

STATE OF NEW YORK

7460

2021-2022 Regular Sessions

IN SENATE

October 22, 2021

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

AN ACT to amend chapter 53 of the laws of 2021, enacting the aid to localities budget, in relation to medical assistance administration; to amend part H of chapter 59 of the laws of 2011 amending the public health law relating to general hospital inpatient reimbursement for annual rates, in relation to the across the board reduction of 2021

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

1 Section 1. Section 1 of chapter 53 of the laws of 2021, enacting the
2 aid to localities budget, is amended by repealing the items hereinbelow
3 set forth in brackets and by adding to such section the other items
4 underscored in this section.

5 MEDICAL ASSISTANCE ADMINISTRATION PROGRAM 2,868,800,000
6 -----

7 General Fund
8 Local Assistance Account - 10000

9 For reimbursement of local administrative
10 expenses for medical assistance programs
11 and for state administration of medical
12 assistance programs, notwithstanding
13 section 153 of the social services law, to
14 include the performance of eligibility and
15 enrollment determinations by the state or
16 third-party entities designated by the
17 state to perform such services.

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

LBD13411-03-1

1 Notwithstanding any provision of law to the
2 contrary, subject to the approval of the
3 director of budget, up to \$23,000,000 of
4 the amount appropriated herein shall be
5 available for the purpose of providing
6 payments to local social services
7 districts for medical assistance adminis-
8 tration claims that exceed an administra-
9 tive ceiling established by the commis-
10 sioner of health.

11 Notwithstanding any inconsistent provision
12 of law and subject to the approval of the
13 director of budget, moneys hereby appro-
14 priated may be increased or decreased by
15 transfer or interchange between these
16 appropriated amounts and appropriations of
17 the medical assistance administration
18 program, the medical assistance program,
19 and the office of health insurance
20 programs. Funding authority from this
21 account used for state administration of
22 the medical assistance program may be
23 transferred to state operations appropri-
24 ations within the aforementioned programs
25 at amounts agreed upon by the commissioner
26 of health, and the New York state division
27 of the budget.

28 Notwithstanding section 40 of the state
29 finance law or any other law to the
30 contrary, all medical assistance appropri-
31 ations made from this account shall remain
32 in full force and effect in accordance, in
33 the aggregate, with the following sched-
34 ule: not more than 50 percent for the
35 period April 1, 2021 to March 31, 2022 and
36 the remaining amount for the period April
37 1, 2022 to March 31, 2023.

38 Notwithstanding section 40 of the state
39 finance law or any provision of law to the
40 contrary, subject to federal approval,
41 department of health state funds medicaid
42 spending, excluding payments for medical
43 services provided at state facilities
44 operated by the office of mental health,
45 the office for people with developmental
46 disabilities and the office of addiction
47 services and supports and further exclud-
48 ing any payments which are not appropri-
49 ated within the department of health, in
50 the aggregate, for the period April 1,
51 2021 through March 31, 2022, shall not
52 exceed \$23,531,327,000 except as provided
53 below and state share medicaid spending,
54 in the aggregate, for the period April 1,
55 2022 through March 31, 2023, shall not
56 exceed \$25,587,116,000, but in no event

1 shall department of health state funds
2 medicaid spending for the period April 1,
3 2021 through March 31, 2023 exceed
4 \$49,118,443,000 provided, however, such
5 aggregate limits may be adjusted by the
6 director of the budget to account for any
7 changes in the New York state federal
8 medical assistance percentage amount
9 established pursuant to the federal social
10 security act, increases in provider reven-
11 ues, reductions in local social services
12 district payments for medical assistance
13 administration, minimum wage increases,
14 and beginning April 1, 2012 the opera-
15 tional costs of the New York state medical
16 indemnity fund, pursuant to chapter 59 of
17 the laws of 2011, and state costs or
18 savings from the essential plan program.
19 Such projections may be adjusted by the
20 director of the budget to account for
21 increased or expedited department of
22 health state funds medicaid expenditures
23 as a result of a natural or other type of
24 disaster, including a governmental decla-
25 ration of emergency.

26 The director of the budget, in consultation
27 with the commissioner of health, shall
28 assess on a quarterly basis known and
29 projected medicaid expenditures by catego-
30 ry of service and by geographic region, as
31 determined by the commissioner of health,
32 incurred both prior to and subsequent to
33 such assessment for each such period, and
34 if the director of the budget determines
35 that such expenditures are expected to
36 cause medicaid spending for such period to
37 exceed the aggregate limit specified here-
38 in for such period, the state medicaid
39 director, in consultation with the direc-
40 tor of the budget and the commissioner of
41 health, shall develop a medicaid savings
42 allocation adjustment to limit such spend-
43 ing to the aggregate limit specified here-
44 in for such period.

45 Such medicaid savings allocation adjustment
46 shall be designed, to reduce the expendi-
47 tures authorized by the appropriations
48 herein in compliance with the following
49 guidelines: (1) reductions shall be made
50 in compliance with applicable federal law,
51 including the provisions of the Patient
52 Protection and Affordable Care Act, Public
53 Law No. 111-148, and the Health Care and
54 Education Reconciliation Act of 2010,
55 Public Law No. 111-152 (collectively
56 "Affordable Care Act") and any subsequent

1 amendments thereto or regulations promul-
2 gated thereunder; (2) reductions shall be
3 made in a manner that complies with the
4 state medicaid plan approved by the feder-
5 al centers for medicare and medicaid
6 services, provided, however, that the
7 commissioner of health is authorized to
8 submit any state plan amendment or seek
9 other federal approval, including waiver
10 authority, to implement the provisions of
11 the medicaid savings allocation adjustment
12 that meets the other criteria set forth
13 herein; (3) reductions shall be made in a
14 manner that maximizes federal financial
15 participation, to the extent practicable,
16 including any federal financial partic-
17 ipation that is available or is reasonably
18 expected to become available, in the
19 discretion of the commissioner, under the
20 Affordable Care Act; (4) reductions shall
21 be made uniformly among categories of
22 services and geographic regions of the
23 state, to the extent practicable, and
24 shall be made uniformly within a category
25 of service, to the extent practicable,
26 except where the commissioner determines
27 that there are sufficient grounds for
28 non-uniformity, including but not limited
29 to: the extent to which specific catego-
30 ries of services contributed to department
31 of health medicaid state funds spending in
32 excess of the limits specified herein; the
33 need to maintain safety net services in
34 underserved communities; or the potential
35 benefits of pursuing innovative payment
36 models contemplated by the Affordable Care
37 Act, in which case such grounds shall be
38 set forth in the medicaid savings allo-
39 cation adjustment; and (5) reductions
40 shall be made in a manner that does not
41 unnecessarily create administrative
42 burdens to medicaid applicants and recipi-
43 ents or providers.

44 The commissioner shall seek the input of the
45 legislature, as well as organizations
46 representing health care providers,
47 consumers, businesses, workers, health
48 insurers, and others with relevant exper-
49 tise, in developing such medicaid savings
50 allocation adjustment, to the extent that
51 all or part of such adjustment, in the
52 discretion of the commissioner, is likely
53 to have a material impact on the overall
54 medicaid program, particular categories of
55 service or particular geographic regions
56 of the state.

1 (a) The commissioner shall post the medicaid
2 savings allocation adjustment on the
3 department of health's website and shall
4 provide written copies of such adjustment
5 to the chairs of the senate finance and
6 the assembly ways and means committees at
7 least 30 days before the date on which
8 implementation is expected to begin.

9 (b) The commissioner may revise the medicaid
10 savings allocation adjustment subsequent
11 to the provisions of notice and prior to
12 implementation but needs to provide a new
13 notice pursuant to subparagraph (i) of
14 this paragraph only if the commissioner
15 determines, in his or her discretion, that
16 such revisions materially alter the
17 adjustment.

18 Notwithstanding the provisions of paragraphs
19 (a) and (b) of this subdivision, the
20 commissioner need not seek the input
21 described in paragraph (a) of this subdivi-
22 sion or provide notice pursuant to para-
23 graph (b) of this subdivision if, in the
24 discretion of the commissioner, expedited
25 development and implementation of a medi-
26 caid savings allocation adjustment is
27 necessary due to a public health emergen-
28 cy.

29 For purposes of this section, a public
30 health emergency is defined as: (i) a
31 disaster, natural or otherwise, that
32 significantly increases the immediate need
33 for health care personnel in an area of
34 the state; (ii) an event or condition that
35 creates a widespread risk of exposure to a
36 serious communicable disease, or the
37 potential for such widespread risk of
38 exposure; or (iii) any other event or
39 condition determined by the commissioner
40 to constitute an imminent threat to public
41 health.

42 Nothing in this paragraph shall be deemed to
43 prevent all or part of such medicaid
44 savings allocation adjustment from taking
45 effect retroactively to the extent permit-
46 ted by the federal centers for medicare
47 and medicaid services.

48 In accordance with the medicaid savings
49 allocation adjustment, the commissioner of
50 the department of health shall reduce
51 department of health state funds medicaid
52 spending by the amount of the projected
53 overspending through, actions including,
54 but not limited to modifying or suspending
55 reimbursement methods, including but not
56 limited to all fees, premium levels and

1 rates of payment, notwithstanding any
2 provision of law that sets a specific
3 amount or methodology for any such
4 payments or rates of payment; modifying
5 medicaid program benefits; seeking all
6 necessary federal approvals, including,
7 but not limited to waivers, waiver amend-
8 ments; and suspending time frames for
9 notice, approval or certification of rate
10 requirements, notwithstanding any
11 provision of law, rule or regulation to
12 the contrary, including but not limited to
13 sections 2807 and 3614 of the public
14 health law, section 18 of chapter 2 of the
15 laws of 1988, and 18 NYCRR 505.14(h).

16 The department of health shall prepare a
17 quarterly report that sets forth: (a)
18 known and projected department of health
19 medicaid expenditures as described in
20 subdivision (1) of this section, and
21 factors that could result in medicaid
22 disbursements for the relevant state
23 fiscal year to exceed the projected
24 department of health state funds disburse-
25 ments in the enacted budget financial plan
26 pursuant to subdivision 3 of section 23 of
27 the state finance law, including spending
28 increases or decreases due to: enrollment
29 fluctuations, rate changes, utilization
30 changes, MRT investments, and shift of
31 beneficiaries to managed care; and vari-
32 ations in offline medicaid payments; and
33 (b) the actions taken to implement any
34 medicaid savings allocation adjustment
35 implemented pursuant to subdivision (4) of
36 this section, including information
37 concerning the impact of such actions on
38 each category of service and each
39 geographic region of the state. Each such
40 quarterly report shall be provided to the
41 chairs of the senate finance and the
42 assembly ways and means committees and
43 shall be posted on the department of
44 health's website in a timely manner.

45 The money hereby appropriated is available
46 for payment of liabilities heretofore and
47 hereafter accrued and shall be available
48 to the department net of disallowances,
49 refunds, reimbursements, and credits.

50 Notwithstanding any other provision of law,
51 the money hereby appropriated may be
52 increased or decreased by interchange or
53 transfer, with any appropriation of the
54 department of health, and may be increased
55 or decreased by transfer or suballocation
56 between these appropriated amounts and

1 appropriations of the office of mental
2 health, the office for people with devel-
3 opmental disabilities, the office of
4 addiction services and supports, the
5 department of family assistance office of
6 temporary and disability assistance, the
7 department of corrections and community
8 supervision, the office of information
9 technology services, the state university
10 of New York, the state office for the
11 aging, the office of the medicaid inspec-
12 tor general, and office of children and
13 family services with the approval of the
14 director of the budget, who shall file
15 such approval with the department of audit
16 and control and copies thereof with the
17 chairman of the senate finance committee
18 and the chairman of the assembly ways and
19 means committee.

