§ 2511. Child health insurance plan 1. (a) The commissioner, in consultation with the superintendent, shall establish a program to the extent of funds available therefor through contractual arrangements with approved organizations to provide covered health care services coverage for eligible children. The availability of coverage for primary and preventive health care services and inpatient health care services coverage shall be continued pending approval of contractual arrangements that include covered health care services coverage and implementation of such coverage to the extent of funds available therefor.

(b) Coverage for covered health care services shall not be effective until such time as contractual arrangements are executed pursuant to this section for such purposes and an eligible child is enrolled in the program.

2. In order to be eligible for a subsidy payment pursuant to subdivision three of this section, a child shall meet the following criteria:

(a) (i) effective January first, nineteen hundred ninety-nine, resides in a household having a net household income at or below one hundred ninety-two percent of the non-farm federal poverty level (as defined and updated by the United States department of health and human services) or the gross equivalent of such net income; and

(ii) effective July first, two thousand, resides in a household having a gross household income at or below two hundred fifty percent of the non-farm federal poverty level (as defined and updated by the United States department of health and human services); and

(iii) effective September first, two thousand eight, resides in a household having a household income at or below four hundred percent of the non-farm federal poverty level (as defined and updated by the United States department of health and human services);

(b) is not eligible for medical assistance, except that a child who becomes eligible for medical assistance after becoming an eligible child under this title, may be eligible for a subsidy payment pursuant to subdivision three of this section as medical assistance for a period up to three months after becoming eligible for medical assistance; and

(c) does not have health care coverage under insurance, as defined by the commissioner, in consultation with the superintendent. The applicant

for insurance shall attest to the source and nature of the child's health care coverage under this paragraph, if any; and

* (e) is a resident of New York state. Such residency shall be demonstrated by adequate proof, as determined by the commissioner, of a New York state street address. If the child has no street address, such proof may include, but not be limited to, school records or other documentation determined by the commissioner.

* NB Effective until January 1, 2014 or a later date to be determined by the commisioner of health (see chapter 56 of 2013 Part D § 76 sb h)

* (e) is a resident of New York state. Such residency shall be attested to by the applicant for insurance, provided however, the commissioner shall require adequate proof of a New York state street address in circumstances when there is an inconsistency with residency information from other data sources.

* NB Effective January 1, 2014 or a later date to be determined by the commissioner of health (see chapter 56 of 2013 Pt. D § 76 sub h)

(f) * (i) In order to establish income eligibility under this subdivision at initial application, a household shall provide such documentation specified in subparagraph (iii) of this paragraph, as necessary and sufficient to determine a child's financial eligibility for a subsidy payment under this title. The commissioner may verify the accuracy of such income information provided by the household by matching it against income information contained in databases to which the commissioner has access, including the state's wage reporting system pursuant to subdivision five of section one hundred seventy-one-a of the tax law and by means of an income verification performed pursuant to a cooperative agreement with the department of taxation and finance pursuant to subdivision four of section one hundred seventy-one-b of the tax law.

* NB Effective until January 1, 2014 or a later date to be determined by the commisioner of health (see chapter 56 of 2013 Part D § 76 sb h)

* (i) In order to establish income eligibility under this subdivision at initial application, a household shall provide the social security numbers for each parent and legally responsible adult who is a member of the household, subject to subparagraph (v) of this paragraph. The commissioner shall determine eligibility based on income information contained in databases to which the commissioner has access, including

the state's wage reporting system pursuant to subdivision five of section one hundred seventy-one-a of the tax law and by means of an income verification performed pursuant to a cooperative agreement with the department of taxation and finance pursuant to subdivision four of section one hundred seventy-one-b of the tax law. The commissioner shall require an attestation by the household that the income information obtained from electronic data sources is accurate. Such attestation shall include any other household income information not obtained from an electronic data source that is necessary to determine a child's financial eligibility for a subsidy payment under this title. If the attestation is reasonably compatible with information obtained from available data sources, no further information or documentation is required. If the attestation is not reasonably compatible with information obtained from available data sources, documentation shall be required as specified in subparagraph (iii) of this paragraph.

