

§ 5. Subdivision 1 of section 1680 of the public authorities law is amended by adding a new undesignated paragraph to read as follows:

Such health care providers licensed pursuant to article thirty-six of the public health law as are approved for the credit enhancement program pursuant to subdivision seventeen of section twenty-eight hundred one-a of the public health law.

§ 6. This act shall take effect immediately.