

STATE OF NEW YORK

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2025-2026 Regular Sessions

IN ASSEMBLY

January 14, 2025

Introduced by M. of A. PAULIN, SHRESTHA, CLARK, ROSENTHAL, LEVENBERG, GALLAGHER, R. CARROLL, SHIMSKY, SIMON, DINOWITZ, SANTABARBARA, STECK, EACHUS, LUPARDO, BICHOTTE HERMELYN, KELLES, WEPRIN, GIBBS, REYES, GONZALEZ-ROJAS, TAPIA, FORREST, SEAWRIGHT, COLTON, BRAUNSTEIN, MEEKS, BRONSON, CONRAD, BURDICK, KIM, HUNTER, SIMONE, DE LOS SANTOS, MITAYNES, TAYLOR, ALVAREZ, BENEDETTO, DAVILA, SAYEGH, ZINERMAN, HYNDMAN, RAGA, ANDERSON, McDONOUGH, GRIFFIN, SCHIAVONI -- read once and referred to the Committee on Health -- recommitted to the Committee on Health in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, the social services law, the elder law and the mental hygiene law, in relation to long term care options; and to repeal certain provisions of the public health law relating to managed long term care

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

1 Section 1. Legislative intent. The state, as part of an ambitious
2 effort to move all Medicaid recipients to some form of managed care,
3 moved those in need of home and community-based long term care services
4 for over a one hundred twenty day period into managed long term care
5 plans on a mandatory basis over ten years ago. The original intent of
6 the MLTC program was that the managed long term care plans would develop
7 into fully capitated plans over time. This has not happened.
8 Therefore, it is the intent of the legislature to repeal the partially
9 capitated managed long term care program and instead, provide appropri-
10 ate home and community-based long term care benefits under a fee-for-
11 service arrangement. Fully capitated programs such as the PACE program
12 shall continue to be an option. This transition shall not be implemented
13 until the commissioner of health is satisfied that all necessary and

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

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1 appropriate transition planning has occurred, and federal approvals have
2 been obtained.

3 § 2. Section 4403-f of the public health law is REPEALED and a new
4 section 4403-f is added to read as follows:

5 § 4403-f. Long term care options. 1. The following words or phrases,
6 as used in this section, shall have the following meanings:

7 (a) "Program of all-inclusive care of the elderly" or "PACE" means a
8 fully capitated federally recognized model of comprehensive care for
9 persons fifty-five years of age or older that are eligible for medicaid
10 and may also be eligible for Medicare, qualifying for nursing home
11 levels of care who wish to remain in their community (see, Sections 1894
12 and 1934 to Title XVIII of the Social Security Act; 42 CFR 460), which
13 are licensed to operate under article twenty-nine-EE of this chapter.

14 (b) "Medicaid advantage plus program" or "MAP" means a fully capitated
15 state developed model of comprehensive care for persons eighteen years
16 of age or older that are eligible for Medicaid and also eligible for
17 medicare, qualifying for nursing home levels of care.

18 (c) "Care coordination entity" means an entity that has obtained
19 approval from the commissioner based on guidelines established by the
20 department to promote continuity of care and coordination of services
21 for all enrollees. The entity may be organized as a health home
22 specially certified by the commissioner to serve home and community-
23 based services eligible recipients, but this shall not preclude other
24 organizational structures as determined by the commissioner.

25 2. The commissioner shall submit the appropriate waivers, including
26 but not limited to those authorized pursuant to sections eleven hundred
27 fifteen and nineteen hundred fifteen of the federal social security act
28 or successor provisions, and any other waivers necessary to require on
29 or after April first, two thousand twenty-eight, medical assistance
30 recipients who are eighteen years of age or older and who require long
31 term care services, as specified by the commissioner, for a continuous
32 period of more than one hundred twenty days, to receive such services
33 through an available fully integrated plan including a PACE or MAP plan,
34 or through a fee-for-service based model with services coordinated by a
35 care coordination entity. The commissioner shall establish guidelines on
36 the establishment and operation of care coordination entities. Such
37 guidelines shall address the payment methods that ensure provider
38 accountability for cost effective quality outcomes. Such guidelines
39 shall include a provision for the development of an individualized plan
40 of care that contains a holistic evaluation of the recipient's needs.
41 Copies of such waiver applications and amendments thereto shall be
42 provided to the chairs of the senate finance committee, the assembly
43 ways and means committee and the senate and assembly health committees
44 before their submission to the federal government.

45 3. Persons that are determined eligible to receive long term care
46 services through PACE or MAP, or through a fee-for-service based model
47 with services coordinated by a care coordination entity established
48 pursuant to subdivision two of this section shall have at least thirty
49 days to select a PACE or MAP provider, or care coordination entity and
50 shall be provided with information to make an informed choice. Where a
51 participant has not selected such a provider or care coordination enti-
52 ty, the commissioner shall assign such participant to a care coordi-
53 nation entity taking into account consistency with any prior community-
54 based direct care workers having recently served the recipient, quality
55 performance criteria, capacity and geographic accessibility.