20 [~~Notwithstanding any provision of law to the~~
21 ~~contrary, the director of the budget, in~~
22 ~~consultation with the commissioner of~~
23 ~~health, may use a payment reduction plan~~
24 ~~to make across-the-board reductions to the~~
25 ~~department of health state funds medicaid~~
26 ~~spending by \$373,000,000 for state fiscal~~
27 ~~year 2021-2022 and \$373,000,000 in state~~
28 ~~fiscal year 2022-2023 to limit such spend-~~
29 ~~ing to the aggregate limit specified here-~~
30 ~~in, or reduce the aggregate limit speci-~~
31 ~~fied herein to provide a reduction to the~~
32 ~~state's financial plan. Reductions shall~~
33 ~~be made in a manner that complies with the~~
34 ~~state medicaid plan approved by the feder-~~
35 ~~al centers for medicare and medicaid~~
36 ~~services, provided, however, that the~~
37 ~~commissioner of health is authorized to~~
38 ~~submit any state plan amendment or seek~~
39 ~~other federal approval to implement the~~
40 ~~provisions of the medicaid payment~~
41 ~~reduction adjustment.]~~

42 Notwithstanding any inconsistent provision
43 of law, in lieu of payments authorized by
44 the social services law, or payments of
45 federal funds otherwise due to the local
46 social services districts for programs
47 provided under the federal social security
48 act or the federal food stamp act, funds
49 herein appropriated, in amounts certified
50 by the state commissioner of temporary and
51 disability assistance or the state commis-
52 sioner of health as due from local social
53 services districts each month as their
54 share of payments made pursuant to section
55 367-b of the social services law may be
56 set aside by the state comptroller in an

1 interest-bearing account in order to
2 ensure the orderly and prompt payment of
3 providers under section 367-b of the
4 social services law pursuant to an esti-
5 mate provided by the commissioner of
6 health of each local social services
7 district's share of payments made pursuant
8 to section 367-b of the social services
9 law.

10 Notwithstanding any provision of law to the
11 contrary, the portion of this appropri-
12 ation covering fiscal year 2021-22 shall
13 supersede and replace any duplicative (i)
14 reappropriation for this item covering
15 fiscal year 2021-22, and (ii) appropri-
16 ation for this item covering fiscal year
17 2021-22 set forth in chapter 53 of the
18 laws of 2020 (26963) 1,090,100,000

19 Special Revenue Funds - Federal
20 Federal Health and Human Services Fund
21 Medicaid Administration Transfer Account - 25107

22 For reimbursement of local administrative
23 expenses of medical assistance programs
24 and for state administration of medical
25 assistance programs provided pursuant to
26 title XIX of the federal social security
27 act or its successor program. Notwith-
28 standing section 153 of the social
29 services law, to include the performance
30 of eligibility and enrollment determi-
31 nations by the state or third-party enti-
32 ties designated by the state to perform
33 such services.

34 Notwithstanding any inconsistent provision
35 of law and subject to the approval of the
36 director of budget, moneys hereby appro-
37 priated may be increased or decreased by
38 transfer or interchange between these
39 appropriated amounts and appropriations of
40 the medical assistance administration
41 program, the medical assistance program,
42 and the office of health insurance
43 programs. Funding authority from this
44 account used for state administration of
45 the medical assistance program may be
46 transferred to state operations appropri-
47 ations within the aforementioned programs
48 at amounts agreed upon by the commissioner
49 of health, and the New York state division
50 of the budget.

51 Notwithstanding section 40 of the state
52 finance law or any other law to the
53 contrary, all medical assistance appropri-
54 ations made from this account shall remain

1 in full force and effect in accordance, in
2 the aggregate, with the following sched-
3 ule: not more than 50 percent for the
4 period April 1, 2021 to March 31, 2022;
5 and the remaining amount for the period
6 April 1, 2022 to March 31, 2023.

7 The money hereby appropriated is available
8 for payment of liabilities heretofore and
9 hereafter accrued and shall be available
10 to the department net of disallowances,
11 refunds, reimbursements, and credits.

12 The amounts appropriated herein may be
13 available for costs associated with a
14 common benefit identification card, and
15 subject to the approval of the director of
16 the budget, these funds may be transferred
17 to the credit of the state operations
18 account medicaid management information
19 systems program.

20 Notwithstanding any other provision of law,
21 the money hereby appropriated may be
22 increased or decreased by interchange,
23 with any appropriation of the department
24 of health, and may be increased or
25 decreased by transfer or suballocation
26 between these appropriated amounts and
27 appropriations of the office of mental
28 health, the office for people with devel-
29 opmental disabilities, the office of
30 addiction services and supports, the
31 department of family assistance, office of
32 temporary and disability assistance, the
33 department of corrections and community
34 supervision, the office of information
35 technology services, the state university
36 of New York, the state office for the
37 aging, the office of the medicaid inspec-
38 tor general, and office of children and
39 family services with the approval of the
40 director of the budget, who shall file
41 such approval with the department of audit
42 and control and copies thereof with the
43 chairman of the senate finance committee
44 and the chairman of the assembly ways and
45 means committee.

46 ~~[Notwithstanding any provision of law to the~~
47 ~~contrary, the director of the budget, in~~
48 ~~consultation with the commissioner of~~
49 ~~health, may use a payment reduction plan~~
50 ~~to make across-the-board reductions to the~~
51 ~~department of health state funds medicaid~~
52 ~~spending by \$373,000,000 for state fiscal~~
53 ~~year 2021-2022 and \$373,000,000 in state~~
54 ~~fiscal year 2022-2023 to limit such spend-~~
55 ~~ing to the aggregate limit specified here-~~
56 ~~in, or reduce the aggregate limit speci-~~

~~fied herein to provide a reduction to the state's financial plan. Reductions shall be made in a manner that complies with the state medicaid plan approved by the federal centers for medicare and medicaid services, provided, however, that the commissioner of health is authorized to submit any state plan amendment or seek other federal approval to implement the provisions of the medicaid payment reduction plan.]~~

Notwithstanding any inconsistent provision of law, in lieu of payments authorized by the social services law, or payments of federal funds otherwise due to the local social services districts for programs provided under the federal social security act or the federal food stamp act, funds herein appropriated, in amounts certified by the state commissioner of temporary and disability assistance or the state commissioner of health as due from local social services districts each month as their share of payments made pursuant to section 367-b of the social services law may be set aside by the state comptroller in an interest-bearing account in order to ensure the orderly and prompt payment of providers under section 367-b of the social services law pursuant to an estimate provided by the commissioner of health of each local social services district's share of payments made pursuant to section 367-b of the social services law.

Notwithstanding any provision of law to the contrary, the portion of this appropriation covering fiscal year 2021-22 shall supersede and replace any duplicative (i) reappropriation for this item covering fiscal year 2021-22, and (ii) appropriation for this item covering fiscal year 2021-22 set forth in chapter 53 of the laws of 2020 (26993) 1,261,300,000

MEDICAL ASSISTANCE PROGRAM 176,134,709,000

General Fund
Local Assistance Account - 10000

For the medical assistance program, including administrative expenses, for local social services districts, and for medical care rates for authorized child care agencies.

1 Notwithstanding section 40 of the state
2 finance law or any other law to the
3 contrary, all medical assistance appropri-
4 ations made from this account shall remain
5 in full force and effect in accordance, in
6 the aggregate, with the following sched-
7 ule: not more than 48 percent for the
8 period April 1, 2021 to March 31, 2022;
9 and the remaining amount for the period
10 April 1, 2022 to March 31, 2023.

11 Notwithstanding section 40 of the state
12 finance law or any provision of law to the
13 contrary, subject to federal approval,
14 department of health state funds medicaid
15 spending, excluding payments for medical
16 services provided at state facilities
17 operated by the office of mental health,
18 the office for people with developmental
19 disabilities and the office of addiction
20 services and supports and further exclud-
21 ing any payments which are not appropri-
22 ated within the department of health, in
23 the aggregate, for the period April 1,
24 2021 through March 31, 2022, shall not
25 exceed \$23,531,327,000 except as provided
26 below and state share medicaid spending,
27 in the aggregate, for the period April 1,
28 2022 through March 31, 2023, shall not
29 exceed \$25,587,116,000, but in no event
30 shall department of health state funds
31 medicaid spending for the period April 1,
32 2021 through March 31, 2023 exceed
33 \$49,118,443,000. Provided, however, such
34 aggregate limits may be adjusted by the
35 director of the budget to account for any
36 changes in the New York state federal
37 medical assistance percentage amount
38 established pursuant to the federal social
39 security act, increases in provider reven-
40 ues, reductions in local social services
41 district payments for medical assistance
42 administration, minimum wage increases,
43 and beginning April 1, 2012 the opera-
44 tional costs of the New York state medical
45 indemnity fund, pursuant to chapter 59 of
46 the laws of 2011, and state costs or
47 savings from the essential plan program.
48 Such projections may be adjusted by the
49 director of the budget to account for
50 increased or expedited department of
51 health state funds medicaid expenditures
52 as a result of a natural or other type of
53 disaster, including a governmental decla-
54 ration of emergency.

55 The director of the budget, in consultation
56 with the commissioner of health, shall

1 assess on a quarterly basis known and
2 projected medicaid expenditures by category of service and by geographic region, as
3 defined by the commissioner, incurred both
4 prior to and subsequent to such assessment
5 for each such period, and if the director
6 of the budget determines that such expenditures
7 are expected to cause medicaid
8 spending for such period to exceed the
9 aggregate limit specified herein for such
10 period, the state medicaid director, in
11 consultation with the director of the
12 budget and the commissioner of health,
13 shall develop a medicaid savings allocation
14 adjustment to limit such spending
15 to the aggregate limit specified herein
16 for such period.
17

18 Such medicaid savings allocation adjustment
19 shall be designed, to reduce the expenditures
20 authorized by the appropriations
21 herein in compliance with the following
22 guidelines: (1) reductions shall be made
23 in compliance with applicable federal law,
24 including the provisions of the Patient
25 Protection and Affordable Care Act, Public
26 Law No. 111-148, and the Health Care and
27 Education Reconciliation Act of 2010,
28 Public Law No. 111-152 (collectively
29 "Affordable Care Act") and any subsequent
30 amendments thereto or regulations promulgated
31 thereunder; (2) reductions shall be
32 made in a manner that complies with the
33 state medicaid plan approved by the federal
34 centers for medicare and medicaid
35 services, provided, however, that the
36 commissioner of health is authorized to
37 submit any state plan amendment or seek
38 other federal approval, including waiver
39 authority, to implement the provisions of
40 the medicaid savings allocation adjustment
41 that meets the other criteria set forth
42 herein; (3) reductions shall be made in a
43 manner that maximizes federal financial
44 participation, to the extent practicable,
45 including any federal financial participation
46 that is available or is reasonably
47 expected to become available, in the
48 discretion of the commissioner, under the
49 Affordable Care Act; (4) reductions shall
50 be made uniformly among categories of
51 services and geographic regions of the
52 state, to the extent practicable, and
53 shall be made uniformly within a category
54 of service, to the extent practicable,
55 except where the commissioner determines
56 that there are sufficient grounds for

1 non-uniformity, including but not limited
2 to: the extent to which specific catego-
3 ries of services contributed to department
4 of health medicaid state funds spending in
5 excess of the limits specified herein; the
6 need to maintain safety net services in
7 underserved communities; or the potential
8 benefits of pursuing innovative payment
9 models contemplated by the Affordable Care
10 Act, in which case such grounds shall be
11 set forth in the medicaid savings allo-
12 cation adjustment; and (5) reductions
13 shall be made in a manner that does not
14 unnecessarily create administrative
15 burdens to medicaid applicants and recipi-
16 ents or providers.