* NB Effective January 1, 2014 or a later date to be determined by the commissioner of health (see chapter 56 of 2013 Pt. D § 76 sub h)

(ii) In order to establish income eligibility under this subdivision at recertification, the commissioner may make a redetermination of eligibility without requiring information from the individual if able to do so based on reliable information contained in the individual's enrollment file or other more current information contained in databases to which the commissioner has access, including the state's wage reporting system and by means of an income verification performed pursuant to a cooperative agreement with the department of taxation and finance pursuant to subdivision four of section one hundred seventy-one-b of the tax law. The commissioner shall require an attestation by the household that the income information contained in the enrollment file or obtained from electronic data sources is accurate. Such attestation shall include any other household income information not obtained from an electronic data source that is necessary to redetermine a child's financial eligibility for a subsidy payment under this title. In the event that there is an inconsistency between the income information attested to by the household and any information obtained by the commissioner from other sources pursuant to this subparagraph, and such inconsistency is material to the household's eligibility for a subsidy payment under this title, the commissioner

shall require the household to provide income documentation as specified in subparagraph (iii) of this paragraph.

* (iii) Income documentation shall include, but not be limited to, one or more of the following for each parent and legally responsible adult who is a member of the household and whose income is available to the child;

(A) current annual income tax returns;

(B) paycheck stubs;

(C) written documentation of income from all employers; or

(D) written documentation of income eligibility of a child for free or reduced breakfast or lunch through the school meal program certified by the child's school, provided that:

(I) the commissioner may verify the accuracy of the information provided in the same manner and way as provided for in subparagraph (ii) of this paragraph; and

(II) such documentation may not be suitable proof of income in the event of a material inconsistency in income after the commissioner has performed verification pursuant to subparagraph (ii) of this paragraph; or

(E) other documentation of income (earned or unearned) as determined by the commissioner, provided, however, such documentation shall set forth the source of such income.

* NB Effective until January 1, 2014 or a later date to be determined by the commisioner of health (see chapter 56 of 2013 Part D § 76 sb h)

* (iii) If the attestation of household income required by subparagraphs (i) and (ii) of this paragraph is not reasonably compatible with information obtained from data sources, further information, including documentation, shall be required. Income documentation shall include, but not be limited to, one or more of the following for each parent and legally responsible adult who is a member of the household and whose income is available to the child;

(A) current annual income tax returns;

(B) paycheck stubs;

(C) written documentation of income from all employers; or

(D) written documentation of income eligibility of a child for free or reduced breakfast or lunch through the school meal program certified by the child's school, provided that:

(I) the commissioner may verify the accuracy of the information provided in the same manner and way as provided for in subparagraph (ii) of this paragraph; and

(II) such documentation may not be suitable proof of income in the event of a material inconsistency in income after the commissioner has performed verification pursuant to subparagraph (ii) of this paragraph; or

(E) other documentation of income (earned or unearned) as determined by the commissioner, provided, however, such documentation shall set forth the source of such income.

* NB Effective January 1, 2014 or a later date to be determined by the commissioner of health (see chapter 56 of 2013 Pt. D § 76 sub h)

* (iv) In the event a household does not provide income documentation required by subparagraph (iii) of this paragraph within two months of the approved organization's request, the approved organization shall disenroll the child at the end of such two month period. Except as provided in paragraph (c) of subdivision five-a of this section, approved organizations shall not be obligated to repay subsidy payments made by the state on behalf of children enrolled during this two month period.

* NB Effective until January 1, 2014 or a later date to be determined by the commisioner of health (see chapter 56 of 2013 Part D § 76 sb h)

* (iv) In the event a household does not provide income documentation required by subparagraph (iii) of this paragraph within two months of the approved organization's or state enrollment center's request, whichever is applicable, the approved organization or state enrollment center shall disenroll the child at the end of such two month period. Except as provided in paragraph (c) of subdivision five-a of this section, approved organizations shall not be obligated to repay subsidy payments made by the state on behalf of children enrolled during this two month period.