§ 3. Subdivision 2 of section 365-a of the social services law is amended by adding two new paragraphs (oo) and (pp) to read as follows:

(oo) The department shall promulgate regulations for all Medicaid enrollees receiving services through a fee-for-service model pursuant to section forty-four hundred three-f of the public health law that include the establishment and operation of care coordination entities to promote continuity of care and coordination of services to ensure that each enrollee has an ongoing source of care appropriate to their needs as required by 42 CFR § 438.208. Such regulations shall provide for a minimum number of care coordination entities in order to ensure enrollee choice. There shall be a minimum of two care coordination entities per county. The regulations shall include conflict-free case management protections to ensure that assessment and coordination of services are separate from the delivery of those services. In selecting providers of case management services, the department shall prioritize providers with proven experience serving populations receiving home and personal care services.

(pp) The department shall conduct an evaluation of the viability of utilizing care coordination entities operating pursuant to this section for assessments or reassessments required for determining an individual's needs for services that are controlled by the independent assessor established pursuant to subdivision ten of section three hundred sixty-five-a of this title.

§ 4. Stakeholder engagement. 1. The commissioner of health shall convene an advisory group composed of stakeholder representatives which shall seek input from representatives of home and community-based long term care services providers, including representative associations, recipients, the department of health, local social services districts, and the direct care workforce, among others, to:

(a) further evaluate and promote the transition of persons in receipt of home and community-based long term care services into fee-for-service arrangements, where appropriate, and to develop guidelines for such care; and

(b) determine a process to transition providers, including but not limited to licensed home care services agencies, certified home health agencies, and fiscal intermediaries, to a fee-for-service reimbursement system.

2. In implementing the transition to a fee-for-service model the commissioner of health, in consultation with the advisory group, shall, to the extent practicable, consider and select programs and policies that seek to maximize continuity of care and minimize disruption to the provider labor workforce, and shall continue to support providers, licensed home care services agencies, and fiscal intermediaries that are based on a commitment to quality and value; provided that nothing in this subdivision shall supersede or invalidate any contracts or awards provided to fiscal intermediaries pursuant to subdivision 4-a of section 365-f of the social services law, provided that the provisions of subdivision 4-b of section 365-f of the social services law shall still apply, or contracts or awards provided to licensed home care services agencies pursuant to section 3605-c of the public health law.

3. The commissioner of health shall report biannually on the implementation of this section. The reports shall include, but not be limited to: (a) satisfaction of enrollees with care coordination/case management and timeliness of care; (b) service utilization data including changes in the level, hours, frequency, and types of services and providers; (c) enrollment data; (d) quality data; and (e) continuity of care for

1 participants as they move out of managed long term care and into the
2 fee-for-service model. The commissioner shall publish the report on the
3 department's website and provide notice to the temporary president of
4 the senate, the speaker of the assembly, the chair of the senate stand-
5 ing committee on health and the chair of the assembly health committee.

6 4. The commissioner of health shall seek input from representatives of
7 home and community-based long term care services providers, recipients,
8 and the Medicaid managed care advisory review panel, among others, to
9 assist in the development of guidelines for the establishment and opera-
10 tion of care coordination entities pursuant to section 4403-f of the
11 public health law. The guidelines shall be finalized and posted on the
12 department of health's website no later than November first, two thou-
13 sand twenty-seven.

14 § 5. Paragraph (o) of subdivision 2 of section 365-a of the social
15 services law, as added by chapter 659 of the laws of 1997, is amended to
16 read as follows:

17 (o) care and services furnished by a [~~managed long term care plan or~~
18 ~~approved managed long term care demonstration pursuant to the provisions~~
19 ~~of~~] PACE or MAP plan as such terms are defined by section forty-four
20 hundred three-f of the public health law to eligible individuals [~~resid-~~
21 ~~ing in the geographic area~~] served by such entity, when such services
22 are furnished in accordance with an agreement with the department of
23 health and meet the applicable requirements of federal law and regu-
24 lation.

25 § 6. Subparagraph (iii) of paragraph (e) of subdivision 2 of section
26 365-a of the social services law, as amended by section 36-a of part B
27 of chapter 57 of the laws of 2015, is amended to read as follows:

28 (iii) the commissioner shall provide assistance to persons receiving
29 services under this paragraph who are transitioning to receiving care
30 from a [~~managed long term care plan certified pursuant to~~] PACE or MAP
31 plan as such terms are defined by section forty-four hundred three-f of
32 the public health law, consistent with subdivision thirty-one of section
33 three hundred sixty-four-j of this title;

34 § 7. Subdivision 10 of section 365-a of the social services law, as
35 amended by section 25 of part B of chapter 57 of the laws of 2025, is
36 amended to read as follows:

