

STATE OF NEW YORK

87

2023-2024 Regular Sessions

IN SENATE

(Prefiled)

January 4, 2023

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

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

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

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

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

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

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

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

22 (d) The taxes on health care and health insurance are fundamentally
23 regressive taxes because the taxes are unrelated to a consumer's wealth
24 or ability to pay, directly impact hospitalization costs at a time when

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

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1 consumers are facing some of their greatest health care challenges,
2 directly increase the cost of health insurance, and are counterproduc-
3 tive to the public policy objective of making health insurance as
4 affordable as possible.

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

7 (g) For the fiscal year commencing on April first, two thousand twen-
8 ty-three, the commissioner shall only collect eighty per centum of any
9 assessments collected pursuant to this section in the fiscal year
10 commencing on April first, two thousand twenty-four, and provided
11 further, however, that for the fiscal year commencing on April first,
12 two thousand twenty-six, the commissioner shall only collect sixty per
13 centum of any assessments collected pursuant to this section in the
14 fiscal year commencing on April first, two thousand twenty-four, and
15 provided further, however, that for the fiscal year commencing on April
16 first, two thousand twenty-seven, the commissioner shall only collect
17 forty per centum of any assessments collected pursuant to this section
18 in the fiscal year commencing on April first, two thousand twenty-four,
19 and provided further, however, that for the fiscal year commencing on
20 April first, two thousand twenty-eight, the commissioner shall only
21 collect twenty per centum of any assessments collected pursuant to this
22 section in the fiscal year commencing on April first, two thousand twen-
23 ty-four, and provided further, however, that for the fiscal year
24 commencing on April first, two thousand twenty-nine, no such assessment
25 under this section shall be collected.

26 § 4. Section 1502-a of the tax law, as amended by section 2 of part
27 B-1 of chapter 57 of the laws of 2009 and as further amended by section
28 104 of part A of chapter 62 of the laws of 2011, is amended to read as
29 follows:

30 § 1502-a. Tax on non-life insurance corporations. (a) In lieu of the
31 tax imposed by section fifteen hundred one of this article, every domes-
32 tic insurance corporation, every foreign insurance corporation and every
33 alien insurance corporation, other than such corporations transacting
34 the business of life insurance, (1) authorized to transact business in
35 this state under a certificate of authority from the superintendent of
36 financial services~~[7]~~ or (2) that is a risk retention group as defined
37 in subsection (n) of section five thousand nine hundred two of the
38 insurance law, ~~[or (3) that is a health maintenance organization~~
39 ~~required to obtain a certificate of authority under article forty-four~~
40 ~~of the public health law,]~~ shall, for the privilege of exercising corpo-
41 rate franchises or for carrying on business in a corporate or organized
42 capacity within this state, and in addition to any other taxes imposed
43 for such privilege, pay a tax on all gross direct premiums, less return
44 premiums thereon, written on risks located or resident in this state.
45 The tax imposed by this section shall be computed in the manner set
46 forth in subdivision (a) of section fifteen hundred ten of this article
47 as such subdivision applied to taxable years beginning before January
48 first, two thousand three, except that the rate of tax imposed by this
49 section shall be ~~[one and seventy-five hundredths percent on all gross~~
50 ~~direct premiums, less return premiums thereon, for accident and health~~
51 ~~insurance contracts, including contracts with health maintenance organ-~~
52 ~~izations for health services, and]~~ two percent on all ~~[other]~~ such
53 premiums except accident and health insurance contracts, including
54 contracts with health maintenance organizations for health services.

55 (b) In lieu of the tax imposed by section fifteen hundred one of this
56 article, every domestic insurance corporation, every foreign insurance

1 corporation and every alien insurance corporation, other than such
2 corporations transacting the business of life insurance that is a health
3 maintenance organization required to obtain a certificate of authority
4 under article forty-four of the public health law, shall, for the privi-
5 lege of exercising corporate franchises or for carrying on business in a
6 corporate or organized capacity within this state, and in addition to
7 any other taxes imposed for such privilege, pay a tax on all gross
8 direct premiums, less return premiums thereon, written on risks located
9 or resident in this state. The tax imposed by this section shall be
10 computed in the manner set forth in subdivision (a) of section fifteen
11 hundred ten of this article as such subdivision applied to taxable years
12 beginning before January first, two thousand three, except that the rate
13 of tax imposed by this section shall be one and seventy-five hundredths
14 percent on all gross direct premiums, less return premiums thereon, for
15 accident and health insurance contracts, including contracts with health
16 maintenance organizations for health services, provided, however, that
17 for the taxable year beginning January first, two thousand twenty-five,
18 the percentage shall be one and four tenths percent, and provided
19 further, however, that for the taxable year beginning January first, two
20 thousand twenty-six, the percentage shall be one and five hundredths
21 percent, and provided further, however, that for the taxable year begin-
22 ning January first, two thousand twenty-seven, the percentage shall be
23 seven tenths of one percent, and provided further, however, that for the
24 taxable year beginning January first, two thousand twenty-eight, the
25 percentage shall be thirty-seven hundredths of one percent, and provided
26 further, however, that for the taxable years beginning on and after
27 January first, two thousand twenty-nine, no such tax shall be imposed.

