

STATE OF NEW YORK

6534--C

Cal. No. 596

2021-2022 Regular Sessions

IN SENATE

May 5, 2021

Introduced by Sens. RIVERA, BROUK, MAY, MYRIE -- 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 -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee and committed to the Committee on Finance -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the public health law, in relation to establishing the primary care reform commission

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

1 Section 1. The article heading of article 29-AA of the public health
2 law, as added by section 35 of part H of chapter 59 of the laws of 2011,
3 is amended to read as follows:

4 PATIENT CENTERED MEDICAL HOMES AND PRIMARY CARE

5 § 2. The public health law is amended by adding a new section 2959-b
6 to read as follows:

7 § 2959-b. Primary care reform commission. 1. (a) Commission estab-
8 lished. The primary care reform commission, referred to in this section
9 as the "commission", is hereby established in the department. The
10 commission shall review, examine, and make findings on the level of
11 primary care spending by all payers in the context of all health care
12 spending in the state, and shall publish an annual report on the find-
13 ings. The commission shall also make recommendations to increase spend-
14 ing on primary care and strengthen primary care infrastructure in the
15 state, taking care to avoid increasing costs to patients or the total
16 cost of health care.

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

LBD10879-07-2

1 (b) Composition and powers. (i) The commission shall consist of:

2 (1) the commissioner and the superintendent of the department of
3 financial services, who may be represented by their respective desig-
4 nees;

5 (2) seven members appointed by the governor; and

6 (3) eight members appointed by the governor as follows: three on the
7 recommendation of the speaker of the assembly, three on the recommenda-
8 tion of the temporary president of the senate, one on the recommendation
9 of the minority leader of the assembly, and one on the recommendation of
10 the minority leader of the senate.

11 (ii) Any vacancy in the membership of the commission shall be filled
12 in the same manner as the member being succeeded was appointed.

13 (iii) The commission shall select a chairperson from among the members
14 of the commission.

15 (iv) The composition of the commission shall include at least one
16 member with expertise in health care financing, reimbursement, and regu-
17 lation, representing each of the following categories: practicing prima-
18 ry care providers, federally qualified health centers, professional
19 practice groups, primary care advocates, primary care consumer advo-
20 cates, businesses, health plans, and hospitals or health systems.
21 Commission members shall be appointed so as to represent a geographical
22 distribution across the state.

23 (v) Members of the commission, except for those representing New York
24 state departments, agencies, authorities or councils, shall serve for a
25 term of four years and may be reappointed in the same manner as provided
26 for their initial appointment.

27 (vi) A majority of the current filled membership of the commission
28 shall constitute a quorum for the transaction of any business or the
29 exercise of any power or function of the commission, and any decision or
30 action by the commission shall be by a majority vote of those present
31 and voting.

32 (vii) The commission shall meet at least quarterly at the call of the
33 chairperson. Additional meetings may be called by the chairperson
34 subject to the giving of one week's notice, and shall be called by the
35 chairperson at the request of a majority of the members of the commis-
36 sion.

37 (viii) The members of the commission shall receive no compensation for
38 their services, but shall be allowed their actual and necessary expenses
39 incurred in the performance of their duties.

40 2. (a) Each Medicaid managed care provider under section three hundred
41 sixty-four-j of the social services law shall provide primary care
42 spending data for the five years prior to the effective date of this
43 section and for each year thereafter as requested by the commission
44 under this section. The information shall include, but not be limited
45 to, primary care spending, total health care spending, and all further
46 information the commission requests relating to its work. Each medicaid
47 managed care provider shall also provide the total cost of care provided
48 by the provider annually for each of the years.