37 10. The department of health shall establish or procure the services
38 of an independent assessor or assessors no later than October 1, 2022,
39 in a manner and schedule as determined by the commissioner of health, to
40 take over from local departments of social services[~~7~~] and Medicaid
41 Managed Care providers, [and Medicaid managed long term care plans]
42 including a MAP plan, or a PACE plan if the PACE plan elects to utilize
43 the independent assessor as such terms are defined by section forty-four
44 hundred three-f of the public health law, the performance of assessments
45 and reassessments required for determining individuals' needs for
46 personal care services, including as provided through the consumer
47 directed personal assistance program, and other services or programs
48 available pursuant to the state's medical assistance program as deter-
49 mined by such commissioner for the purpose of improving efficiency,
50 quality, and reliability in assessment [~~and to determine individuals'~~
51 ~~eligibility for Medicaid managed long term care plans~~]. Notwithstanding
52 the provisions of section one hundred sixty-three of the state finance
53 law, or sections one hundred forty-two and one hundred forty-three of
54 the economic development law, or any contrary provision of law,
55 contracts may be entered or the commissioner may amend and extend the
56 terms of a contract awarded prior to the effective date and entered into

1 to conduct enrollment broker and conflict-free evaluation services for
2 the Medicaid program, if such contract or contract amendment is for the
3 purpose of procuring such assessment services from an independent asses-
4 sor. Contracts entered into, amended, or extended pursuant to this
5 subdivision shall not remain in force beyond September 30, ~~[2025]~~ 2028.

6 § 8. Paragraph (d) of subdivision 1 of section 218 of the elder law,
7 as amended by section 1 of chapter 259 of the laws of 2018, is amended
8 to read as follows:

9 (d) "Long-term care facilities" shall mean residential health care
10 facilities as defined in subdivision three of section twenty-eight
11 hundred one of the public health law; adult care facilities as defined
12 in subdivision twenty-one of section two of the social services law,
13 including those adult homes and enriched housing programs licensed as
14 assisted living residences, pursuant to article forty-six-B of the
15 public health law; or any facilities which hold themselves out or adver-
16 tise themselves as providing assisted living services and which are
17 required to be licensed or certified under the social services law or
18 the public health law. Within the amounts appropriated therefor, "long-
19 term care facilities" shall also mean ~~[managed long-term care plans and~~
20 ~~approved managed long-term care or operating demonstrations]~~ a PACE or
21 MAP plan as such terms are defined in section forty-four hundred three-f
22 of the public health law and the term "resident", "residents", "patient"
23 and "patients" shall also include enrollees of such plans.

24 § 9. Subdivisions (a), (c), (d), (f), the opening paragraph of subdi-
25 vision (g) and subdivision (h) of section 13.40 of the mental hygiene
26 law, subdivisions (a), (d), (f) and the opening paragraph of subdivision
27 (g) as added by section 72-b of part A of chapter 56 of the laws of
28 2013, subdivision (c) as amended by section 17 of part Z of chapter 57
29 of the laws of 2018, and subdivision (h) as added by section 1 of part D
30 of chapter 58 of the laws of 2014, are amended to read as follows:

31 (a) The commissioner and the commissioner of health shall jointly
32 establish a people first waiver program for purposes of developing a
33 care coordination model that integrates various long-term habilitation
34 supports and/or health care. The people first waiver program shall
35 include the use of developmental disability individual support and care
36 coordination organizations, herein referred to as DISCOs, pursuant to
37 section forty-four hundred three-g of the public health law, health
38 maintenance organizations, herein referred to as HMOs, providing
39 services under subdivision eight of section forty-four hundred three of
40 the public health law, and ~~[managed]~~ long term care ~~[plans, herein~~
41 ~~referred to as MLTCs]~~ options, providing or coordinating services under
42 ~~[subdivisions twelve, thirteen and fourteen of]~~ section forty-four
43 hundred three-f of the public health law. Services shall be provided as
44 described in section forty-four hundred three-g of the public health
45 law, subdivision eight of section forty-four hundred three of the public
46 health law, and ~~[subdivisions twelve, thirteen and fourteen of]~~ section
47 forty-four hundred three-f of the public health law.

48 (c) No person with a developmental disability who is receiving or
49 applying for medical assistance and who is receiving, or eligible to
50 receive, services operated, funded, certified, authorized or approved by
51 the office, shall be required to enroll in a DISCO, HMO or ~~[MLTC]~~ long
52 term care option in order to receive such services until program
53 features and reimbursement rates are approved by the commissioner and
54 the commissioner of health, and until such commissioners determine that
55 a sufficient number of plans that are authorized to coordinate care for
56 individuals pursuant to this section or that are authorized to operate