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

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

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

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

52 (i) the sum of (A) eight and eighteen-hundredths percent, provided,
53 however, that for services provided on and after July first, two thou-
54 sand three, the percentage shall be eight and eighty-five hundredths
55 percent, and further provided that for services provided on and after
56 January first, two thousand six, the percentage shall be eight and nine-

ty-five hundredths percent, and further provided that for services provided on and after April first, two thousand nine, the percentage shall be nine and sixty-three hundredths percent, and further provided that for services provided on and after April first, two thousand twenty-four, the percentage shall be twenty-two and sixty-one hundredths percent, and further provided that for services provided on and after April first, two thousand twenty-five, the percentage shall be sixteen and ninety-six hundredths percent, and further provided that for services provided on and after April first, two thousand twenty-six, the percentage shall be eleven and thirty-one hundredths percent, and further provided that for services provided on and after April first, two thousand twenty-seven, the percentage shall be five and sixty-five hundredths percent, and further provided that for services provided on and after April first, two thousand twenty-eight, the percentage shall be zero percent, plus (B) twenty-four percent, provided, however, that for services provided on and after July first, two thousand three, the percentage shall be twenty-five and ninety-seven hundredths percent, and further provided that for services provided on and after January first, two thousand six, the percentage shall be twenty-six and twenty-six hundredths percent, and further provided that for services provided on and after April first, two thousand nine, the percentage shall be twenty-eight and twenty-seven hundredths percent, and further provided that for services provided on and after April first, two thousand twenty-four, the percentage shall be twenty-two and sixty-one hundredths percent, and further provided that for services provided on and after April first, two thousand twenty-five, the percentage shall be sixteen and ninety-six hundredths percent, and further provided that for services provided on and after April first, two thousand twenty-six, the percentage shall be eleven and thirty-one hundredths percent, and further provided that for services provided on and after April first, two thousand twenty-seven, the percentage shall be five and sixty-five hundredths percent, and further provided that for services provided on and after April first, two thousand twenty-eight, the percentage shall be zero percent, and plus (C) for a specified third-party payor as defined in subdivision one-a of section twenty-eight hundred seven-s of this article the percentage allowance applicable for a general hospital for inpatient hospital services pursuant to subdivision two of section twenty-eight hundred seven-s of this article;

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

(c) If an election in accordance with subdivision five of this section is in effect for a third-party payor and in addition in accordance with section twenty-eight hundred seven-t of this article for a specified third-party payor, the total percentage allowance factor shall be reduced to eight and eighteen-hundredths percent, provided, however, that for services provided on and after July first, two thousand three the total percentage allowance factor shall be reduced to eight and eighty-five hundredths percent, and further provided that for services provided on and after January first, two thousand six, the total percentage allowance factor shall be reduced to eight and ninety-five hundredths percent, and further provided that for services provided on and after April first, two thousand nine, the total percentage allowance

1 factor shall be reduced to nine and sixty-three hundredths percent and
2 further provided that for services provided on and after April first,
3 two thousand twenty-four, the percentage shall be seven and seventy-one
4 hundredths percent, and further provided that for services provided on
5 and after April first, two thousand twenty-five, the percentage shall be
6 five and seventy-nine hundredths percent, and further provided that for
7 services provided on and after April first, two thousand twenty-six, the
8 percentage shall be three and eighty-six hundredths percent, and further
9 provided that for services provided on and after April first, two thou-
10 sand twenty-seven, the percentage shall be one and ninety-three
11 hundredths percent, and further provided that for services provided on
12 and after April first, two thousand twenty-eight, the percentage shall
13 be zero percent.

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

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

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

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

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

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

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

(b) the result expressed as a percentage of:

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

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

(c) (i) The regional percentage allowance for the periods January first, two thousand through June thirtieth, two thousand three, for all general hospitals in the region applicable to specified third-party payors, and applicable to related patient coinsurance and deductible amounts, shall be the same regional percentage allowance calculated pursuant to paragraph (b) of this subdivision for the period January first, nineteen hundred ninety-nine through December thirty-first, nineteen hundred ninety-nine.

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

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

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

(v) The regional percentage allowance for periods April first, two thousand twenty-four through March thirtieth, two thousand twenty-five, for all general hospitals in the region applicable to specified third-party payors, and applicable to related patient coinsurance and deductible amounts, shall be the same regional percentage allowance calculated pursuant to paragraph (b) of this subdivision for the period January first, nineteen hundred ninety-nine through December thirty-first, nineteen hundred ninety-nine multiplied by ninety-seven and seventy-one hundredths percent.

(vi) The regional percentage allowance for periods April first, two thousand twenty-five through March thirtieth, two thousand twenty-six, for all general hospitals in the region applicable to specified third-party payors, and applicable to related patient coinsurance and deductible amounts, shall be the same regional percentage allowance calculated pursuant to paragraph (b) of this subdivision for the period January first, nineteen hundred ninety-nine through December thirty-first, nineteen hundred ninety-nine multiplied by seventy-three and twenty-nine hundredths percent.

(vii) The regional percentage allowance for periods April first, two thousand twenty-six through March thirtieth, two thousand twenty-seven, for all general hospitals in the region applicable to specified third-party payors, and applicable to related patient coinsurance and deductible amounts, shall be the same regional percentage allowance calculated

1 pursuant to paragraph (b) of this subdivision for the period January
2 first, nineteen hundred ninety-nine through December thirty-first, nine-
3 teen hundred ninety-nine multiplied by forty-eight and eighty-six
4 hundredths percent.

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

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