

# STATE OF NEW YORK

9544

## IN ASSEMBLY

March 16, 2022

Introduced by M. of A. CARROLL -- read once and referred to the Committee on Health

AN ACT to amend the social services law and the workers' compensation law, in relation to payment for contingency management programs

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

1 Section 1. The social services law is amended by adding a new section  
2 367-w to read as follows:

3 § 367-w. Payment for contingency management programs. 1. For the  
4 purpose of this section, "contingency management program" means a  
5 substance use disorder treatment service that provides an incentive  
6 structure, including scaling rewards for continued evidence of specified  
7 behaviors or adherence to treatment goals, that rewards participants for  
8 specified behaviors, provided the receipt of any incentive or reward  
9 pursuant to such a program shall not be considered income for purposes  
10 of eligibility for public benefits or other public assistance to the  
11 extent allowed by law.

12 2. The commissioner may authorize the payment of medical assistance  
13 funds for contingency management programs. The commissioner shall, in  
14 consultation with the AIDS Institute and the office of addiction  
15 services and supports:

16 a. Issue guidance on the use of contingency management programs for  
17 beneficiaries who access substance use disorder services under the  
18 medical assistance program;

19 b. Establish limits on the number and value of incentives available to  
20 beneficiaries who receive services pursuant to a contingency management  
21 program; and

22 c. Determine maximum allowable rates for contingency management  
23 programs based upon the medical assistance program fee-for-service  
24 outpatient rates for the same or similar services, or any other data  
25 deemed reliable and relevant by the commissioner.

26 3. Subdivision two of this section shall be effective if, and as long  
27 as, federal financial participation is available for medical assistance  
28 expenditures made pursuant to it.

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

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1 4. For the purposes of implementing this section, the commissioner  
2 shall seek any necessary federal approvals, including approvals of any  
3 state plan amendment or federal waivers, by the federal centers for  
4 medicare and Medicaid services no later than December thirty-first, two  
5 thousand twenty-two.

6 § 2. Subdivision 2 of section 366-d of the social services law is  
7 amended by adding a new paragraph (e) to read as follows:

8 (e) this subdivision shall not apply to contingency management  
9 programs operated pursuant to section three hundred sixty-seven-w of  
10 this title.

11 § 3. Paragraph (g) of subdivision 2 of section 13-d of the workers'  
12 compensation law, as amended by section 2 of part CC of chapter 55 of  
13 the laws of 2019, is amended to read as follows:

14 (g) has directly or indirectly requested, received or participated in  
15 the division, transference, assignment, rebating, splitting or refunding  
16 of a fee for, or has directly or indirectly requested, received or prof-  
17 ited by means of a credit or other valuable consideration as a commis-  
18 sion, discount or gratuity in connection with the furnishing of medical  
19 or surgical care, an independent medical examination, diagnosis or  
20 treatment or service, including X-ray examination and treatment, or for  
21 or in connection with the sale, rental, supplying or furnishing of clin-  
22 ical laboratory services or supplies, X-ray laboratory services or  
23 supplies, inhalation therapy service or equipment, ambulance service,  
24 hospital or medical supplies, physiotherapy or other therapeutic service  
25 or equipment, artificial limbs, teeth or eyes, orthopedic or surgical  
26 appliances or supplies, optical appliances, supplies or equipment,  
27 devices for aid of hearing, drugs, medication or medical supplies, or  
28 any other goods, services or supplies prescribed for medical diagnosis,  
29 care or treatment, under this chapter; except that reasonable payment,  
30 not exceeding the technical component fee permitted in the medical fee  
31 schedule, established under this chapter for X-ray examinations, diagno-  
32 sis or treatment, may be made by a provider duly authorized as a roent-  
33 genologist to any hospital furnishing facilities and equipment for such  
34 examination, diagnosis or treatment, provided such hospital does not  
35 also submit a charge for the same services. Nothing contained in this  
36 paragraph shall prohibit such providers who practice as partners, in  
37 groups or as a professional corporation or as a university faculty prac-  
38 tice corporation from pooling fees and moneys received, either by the  
39 partnership, professional corporation, university faculty practice  
40 corporation or group by the individual members thereof, for professional  
41 services furnished by any individual professional member, or employee of  
42 such partnership, corporation or group, nor shall the professionals  
43 constituting the partnerships, corporations, or groups be prohibited  
44 from sharing, dividing or apportioning the fees and moneys received by  
45 them or by the partnership, corporation or group in accordance with a  
46 partnership or other agreement. This paragraph shall not apply to  
47 contingency management programs operated pursuant to section three  
48 hundred sixty-seven-w of the social services law.

49 § 4. This act shall take effect immediately.