1 and to exclusively enroll persons with developmental disabilities pursu-
2 ant to subdivision twenty-seven of section three hundred sixty-four-j of
3 the social services law are operating in such person's county of resi-
4 dence to meet the needs of persons with developmental disabilities, and
5 that such entities meet the standards of this section. No person shall
6 be required to enroll in a DISCO, HMO or ~~[MLTC]~~ long term care option in
7 order to receive services operated, funded, certified, authorized or
8 approved by the office until there are at least two entities operating
9 under this section in such person's county of residence, unless federal
10 approval is secured to require enrollment when there are less than two
11 such entities operating in such county. Notwithstanding the foregoing or
12 any other law to the contrary, any health care provider: (i) enrolled in
13 the Medicaid program and (ii) rendering hospital services, as such term
14 is defined in section twenty-eight hundred one of the public health law,
15 to an individual with a developmental disability who is enrolled in a
16 DISCO, HMO or ~~[MLTC]~~ long term care option, or a prepaid health services
17 plan operating pursuant to section forty-four hundred three-a of the
18 public health law, including, but not limited to, an individual who is
19 enrolled in a plan authorized by section three hundred sixty-four-j ~~[or]~~
20 of the social services law, shall accept as full reimbursement the nego-
21 tiated rate or, in the event that there is no negotiated rate, the rate
22 of payment that the applicable government agency would otherwise pay for
23 such rendered hospital services.

24 (d) DISCOs, HMOs and ~~[MLTCs]~~ long term care options operating under
25 this section shall ensure, to the greatest extent practicable, that
26 their assessment, services, and the grievance and appeals processes are
27 culturally and linguistically competent.

28 (f) There shall be a joint advisory council chaired by the commission-
29 er and the commissioner of health that shall be charged with advising
30 both commissioners in regard to the oversight of DISCOs, HMOs providing
31 services under subdivision eight of section forty-four hundred three of
32 the public health law, and ~~[MLTCs]~~ long term care options providing
33 services under ~~[subdivisions twelve, thirteen and fourteen of]~~ section
34 forty-four hundred three-f of the public health law. The joint advisory
35 council may be comprised of the members of existing advisory councils or
36 similar entities serving the office, provided that it shall be comprised
37 of twelve members, including individuals with developmental disabili-
38 ties, family members of, advocates for, and providers of services to
39 people with developmental disabilities. Three members of the joint advi-
40 sory council shall also be members of the special advisory review panel
41 on medicaid managed care established under section three hundred sixty-
42 four-jj of the social services law. The joint advisory council shall
43 review all managed care options provided to individuals with develop-
44 mental disabilities, including: the adequacy of habilitation services;
45 the record of compliance with person-centered planning, person-centered
46 services and community integration; the adequacy of rates paid to
47 providers in accordance with the provisions of ~~[paragraph one of subdi-~~
48 ~~vision four of]~~ section forty-four hundred three of the public health
49 law, paragraph ~~[a-two]~~ (a-2) of subdivision eight of section forty-four
50 hundred three of the public health law or ~~[paragraph a-two of subdivi-~~
51 ~~sion twelve of]~~ section forty-four hundred three-f of the public health
52 law; and quality of life, health, safety and community integration of
53 individuals with developmental disabilities enrolled in managed care.
54 The commissioner and commissioner of the office for people with develop-
55 mental disabilities or their designees shall attend all meetings of the
56 joint advisory council. The joint advisory council shall report its

1 findings, recommendations, and any proposed amendments to pertinent
2 sections of the law to the commissioner and the commissioner of health,
3 the senate majority leader and speaker of the assembly. The joint advi-
4 sory council shall have access to any and all information that may be
5 lawfully disclosed to it and that is necessary to perform its functions
6 under this section.

7 Notwithstanding any inconsistent provision of sections one hundred
8 twelve and one hundred sixty-three of the state finance law, or section
9 one hundred forty-two of the economic development law, or any other law
10 to the contrary, the commissioner and the commissioner of health are
11 authorized to enter into a contract or contracts under section forty-
12 four hundred three-g of the public health law, subdivision eight of
13 section forty-four hundred three of the public health law, and [~~subdivi-~~
14 ~~sion twelve of~~] section forty-four hundred three-f of the public health
15 law, provided, however, that:

16 (h) Consistent with and subject to the terms of federal approval, the
17 commissioner shall establish the managed care for persons with develop-
18 mental disabilities advocacy program, hereinafter referred to as the
19 advocacy program. The activities of the advocacy program shall be coor-
20 dinated with the independent Medicaid managed care ombuds services
21 provided to persons with disabilities enrolling in Medicaid managed
22 care. The advocacy program shall advise individuals of applicable rights
23 and responsibilities, provide information and assistance to address the
24 needs of individuals with disabilities, and pursue legal, administrative
25 and other appropriate remedies or approaches to ensure the protection of
26 and advocacy for the rights of the enrollees. The advocacy program shall
27 provide support to eligible individuals with developmental disabilities
28 enrolling in developmental disability individual support and care coor-
29 dination organizations pursuant to section forty-four hundred three-g of
30 the public health law, health maintenance organizations providing
31 services pursuant to subdivision eight of section forty-four hundred
32 three of the public health law, [~~managed long term care plans~~] long term
33 care options providing services under [~~subdivisions twelve, thirteen and~~
34 ~~fourteen of~~] section forty-four hundred three-f of the public health
35 law, and fully integrated dual advantage plans providing services under
36 subdivision twenty-seven of section three hundred sixty-four-j of the
37 social services law. The commissioner shall select an independent organ-
38 ization or organizations to provide advocacy services under this subdi-
39 vision.

