

STATE OF NEW YORK

9522

IN SENATE

August 3, 2022

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

AN ACT to amend the financial services law, the tax law and the public health law, in relation to enacting the Health Care Tax Reform Act

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

1 Section 1. This act shall be known and may be cited as the "Health
2 Care Tax Reform Act".

3 § 2. Legislative findings. The Legislature hereby finds that:

4 (a) The affordability of health care and health insurance is extremely
5 important in ensuring that the maximum number of New York State resi-
6 dents can obtain high quality affordable health care;

7 (b) Health care and health insurance are currently subject to several
8 taxes that directly and indirectly increase the cost of health insurance
9 coverage, including an annual flat tax on all privately insured people
10 in New York State called the covered lives assessment that raises the
11 costs to health plans by \$1.1 Billion, a 9.63% sales tax surcharge on
12 certain hospital based health services that costs consumers \$3.6
13 Billion, a 1.75% flat tax on all commercial health insurance policies
14 that costs consumers \$350 Million, and a gross receipts tax on insurance
15 companies called a section 206 assessment that costs health plans \$149
16 Million a year;

17 (c) Collectively, the taxes on health care and health insurance cost
18 consumers a total of over \$5 Billion in 2018, which exceeds the total
19 amount of taxes paid by corporations through the franchise taxes and
20 exceeds all other types of taxes except for personal income taxes and
21 general sales taxes; and

22 (d) The taxes on health care and health insurance are fundamentally
23 regressive taxes because the taxes are unrelated to a consumer's wealth
24 or ability to pay, directly impact hospitalization costs at a time when
25 consumers are facing some of their greatest health care challenges,
26 directly increase the cost of health insurance, and are counterproduc-
27 tive to the public policy objective of making health insurance as
28 affordable as possible.

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

LBD09027-01-1

§ 3. Section 206 of the financial services law is amended by adding a new subsection (g) to read as follows:

(g) For the fiscal year commencing on April first, two thousand twenty-one, the commissioner shall only collect eighty per centum of any assessments collected pursuant to this section in the fiscal year commencing on April first, two thousand twenty-two, and provided further, however, that for the fiscal year commencing on April first, two thousand twenty-four, the commissioner shall only collect sixty per centum of any assessments collected pursuant to this section in the fiscal year commencing on April first, two thousand twenty-two, and provided further, however, that for the fiscal year commencing on April first, two thousand twenty-five, the commissioner shall only collect forty per centum of any assessments collected pursuant to this section in the fiscal year commencing on April first, two thousand twenty-two, and provided further, however, that for the fiscal year commencing on April first, two thousand twenty-six, the commissioner shall only collect twenty per centum of any assessments collected pursuant to this section in the fiscal year commencing on April first, two thousand twenty-two, and provided further, however, that for the fiscal year commencing on April first, two thousand twenty-seven, no such assessment under this section shall be collected.

§ 4. Section 1502-a of the tax law, as amended by section 2 of part B-1 of chapter 57 of the laws of 2009 and as further amended by section 104 of part A of chapter 62 of the laws of 2011, is amended to read as follows:

§ 1502-a. Tax on non-life insurance corporations. (a) In lieu of the tax imposed by section fifteen hundred one of this article, every domestic insurance corporation, every foreign insurance corporation and every alien insurance corporation, other than such corporations transacting the business of life insurance, (1) authorized to transact business in this state under a certificate of authority from the superintendent of financial services~~[7]~~ or (2) that is a risk retention group as defined in subsection (n) of section five thousand nine hundred two of the insurance law, ~~[or (3) that is a health maintenance organization required to obtain a certificate of authority under article forty-four of the public health law,~~] shall, for the privilege of exercising corporate franchises or for carrying on business in a corporate or organized capacity within this state, and in addition to any other taxes imposed for such privilege, pay a tax on all gross direct premiums, less return premiums thereon, written on risks located or resident in this state. The tax imposed by this section shall be computed in the manner set forth in subdivision (a) of section fifteen hundred ten of this article as such subdivision applied to taxable years beginning before January first, two thousand three, except that the rate of tax imposed by this section shall be ~~[one and seventy-five hundredths percent on all gross direct premiums, less return premiums thereon, for accident and health insurance contracts, including contracts with health maintenance organizations for health services, and]~~ two percent on all ~~[other]~~ such premiums except accident and health insurance contracts, including contracts with health maintenance organizations for health services.