* NB Effective January 1, 2014 or a later date to be determined by the commissioner of health (see chapter 56 of 2013 Pt. D § 76 sub h)

* (v) In the event a household chooses not to provide the social security numbers required by subparagraph (ii) of this paragraph, such household shall provide income documentation specified in subparagraph (iii) of this paragraph as a condition of the child's enrollment.

Nothing in this paragraph shall be construed as obligating a household to provide social security numbers of parents or legally responsible adults as a condition of a child's enrollment or eligibility for a subsidy payment under this title.

* NB Effective until January 1, 2014 or a later date to be determined by the commisioner of health (see chapter 56 of 2013 Part D § 76 sb h)

* (v) In the event a household chooses not to provide the social security numbers required by subparagraphs (i) and (ii) of this paragraph, such household shall provide income documentation specified in subparagraph (iii) of this paragraph as a condition of the child's enrollment. Nothing in this paragraph shall be construed as obligating a household to provide social security numbers of parents or legally responsible adults as a condition of a child's enrollment or eligibility for a subsidy payment under this title.

* NB Effective January 1, 2014 or a later date to be determined by the commissioner of health (see chapter 56 of 2013 Pt. D § 76 sub h)

* (vi) Any income verification response by the department of taxation and finance pursuant to subparagraphs (i) and (ii) of this paragraph shall not be a public record and shall not be released by the commissioner, the department of taxation and finance or an approved organization except pursuant to this paragraph. Information disclosed pursuant to this paragraph shall be limited to information necessary for verification. Information so disclosed shall be kept confidential by the party receiving such information. Such information shall be expunged within a reasonable time to be determined by the commissioner and the department of taxation and finance.

* NB Effective until January 1, 2014 or a later date to be determined by the commisioner of health (see chapter 56 of 2013 Part D § 76 sb h)

* (vi) Any income verification response by the department of taxation and finance pursuant to subparagraphs (i) and (ii) of this paragraph shall not be a public record and shall not be released by the commissioner, the department of taxation and finance, an approved organization, or the state enrollment center, except pursuant to this paragraph. Information disclosed pursuant to this paragraph shall be limited to information necessary for verification. Information so disclosed shall be kept confidential by the party receiving such information. Such information shall be expunged within a reasonable time

to be determined by the commissioner and the department of taxation and finance.

* NB Effective January 1, 2014 or a later date to be determined by the commissioner of health (see chapter 56 of 2013 Pt. D § 76 sub h)

* (g) (i) Notwithstanding any inconsistent provision of law to the contrary and subject to the availability of federal financial participation under title XIX of the federal social security act, a child under the age of nineteen shall be presumed to be eligible for subsidy payments and temporarily enrolled for coverage under this title, once during a twelve month period, beginning on the first day of the enrollment period following the date that an approved organization determines, on the basis of preliminary information, that a child's net household income does not exceed the income level specified in title eleven of article five of the social services law for children eligible for medical assistance based on such child's age. The temporary enrollment period shall continue until the earlier of the date an eligibility determination is made pursuant to this title or title eleven of article five of the social services law, or two months after the date temporary enrollment begins; provided however, a temporary enrollment period may be extended in the event an eligibility determination under this title or title eleven of article five of the social services law is not made within such two month period through no fault of the applicant for insurance for medical assistance. The commissioner shall assure that children who are enrolled pursuant to this paragraph receive the appropriate follow-up for a determination of eligibility for benefits under this title or title eleven of article five of the social services law prior to the termination of the temporary enrollment period. The commissioner shall assure that children and their families are informed of all available enrollment sites in accordance with subdivision nine of this section.

(ii) Effective September first two thousand seven, through March thirty-first, two thousand fourteen temporary enrollment pursuant to subparagraph (i) of this paragraph shall be provided only to children who apply for recertification of coverage under this title who appear to be eligible for medical assistance under title eleven of article five of the social services law.