49 (b) Each insurance entity providing managed care products, individual
50 comprehensive accident and health insurance or group or blanket compre-
51 hensive accident and health insurance, as defined in the insurance law,
52 corporation organized under article forty-three of the insurance law
53 providing comprehensive health insurance, entity licensed under article
54 forty-four of this chapter providing comprehensive health insurance,
55 every other plan over which the department of financial services has
56 jurisdiction, and every third-party payor providing health coverage

1 shall provide primary care spending data for the five years prior to the
2 effective date of this section and for each year thereafter as requested
3 by the commission under this section. The information shall include, but
4 not be limited to, primary care spending, total health care spending,
5 and all further information the commission requests. Each entity shall
6 also provide the total cost of care provided by the entity annually for
7 each of the years. An entity that provides information under paragraph
8 (a) of this subdivision shall not be required to provide duplicate
9 information under this paragraph.

10 (c) Failure of any entity to provide information to the commission
11 requested by the commission under this section shall be considered a
12 violation under section twelve of this chapter.

13 (d) The commissioner, and the superintendent of the department of
14 financial services with respect to entities regulated by the superinten-
15 dent, shall establish requirements to ensure compliance with all appli-
16 cable laws and to protect the confidentiality of any proprietary infor-
17 mation that is provided to the commission under this section.

18 3. The department and the department of financial services shall
19 provide assistance and staff to the commission, as requested by the
20 commission. Assistance shall also be made available, as requested by
21 the commission, from other agencies, departments, and public authorities
22 of the state. The commission may accept funding or grants from the
23 state or federal government, or any other government agency or other
24 source determined by the commission, to aid in the commission's work.

25 4. The following terms, when used in this section, shall have the
26 following meanings:

27 (a) "Primary care" means the health care fields of family practice,
28 general pediatrics, primary care internal medicine, primary care obstet-
29 rics, and primary care gynecology, provided in all outpatient settings
30 including, but not limited to, health care professional practices and
31 hospitals as defined by article twenty-eight of this chapter. Primary
32 care shall not include inpatient services. Primary care includes, but is
33 not limited to, primary care services for acute and chronic conditions
34 and preventive care, services provided in regular check-ups, office
35 visits, telemedicine, and other services, provided by or under the
36 direction of a physician, nurse practitioner, physician assistant, or
37 midwife. The commission shall consider expanding this definition to
38 include primary care services provided by other health care profes-
39 sionals.

40 (b) "Primary care spending" means any expenditure of funds made by
41 third party payors, public entities, or the state for the purpose of
42 paying for primary care or supporting primary care providers. Primary
43 care spending is included regardless of payment methodology, such as
44 fee-for-service, capitation, incentives, value-based payments or other
45 methodologies, adjusted appropriately to exclude any portion of the
46 expenditure that is reasonably apportioned to exclude expenses for inpa-
47 tient services or other non-primary care services.

48 5. (a) The commission shall publish, post on the department's website,
49 and deliver an annual report to the governor, the temporary president of
50 the senate, the speaker of the assembly, the chairperson of the senate
51 finance committee, the chairperson of the assembly ways and means
52 committee and the chairs of the senate and assembly health and insurance
53 committees. The first report shall be published and delivered no later
54 than March thirty-first of the year following the effective date of this
55 section.

1 (b) The content of the annual reports shall be at the discretion of
2 the commission but the first report shall include:

3 (i) An analysis of current primary care spending, including by
4 geographic region, in relation to all other health care spending in the
5 aggregate.

6 (ii) Recommendations to the governor and the legislature of any chang-
7 es to the definition of "primary care" for the purposes of the commis-
8 sion's future work. Such recommendations may be made prior to delivery
9 of the commission's report.

10 (iii) Recommendations for legislative and executive action.

11 (iv) Identification of barriers, including payment methodologies by
12 health care payors and providers, to providing primary care and increas-
13 ing primary care spending.

14 (v) Recommendations to improve providing increased and higher-quality
15 primary care and primary care spending, with special attention to
16 increasing health care equity, reducing health care disparities, and
17 avoiding increasing costs to patients or the total cost of health care.

18 (vi) Recommendations to increase primary care spending.

19 § 3. This act shall take effect immediately.