(b) In lieu of the tax imposed by section fifteen hundred one of this article, every domestic insurance corporation, every foreign insurance corporation and every alien insurance corporation, other than such corporations transacting the business of life insurance that is a health maintenance organization required to obtain a certificate of authority under article forty-four of the public health law, shall, for the privi-

lege of exercising corporate franchises or for carrying on business in a corporate or organized capacity within this state, and in addition to any other taxes imposed for such privilege, pay a tax on all gross direct premiums, less return premiums thereon, written on risks located or resident in this state. The tax imposed by this section shall be computed in the manner set forth in subdivision (a) of section fifteen hundred ten of this article as such subdivision applied to taxable years beginning before January first, two thousand three, except that the rate of tax imposed by this section shall be one and seventy-five hundredths percent on all gross direct premiums, less return premiums thereon, for accident and health insurance contracts, including contracts with health maintenance organizations for health services, provided, however, that for the taxable year beginning January first, two thousand twenty-three, the percentage shall be one and four tenths percent, and provided further, however, that for the taxable year beginning January first, two thousand twenty-four, the percentage shall be one and five hundredths percent, and provided further, however, that for the taxable year beginning January first, two thousand twenty-five, the percentage shall be seven tenths of one percent, and provided further, however, that for the taxable year beginning January first, two thousand twenty-six, the percentage shall be thirty-seven hundredths of one percent, and provided further, however, that for the taxable years beginning on and after January first, two thousand twenty-seven, no such tax shall be imposed.

(c) All the other provisions in section fifteen hundred ten of this article as amended from time to time, other than subdivision (b) of such section, shall apply to the tax imposed by this section. In no event shall the tax imposed under this section be less than two hundred fifty dollars.

§ 5. Subdivision 2 of section 2807-j of the public health law, as amended by section 41 of part B of chapter 58 of the laws of 2005 and paragraphs (b), (c), (d), and (e) as amended by section 50 of part B of chapter 58 of the laws of 2009, is amended to read as follows:

2. (a) The total percentage allowance for any period during the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-nine and on and after January first, two thousand, for a designated provider of services applicable to a payor shall be determined in accordance with this subdivision and applied to net patient service revenues.

(b) The total percentage allowance for each payor, other than governmental agencies, or health maintenance organizations for services provided to subscribers eligible for medical assistance pursuant to title eleven of article five of the social services law, or approved organizations for services provided to subscribers eligible for the family health plus program pursuant to title eleven-D of article five of the social services law, and other than payments for a patient that has no third-party coverage in whole or in part for services provided by a designated provider of services, shall be:

(i) the sum of (A) eight and eighteen-hundredths percent, provided, however, that for services provided on and after July first, two thousand three, the percentage shall be eight and eighty-five hundredths percent, and further provided that for services provided on and after January first, two thousand six, the percentage shall be eight and ninety-five hundredths percent, and further provided that for services provided on and after April first, two thousand nine, the percentage shall be nine and sixty-three hundredths percent, and further provided that for services provided on and after April first, two thousand twen-