17 The commissioner shall seek the input of the
18 legislature, as well as organizations
19 representing health care providers,
20 consumers, businesses, workers, health
21 insurers, and others with relevant exper-
22 tise, in developing such medicaid savings
23 allocation adjustment, to the extent that
24 all or part of such adjustment, in the
25 discretion of the commissioner, is likely
26 to have a material impact on the overall
27 medicaid program, particular categories of
28 service or particular geographic regions
29 of the state.

30 (a) The commissioner shall post the medicaid
31 savings allocation adjustment on the
32 department of health's website and shall
33 provide written copies of such adjustment
34 to the chairs of the senate finance and
35 the assembly ways and means committees at
36 least 30 days before the date on which
37 implementation is expected to begin.

38 (b) The commissioner may revise the medicaid
39 savings allocation adjustment subsequent
40 to the provisions of notice and prior to
41 implementation but needs to provide a new
42 notice pursuant to subparagraph (i) of
43 this paragraph only if the commissioner
44 determines, in his or her discretion, that
45 such revisions materially alter the
46 adjustment.

47 Notwithstanding the provisions of paragraphs
48 (a) and (b) of this subdivision, the
49 commissioner need not seek the input
50 described in paragraph (a) of this subdi-
51 vision or provide notice pursuant to para-
52 graph (b) of this subdivision if, in the
53 discretion of the commissioner, expedited
54 development and implementation of a medi-
55 caid savings allocation adjustment is

1 necessary due to a public health emergen-
2 cy.

3 For purposes of this section, a public
4 health emergency is defined as: (i) a
5 disaster, natural or otherwise, that
6 significantly increases the immediate need
7 for health care personnel in an area of
8 the state; (ii) an event or condition that
9 creates a widespread risk of exposure to a
10 serious communicable disease, or the
11 potential for such widespread risk of
12 exposure; or (iii) any other event or
13 condition determined by the commissioner
14 to constitute an imminent threat to public
15 health.

16 Nothing in this paragraph shall be deemed to
17 prevent all or part of such medicaid
18 savings allocation adjustment from taking
19 effect retroactively to the extent permit-
20 ted by the federal centers for medicare
21 and medicaid services.

22 In accordance with the medicaid savings
23 allocation adjustment, the commissioner of
24 the department of health shall reduce
25 department of health state funds medicaid
26 spending by the amount of the projected
27 overspending through, actions including,
28 but not limited to modifying or suspending
29 reimbursement methods, including but not
30 limited to all fees, premium levels and
31 rates of payment, notwithstanding any
32 provision of law that sets a specific
33 amount or methodology for any such
34 payments or rates of payment; modifying or
35 discontinuing medicaid program benefits;
36 seeking all necessary federal approvals,
37 including, but not limited to waivers,
38 waiver amendments; and suspending time
39 frames for notice, approval or certif-
40 ication of rate requirements, notwith-
41 standing any provision of law, rule or
42 regulation to the contrary, including but
43 not limited to sections 2807 and 3614 of
44 the public health law, section 18 of chap-
45 ter 2 of the laws of 1988, and 18 NYCRR
46 505.14(h).

47 The department of health shall prepare a
48 quarterly report that sets forth: (a)
49 known and projected department of health
50 medicaid expenditures as described in
51 subdivision (1) of this section, and
52 factors that could result in medicaid
53 disbursements for the relevant state
54 fiscal year to exceed the projected
55 department of health state funds disburse-
56 ments in the enacted budget financial plan

1 pursuant to subdivision 3 of section 23 of
2 the state finance law, including spending
3 increases or decreases due to: enrollment
4 fluctuations, rate changes, utilization
5 changes, MRT investments, and shift of
6 beneficiaries to managed care; and vari-
7 ations in offline medicaid payments; and
8 (b) the actions taken to implement any
9 medicaid savings allocation adjustment
10 implemented pursuant to subdivision (4) of
11 this section, including information
12 concerning the impact of such actions on
13 each category of service and each
14 geographic region of the state. Each such
15 quarterly report shall be provided to the
16 chairs of the senate finance and the
17 assembly ways and means committees and
18 shall be posted on the department of
19 health's website in a timely manner.

20 The money hereby appropriated is to be
21 available for payment of aid heretofore
22 accrued or hereafter accrued to munici-
23 palities, and to providers of medical
24 services pursuant to section 367-b of the
25 social services law, and for payment of
26 state aid to municipalities and to provid-
27 ers of family care where payment systems
28 through the fiscal intermediaries are not
29 operational.

30 Notwithstanding any inconsistent provision
31 of law to the contrary, funds may be used
32 by the department for outside legal
33 assistance on issues involving the federal
34 government, the conduct of preadmission
35 screening and annual resident reviews
36 required by the state's medicaid program,
37 computer matching with insurance carriers
38 to insure that medicaid is the payer of
39 last resort and activities related to the
40 management of the pharmacy benefit avail-
41 able under the medicaid program.

42 Notwithstanding any inconsistent provision
43 of law, in lieu of payments authorized by
44 the social services law, or payments of
45 federal funds otherwise due to the local
46 social services districts for programs
47 provided under the federal social security
48 act or the federal food stamp act, funds
49 herein appropriated, in amounts certified
50 by the state commissioner of temporary and
51 disability assistance or the state commis-
52 sioner of health as due from local social
53 services districts each month as their
54 share of payments made pursuant to section
55 367-b of the social services law may be
56 set aside by the state comptroller in an

1 interest-bearing account in order to
2 ensure the orderly and prompt payment of
3 providers under section 367-b of the
4 social services law pursuant to an esti-
5 mate provided by the commissioner of
6 health of each local social services
7 district's share of payments made pursuant
8 to section 367-b of the social services
9 law.

10 Notwithstanding any inconsistent provision
11 of law, funding made available by these
12 appropriations shall support direct salary
13 costs and related fringe benefits within
14 the medical assistance program associated
15 with any minimum wage increase that takes
16 effect during the timeframe of these
17 appropriations, pursuant to section 652 of
18 the labor law. Each eligible organization
19 in receipt of funding made available by
20 these appropriations may be required to
21 submit written certification, in such form
22 and at such time the commissioner may
23 prescribe, attesting to the total amount
24 of funds used by the eligible organiza-
25 tion, how such funding will be or was used
26 for purposes eligible under these appro-
27 priations and any other reporting deemed
28 necessary by the commissioner. The amounts
29 appropriated herein may include advances
30 to organizations authorized to receive
31 such funds to accomplish this purpose.

32 Notwithstanding any other provision of law,
33 the money hereby appropriated may be
34 increased or decreased by interchange or
35 transfer, with any appropriation of the
36 department of health and the office of
37 medicaid inspector general and may be
38 increased or decreased by transfer or
39 suballocation between these appropriated
40 amounts and appropriations of the depart-
41 ment of health state purpose account, the
42 office of mental health, office for people
43 with developmental disabilities, the
44 office of addiction services and supports,
45 the department of family assistance office
46 of temporary and disability assistance,
47 the department of corrections and communi-
48 ty supervision, the office of information
49 technology services, the state university
50 of New York, and office of children and
51 family services, the office of medicaid
52 inspector general, and the state office
53 for the aging with the approval of the
54 director of the budget, who shall file
55 such approval with the department of audit
56 and control and copies thereof with the

1 chairman of the senate finance committee
2 and the chairman of the assembly ways and
3 means committee.

4 Notwithstanding any inconsistent provision
5 of law to the contrary, the moneys hereby
6 appropriated may be used for payments to
7 the centers for medicaid and medicare
8 services for obligations incurred related
9 to the pharmaceutical costs of dually
10 eligible medicare/medicaid beneficiaries
11 participating in the medicare drug benefit
12 authorized by P.L. 108-173.

13 Notwithstanding any inconsistent provision
14 of law, the moneys hereby appropriated
15 shall not be used for any existing rates,
16 fees, fee schedule, or procedures which
17 may affect the cost of care and services
18 provided by personal care providers, case
19 managers, health maintenance organiza-
20 tions, out of state medical facilities
21 which provide care and services to resi-
22 dents of the state, providers of transpor-
23 tation services, that are altered,
24 amended, adjusted or otherwise changed by
25 a local social services district unless
26 previously approved by the department of
27 health and the director of the budget.

28 Notwithstanding any inconsistent provision
29 of law to the contrary, funds shall be
30 made available to the commissioner of the
31 office of mental health or the commission-
32 er of the office of addiction services and
33 supports, in consultation with the commis-
34 sioner of health and approved by the
35 director of the budget, and consistent
36 with appropriations made therefor, to
37 implement allocation adjustment developed
38 by each such commissioner which shall
39 describe mental health or substance use
40 disorder services that should be developed
41 to meet service needs resulting from the
42 reduction of inpatient behavioral health
43 services provided under the medicaid
44 program, by programs licensed pursuant to
45 article 31 or 32 of the mental hygiene
46 law. Such programs may include programs
47 that are licensed pursuant to both article
48 31 of the mental hygiene law and article
49 28 of the public health law, or certified
50 under both article 32 of the mental
51 hygiene law and article 28 of the public
52 health law.

53 Notwithstanding any inconsistent provision
54 of law, the moneys hereby appropriated may
55 be available for payments associated with
56 the resolution by settlement agreement or

1 judgment of rate appeals and/or litigation
2 where the department of health is a party.

3 ~~[Notwithstanding any provision of law to the~~
4 ~~contrary, the director of the budget, in~~
5 ~~consultation with the commissioner of~~
6 ~~health, may use a payment reduction plan~~
7 ~~to make across the board reductions to the~~
8 ~~department of health state funds medicaid~~
9 ~~spending by \$373,000,000 for state fiscal~~
10 ~~year 2021-2022 and \$373,000,000 in state~~
11 ~~fiscal year 2022-2023 and to limit such~~
12 ~~spending to the aggregate limit specified~~
13 ~~herein, or reduce the aggregate limit~~
14 ~~specified herein to provide a reduction to~~
15 ~~the state's financial plan. Reductions~~
16 ~~shall be made in a manner that complies~~
17 ~~with the state medicaid plan approved by~~
18 ~~the federal centers for medicare and medi-~~
19 ~~caid services, provided, however, that the~~
20 ~~commissioner of health is authorized to~~
21 ~~submit any state plan amendment or seek~~
22 ~~other federal approval to implement the~~
23 ~~provisions of the medicaid payment~~
24 ~~reduction adjustment.]~~

25 For services and expenses of the medical
26 assistance program including hospital
27 inpatient services and general hospitals
28 that are safety-net providers that evince
29 severe financial distress, pursuant to
30 criteria determined by the commissioner,
31 shall be eligible for awards for amounts
32 appropriated herein, to enable such
33 providers to maintain operations and vital
34 services while establishing long term
35 solutions to achieve sustainable health
36 services.

