STATE OF NEW YORK

1928

2023-2024 Regular Sessions

IN ASSEMBLY

January 23, 2023

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

AN ACT to amend the social services law, in relation to prohibiting medical assistance providers from refusing to furnish care, services or supplies to any person who is entitled to receive such care, services or supplies under Medicaid because benefits payable under Medicaid are payable as secondary insurance

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

Section 1. Subdivisions 1 and 2 of section 366-d of the social services law, subdivision 1 as added by chapter 41 of the laws of 1992 and subdivision 2 as amended by chapter 2 of the laws of 1998, are amended to read as follows:

1. Definitions. As used in this section, "medical assistance provider" means any person, firm, partnership, group, association, fiduciary, hospital, employer or representative thereof or other entity who is furnishing care, services or supplies under this title [~~eleven of article five of this chapter~~].

2. No medical assistance provider shall:

(a) solicit, receive, accept or agree to receive or accept any payment or other consideration in any form from another person to the extent such payment or other consideration is given: (i) for the referral of services for which payment is made under this title [~~eleven of article five of this chapter~~]; or (ii) to purchase, lease or order any good, facility, service or item for which payment is made under this title [~~eleven of article five of this chapter~~]; or

(b) offer, agree to give or give any payment or other consideration in any form to another person to the extent such payment or other consideration is given: (i) for the referral of services for which payment is made under this title [~~eleven of article five of this chapter~~]; or (ii) to purchase, lease or order any good, facility, service or

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

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item for which payment is made under **this** title [~~**eleven of article five of this chapter**~~]; **or**

(c) refuse to furnish care, services or supplies to any person who is entitled to receive such care, services or supplies under this title if such medical assistance provider furnishes the same care, services or supplies under the Medicare program pursuant to title XVIII of the federal social security act and the person is dually eligible under that program.

[~~**(c) as**~~] **(d) As** used in this section "person" shall have the meaning set forth in subdivision seven of section 10.00 of the penal law.

[~~**(d) this**~~] **(e) This** subdivision shall not apply to any activity specifically exempt by federal statute or federal regulations promulgated thereunder.

§ 2. The commissioner of health shall make any amendments to the state plan for medical assistance, or apply for any waiver or approval under the federal social security act that are necessary to carry out the provisions of this act.

§ 3. This act shall take effect on the one hundred ninetieth day after it shall have become a law. Effective immediately the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized to be made and completed on or before such date.