1 ty-two, the percentage shall be twenty-two and sixty-one hundredths
2 percent, and further provided that for services provided on and after
3 April first, two thousand twenty-three, the percentage shall be sixteen
4 and ninety-six hundredths percent, and further provided that for
5 services provided on and after April first, two thousand twenty-four,
6 the percentage shall be eleven and thirty-one hundredths percent, and
7 further provided that for services provided on and after April first,
8 two thousand twenty-five, the percentage shall be five and sixty-five
9 hundredths percent, and further provided that for services provided on
10 and after April first, two thousand twenty-six, the percentage shall be
11 zero percent, plus (B) twenty-four percent, provided, however, that for
12 services provided on and after July first, two thousand three, the
13 percentage shall be twenty-five and ninety-seven hundredths percent, and
14 further provided that for services provided on and after January first,
15 two thousand six, the percentage shall be twenty-six and twenty-six
16 hundredths percent, and further provided that for services provided on
17 and after April first, two thousand nine, the percentage shall be twen-
18 ty-eight and twenty-seven hundredths percent, and further provided that
19 for services provided on and after April first, two thousand twenty-two,
20 the percentage shall be twenty-two and sixty-one hundredths percent, and
21 further provided that for services provided on and after April first,
22 two thousand twenty-three, the percentage shall be sixteen and ninety-
23 six hundredths percent, and further provided that for services provided
24 on and after April first, two thousand twenty-four, the percentage shall
25 be eleven and thirty-one hundredths percent, and further provided that
26 for services provided on and after April first, two thousand twenty-
27 five, the percentage shall be five and sixty-five hundredths percent,
28 and further provided that for services provided on and after April
29 first, two thousand twenty-six, the percentage shall be zero percent,
30 and plus (C) for a specified third-party payor as defined in subdivision
31 one-a of section twenty-eight hundred seven-s of this article the
32 percentage allowance applicable for a general hospital for inpatient
33 hospital services pursuant to subdivision two of section twenty-eight
34 hundred seven-s of this article;

35 (ii) unless (A) an election in accordance with paragraph (a) of subdi-
36 vision five of this section to pay the allowance directly to the commis-
37 sioner or the commissioner's designee is in effect for a third-party
38 payor, and in addition (B) for a specified third-party payor an election
39 to pay the assessment in accordance with section twenty-eight hundred
40 seven-t of this article is in effect.

41 (c) If an election in accordance with subdivision five of this section
42 is in effect for a third-party payor and in addition in accordance with
43 section twenty-eight hundred seven-t of this article for a specified
44 third-party payor, the total percentage allowance factor shall be
45 reduced to eight and eighteen-hundredths percent, provided, however,
46 that for services provided on and after July first, two thousand three
47 the total percentage allowance factor shall be reduced to eight and
48 eighty-five hundredths percent, and further provided that for services
49 provided on and after January first, two thousand six, the total
50 percentage allowance factor shall be reduced to eight and ninety-five
51 hundredths percent, and further provided that for services provided on
52 and after April first, two thousand nine, the total percentage allowance
53 factor shall be reduced to nine and sixty-three hundredths percent and
54 further provided that for services provided on and after April first,
55 two thousand twenty-two, the percentage shall be seven and seventy-one
56 hundredths percent, and further provided that for services provided on

1 and after April first, two thousand twenty-three, the percentage shall
2 be five and seventy-nine hundredths percent, and further provided that
3 for services provided on and after April first, two thousand twenty-
4 four, the percentage shall be three and eighty-six hundredths percent,
5 and further provided that for services provided on and after April
6 first, two thousand twenty-five, the percentage shall be one and nine-
7 ty-three hundredths percent, and further provided that for services
8 provided on and after April first, two thousand twenty-six, the percent-
9 age shall be zero percent.

10 (d) The total percentage allowance for payments by governmental agen-
11 cies, as determined in accordance with paragraphs (a) and (a-1) of
12 subdivision one of section twenty-eight hundred seven-c of this article
13 as in effect on December thirty-first, nineteen hundred ninety-six, or
14 health maintenance organizations for services provided to subscribers
15 eligible for medical assistance pursuant to title eleven of article five
16 of the social services law, or approved organizations for services
17 provided to subscribers eligible for the family health plus program
18 pursuant to title eleven-D of article five of the social services law,
19 shall be five and ninety-eight-hundredths percent, provided, however,
20 that for services provided on and after July first, two thousand three
21 the total percentage allowance shall be six and forty-seven hundredths
22 percent, and further provided that for services provided on and after
23 January first, two thousand six, the total percentage allowance shall be
24 six and fifty-four hundredths percent, and further provided that for
25 services provided on and after April first, two thousand nine, the total
26 percentage allowance shall be seven and four hundredths percent and
27 further provided that for services provided on and after April first,
28 two thousand twenty-two, the percentage shall be five and sixty-three
29 hundredths percent, and further provided that for services provided on
30 and after April first, two thousand twenty-three, the percentage shall
31 be four and twenty-two hundredths percent, and further provided that for
32 services provided on and after April first, two thousand twenty-four,
33 the percentage shall be two and eighty-two hundredths percent, and
34 further provided that for services provided on and after April first,
35 two thousand twenty-five, the percentage shall be one and forty-one
36 hundredths percent, and further provided that for services provided on
37 and after April first, two thousand twenty-six, the percentage shall be
38 zero percent.