37 Notwithstanding any provision of law to the
38 contrary, the portion of this appropri-
39 ation covering fiscal year 2021-22 shall
40 supersede and replace any duplicative (i)
41 reappropriation for this item covering
42 fiscal year 2021-22, and (ii) appropri-
43 ation for this item covering fiscal year
44 2021-22 set forth in chapter 53 of the
45 laws of 2020 (26947) 1,310,688,000

46 Special Revenue Funds - Other
47 HCRA Resources Fund
48 Medical Assistance Account - 20804

49 Notwithstanding section 40 of the state
50 finance law or any other law to the
51 contrary, all medical assistance appropri-
52 ations made from this account shall remain
53 in full force and effect in accordance, in
54 the aggregate, with the following sched-

1 ule: not more than 51 percent for the
2 period April 1, 2021 to March 31, 2022;
3 and the remaining amount for the period
4 April 1, 2022 to March 31, 2023.

5 Notwithstanding section 40 of the state
6 finance law or any provision of law to the
7 contrary, subject to federal approval,
8 department of health state funds medicaid
9 spending, excluding payments for medical
10 services provided at state facilities
11 operated by the office of mental health,
12 the office for people with developmental
13 disabilities and the office of addiction
14 services and supports and further exclud-
15 ing any payments which are not appropri-
16 ated within the department of health, in
17 the aggregate, for the period April 1,
18 2021 through March 31, 2022, shall not
19 exceed \$23,531,327,000 except as provided
20 below and state share medicaid spending,
21 in the aggregate, for the period April 1,
22 2022 through March 31, 2023, shall not
23 exceed \$25,587,116,000, but in no event
24 shall department of health state funds
25 medicaid spending for the period April 1,
26 2021 through March 31, 2023 exceed
27 \$49,118,443,000 provided, however, such
28 aggregate limits may be adjusted by the
29 director of the budget to account for any
30 changes in the New York state federal
31 medical assistance percentage amount
32 established pursuant to the federal social
33 security act, increases in provider reven-
34 ues, reductions in local social services
35 district payments for medical assistance
36 administration, minimum wage increases and
37 beginning April 1, 2012 the operational
38 costs of the New York state medical indem-
39 nity fund, pursuant to chapter 59 of the
40 laws of 2011, and state costs or savings
41 from the essential plan. Such projections
42 may be adjusted by the director of the
43 budget to account for increased or expe-
44 dited department of health state funds
45 medicaid expenditures as a result of a
46 natural or other type of disaster, includ-
47 ing a governmental declaration of emergen-
48 cy.

49 The director of the budget, in consultation
50 with the commissioner of health, shall
51 assess on a quarterly basis known and
52 projected medicaid expenditures by catego-
53 ry of service and by geographic region, as
54 determined by the commissioner of health,
55 incurred both prior to and subsequent to
56 such assessment for each such period, and

1 if the director of the budget determines
2 that such expenditures are expected to
3 cause medicaid spending for such period to
4 exceed the aggregate limit specified here-
5 in for such period, the state medicaid
6 director, in consultation with the direc-
7 tor of the budget and the commissioner of
8 health, shall develop a medicaid savings
9 allocation adjustment to limit such spend-
10 ing to the aggregate limit specified here-
11 in for such period.

12 Such medicaid savings allocation adjustment
13 shall be designed, to reduce the expendi-
14 tures authorized by the appropriations
15 herein in compliance with the following
16 guidelines: (1) reductions shall be made
17 in compliance with applicable federal law,
18 including the provisions of the Patient
19 Protection and Affordable Care Act, Public
20 Law No. 111-148, and the Health Care and
21 Education Reconciliation Act of 2010,
22 Public Law No. 111-152 (collectively
23 "Affordable Care Act") and any subsequent
24 amendments thereto or regulations promul-
25 gated thereunder; (2) reductions shall be
26 made in a manner that complies with the
27 state medicaid plan approved by the feder-
28 al centers for medicare and medicaid
29 services, provided, however, that the
30 commissioner of health is authorized to
31 submit any state plan amendment or seek
32 other federal approval, including waiver
33 authority, to implement the provisions of
34 the medicaid savings allocation adjustment
35 that meets the other criteria set forth
36 herein; (3) reductions shall be made in a
37 manner that maximizes federal financial
38 participation, to the extent practicable,
39 including any federal financial partic-
40 ipation that is available or is reasonably
41 expected to become available, in the
42 discretion of the commissioner, under the
43 Affordable Care Act; (4) reductions shall
44 be made uniformly among categories of
45 services and geographic regions of the
46 state, to the extent practicable, and
47 shall be made uniformly within a category
48 of service, to the extent practicable,
49 except where the commissioner determines
50 that there are sufficient grounds for
51 non-uniformity, including but not limited
52 to: the extent to which specific catego-
53 ries of services contributed to department
54 of health medicaid state funds spending in
55 excess of the limits specified herein; the
56 need to maintain safety net services in

underserved communities; or the potential benefits of pursuing innovative payment models contemplated by the Affordable Care Act, in which case such grounds shall be set forth in the medicaid savings allocation adjustment; and (5) reductions shall be made in a manner that does not unnecessarily create administrative burdens to medicaid applicants and recipients or providers.

The commissioner shall seek the input of the legislature, as well as organizations representing health care providers, consumers, businesses, workers, health insurers, and others with relevant expertise, in developing such medicaid savings allocation adjustment, to the extent that all or part of such adjustment, in the discretion of the commissioner, is likely to have a material impact on the overall medicaid program, particular categories of service or particular geographic regions of the state.

(a) The commissioner shall post the medicaid savings allocation adjustment on the department of health's website and shall provide written copies of such plan to the chairs of the senate finance and the assembly ways and means committees at least 30 days before the date on which implementation is expected to begin.

(b) The commissioner may revise the medicaid savings allocation adjustment subsequent to the provisions of notice and prior to implementation but needs to provide a new notice pursuant to subparagraph (i) of this paragraph only if the commissioner determines, in his or her discretion, that such revisions materially alter the plan.

Notwithstanding the provisions of paragraphs (a) and (b) of this subdivision, the commissioner need not seek the input described in paragraph (a) of this subdivision or provide notice pursuant to paragraph (b) of this subdivision if, in the discretion of the commissioner, expedited development and implementation of a medicaid savings allocation adjustment is necessary due to a public health emergency.

For purposes of this section, a public health emergency is defined as: (i) a disaster, natural or otherwise, that significantly increases the immediate need for health care personnel in an area of the state; (ii) an event or condition that

1 creates a widespread risk of exposure to a
2 serious communicable disease, or the
3 potential for such widespread risk of
4 exposure; or (iii) any other event or
5 condition determined by the commissioner
6 to constitute an imminent threat to public
7 health.

8 Nothing in this paragraph shall be deemed to
9 prevent all or part of such medicaid
10 savings allocation adjustment from taking
11 effect retroactively to the extent permit-
12 ted by the federal centers for medicare
13 and medicaid services.

14 In accordance with the medicaid savings
15 allocation adjustment, the commissioner of
16 the department of health shall reduce
17 department of health state funds medicaid
18 spending by the amount of the projected
19 overspending through, actions including,
20 but not limited to modifying or suspending
21 reimbursement methods, including but not
22 limited to all fees, premium levels and
23 rates of payment, notwithstanding any
24 provision of law that sets a specific
25 amount or methodology for any such
26 payments or rates of payment; modifying
27 medicaid program benefits; seeking all
28 necessary federal approvals, including,
29 but not limited to waivers, waiver amend-
30 ments; and suspending time frames for
31 notice, approval or certification of rate
32 requirements, notwithstanding any
33 provision of law, rule or regulation to
34 the contrary, including but not limited to
35 sections 2807 and 3614 of the public
36 health law, section 18 of chapter 2 of the
37 laws of 1988, and 18 NYCRR 505.14(h).

38 The department of health shall prepare a
39 quarterly report that sets forth: (a)
40 known and projected department of health
41 medicaid expenditures as described in
42 subdivision (1) of this section, and
43 factors that could result in medicaid
44 disbursements for the relevant state
45 fiscal year to exceed the projected
46 department of health state funds disburse-
47 ments in the enacted budget financial plan
48 pursuant to subdivision 3 of section 23 of
49 the state finance law, including spending
50 increases or decreases due to: enrollment
51 fluctuations, rate changes, utilization
52 changes, MRT investments, and shift of
53 beneficiaries to managed care; and vari-
54 ations in offline medicaid payments; and
55 (b) the actions taken to implement any
56 medicaid savings allocation adjustment

1 implemented pursuant to subdivision (4) of
2 this section, including information
3 concerning the impact of such actions on
4 each category of service and each
5 geographic region of the state. Each such
6 quarterly report shall be provided to the
7 chairs of the senate finance and the
8 assembly ways and means committees and
9 shall be posted on the department of
10 health's website in a timely manner.

11 For the purpose of making payments, the
12 money hereby appropriated is available for
13 payment of aid heretofore accrued or here-
14 after accrued, to providers of medical
15 care pursuant to section 367-b of the
16 social services law, and for payment of
17 state aid to municipalities and the feder-
18 al government where payment systems
19 through fiscal intermediaries are not
20 operational, to reimburse such providers
21 for costs attributable to the provision of
22 care to patients eligible for medical
23 assistance. Notwithstanding any inconsis-
24 tent provision of law, the moneys hereby
25 appropriated may be increased or decreased
26 by interchange or transfer with any appro-
27 priation of the department of health with
28 the approval of the director of the budg-
29 et, who shall file such approval with the
30 department of audit and control and copies
31 thereof with the chairman of the senate
32 finance committee and the chairman of the
33 assembly ways and means committee.

34 [~~Notwithstanding any provision of law to the~~
35 ~~contrary, the director of the budget, in~~
36 ~~consultation with the commissioner of~~
37 ~~health, may use a payment reduction plan~~
38 ~~to make across the board reductions to the~~
39 ~~department of health state funds medicaid~~
40 ~~spending by \$373,000,000 for state fiscal~~
41 ~~year 2021-2022 and \$373,000,000 in state~~
42 ~~fiscal year 2022-2023 to limit such spend-~~
43 ~~ing to the aggregate limit specified here-~~
44 ~~in, or reduce the aggregate limit speci-~~
45 ~~fied herein to provide a reduction to the~~
46 ~~state's financial plan. Reductions shall~~
47 ~~be made in a manner that complies with the~~
48 ~~state medicaid plan approved by the feder-~~
49 ~~al centers for medicare and medicaid~~
50 ~~services, provided, however, that the~~
51 ~~commissioner of health is authorized to~~
52 ~~submit any state plan amendment or seek~~
53 ~~other federal approval to implement the~~
54 ~~provisions of the medicaid payment~~
55 ~~reduction plan. For services and expenses~~
56 ~~of the medical assistance program.~~]

1 Notwithstanding any provision of law to the
2 contrary, the portion of this appropri-
3 ation covering fiscal year 2021-22 shall
4 supersede and replace any duplicative (i)
5 reappropriation for this item covering
6 fiscal year 2021-22, and (ii) appropri-
7 ation for this item covering fiscal year
8 2021-22 set forth in chapter 53 of the
9 laws of 2020 (29800) 7,930,179,000

10 MEDICAL ASSISTANCE ADMINISTRATION PROGRAM

11 General Fund

12 Local Assistance Account - 10000

13 The appropriation made by chapter 53, section 1, of the laws of 2020, as
14 amended by chapter 53, section 1, of the laws of 2021, is hereby
15 amended and reappropriated to read:

16 For reimbursement of local administrative expenses for medical assist-
17 ance programs and for state administration of medical assistance
18 programs, notwithstanding section 153 of the social services law, to
19 include the performance of eligibility and enrollment determinations
20 by the state or third-party entities designated by the state to
21 perform such services.