40 § 10. Paragraph (c) of subdivision 6 of section 2801-e of the public
41 health law, as amended by chapter 257 of the laws of 2005, is amended to
42 read as follows:

43 (c) The commissioner may, as necessary, waive existing methodologies
44 for determining public need under this article, article thirty-six of
45 this chapter and article seven of the social services law[~~, as well as~~
46 ~~enrollment limitations under section forty four hundred three f of this~~
47 ~~chapter,~~] to accommodate permanent conversions of beds to other programs
48 or services on the basis that any such increases in capacity are linked
49 to commensurate reductions in the number of residential health care
50 facility beds.

51 § 11. The opening paragraph of paragraph (ccc) of subdivision 1 of
52 section 2807-v of the public health law, as amended by section 12 of
53 part C of chapter 57 of the laws of 2023, is amended to read as follows:

54 Funds shall be deposited by the commissioner, within amounts appropri-
55 ated, and the state comptroller is hereby authorized and directed to
56 receive for the deposit to the credit of the state special revenue funds

1 - other, HCRA transfer fund, medical assistance account, or any succe-
2 sor fund or account, for purposes of funding the state share of
3 increases in the rates for certified home health agencies, long term
4 home health care programs, AIDS home care programs, hospice programs and
5 ~~[managed] long term care [plans and approved managed long term care~~
6 ~~operating demonstrations as defined in]~~ options in section forty-four
7 hundred three-f of this chapter for recruitment and retention of health
8 care workers pursuant to subdivisions nine and ten of section thirty-six
9 hundred fourteen of this chapter from the tobacco control and insurance
10 initiatives pool established for the following periods in the following
11 amounts:

12 § 12. Section 2807-x of the public health law is REPEALED.

13 § 13. Subdivision 8 of section 3605 of the public health law, as
14 amended by section 49 of part D of chapter 56 of the laws of 2012, is
15 amended to read as follows:

16 8. Agencies licensed pursuant to this section but not certified pursu-
17 ant to section ~~[three thousand six hundred eight]~~ thirty-six hundred
18 eight of this article, shall not be qualified to participate as a home
19 health agency under the provisions of title XVIII or XIX of the federal
20 Social Security Act provided, however, an agency which has a contract
21 with a state agency or its locally designated office or, as specified by
22 the commissioner, with a managed care organization participating in the
23 managed care program established pursuant to section three hundred
24 sixty-four-j of the social services law or with a ~~[managed long term~~
25 ~~care plan established pursuant to]~~ PACE or MAP plan as such terms are
26 defined by section forty-four hundred three-f of this chapter, may
27 receive reimbursement under title XIX of the federal Social Security
28 Act.

29 § 14. The opening paragraph of subdivision 9 of section 3614 of the
30 public health law, as amended by section 56 of part A of chapter 56 of
31 the laws of 2013, is amended to read as follows:

32 Notwithstanding any law to the contrary, the commissioner shall,
33 subject to the availability of federal financial participation, adjust
34 medical assistance rates of payment for certified home health agencies
35 for such services provided to children under eighteen years of age and
36 for services provided to a special needs population of medically complex
37 and fragile children, adolescents and young disabled adults by a CHHA
38 operating under a pilot program approved by the department, long term
39 home health care programs, AIDS home care programs established pursuant
40 to this article, hospice programs established under article forty of
41 this chapter and for ~~[managed] long term care [plans and approved~~
42 ~~managed long term care operating demonstrations as defined in]~~ options
43 under section forty-four hundred three-f of this chapter. Such adjust-
44 ments shall be for purposes of improving recruitment, training and
45 retention of home health aides or other personnel with direct patient
46 care responsibility in the following aggregate amounts for the following
47 periods:

48 § 15. Paragraph (a) of subdivision 10 of section 3614 of the public
49 health law, as amended by section 57 of part A of chapter 56 of the laws
50 of 2013, is amended to read as follows:

51 (a) Such adjustments to rates of payments shall be allocated propor-
52 tionally based on each certified home health agency, long term home
53 health care program, AIDS home care and hospice program's home health
54 aide or other direct care services total annual hours of service
55 provided to medicaid patients, as reported in each such agency's most
56 recently available cost report as submitted to the department or for the

purpose of the ~~[managed]~~ long term care ~~[program]~~ option a suitable proxy developed by the department in consultation with the interested parties. Payments made pursuant to this section shall not be subject to subsequent adjustment or reconciliation; provided that such adjustments to rates of payments to certified home health agencies shall only be for that portion of services provided to children under eighteen years of age and for services provided to a special needs population of medically complex and fragile children, adolescents and young disabled adults by a CHHA operating under a pilot program approved by the department.