39 (e) The total percentage allowance for payments for services provided
40 by designated providers of services for which there is no third-party
41 coverage in whole or in part shall be eight and eighteen-hundredths
42 percent, provided, however, that for services provided on and after July
43 first, two thousand three the total percentage allowance shall be eight
44 and eighty-five hundredths percent, and further provided that for
45 services provided on and after January first, two thousand six, the
46 total percentage allowance shall be eight and ninety-five hundredths
47 percent, and further provided that for services provided on and after
48 April first, two thousand nine, the total percentage allowance shall be
49 nine and sixty-three hundredths percent and further provided that for
50 services provided on and after April first, two thousand twenty-two, the
51 percentage shall be seven and seventy-one hundredths percent, and
52 further provided that for services provided on and after April first,
53 two thousand twenty-three, the percentage shall be five and seventy-nine
54 hundredths percent, and further provided that for services provided on
55 and after April first, two thousand twenty-four, the percentage shall be
56 three and eighty-six hundredths percent, and further provided that for

services provided on and after April first, two thousand twenty-five, the percentage shall be one and ninety-three hundredths percent, and further provided that for services provided on and after April first, two thousand twenty-six, the percentage shall be zero percent. This paragraph shall not apply to patient deductibles and coinsurance amounts.

(f) The total percentage allowance for patient deductibles and coinsurance amounts shall be the same percentage allowance applicable to payments by the primary third-party payor covering the patient in each case determined in accordance with paragraphs (a), (b) and (c) of this subdivision.

(g) The total percentage allowance for secondary third-party payors under coordination of benefits principles shall be the same percentage allowance applicable to payments by the primary third-party payor in the case determined in accordance with paragraphs (a), (b) and (c) of this subdivision.

§ 6. Subdivision 2 of section 2807-s of the public health law, as added by chapter 639 of the laws of 1996, subparagraph (ii) of paragraph (b) as amended by chapter 1 of the laws of 1999, paragraph (c) as amended by section 15 of part A-3 of chapter 62 of the laws of 2003, subparagraph (ii) of paragraph (c) as amended and subparagraph (iii) of paragraph (c) as added by section 31 of part B of chapter 58 of the laws of 2005, and subparagraph (iv) of paragraph (c) as added by section 21 of part A of chapter 58 of the laws of 2007, is amended to read as follows:

2. (a) The regional percentage allowance for any period during the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-nine for all general hospitals in the region applicable to a specified third-party payor, and applicable to related patient coinsurance and deductible amounts and to secondary third-party payors under coordination of benefits principles, shall be the following, and shall be applied to inpatient hospital net patient service revenues:

(b) the result expressed as a percentage of:

(i) for each region, the amount allocated to the region in accordance with subdivision six of this section, divided by

(ii) the total estimated nineteen hundred ninety-six general hospital inpatient revenue of all general hospitals in the region, excluding (A) an estimate of revenue from services provided to beneficiaries of title XVIII of the federal social security act (medicare), (B) an estimate of revenue from services provided to patients eligible for payments by governmental agencies, patients eligible for payments pursuant to the comprehensive motor vehicle insurance reparations act, the workers' compensation law, the volunteer firefighters' benefit law, and the volunteer ambulance workers' benefit law, and self-pay patients, (C) from general hospitals providing graduate medical education in the aggregate an amount equal to the amount specified in subparagraph (i) of this subdivision, other than the components of such amount allocable to payors specified in clause (B) of this subparagraph, and (D) an estimate of revenue reductions related to negotiated reimbursement in nineteen hundred ninety-seven with specified third-party payors which shall be a uniform statewide percentage estimated reduction.

(c) (i) The regional percentage allowance for the periods January first, two thousand through June thirtieth, two thousand three, for all general hospitals in the region applicable to specified third-party payors, and applicable to related patient coinsurance and deductible

1 amounts, shall be the same regional percentage allowance calculated
2 pursuant to paragraph (b) of this subdivision for the period January
3 first, nineteen hundred ninety-nine through December thirty-first, nine-
4 teen hundred ninety-nine.