22 Notwithstanding any provision of law to the contrary, subject to the
23 approval of the director of budget, up to \$23,000,000 of the amount
24 appropriated herein shall be available for the purpose of providing
25 payments to local social services districts for medical assistance
26 administration claims that exceed an administrative ceiling estab-
27 lished by the commissioner of health.

28 Notwithstanding any inconsistent provision of law and subject to the
29 approval of the director of budget, moneys hereby appropriated may
30 be increased or decreased by transfer or interchange between these
31 appropriated amounts and appropriations of the medical assistance
32 administration program, the medical assistance program, and the
33 office of health insurance programs. Funding authority from this
34 account used for state administration of the medical assistance
35 program may be transferred to state operations appropriations within
36 the aforementioned programs at amounts agreed upon by the commis-
37 sioner of health, and the New York state division of the budget.

38 Notwithstanding section 40 of the state finance law or any other law
39 to the contrary, all medical assistance appropriations made from
40 this account shall remain in full force and effect in accordance, in
41 the aggregate, with the following schedule: not more than 50 percent
42 for the period April 1, 2020 to March 31, 2021; and the remaining
43 amount for the period April 1, 2021 to September 15, 2022.

44 Notwithstanding section 40 of the state finance law or any provision
45 of law to the contrary, subject to federal approval, department of
46 health state funds medicaid spending, excluding payments for medical
47 services provided at state facilities operated by the office of
48 mental health, the office for people with developmental disabilities
49 and the office of addiction services and supports and further
50 excluding any payments which are not appropriated within the depart-
51 ment of health, in the aggregate, for the period April 1, 2020
52 through March 31, 2021, shall not exceed \$23,606,772,000 except as
53 provided below and state share medicaid spending, in the aggregate,

for the period April 1, 2021 through September 15, 2022, shall not exceed \$23,531,327,000, but in no event shall department of health state funds medicaid spending for the period April 1, 2020 through September 15, 2022 exceed \$47,138,099,000 provided, however, such aggregate limits may be adjusted by the director of the budget to account for any changes in the New York state federal medical assistance percentage amount established pursuant to the federal social security act, increases in provider revenues, reductions in local social services district payments for medical assistance administration, minimum wage increases, and beginning April 1, 2012 the operational costs of the New York state medical indemnity fund, pursuant to chapter 59 of the laws of 2011, and state costs or savings from the essential plan program. Such projections may be adjusted by the director of the budget to account for increased or expedited department of health state funds medicaid expenditures as a result of a natural or other type of disaster, including a governmental declaration of emergency.

The director of the budget, in consultation with the commissioner of health, shall assess on a quarterly basis known and projected medicaid expenditures by category of service and by geographic region, as determined by the commissioner of health, incurred both prior to and subsequent to such assessment for each such period, and if the director of the budget determines that such expenditures are expected to cause medicaid spending for such period to exceed the aggregate limit specified herein for such period, the state medicaid director, in consultation with the director of the budget and the commissioner of health, shall develop a medicaid savings allocation adjustment to limit such spending to the aggregate limit specified herein for such period.

Such medicaid savings allocation adjustment shall be designed, to reduce the expenditures authorized by the appropriations herein in compliance with the following guidelines: (1) reductions shall be made in compliance with applicable federal law, including the provisions of the Patient Protection and Affordable Care Act, Public Law No. 111-148, and the Health Care and Education Reconciliation Act of 2010, Public Law No. 111-152 (collectively "Affordable Care Act") and any subsequent amendments thereto or regulations promulgated thereunder; (2) reductions shall be made in a manner that complies with the state medicaid plan approved by the federal centers for medicare and medicaid services, provided, however, that the commissioner of health is authorized to submit any state plan amendment or seek other federal approval, including waiver authority, to implement the provisions of the medicaid savings allocation adjustment that meets the other criteria set forth herein; (3) reductions shall be made in a manner that maximizes federal financial participation, to the extent practicable, including any federal financial participation that is available or is reasonably expected to become available, in the discretion of the commissioner, under the Affordable Care Act; (4) reductions shall be made uniformly among categories of services and geographic regions of the state, to the extent practicable, and shall be made uniformly within a category of service, to the extent practicable, except where the commissioner determines that there are sufficient grounds for non-uniformity, including but not limited to: the extent to which specific categories of services contributed to department of health medicaid state funds spending in excess of the limits specified herein; the

1 need to maintain safety net services in underserved communities; or
2 the potential benefits of pursuing innovative payment models contem-
3 plated by the Affordable Care Act, in which case such grounds shall
4 be set forth in the medicaid savings allocation adjustment; and (5)
5 reductions shall be made in a manner that does not unnecessarily
6 create administrative burdens to medicaid applicants and recipients
7 or providers.

8 The commissioner shall seek the input of the legislature, as well as
9 organizations representing health care providers, consumers, busi-
10 nesses, workers, health insurers, and others with relevant exper-
11 tise, in developing such medicaid savings allocation adjustment, to
12 the extent that all or part of such adjustment, in the discretion of
13 the commissioner, is likely to have a material impact on the overall
14 medicaid program, particular categories of service or particular
15 geographic regions of the state.

16 (a) The commissioner shall post the medicaid savings allocation
17 adjustment on the department of health's website and shall provide
18 written copies of such adjustment to the chairs of the senate
19 finance and the assembly ways and means committees at least 30 days
20 before the date on which implementation is expected to begin.

21 (b) The commissioner may revise the medicaid savings allocation
22 adjustment subsequent to the provisions of notice and prior to
23 implementation but needs to provide a new notice pursuant to subpar-
24 agraph (i) of this paragraph only if the commissioner determines, in
25 his or her discretion, that such revisions materially alter the
26 adjustment.

27 Notwithstanding the provisions of paragraphs (a) and (b) of this
28 subdivision, the commissioner need not seek the input described in
29 paragraph (a) of this subdivision or provide notice pursuant to
30 paragraph (b) of this subdivision if, in the discretion of the
31 commissioner, expedited development and implementation of a medicaid
32 savings allocation adjustment is necessary due to a public health
33 emergency.

34 For purposes of this section, a public health emergency is defined as:

35 (i) a disaster, natural or otherwise, that significantly increases
36 the immediate need for health care personnel in an area of the
37 state; (ii) an event or condition that creates a widespread risk of
38 exposure to a serious communicable disease, or the potential for
39 such widespread risk of exposure; or (iii) any other event or condi-
40 tion determined by the commissioner to constitute an imminent threat
41 to public health.

42 Nothing in this paragraph shall be deemed to prevent all or part of
43 such medicaid savings allocation adjustment from taking effect
44 retroactively to the extent permitted by the federal centers for
45 medicare and medicaid services.

46 In accordance with the medicaid savings allocation adjustment, the
47 commissioner of the department of health shall reduce department of
48 health state funds medicaid spending by the amount of the projected
49 overspending through, actions including, but not limited to modify-
50 ing or suspending reimbursement methods, including but not limited
51 to all fees, premium levels and rates of payment, notwithstanding
52 any provision of law that sets a specific amount or methodology for
53 any such payments or rates of payment; modifying medicaid program
54 benefits; seeking all necessary federal approvals, including, but
55 not limited to waivers, waiver amendments; and suspending time
56 frames for notice, approval or certification of rate requirements,

1 notwithstanding any provision of law, rule or regulation to the
2 contrary, including but not limited to sections 2807 and 3614 of the
3 public health law, section 18 of chapter 2 of the laws of 1988, and
4 18 NYCRR 505.14(h).

5 The department of health shall prepare a quarterly report that sets
6 forth: (a) known and projected department of health medicaid expend-
7 itures as described in subdivision (1) of this section, and factors
8 that could result in medicaid disbursements for the relevant state
9 fiscal year to exceed the projected department of health state funds
10 disbursements in the enacted budget financial plan pursuant to
11 subdivision 3 of section 23 of the state finance law, including
12 spending increases or decreases due to: enrollment fluctuations,
13 rate changes, utilization changes, MRT investments, and shift of
14 beneficiaries to managed care; and variations in offline medicaid
15 payments; and (b) the actions taken to implement any medicaid
16 savings allocation adjustment implemented pursuant to subdivision
17 (4) of this section, including information concerning the impact of
18 such actions on each category of service and each geographic region
19 of the state. Each such quarterly report shall be provided to the
20 chairs of the senate finance and the assembly ways and means commit-
21 tees and shall be posted on the department of health's website in a
22 timely manner.

23 The money hereby appropriated is available for payment of aid hereto-
24 fore accrued or hereafter accrued to municipalities, and to provid-
25 ers of medical services pursuant to section 367-b of the social
26 services law.

27 Notwithstanding any other provision of law, the money hereby appropri-
28 ated may be increased or decreased by interchange or transfer, with
29 any appropriation of the department of health, and may be increased
30 or decreased by transfer or suballocation between these appropriated
31 amounts and appropriations of the office of mental health, the
32 office for people with developmental disabilities, the office of
33 addiction services and supports, the department of family assistance
34 office of temporary and disability assistance, the department of
35 corrections and community supervision, the office of information
36 technology services, the state university of New York, the state
37 office for the aging, the office of the medicaid inspector general,
38 and office of children and family services with the approval of the
39 director of the budget, who shall file such approval with the
40 department of audit and control and copies thereof with the chairman
41 of the senate finance committee and the chairman of the assembly
42 ways and means committee.

43 ~~[Notwithstanding any provision of law to the contrary, the director of~~
44 ~~the budget, in consultation with the commissioner of health, may use~~
45 ~~a payment reduction plan to make across-the-board reductions to the~~
46 ~~department of health state funds medicaid spending by \$373,000,000~~
47 ~~for state fiscal year 2020-2021 and \$373,000,000 in state fiscal~~
48 ~~year 2021-2022 to limit such spending to the aggregate limit speci-~~
49 ~~fied herein, or reduce the aggregate limit specified herein to~~
50 ~~provide a reduction to the state's financial plan. Reductions shall~~
51 ~~be made in a manner that complies with the state medicaid plan~~
52 ~~approved by the federal centers for medicare and medicaid services,~~
53 ~~provided, however, that the commissioner of health is authorized to~~
54 ~~submit any state plan amendment or seek other federal approval to~~
55 ~~implement the provisions of the medicaid payment reduction adjust-~~
56 ~~ment.]~~

Notwithstanding any inconsistent provision of law, in lieu of payments authorized by the social services law, or payments of federal funds otherwise due to the local social services districts for programs provided under the federal social security act or the federal food stamp act, funds herein appropriated, in amounts certified by the state commissioner of temporary and disability assistance or the state commissioner of health as due from local social services districts each month as their share of payments made pursuant to section 367-b of the social services law may be set aside by the state comptroller in an interest-bearing account in order to ensure the orderly and prompt payment of providers under section 367-b of the social services law pursuant to an estimate provided by the commissioner of health of each local social services district's share of payments made pursuant to section 367-b of the social services law.

Notwithstanding any provision of law to the contrary, the portion of this appropriation covering fiscal year 2020-21 shall supersede and replace any duplicative (i) reappropriation for this item covering fiscal year 2020-21, and (ii) appropriation for this item covering fiscal year 2020-21 set forth in chapter 53 of the laws of 2019 (26963) ... 1,090,100,000 (re. \$1,090,100,000)

Special Revenue Funds - Federal
Federal Health and Human Services Fund
Medicaid Administration Transfer Account - 25107

The appropriation made by chapter 53, section 1, of the laws of 2020, as amended by chapter 53, section 1, of the laws of 2021, is hereby amended and reappropriated to read:

For reimbursement of local administrative expenses of medical assistance programs and for state administration of medical assistance programs provided pursuant to title XIX of the federal social security act or its successor program. Notwithstanding section 153 of the social services law, to include the performance of eligibility and enrollment determinations by the state or third-party entities designated by the state to perform such services.