§ 16. Paragraph (b) of subdivision 2 of section 4409 of the public health law, as added by section 5 of part NN of chapter 57 of the laws of 2023, is amended to read as follows:

(b) The department is authorized to address to any health maintenance organization, and ~~[managed long term care plan with a certificate of authority pursuant to]~~ a PACE or MAP plan as such terms are defined by section forty-four hundred three-f of this article, or officers thereof, any inquiry in relation to its contracts with providers and other entities providing covered services to the health maintenance organization's, or ~~[managed long term care plan's]~~ PACE or MAP plans' enrollees, including but not limited to the rates of payment and payment terms and conditions therein. Every entity or person so addressed shall reply in writing to such inquiry promptly and truthfully, and such reply shall be, if required by the department, signed by such individual, or by such officer or officers of a corporation, as the department shall designate, and affirmed by them as true under penalty of perjury. Failure to comply with the requirements of this section shall be subject to civil penalties under section twelve of this chapter. Each day after the deadline established by the department for reply until such time that the provider submits a good faith response shall be considered a separate and subsequent violation. In accordance with the process outlined in this paragraph, employers shall provide any documents or materials in the employer's possession, custody, or control that are requested by the department as needed to support or verify the employer's reply.

§ 17. Subparagraph (i) of paragraph (e) of subdivision 3 of section 364-j of the social services law, as amended by section 38 of part A of chapter 56 of the laws of 2013, is amended to read as follows:

(i) an individual dually eligible for medical assistance and benefits under the federal Medicare program; provided, however, nothing herein shall: (a) require an individual enrolled in a ~~[managed]~~ long term care ~~[plan]~~ option, pursuant to section forty-four hundred three-f of the public health law, to disenroll from such program; or (b) make enrollment in a Medicare managed care plan a condition of the individual's participation in the managed care program pursuant to this section, or affect the individual's entitlement to payment of applicable Medicare managed care or ~~[fee-for-service]~~ fee-for-service coinsurance and deductibles by the individual's managed care provider.

§ 18. Paragraphs (b) and (c) of subdivision 27 of section 364-j of the social services law, as added by section 72 of part A of chapter 56 of the laws of 2013, are amended to read as follows:

(b) The FIDA program shall provide targeted populations of ~~[medicare/medicaid]~~ Medicare/Medicaid dually eligible persons with comprehensive health services that include the full range of ~~[medicare]~~ Medicare and ~~[medicaid]~~ Medicaid covered services, including but not limited to primary and acute care, prescription drugs, behavioral health services, care coordination services, and long-term supports and services, as well as other services, through managed care providers, as

1 defined in subdivision one of this section[, ~~including managed long term~~
2 ~~care plans, certified pursuant to section forty four hundred three f of~~
3 ~~the public health law~~].

4 (c) Under the FIDA program established pursuant to this subdivision,
5 up to three managed [~~long term~~] care plans may be authorized to exclu-
6 sively enroll individuals with developmental disabilities, as such term
7 is defined in section 1.03 of the mental hygiene law. The commissioner
8 of health may waive any of the department's regulations as such commis-
9 sioner, in consultation with the commissioner of the office for people
10 with developmental disabilities, deems necessary to allow such managed
11 [~~long term~~] care plans to provide or arrange for service for individuals
12 with developmental disabilities that are adequate and appropriate to
13 meet the needs of such individuals and that will ensure their health and
14 safety. The commissioner of the office for people with developmental
15 disabilities may waive any of the office for people with developmental
16 disabilities' regulations as such commissioner, in consultation with the
17 commissioner of health, deems necessary to allow such managed [~~long~~
18 ~~term~~] care plans to provide or arrange for services for individuals with
19 developmental disabilities that are adequate and appropriate to meet the
20 needs of such individuals and that will ensure their health and safety.

21 § 19. Subdivision 31 of section 364-j of the social services law, as
22 added by section 36-b of part B of chapter 57 of the laws of 2015, is
23 amended to read as follows:

24 31. [~~(a)~~] The commissioner shall require managed care providers under
25 this section, [~~managed long term care plans~~] a PACE or MAP plan as such
26 terms are defined under section forty-four hundred three-f of the public
27 health law and other appropriate long-term service programs to adopt
28 expedited procedures for approving personal care services for a medical
29 assistance recipient who requires immediate personal care or consumer
30 directed personal assistance services pursuant to paragraph (e) of
31 subdivision two of section three hundred sixty-five-a of this title or
32 section three hundred sixty-five-f of this title, respectively, or other
33 long-term care, and provide such care or services as appropriate, pend-
34 ing approval by such provider or program.