* NB Expires July 1, 2025

* (h) The commissioner may, in consultation with the superintendent, promulgate rules and regulations necessary to prevent fraud and abuse in eligibility determinations made by approved organizations pursuant to this subdivision.

* NB Expires July 1, 2025

(i) Notwithstanding any inconsistent provision of law, rule or regulation:

(i) A newborn child who meets the eligibility criteria set forth in this subdivision or subdivision five of this section, as determined by an approved organization or the health insurance exchange marketplace, whichever is applicable, shall be enrolled retroactively to the first day of the month in which the child is born, provided that the applicant for insurance submits a completed and signed application and required information and documentation within sixty days of the child's birth.

(ii) A newborn child shall be presumed eligible for subsidy payments under this subdivision or eligible for coverage under subdivision five of this section, provided that the applicant for insurance submits a completed and signed application within sixty days of the child's birth. Once eligibility is determined by the approved organization or the health insurance exchange marketplace, whichever is applicable, on the basis of preliminary information, the child shall be enrolled retroactively to the first day of the month in which the child is born. All other procedures and standards regarding presumptive enrollment applicable to eligible children enrolled under this title and specified in state contracts with approved organizations or implemented by the health insurance exchange marketplace, whichever is applicable, shall apply to presumptive enrollment of newborn children.

(j) Where an application for recertification of coverage under this title contains insufficient information for a final determination of eligibility for continued coverage, a child shall be presumed eligible for a period not to exceed the earlier of two months beyond the preceding period of eligibility or the date upon which a final determination of eligibility is made based on the submission of additional data. In the event such additional information is not submitted within two months of the approved organization's or state enrollment center's request, whichever is applicable, the approved organization or state enrollment center shall disenroll the child

following the expiration of such two month period. Except as provided in paragraph (c) of subdivision five-a of this section, approved organizations shall not be obligated to repay subsidy payments received on behalf of children enrolled during this two month period.

2-a. (a) An approved organization that has reasonable cause to believe that an applicant for insurance, parent or legally responsible adult has provided false income information may submit tax returns and any other available income information, including, if not prohibited by federal law for purposes of income verification, social security account numbers, to the department as may be necessary to determine income eligibility. The department shall promptly furnish to the department of taxation and finance, pursuant to the agreements authorized by subdivision five of section one hundred seventy-one-a and subdivision four of section one hundred seventy-one-b of the tax law, the names, address and social security account numbers, if available, of the parents and legally responsible adults who are members of the household, together with a request that the department of taxation and finance, pursuant to those agreements, promptly ascertain insofar as is possible, and from the most recent available data, whether the collective income reported by those individuals exceeds the income eligibility level for that household, as determined by the department in compliance with paragraph (a) of subdivision two of this section. The department, in consultation with the department of taxation and finance, shall establish a methodology for comparing numerical equivalents. In ascertaining whether a household's income exceeds the income eligibility threshold transmitted by the department, the department of taxation and finance shall also examine information available pursuant to section one hundred seventy-one-a of the tax law where any of the named individuals have failed to file a New York state income tax return for the most recent filing year or where there is an indication, from the department or otherwise, that the individual's income may have changed. Reliance on such section one hundred seventy-one-a information shall be specially indicated in the department of taxation and finance's response. This provision shall not be construed to authorize the department of taxation and finance to disclose any figure on any personal income tax return. The department shall promptly inform the approved organization of the

response from the department of taxation and finance. Submission of income information for verification shall not delay the application of any other provision of this section to an applicant for insurance or an enrolled child.

(b) Before an approved organization submits income information to the department for verification with the department of taxation and finance, it shall:

(i) provide the applicant for insurance with notification of its intent to seek such verification;

(ii) notify the applicant for insurance of the confidentiality and expungement provisions contained in paragraph (c) of this subdivision; and

(iii) provide the applicant for insurance with the opportunity to review and modify the income information.

(c) Such income information and verification response by the department of taxation and finance shall not be a public record and shall not be released by the department, the department of taxation and finance or the approved organization except pursuant to this subdivision. Information disclosed pursuant to this section shall be limited to information necessary for verification. Information so disclosed shall be kept confidential by the party receiving such information. Such income information shall be expunged within a reasonable time to be determined by the department and the department of taxation and finance.