Notwithstanding any inconsistent provision of law and subject to the approval of the director of budget, moneys hereby appropriated may be increased or decreased by transfer or interchange between these appropriated amounts and appropriations of the medical assistance administration program, the medical assistance program, and the office of health insurance programs. Funding authority from this account used for state administration of the medical assistance program may be transferred to state operations appropriations within the aforementioned programs at amounts agreed upon by the commissioner of health, and the New York state division of the budget.

Notwithstanding section 40 of the state finance law or any other law to the contrary, all medical assistance appropriations made from this account shall remain in full force and effect in accordance, in the aggregate, with the following schedule: not more than 50 percent for the period April 1, 2020 to March 31, 2021; and the remaining amount for the period April 1, 2021 to September 15, 2022.

The moneys hereby appropriated are to be available for payment of aid heretofore accrued or hereafter accrued to municipalities, and to providers of medical services pursuant to section 367-b of the social services law.

1 The amounts appropriated herein may be available for costs associated
2 with a common benefit identification card, and subject to the
3 approval of the director of the budget, these funds may be trans-
4 ferred to the credit of the state operations account medicaid
5 management information systems program.

6 Notwithstanding any other provision of law, the money hereby appropri-
7 ated may be increased or decreased by interchange, with any appro-
8 priation of the department of health, and may be increased or
9 decreased by transfer or suballocation between these appropriated
10 amounts and appropriations of the office of mental health, the
11 office for people with developmental disabilities, the office of
12 addiction services and supports, the department of family assist-
13 ance, office of temporary and disability assistance, the department
14 of corrections and community supervision, the office of information
15 technology services, the state university of New York, the state
16 office for the aging, the office of the medicaid inspector general,
17 and office of children and family services with the approval of the
18 director of the budget, who shall file such approval with the
19 department of audit and control and copies thereof with the chairman
20 of the senate finance committee and the chairman of the assembly
21 ways and means committee.

22 ~~[Notwithstanding any provision of law to the contrary, the director of~~
23 ~~the budget, in consultation with the commissioner of health, may use~~
24 ~~a payment reduction plan to make across-the-board reductions to the~~
25 ~~department of health state funds medicaid spending by \$373,000,000~~
26 ~~for state fiscal year 2020-2021 and \$373,000,000 in state fiscal~~
27 ~~year 2021-2022 to limit such spending to the aggregate limit speci-~~
28 ~~fied herein, or reduce the aggregate limit specified herein to~~
29 ~~provide a reduction to the state's financial plan. Reductions shall~~
30 ~~be made in a manner that complies with the state medicaid plan~~
31 ~~approved by the federal centers for medicare and medicaid services,~~
32 ~~provided, however, that the commissioner of health is authorized to~~
33 ~~submit any state plan amendment or seek other federal approval to~~
34 ~~implement the provisions of the medicaid payment reduction plan.]~~

35 Notwithstanding any inconsistent provision of law, in lieu of payments
36 authorized by the social services law, or payments of federal funds
37 otherwise due to the local social services districts for programs
38 provided under the federal social security act or the federal food
39 stamp act, funds herein appropriated, in amounts certified by the
40 state commissioner of temporary and disability assistance or the
41 state commissioner of health as due from local social services
42 districts each month as their share of payments made pursuant to
43 section 367-b of the social services law may be set aside by the
44 state comptroller in an interest-bearing account in order to ensure
45 the orderly and prompt payment of providers under section 367-b of
46 the social services law pursuant to an estimate provided by the
47 commissioner of health of each local social services district's
48 share of payments made pursuant to section 367-b of the social
49 services law.

50 Notwithstanding any provision of law to the contrary, the portion of
51 this appropriation covering fiscal year 2020-21 shall supersede and
52 replace any duplicative (i) reappropriation for this item covering
53 fiscal year 2020-21, and (ii) appropriation for this item covering
54 fiscal year 2020-21 set forth in chapter 53 of the laws of 2019
55 (26993) ... 1,261,300,000 (re. \$1,261,300,000)

1 MEDICAL ASSISTANCE PROGRAM

2 General Fund

3 Local Assistance Account - 10000

4 The appropriation made by chapter 53, section 1, of the laws of 2020, as
5 amended by chapter 53, section 1, of the laws of 2021, is hereby
6 amended and reappropriated to read:

7 For the medical assistance program, including administrative expenses,
8 for local social services districts, and for medical care rates for
9 authorized child care agencies.

10 Notwithstanding section 40 of the state finance law or any other law
11 to the contrary, all medical assistance appropriations made from
12 this account shall remain in full force and effect in accordance, in
13 the aggregate, with the following schedule: not more than 49 percent
14 for the period April 1, 2020 to March 31, 2021; and the remaining
15 amount for the period April 1, 2021 to September 15, 2022.

16 Notwithstanding section 40 of the state finance law or any provision
17 of law to the contrary, subject to federal approval, department of
18 health state funds medicaid spending, excluding payments for medical
19 services provided at state facilities operated by the office of
20 mental health, the office for people with developmental disabilities
21 and the office of addiction services and supports and further
22 excluding any payments which are not appropriated within the depart-
23 ment of health, in the aggregate, for the period April 1, 2020
24 through March 31, 2021, shall not exceed \$23,606,772,000 except as
25 provided below and state share medicaid spending, in the aggregate,
26 for the period April 1, 2021 through September 15, 2022, shall not
27 exceed \$23,531,327,000, but in no event shall department of health
28 state funds medicaid spending for the period April 1, 2020 through
29 September 15, 2022 exceed \$47,138,099,000. Provided, however, such
30 aggregate limits may be adjusted by the director of the budget to
31 account for any changes in the New York state federal medical
32 assistance percentage amount established pursuant to the federal
33 social security act, increases in provider revenues, reductions in
34 local social services district payments for medical assistance
35 administration, minimum wage increases, and beginning April 1, 2012
36 the operational costs of the New York state medical indemnity fund,
37 pursuant to chapter 59 of the laws of 2011, and state costs or
38 savings from the essential plan program. Such projections may be
39 adjusted by the director of the budget to account for increased or
40 expedited department of health state funds medicaid expenditures as
41 a result of a natural or other type of disaster, including a govern-
42 mental declaration of emergency.

43 The director of the budget, in consultation with the commissioner of
44 health, shall assess on a quarterly basis known and projected medi-
45 caid expenditures by category of service and by geographic region,
46 as defined by the commissioner, incurred both prior to and subse-
47 quent to such assessment for each such period, and if the director
48 of the budget determines that such expenditures are expected to
49 cause medicaid spending for such period to exceed the aggregate
50 limit specified herein for such period, the state medicaid director,
51 in consultation with the director of the budget and the commissioner
52 of health, shall develop a medicaid savings allocation adjustment to
53 limit such spending to the aggregate limit specified herein for such
54 period.

Such medicaid savings allocation adjustment shall be designed, to reduce the expenditures authorized by the appropriations herein in compliance with the following guidelines: (1) reductions shall be made in compliance with applicable federal law, including the provisions of the Patient Protection and Affordable Care Act, Public Law No. 111-148, and the Health Care and Education Reconciliation Act of 2010, Public Law No. 111-152 (collectively "Affordable Care Act") and any subsequent amendments thereto or regulations promulgated thereunder; (2) reductions shall be made in a manner that complies with the state medicaid plan approved by the federal centers for medicare and medicaid services, provided, however, that the commissioner of health is authorized to submit any state plan amendment or seek other federal approval, including waiver authority, to implement the provisions of the medicaid savings allocation adjustment that meets the other criteria set forth herein; (3) reductions shall be made in a manner that maximizes federal financial participation, to the extent practicable, including any federal financial participation that is available or is reasonably expected to become available, in the discretion of the commissioner, under the Affordable Care Act; (4) reductions shall be made uniformly among categories of services and geographic regions of the state, to the extent practicable, and shall be made uniformly within a category of service, to the extent practicable, except where the commissioner determines that there are sufficient grounds for non-uniformity, including but not limited to: the extent to which specific categories of services contributed to department of health medicaid state funds spending in excess of the limits specified herein; the need to maintain safety net services in underserved communities; or the potential benefits of pursuing innovative payment models contemplated by the Affordable Care Act, in which case such grounds shall be set forth in the medicaid savings allocation adjustment; and (5) reductions shall be made in a manner that does not unnecessarily create administrative burdens to medicaid applicants and recipients or providers.

The commissioner shall seek the input of the legislature, as well as organizations representing health care providers, consumers, businesses, workers, health insurers, and others with relevant expertise, in developing such medicaid savings allocation adjustment, to the extent that all or part of such adjustment, in the discretion of the commissioner, is likely to have a material impact on the overall medicaid program, particular categories of service or particular geographic regions of the state.

(a) The commissioner shall post the medicaid savings allocation adjustment on the department of health's website and shall provide written copies of such adjustment to the chairs of the senate finance and the assembly ways and means committees at least 30 days before the date on which implementation is expected to begin.

(b) The commissioner may revise the medicaid savings allocation adjustment subsequent to the provisions of notice and prior to implementation but needs to provide a new notice pursuant to subparagraph (i) of this paragraph only if the commissioner determines, in his or her discretion, that such revisions materially alter the adjustment.

Notwithstanding the provisions of paragraphs (a) and (b) of this subdivision, the commissioner need not seek the input described in paragraph (a) of this subdivision or provide notice pursuant to

paragraph (b) of this subdivision if, in the discretion of the commissioner, expedited development and implementation of a medicaid savings allocation adjustment is necessary due to a public health emergency.

For purposes of this section, a public health emergency is defined as:

(i) a disaster, natural or otherwise, that significantly increases the immediate need for health care personnel in an area of the state; (ii) an event or condition that creates a widespread risk of exposure to a serious communicable disease, or the potential for such widespread risk of exposure; or (iii) any other event or condition determined by the commissioner to constitute an imminent threat to public health.

Nothing in this paragraph shall be deemed to prevent all or part of such medicaid savings allocation adjustment from taking effect retroactively to the extent permitted by the federal centers for medicare and medicaid services.

In accordance with the medicaid savings allocation adjustment, the commissioner of the department of health shall reduce department of health state funds medicaid spending by the amount of the projected overspending through, actions including, but not limited to modifying or suspending reimbursement methods, including but not limited to all fees, premium levels and rates of payment, notwithstanding any provision of law that sets a specific amount or methodology for any such payments or rates of payment; modifying or discontinuing medicaid program benefits; seeking all necessary federal approvals, including, but not limited to waivers, waiver amendments; and suspending time frames for notice, approval or certification of rate requirements, notwithstanding any provision of law, rule or regulation to the contrary, including but not limited to sections 2807 and 3614 of the public health law, section 18 of chapter 2 of the laws of 1988, and 18 NYCRR 505.14(h).