35 § 20. Paragraphs (a) and (c) of subdivision 32 of section 364-j of the
36 social services law, as amended by section 1 of part KKK of chapter 56
37 of the laws of 2020, are amended to read as follows:

38 (a) The commissioner, or for the purposes of subparagraph (iv) of
39 paragraph (c) of this subdivision, the Medicaid inspector general in
40 consultation with the commissioner, may, in [~~his or her~~] their
41 discretion, apply penalties to managed care organizations subject to
42 this section and article forty-four of the public health law, including
43 [~~managed long term care plans~~] a PACE or MAP plan as such terms are
44 defined by section forty-four hundred three-f of the public health law,
45 for untimely or inaccurate submission of encounter data; provided howev-
46 er, no penalty shall be assessed if the managed care organization or a
47 PACE or MAP plan submits, in good faith, timely and accurate data and a
48 material amount of such data is not successfully received by the depart-
49 ment as a result of department system failures or technical issues that
50 are beyond the control of the managed care organization.

51 (c) (i) Penalties assessed pursuant to this subdivision against a
52 managed care organization other than a [~~managed long term care plan~~
53 ~~certified pursuant to~~] PACE or MAP plan as such terms are defined by
54 section forty-four hundred three-f of the public health law shall be as
55 follows:

(A) for encounter data submitted or resubmitted past the deadlines set forth in the model contract, the Medicaid capitated premiums shall be reduced by one-third percent; ~~and~~

(B) for incomplete or inaccurate encounter data, evaluated at a category of service level, that fails to conform to department developed benchmarks for completeness and accuracy, the Medicaid capitated premiums shall be reduced by one and one-third percent; and

(C) for submitted data that results in a rejection rate in excess of ten percent of department developed volume benchmarks, the Medicaid capitated premiums shall be reduced by one-third percent.

(ii) Penalties assessed pursuant to this ~~subdivisions~~ subdivision against a ~~managed~~ long term care ~~plan~~ option certified pursuant to section forty-four hundred three-f of the public health law shall be as follows:

(A) for encounter data submitted or resubmitted past the deadlines set forth in the model contract, the Medicaid capitated premiums shall be reduced by one-quarter percent;

(B) for incomplete or inaccurate encounter data, evaluated at a category of service level, that fails to conform to department developed benchmarks for completeness and accuracy, the Medicaid capitated premiums shall be reduced by one percent; and

(C) for submitted data that results in a rejection rate in excess of ten percent of department developed volume benchmarks, the Medicaid capitated premiums shall be reduced by one-quarter percent.

(iii) For incomplete or inaccurate encounter data, identified in the course of an audit, investigation or review by the Medicaid inspector general, the Medicaid capitated premiums shall be reduced by an additional one percent.

§ 21. Paragraph (x) of subdivision (b) of section 364-jj of the social services law, as amended by section 39 of part C of chapter 60 of the laws of 2014, is amended to read as follows:

(x) in accordance with the recommendations of the joint advisory council established pursuant to section 13.40 of the mental hygiene law, advise the commissioners of health and developmental disabilities with respect to the oversight of DISCOs and of health maintenance organizations and ~~managed~~ long term care ~~plans~~ options providing services authorized, funded, approved or certified by the office for people with developmental disabilities, and review all managed care options provided to persons with developmental disabilities, including: the adequacy of support for habilitation services; the record of compliance with requirements for person-centered planning, person-centered services and community integration; the adequacy of rates paid to providers in accordance with the provisions of ~~paragraph 1 of~~ subdivision four of section forty-four hundred three of the public health law, paragraph (a-2) of subdivision eight of section forty-four hundred three of the public health law or ~~paragraph (a-2) of subdivision twelve of~~ section forty-four hundred three-f of the public health law; and the quality of life, health, safety and community integration of persons with developmental disabilities enrolled in managed care; and

§ 22. Subdivision 6 of section 365-f of the social services law, as added by section 50 of part D of chapter 56 of the laws of 2012, is amended to read as follows:

6. Notwithstanding any inconsistent provision of this section or any other contrary provision of law, managed care programs established pursuant to section three hundred sixty-four-j of this title and ~~managed~~ long term care ~~plans~~ options and other care coordination

1 models established pursuant to section [~~four thousand four~~] forty-four
2 hundred three-f of the public health law shall offer consumer directed
3 personal assistance programs to enrollees.