2-b. (a) For purposes of claiming federal financial participation under paragraph nine of subsection (c) of section twenty-one hundred five of the federal social security act, a household shall provide:

(i) the social security number for the applicant to be verified by the commissioner in accordance with a process established by the social security administration pursuant to federal law, or

(ii) documentation of citizenship and identity of the applicant consistent with requirements under the medical assistance program, as specified by the commissioner on the initial application.

(b) Pending receipt of the information required by subparagraph (i) of paragraph (a) of this subdivision, an initial application shall continue to be processed by an approved organization or enrollment facilitator

and a child shall be presumptively enrolled in the program in accordance with procedures and timeframes currently specified in contracts.

2-c. Express lane eligibility. (a) Notwithstanding any inconsistent provision of law, rule or regulation, the commissioner is authorized to (i) establish standards and procedures for express lane enrollment and renewal implemented in accordance with section 2107(e)(1)(B) of the federal social security act, including but not limited to reliance on a finding made by an express lane agency, as defined in section 1902(e)(13)(F) of the federal social security act, to determine whether a child meets one or more of the eligibility criteria set forth in subdivision two of this section; (ii) specify such standards and procedures in the state child health plan established under title XXI of the federal social security act and applicable contracts with approved organizations and enrollment facilitators; and (iii) waive any information and documentation requirements set forth in this section necessary to implement express lane eligibility pursuant to standards and procedures established under subparagraphs (i) and (ii) of this paragraph; provided, however, that information and documentation required pursuant to subdivision two-b of this section may not be waived.

(b) Subject to federal approval, such standards and procedures shall specify that information and documentation regarding citizenship and immigration status collected by an express lane agency and provided to the commissioner for the purpose of express lane eligibility may be used to satisfy the requirements of subdivision two-b of this section.

(c) Such standards and procedures shall also include a process for determining enrollment error rates and implementing corrective actions as required by section 1902(e)(13)(E) of the federal social security act.

3. Subsidy payments shall be made, pursuant to subdivision eight of this section, to approved organizations for the purposes of subsidizing the entire cost of coverage for eligible children meeting the criteria of subdivision two of this section. Notwithstanding any inconsistent provision of this subdivision, the total annual aggregate cost-sharing with respect to all eligible children in a family under this section

shall not exceed amounts provided pursuant to applicable federal law. In order to be eligible for a subsidy payment pursuant to this subdivision a premium payment shall be paid for an eligible child in accordance with the provisions of subdivision nine of section twenty-five hundred ten of this title. Nothing herein shall preclude payment of the premium on behalf of an eligible child on a monthly, quarterly, semi-annual or annual basis.

4. Households shall report to the approved organization or state enrollment center, whichever is applicable, within thirty days, any changes in New York state residency or health care coverage under insurance that may make a child ineligible for subsidy payments pursuant to this section. Any individual who, with the intent to obtain benefits, willfully misstates income or residence to establish eligibility pursuant to subdivision two of this section or willfully fails to notify an approved organization or state enrollment center of a change in residence or health care coverage pursuant to this subdivision shall repay such subsidy to the commissioner. Individuals seeking to enroll children for coverage shall be informed that such willful misstatement or failure to notify shall result in such liability.

4-a. Any individual who, with the intent to obtain benefits, willfully misstates income or residence to establish eligibility pursuant to subdivision two of this section or willfully fails to notify an approved organization of an increase in income or change in residence pursuant to subdivision two of this section shall repay such subsidy to the commissioner. Individuals seeking to enroll children for coverage shall be informed that such willful misstatement or failure to notify shall result in such liability.

5. Notwithstanding any inconsistent provisions of subdivision two of this section, an individual who meets the criteria of paragraphs (b) and (c) of subdivision two of this section but not the criteria of paragraph (a) of such subdivision may be enrolled for covered health care services, provided however, that an approved organization shall not be eligible to receive a subsidy payment for providing coverage to such individuals. The cost of coverage shall be determined by the

commissioner, in consultation with the superintendent and shall be no more than the cost of providing such coverage.