The department of health shall prepare a quarterly report that sets forth: (a) known and projected department of health medicaid expenditures as described in subdivision (1) of this section, and factors that could result in medicaid disbursements for the relevant state fiscal year to exceed the projected department of health state funds disbursements in the enacted budget financial plan pursuant to subdivision 3 of section 23 of the state finance law, including spending increases or decreases due to: enrollment fluctuations, rate changes, utilization changes, MRT investments, and shift of beneficiaries to managed care; and variations in offline medicaid payments; and (b) the actions taken to implement any medicaid savings allocation adjustment implemented pursuant to subdivision (4) of this section, including information concerning the impact of such actions on each category of service and each geographic region of the state. Each such quarterly report shall be provided to the chairs of the senate finance and the assembly ways and means committees and shall be posted on the department of health's website in a timely manner.

The money hereby appropriated is to be available for payment of aid heretofore accrued or hereafter accrued to municipalities, and to providers of medical services pursuant to section 367-b of the social services law, and for payment of state aid to municipalities and to providers of family care where payment systems through the fiscal intermediaries are not operational.

1 Notwithstanding any inconsistent provision of law to the contrary,
2 funds may be used by the department for outside legal assistance on
3 issues involving the federal government, the conduct of preadmission
4 screening and annual resident reviews required by the state's medi-
5 caid program, computer matching with insurance carriers to insure
6 that medicaid is the payer of last resort and activities related to
7 the management of the pharmacy benefit available under the medicaid
8 program.

9 Notwithstanding any inconsistent provision of law, in lieu of payments
10 authorized by the social services law, or payments of federal funds
11 otherwise due to the local social services districts for programs
12 provided under the federal social security act or the federal food
13 stamp act, funds herein appropriated, in amounts certified by the
14 state commissioner of temporary and disability assistance or the
15 state commissioner of health as due from local social services
16 districts each month as their share of payments made pursuant to
17 section 367-b of the social services law may be set aside by the
18 state comptroller in an interest-bearing account in order to ensure
19 the orderly and prompt payment of providers under section 367-b of
20 the social services law pursuant to an estimate provided by the
21 commissioner of health of each local social services district's
22 share of payments made pursuant to section 367-b of the social
23 services law.

24 Notwithstanding any inconsistent provision of law, funding made avail-
25 able by these appropriations shall support direct salary costs and
26 related fringe benefits within the medical assistance program asso-
27 ciated with any minimum wage increase that takes effect during the
28 timeframe of these appropriations, pursuant to section 652 of the
29 labor law. Each eligible organization in receipt of funding made
30 available by these appropriations may be required to submit written
31 certification, in such form and at such time the commissioner may
32 prescribe, attesting to the total amount of funds used by the eligi-
33 ble organization, how such funding will be or was used for purposes
34 eligible under these appropriations and any other reporting deemed
35 necessary by the commissioner. The amounts appropriated herein may
36 include advances to organizations authorized to receive such funds
37 to accomplish this purpose.

38 Notwithstanding any other provision of law, the money hereby appropri-
39 ated may be increased or decreased by interchange or transfer, with
40 any appropriation of the department of health and the office of
41 medicaid inspector general and may be increased or decreased by
42 transfer or suballocation between these appropriated amounts and
43 appropriations of the department of health state purpose account,
44 the office of mental health, office for people with developmental
45 disabilities, the office of addiction services and supports, the
46 department of family assistance office of temporary and disability
47 assistance, the department of corrections and community supervision,
48 the office of information technology services, the state university
49 of New York, and office of children and family services, the office
50 of medicaid inspector general, and the state office for the aging
51 with the approval of the director of the budget, who shall file such
52 approval with the department of audit and control and copies thereof
53 with the chairman of the senate finance committee and the chairman
54 of the assembly ways and means committee.

55 Notwithstanding any inconsistent provision of law to the contrary, the
56 moneys hereby appropriated may be used for payments to the centers

1 for medicaid and medicare services for obligations incurred related
2 to the pharmaceutical costs of dually eligible medicare/medicaid
3 beneficiaries participating in the medicare drug benefit authorized
4 by P.L. 108-173.

5 Notwithstanding any inconsistent provision of law, the moneys hereby
6 appropriated shall not be used for any existing rates, fees, fee
7 schedule, or procedures which may affect the cost of care and
8 services provided by personal care providers, case managers, health
9 maintenance organizations, out of state medical facilities which
10 provide care and services to residents of the state, providers of
11 transportation services, that are altered, amended, adjusted or
12 otherwise changed by a local social services district unless previ-
13 ously approved by the department of health and the director of the
14 budget.

15 Notwithstanding any inconsistent provision of law to the contrary,
16 funds shall be made available to the commissioner of the office of
17 mental health or the commissioner of the office of addiction
18 services and supports, in consultation with the commissioner of
19 health and approved by the director of the budget, and consistent
20 with appropriations made therefor, to implement allocation adjust-
21 ment developed by each such commissioner which shall describe mental
22 health or substance use disorder services that should be developed
23 to meet service needs resulting from the reduction of inpatient
24 behavioral health services provided under the medicaid program, by
25 programs licensed pursuant to article 31 or 32 of the mental hygiene
26 law. Such programs may include programs that are licensed pursuant
27 to both article 31 of the mental hygiene law and article 28 of the
28 public health law, or certified under both article 32 of the mental
29 hygiene law and article 28 of the public health law.

30 Notwithstanding any inconsistent provision of law, the moneys hereby
31 appropriated may be available for payments associated with the
32 resolution by settlement agreement or judgment of rate appeals
33 and/or litigation where the department of health is a party.

34 ~~[Notwithstanding any provision of law to the contrary, the director of~~
35 ~~the budget, in consultation with the commissioner of health, may use~~
36 ~~a payment reduction plan to make across the board reductions to the~~
37 ~~department of health state funds medicaid spending by \$373,000,000~~
38 ~~for state fiscal year 2020-2021 and \$373,000,000 in state fiscal~~
39 ~~year 2021-2022 and to limit such spending to the aggregate limit~~
40 ~~specified herein, or reduce the aggregate limit specified herein to~~
41 ~~provide a reduction to the state's financial plan. Reductions shall~~
42 ~~be made in a manner that complies with the state medicaid plan~~
43 ~~approved by the federal centers for medicare and medicaid services,~~
44 ~~provided, however, that the commissioner of health is authorized to~~
45 ~~submit any state plan amendment or seek other federal approval to~~
46 ~~implement the provisions of the medicaid payment reduction adjust-~~
47 ~~ment.]~~

48 For services and expenses of the medical assistance program including
49 hospital inpatient services and general hospitals that are safety-net
50 providers that evince severe financial distress, pursuant to crite-
51 ria determined by the commissioner, shall be eligible for awards for
52 amounts appropriated herein, to enable such providers to maintain
53 operations and vital services while establishing long term solutions
54 to achieve sustainable health services.

55 Notwithstanding any provision of law to the contrary, the portion of
56 this appropriation covering fiscal year 2020-21 shall supersede and

1 replace any duplicative (i) reappropriation for this item covering
2 fiscal year 2020-21, and (ii) appropriation for this item covering
3 fiscal year 2020-21 set forth in chapter 53 of the laws of 2019
4 (26947) ... 1,283,031,000 (re. \$1,283,031,000)

5 Special Revenue Funds - Federal
6 Federal Health and Human Services Fund
7 Medicaid Direct Account - 25106

8 The appropriation made by chapter 53, section 1, of the laws of 2020, as
9 amended by chapter 53, section 1, of the laws of 2021, is hereby
10 amended and reappropriated to read:

11 For services and expenses for the medical assistance program, includ-
12 ing administrative expenses for local social services districts,
13 pursuant to title XIX of the federal social security act or its
14 successor program.

15 Notwithstanding section 40 of the state finance law or any other law
16 to the contrary, all medical assistance appropriations made from
17 this account shall remain in full force and effect in accordance, in
18 the aggregate, with the following schedule: not more than 51 percent
19 for the period April 1, 2020 to March 31, 2021; and the remaining
20 amount for the period April 1, 2021 to September 15, 2022.

21 The moneys hereby appropriated are to be available for payment of aid
22 heretofore accrued or hereafter accrued to municipalities, and to
23 providers of medical services pursuant to section 367-b of the
24 social services law, and for payment of state aid to municipalities
25 and to providers of family care where payment systems through the
26 fiscal intermediaries are not operational.

27 Notwithstanding any inconsistent provision of law, funding made avail-
28 able by these appropriations shall support direct salary costs and
29 related fringe benefits within the medical assistance program asso-
30 ciated with any minimum wage increase that takes effect during the
31 timeframe of these appropriations, pursuant to section 652 of the
32 labor law. Each eligible organization in receipt of funding made
33 available by these appropriations may be required to submit written
34 certification, in such form and at such time the commissioner may
35 prescribe, attesting to the total amount of funds used by the eligi-
36 ble organization, how such funding will be or was used for purposes
37 eligible under these appropriations and any other reporting deemed
38 necessary by the commissioner. The amounts appropriated herein may
39 include advances to organizations authorized to receive such funds
40 to accomplish this purpose.

41 Notwithstanding any other provision of law, the money hereby appropri-
42 ated may be increased or decreased by interchange or transfer, with
43 any appropriation of the department of health and the office of
44 medicaid inspector general and may be increased or decreased by
45 transfer or suballocation between these appropriated amounts and
46 appropriations of the office of mental health, office for people
47 with developmental disabilities, the office of addiction services
48 and supports, the department of family assistance office of tempo-
49 rary and disability assistance, office of children and family
50 services, the department of financial services, department of
51 corrections and community supervision, the office of information
52 technology services, the state university of New York, and the state
53 office for the aging with the approval of the director of the budg-
54 et, who shall file such approval with the department of audit and

1 control and copies thereof with the chairman of the senate finance
2 committee and the chairman of the assembly ways and means committee.
3 Notwithstanding any inconsistent provision of law, in lieu of payments
4 authorized by the social services law, or payments of federal funds
5 otherwise due to the local social services districts for programs
6 provided under the federal social security act or the federal food
7 stamp act, funds herein appropriated, in amounts certified by the
8 state commissioner of temporary and disability assistance or the
9 state commissioner of health as due from local social services
10 districts each month as their share of payments made pursuant to
11 section 367-b of the social services law may be set aside by the
12 state comptroller in an interest-bearing account in order to ensure
13 the orderly and prompt payment of providers under section 367-b of
14 the social services law pursuant to an estimate provided by the
15 commissioner of health of each local social services district's
16 share of payments made pursuant to section 367-b of the social
17 services law.

18 Notwithstanding any inconsistent provision of law to the contrary,
19 funds shall be made available to the commissioner of the office of
20 mental health or the commissioner of the office of addiction
21 services and supports, in consultation with the commissioner of
22 health and approved by the director of the budget, and consistent
23 with appropriations made therefor, to implement allocation adjust-
24 ment developed by each such commissioner which shall describe mental
25 health or substance use disorder services that should be developed
26 to meet service needs resulting from the reduction of inpatient
27 behavioral health services provided under the Medicaid program, by
28 programs licensed pursuant to article 31 or 32 of the mental hygiene
29 law. Such programs may include programs that are licensed pursuant
30 to both article 31 of the mental hygiene law and article 28 of the
31 public health law, or certified under both article 32 of the mental
32 hygiene law and article 28 of the public health law.

33 Notwithstanding any inconsistent provision of law, the moneys hereby
34 appropriated may be available for payments associated with the
35 resolution by settlement agreement or judgment of rate appeals
36 and/or litigation where the department of health is a party.