5 (ii) The regional percentage allowance for the periods July first, two
6 thousand three through December thirty-first, two thousand five, for all
7 general hospitals in the region applicable to specified third-party
8 payors, and applicable to related patient coinsurance and deductible
9 amounts, shall be the same regional percentage allowance calculated
10 pursuant to paragraph (b) of this subdivision for the period January
11 first, nineteen hundred ninety-nine through December thirty-first, nine-
12 teen hundred ninety-nine multiplied by one hundred eight and nineteen
13 hundredths percent.

14 (iii) The regional percentage allowance for the periods January first,
15 two thousand six through June thirtieth, two thousand seven, for all
16 general hospitals in the region applicable to specified third-party
17 payors, and applicable to related patient coinsurance and deductible
18 amounts, shall be the same regional percentage allowance calculated
19 pursuant to subparagraph (ii) of this paragraph for the period January
20 first, two thousand five through December thirty-first, two thousand
21 five multiplied by one hundred one and thirteen hundredths percent.

22 (iv) The regional percentage allowance for periods ~~on and after~~ July
23 first, two thousand seven through March thirtieth, two thousand twenty-
24 two, for all general hospitals in the region applicable to specified
25 third-party payors, and applicable to related patient coinsurance and
26 deductible amounts, shall be the same regional percentage allowance
27 calculated pursuant to subparagraph (iii) of this paragraph for the
28 period January first, two thousand six through June thirtieth, two thou-
29 sand seven.

30 (v) The regional percentage allowance for periods April first, two
31 thousand twenty-two through March thirtieth, two thousand twenty-three,
32 for all general hospitals in the region applicable to specified third-
33 party payors, and applicable to related patient coinsurance and deduct-
34 ible amounts, shall be the same regional percentage allowance calculated
35 pursuant to paragraph (b) of this subdivision for the period January
36 first, nineteen hundred ninety-nine through December thirty-first, nine-
37 teen hundred ninety-nine multiplied by ninety-seven and seventy-one
38 hundredths percent.

39 (vi) The regional percentage allowance for periods April first, two
40 thousand twenty-three through March thirtieth, two thousand twenty-four,
41 for all general hospitals in the region applicable to specified third-
42 party payors, and applicable to related patient coinsurance and deduct-
43 ible amounts, shall be the same regional percentage allowance calculated
44 pursuant to paragraph (b) of this subdivision for the period January
45 first, nineteen hundred ninety-nine through December thirty-first, nine-
46 teen hundred ninety-nine multiplied by seventy-three and twenty-nine
47 hundredths percent.

48 (vii) The regional percentage allowance for periods April first, two
49 thousand twenty-four through March thirtieth, two thousand twenty-five,
50 for all general hospitals in the region applicable to specified third-
51 party payors, and applicable to related patient coinsurance and deduct-
52 ible amounts, shall be the same regional percentage allowance calculated
53 pursuant to paragraph (b) of this subdivision for the period January
54 first, nineteen hundred ninety-nine through December thirty-first, nine-
55 teen hundred ninety-nine multiplied by forty-eight and eighty-six
56 hundredths percent.

1 (viii) The regional percentage allowance for periods April first, two
2 thousand twenty-five through March thirtieth, two thousand twenty-six,
3 for all general hospitals in the region applicable to specified third-
4 party payors, and applicable to related patient coinsurance and deduct-
5 ible amounts, shall be the same regional percentage allowance calculated
6 pursuant to paragraph (b) of this subdivision for the period January
7 first, nineteen hundred ninety-nine through December thirty-first, nine-
8 teen hundred ninety-nine multiplied by twenty-four and forty-three
9 hundredths percent.

10 § 7. This act shall take effect immediately; provided, however, that
11 the amendments to section 2807-j of the public health law made by
12 section five of this act shall not affect the expiration of such section
13 and shall be deemed to expire therewith; provided further, however, that
14 the amendments to section 2807-s of the public health law made by
15 section six of this act shall not affect the expiration of such section
16 and shall be deemed to expire therewith.