5-a. Obligations of approved organizations or the state enrollment center. (a) An approved organization or state enrollment center, whichever is applicable, shall have the obligation to review all information provided pursuant to subdivision two of this section and shall not certify or recertify a child as eligible for a subsidy payment unless the child meets the eligibility criteria.

(b) An approved organization or state enrollment center, whichever is applicable, shall promptly review all information relating to a potential change in eligibility based on information provided pursuant to subdivision four of this section. Within at least thirty days after receipt of such information, the approved organization or state enrollment center shall make a determination whether the child is still eligible for a subsidy payment and shall notify the household and the commissioner if it determines the child is not eligible for a subsidy payment.

(c) Any approved organization which engages in a pattern and practice of enrolling or recertifying children who are ineligible pursuant to subdivision two of this section, as determined by the commissioner, in consultation with the superintendent, shall be required to repay all subsidy payments received on account of ineligible children. Improper enrollment based upon a good faith reliance on documentation which appears accurate on its face shall not constitute a pattern or practice. Any such approved organization may also be removed as an approved organization, provided however, that eligible children shall continue to receive services until such time as the orderly transition to other approved organizations can be effected.

6. The commissioner shall, in consultation with the superintendent, establish guidelines for the submission of proposals by eligible organizations for the purposes of providing covered health care services coverage to eligible children including, but not limited to, the following components:

(a) standards for individual enrollment including mechanisms for presumptive eligibility and annual recertification;

(b) standards for provider enrollment;

(c) standards for scope of covered health care service benefits;

(d) standards for health care provider payment methodologies, provided however, that levels and methods of payment shall be consistent with those provided under similar insurance plans;

(e) standards for appropriate utilization review, quality assurance and case management mechanisms; and

(f) such other criteria which may be deemed necessary.

6-a. The commissioner, in consultation with the superintendent, may establish a program for cards issued to eligible children which can store or access information electronically, including the identity of the child and such other medical data and information as the commissioner, in consultation with the superintendent, may prescribe.

7. (a) A proposal submitted by an eligible organization shall meet the following criteria:

(i) designate the geographic area to be served by the program, and estimate the number of eligible participants and actual participants in such designated area;

(ii) assure access to and delivery of high quality, appropriate covered health care services and, when applicable, include a network of health care providers in sufficient numbers and geographically accessible to service program participants;

(iii) describe the procedures for marketing and determining eligibility for the health care coverage plan in the program location, including the designation of other entities which may perform such functions under contract with the organization;

(iv) describe proposed health care provider payment methodologies;

(v) describe in detail the estimated expenses, including personnel costs and other types of administrative expenses which will be incurred in the development and implementation of the program;

(vi) describe the quality assurance, utilization review and case management mechanisms to be implemented;

(vii) demonstrate the applicant's ability to meet the data analysis and reporting requirements of the program;

(viii) describe the benefit package to be offered by the program and

the cost of such benefit package;

(ix) describe the provisions for arranging for or offering conversion coverage in the event of termination of coverage under this title;

(x) demonstrate financial feasibility of the program;

(xi) describe the premium, copayments and deductibles to be paid by program participants who are ineligible for subsidy payments; and

(xii) include such other information as the commissioner and the superintendent may deem appropriate.

(b) The commissioner, in consultation with the superintendent, shall make a determination whether to approve, disapprove or recommend modification of the proposal. In order for a proposal to be approved by the commissioner, the proposal must also be approved by the superintendent with respect to the provisions of subparagraphs (ix) and (xii) of paragraph (a) of this subdivision.

(c) The commissioner, in consultation with the superintendent, shall ensure, to the extent possible, that child health insurance plan coverage is available in all geographic areas. The commissioner may approve more than one approved organization to serve all or part of a geographic area.