37 ~~[Notwithstanding any provision of law to the contrary, the director of~~
38 ~~the budget, in consultation with the commissioner of health, may use~~
39 ~~a payment reduction plan to make across-the-board reductions to the~~
40 ~~department of health state funds medicaid spending by \$373,000,000~~
41 ~~for state fiscal year 2020-2021 and \$373,000,000 in state fiscal~~
42 ~~year 2021-2022 and to limit such spending to the aggregate limit~~
43 ~~specified herein, or reduce the aggregate limit specified herein to~~
44 ~~provide a reduction to the state's financial plan. Reductions shall~~
45 ~~be made in a manner that complies with the state medicaid plan~~
46 ~~approved by the federal centers for medicare and medicaid services,~~
47 ~~provided, however, that the commissioner of health is authorized to~~
48 ~~submit any state plan amendment or seek other federal approval to~~
49 ~~implement the provisions of the medicaid payment reduction adjust-~~
50 ~~ment.]~~

51 For services and expenses of the medical assistance program including
52 hospital inpatient services.

53 Notwithstanding any provision of law to the contrary, the portion of
54 this appropriation covering fiscal year 2020-21 shall supersede and
55 replace any duplicative (i) reappropriation for this item covering
56 fiscal year 2020-21, and (ii) appropriation for this item covering

1 fiscal year 2020-21 set forth in chapter 53 of the laws of 2019
2 (26947) ... 13,628,958,000 (re. \$13,628,958,000)

3 Special Revenue Funds - Other
4 Miscellaneous Special Revenue Fund
5 Medical Assistance Account - 22187

6 The appropriation made by chapter 53, section 1, of the laws of 2020, as
7 amended by chapter 53, section 1, of the laws of 2021, is hereby
8 amended and reappropriated to read:

9 Notwithstanding section 40 of the state finance law or any other law
10 to the contrary, all medical assistance appropriations made from
11 this account shall remain in full force and effect in accordance, in
12 the aggregate, with the following schedule: not more than 49 percent
13 for the period April 1, 2020 to March 31, 2021; and the remaining
14 amount for the period April 1, 2021 to September 15, 2022.

15 Notwithstanding section 40 of the state finance law or any provision
16 of law to the contrary, subject to federal approval, department of
17 health state funds medicaid spending, excluding payments for medical
18 services provided at state facilities operated by the office of
19 mental health, the office for people with developmental disabilities
20 and the office of addiction services and supports and further
21 excluding any payments which are not appropriated within the depart-
22 ment of health, in the aggregate, for the period April 1, 2020
23 through March 31, 2021, shall not exceed \$23,606,772,000 except as
24 provided below and state share medicaid spending, in the aggregate,
25 for the period April 1, 2021 through September 15, 2022, shall not
26 exceed \$23,531,327,000, but in no event shall department of health
27 state funds medicaid spending for the period April 1, 2020 through
28 September 15, 2022 exceed \$47,138,099,000 provided, however, such
29 aggregate limits may be adjusted by the director of the budget to
30 account for any changes in the New York state federal medical
31 assistance percentage amount established pursuant to the federal
32 social security act, increases in provider revenues, reductions in
33 local social services district payments for medical assistance
34 administration, minimum wage increases and beginning April 1, 2012
35 the operational costs of the New York state medical indemnity fund,
36 pursuant to chapter 59 of the laws of 2011, and state costs or
37 savings from the essential plan. Such projections may be adjusted by
38 the director of the budget to account for increased or expedited
39 department of health state funds medicaid expenditures as a result
40 of a natural or other type of disaster, including a governmental
41 declaration of emergency.

42 The director of the budget, in consultation with the commissioner of
43 health, shall assess on a quarterly basis known and projected medi-
44 caid expenditures by category of service and by geographic region,
45 as determined by the commissioner of health, incurred both prior to
46 and subsequent to such assessment for each such period, and if the
47 director of the budget determines that such expenditures are
48 expected to cause medicaid spending for such period to exceed the
49 aggregate limit specified herein for such period, the state medicaid
50 director, in consultation with the director of the budget and the
51 commissioner of health, shall develop a medicaid savings allocation
52 adjustment to limit such spending to the aggregate limit specified
53 herein for such period.

Such medicaid savings allocation adjustment shall be designed, to reduce the expenditures authorized by the appropriations herein in compliance with the following guidelines: (1) reductions shall be made in compliance with applicable federal law, including the provisions of the Patient Protection and Affordable Care Act, Public Law No. 111-148, and the Health Care and Education Reconciliation Act of 2010, Public Law No. 111-152 (collectively "Affordable Care Act") and any subsequent amendments thereto or regulations promulgated thereunder; (2) reductions shall be made in a manner that complies with the state medicaid plan approved by the federal centers for medicare and medicaid services, provided, however, that the commissioner of health is authorized to submit any state plan amendment or seek other federal approval, including waiver authority, to implement the provisions of the medicaid savings allocation adjustment that meets the other criteria set forth herein; (3) reductions shall be made in a manner that maximizes federal financial participation, to the extent practicable, including any federal financial participation that is available or is reasonably expected to become available, in the discretion of the commissioner, under the Affordable Care Act; (4) reductions shall be made uniformly among categories of services and geographic regions of the state, to the extent practicable, and shall be made uniformly within a category of service, to the extent practicable, except where the commissioner determines that there are sufficient grounds for non-uniformity, including but not limited to: the extent to which specific categories of services contributed to department of health medicaid state funds spending in excess of the limits specified herein; the need to maintain safety net services in underserved communities; or the potential benefits of pursuing innovative payment models contemplated by the Affordable Care Act, in which case such grounds shall be set forth in the medicaid savings allocation adjustment; and (5) reductions shall be made in a manner that does not unnecessarily create administrative burdens to medicaid applicants and recipients or providers.

The commissioner shall seek the input of the legislature, as well as organizations representing health care providers, consumers, businesses, workers, health insurers, and others with relevant expertise, in developing such medicaid savings allocation adjustment, to the extent that all or part of such adjustment, in the discretion of the commissioner, is likely to have a material impact on the overall medicaid program, particular categories of service or particular geographic regions of the state.

(a) The commissioner shall post the medicaid savings allocation adjustment on the department of health's website and shall provide written copies of such plan to the chairs of the senate finance and the assembly ways and means committees at least 30 days before the date on which implementation is expected to begin.

(b) The commissioner may revise the medicaid savings allocation adjustment subsequent to the provisions of notice and prior to implementation but needs to provide a new notice pursuant to subparagraph (i) of this paragraph only if the commissioner determines, in his or her discretion, that such revisions materially alter the plan.

Notwithstanding the provisions of paragraphs (a) and (b) of this subdivision, the commissioner need not seek the input described in paragraph (a) of this subdivision or provide notice pursuant to

1 para- graph (b) of this subdivision if, in the discretion of the
2 commissioner, expedited development and implementation of a medicaid
3 savings allocation adjustment is necessary due to a public health
4 emergency.

5 For purposes of this section, a public health emergency is defined as:

6 (i) a disaster, natural or otherwise, that significantly increases
7 the immediate need for health care personnel in an area of the
8 state; (ii) an event or condition that creates a widespread risk of
9 exposure to a serious communicable disease, or the potential for
10 such widespread risk of exposure; or (iii) any other event or condi-
11 tion determined by the commissioner to constitute an imminent threat
12 to public health.

13 Nothing in this paragraph shall be deemed to prevent all or part of
14 such medicaid savings allocation adjustment from taking effect
15 retroactively to the extent permitted by the federal centers for
16 medicare and medicaid services.

17 In accordance with the medicaid savings allocation adjustment, the
18 commissioner of the department of health shall reduce department of
19 health state funds medicaid spending by the amount of the projected
20 overspending through, actions including, but not limited to modify-
21 ing or suspending reimbursement methods, including but not limited
22 to all fees, premium levels and rates of payment, notwithstanding
23 any provision of law that sets a specific amount or methodology for
24 any such payments or rates of payment; modifying medicaid program
25 benefits; seeking all necessary federal approvals, including, but
26 not limited to waivers, waiver amendments; and suspending time
27 frames for notice, approval or certification of rate requirements,
28 notwithstanding any provision of law, rule or regulation to the
29 contrary, including but not limited to sections 2807 and 3614 of the
30 public health law, section 18 of chapter 2 of the laws of 1988, and
31 18 NYCRR 505.14(h).

32 The department of health shall prepare a quarterly report that sets
33 forth: (a) known and projected department of health medicaid expend-
34 itures as described in subdivision (1) of this section, and factors
35 that could result in medicaid disbursements for the relevant state
36 fiscal year to exceed the projected department of health state funds
37 disbursements in the enacted budget financial plan pursuant to
38 subdivision 3 of section 23 of the state finance law, including
39 spending increases or decreases due to: enrollment fluctuations,
40 rate changes, utilization changes, MRT investments, and shift of
41 beneficiaries to managed care; and variations in offline medicaid
42 payments; and (b) the actions taken to implement any medicaid
43 savings allocation adjustment implemented pursuant to subdivision
44 (4) of this section, including information concerning the impact of
45 such actions on each category of service and each geographic region
46 of the state. Each such quarterly report shall be provided to the
47 chairs of the senate finance and the assembly ways and means commit-
48 tees and shall be posted on the department of health's website in a
49 timely manner.

50 ~~[Notwithstanding any provision of law to the contrary, the director of~~
51 ~~the budget, in consultation with the commissioner of health, may use~~
52 ~~a payment reduction plan to make across the board reductions to the~~
53 ~~department of health state funds medicaid spending by \$373,000,000~~
54 ~~for state fiscal year 2020-2021 and \$373,000,000 in state fiscal~~
55 ~~year 2021-2022 and to limit such spending to the aggregate limit~~
56 ~~specified herein, or reduce the aggregate limit specified herein to~~

~~provide a reduction to the state's financial plan. Reductions shall be made in a manner that complies with the state medicaid plan approved by the federal centers for medicare and medicaid services, provided, however, that the commissioner of health is authorized to submit any state plan amendment or seek other federal approval to implement the provisions of the medicaid payment reduction adjustment.]~~

For the purpose of making payments to providers of medical care pursuant to section 367-b of the social services law, and for payment of state aid to municipalities and the federal government where payment systems through fiscal intermediaries are not operational, to reimburse the provision of care to patients eligible for medical assistance.

For services and expenses of the medical assistance program including nursing home, personal care, certified home health agency, long term home health care program and hospital services.

Notwithstanding any provision of law to the contrary, the portion of this appropriation covering fiscal year 2020-21 shall supersede and replace any duplicative (i) reappropriation for this item covering fiscal year 2020-21, and (ii) appropriation for this item covering fiscal year 2020-21 set forth in chapter 53 of the laws of 2019 (29846) ... 1,898,000,000 (re. \$1,898,000,000)

§ 2. Subdivision (a) of section 90 of part H of chapter 59 of the laws of 2011, amending the public health law and other laws, relating to general hospital inpatient reimbursement for annual rates, is amended by adding a new paragraph 3 to read as follows:

(3) Notwithstanding any other provision of law to the contrary, for the state fiscal year beginning April 1, 2019 and ending on March 31, 2020, all Medicaid payments made for services provided on and after January 1, 2020 through March 31, 2020 shall be increased a uniform one percent in state fiscal year 2019-20. For the state fiscal years beginning April 1, 2020 and ending on March 31, 2022, all Medicaid payments made for services provided on and after April 1, 2020 through March 31, 2022 shall be increased a uniform one and one-half percent in state fiscal years 2020-21 and 2021-22 and each state fiscal year thereafter.

§ 3. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2021; provided, however that section two of this act shall be deemed to have been in full force and effect on and after April 1, 2019.