4 § 23. Paragraph (a) of subdivision 4 of section 365-h of the social
5 services law, as amended by section 2 of part LL of chapter 56 of the
6 laws of 2020, is amended to read as follows:

7 (a) The commissioner of health is authorized to assume responsibility
8 from a local social services official for the provision and reimburse-
9 ment of transportation costs under this section. If the commissioner
10 elects to assume such responsibility, the commissioner shall notify the
11 local social services official in writing as to the election, the date
12 upon which the election shall be effective and such information as to
13 transition of responsibilities as the commissioner deems prudent. The
14 commissioner is authorized to contract with a transportation manager or
15 managers to manage transportation services in any local social services
16 district, other than transportation services provided or arranged for
17 enrollees of [~~managed long term care plans issued certificates of~~
18 ~~authority under~~] a PACE or MAP plan as defined by section forty-four
19 hundred three-f of the public health law. Any transportation manager or
20 managers selected by the commissioner to manage transportation services
21 shall have proven experience in coordinating transportation services in
22 a geographic and demographic area similar to the area in New York state
23 within which the contractor would manage the provision of services under
24 this section. Such a contract or contracts may include responsibility
25 for: review, approval and processing of transportation orders; manage-
26 ment of the appropriate level of transportation based on documented
27 patient medical need; and development of new technologies leading to
28 efficient transportation services. If the commissioner elects to assume
29 such responsibility from a local social services district, the commis-
30 sioner shall examine and, if appropriate, adopt quality assurance meas-
31 ures that may include, but are not limited to, global positioning track-
32 ing system reporting requirements and service verification mechanisms.
33 Any and all reimbursement rates developed by transportation managers
34 under this subdivision shall be subject to the review and approval of
35 the commissioner.

36 § 24. Subparagraph (vi) of paragraph (b) of subdivision 4 of section
37 365-h of the social services law, as added by section 2 of part LL of
38 chapter 56 of the laws of 2020, is amended to read as follows:

39 (vi) Responsibility for transportation services provided or arranged
40 for enrollees of [~~managed~~] long term care [~~plans issued certificates of~~
41 ~~authority~~] options under section forty-four hundred three-f of the
42 public health law, not including a program designated as a Program of
43 All-Inclusive Care for the Elderly (PACE) as authorized by Federal
44 Public law 1053-33, subtitle I of title IV of the Balanced Budget Act of
45 1997, and, at the commissioner's discretion, other plans that integrate
46 benefits for dually eligible Medicare and Medicaid beneficiaries based
47 on a demonstration by the plan that inclusion of transportation within
48 the benefit package will result in cost efficiencies and quality
49 improvement, shall be transferred to a transportation management broker
50 that has a contract with the commissioner in accordance with this para-
51 graph. Providers of adult day health care may elect to, but shall not be
52 required to, use the services of the transportation management broker.

53 § 25. Subdivision 14 of section 366 of the social services law, as
54 amended by section 1 of part NN of chapter 57 of the laws of 2021, is
55 amended to read as follows:

14. The commissioner of health may make any available amendments to the state plan for medical assistance submitted pursuant to section three hundred sixty-three-a of this title, or, if an amendment is not possible, develop and submit an application for any waiver or approval under the federal social security act that may be necessary to disregard or exempt an amount of income, for the purpose of assisting with housing costs, for individuals receiving coverage of nursing facility services under this title, other than short-term rehabilitation services, and for individuals in receipt of medical assistance while in an adult home, as defined in subdivision twenty-five of section two of this chapter, who: are (i) discharged to the community; and (ii) if eligible, enrolled or required to enroll and have initiated the process of enrolling in a ~~plan-certified~~ long term care option pursuant to section forty-four hundred three-f of the public health law; and (iii) do not meet the criteria to be considered an "institutionalized spouse" for purposes of section three hundred sixty-six-c of this title.

§ 26. This act shall take effect immediately; provided, however, that:

(i) sections two, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-two, twenty-three, twenty-four and twenty-five of this act shall take effect upon delivery of a certificate of readiness by the commissioner of health, in consultation with the director of the division of the budget; provided, however, that the commissioner of health shall notify the legislative bill drafting commission upon the delivery of such certificate of readiness, in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law. Such delivery shall occur no sooner than April 1, 2028;

(ii) the amendments to paragraph (o) of subdivision 2 of section 365-a of the social services law made by section five of this act shall not affect the expiration and/or repeal of such paragraph and shall be deemed to expire therewith;

(iii) the amendments to subparagraph (i) of paragraph (e) of subdivision 3, paragraphs (b) and (c) of subdivision 27, subdivision 31 and paragraphs (a) and (c) of subdivision 32 of section 364-j of the social services law made by sections seventeen, eighteen, nineteen and twenty of this act shall be subject to the repeal of such section and shall expire and be deemed repealed therewith;

(iv) the amendments to paragraph (x) of subdivision (b) of section 364-jj of the social services law made by section twenty-one of this act shall be subject to the expiration of such section and shall expire and be deemed repealed therewith; and

(v) the amendments to section 365-h of the social services law made by sections twenty-three and twenty-four of this act shall be subject to the expiration of such section and shall expire and be deemed repealed therewith.

Effective immediately, the commissioner of health shall promulgate any rules and regulations and take steps, including requiring the submission of reports or surveys, submission and receipt of state plans, and necessary federal waivers, as may be necessary for the timely implementation of this act on such effective date.