7-a. (a) Notwithstanding any inconsistent provisions of subdivisions one and three of section two thousand five hundred ten of this title, subdivisions six and seven of this section, subject to paragraph (b) of this subdivision, and section one hundred sixty-three of the state finance law, the commissioner may contract with organizations approved under section three hundred sixty-four-j of the social services law, without a competitive bid or request for proposal process, to provide covered health care services coverage for eligible children pursuant to this title.

(b) In order to be approved pursuant to this subdivision, an organization shall meet the criteria set forth in subdivision seven of this section and shall comply with standards established by the commissioner, in consultation with the superintendent, pursuant to subdivision six of this section.

(c) Organizations approved pursuant to this subdivision shall comply with the requirements of this title and contractual provisions established thereunder, title XXI of the federal social security act and

any implementing federal regulations, and requirements set forth in the state child health plan established pursuant to title XXI of the federal social security act.

(d) Notwithstanding any inconsistent provision of section one hundred twelve or one hundred sixty-three of the state finance law, at the discretion of the commissioner, without a competitive bid or request for proposal process, contractual arrangements with approved organizations, as defined in subdivision two of section twenty-five hundred ten of this article, in effect in two thousand seven may be extended to any period on and after July first, two thousand seven to provide an uninterrupted continuation of services and may be amended as deemed necessary.

8. The commissioner shall determine the amount of funds to be allocated to an approved organization for the purposes described in subdivision one of this section within such funds which may be available for the purposes of this article. (a) Subsidy payments made to approved organizations on and after April first, two thousand five through March thirty-first, two thousand six, shall be at amounts approved prior to April first, two thousand five. Applications for increases to subsidy payments submitted by approved organizations to the superintendent on or after January first, two thousand five, shall not be considered for approval until after March thirty-first, two thousand six. (b) Further, subsidy payments made to approved organizations on and after April first, two thousand seven through March thirty-first, two thousand eight, shall be at amounts approved prior to April first, two thousand seven. Applications for increases to subsidy payments submitted by approved organizations to the superintendent on or after January first, two thousand seven, shall not be considered for approval until after March thirty-first, two thousand eight. (c) Nothing in this subdivision shall prohibit decreases in subsidy payments in accordance with relevant contract provisions.

(d)(i) Effective April first, two thousand nine, payment for marketing and facilitated enrollment activities set forth in subdivision nine of this section and included in subsidy payments made to approved organizations providing such services pursuant to a contract with the state shall be limited to an amount determined annually by the commissioner.

(ii) Such subsidy payments shall be adjusted by the commissioner to remove any costs of approved organizations in excess of the amount determined in accordance with subparagraph (i) of this paragraph based on cost reports submitted to the department by approved organizations.

(f) The commissioner shall adjust subsidy payments made to approved organizations on and after April first, two thousand eleven through March thirty-first, two thousand twelve, so that the amount of each such payment is reduced by one and seven-tenths percent.

(g) The commissioner may increase subsidy payments made to approved organizations that voluntarily participate in the multi-payor patient centered medical home program to reflect additional costs associated with enhanced payments made to certified medical homes by approved organizations as required by article twenty-nine-AA of this chapter.

(h) Notwithstanding any inconsistent provision of this title, articles thirty-two and forty-three of the insurance law and subsection (e) of section eleven hundred twenty of the insurance law, for the period April first, two thousand fourteen through March thirty-first, two thousand fifteen, subsidy payments made to approved organizations shall be at amounts approved prior to April first, two thousand fourteen.

(i) Notwithstanding any inconsistent provision of this title, articles thirty-two and forty-three of the insurance law and subsection (e) of section eleven hundred twenty of the insurance law:

(i) The commissioner shall, subject to approval of the director of the division of the budget, develop reimbursement methodologies for determining the amount of subsidy payments made to approved organizations for the cost of covered health care services coverage provided pursuant to this title for payments made on and after January first, two thousand twenty-four.

(ii) Effective January first, two thousand twenty-three, the commissioner shall coordinate with the superintendent of financial services for the transition of the subsidy payment rate setting function to the department and, in conjunction with its independent actuary, review reimbursement methodologies developed in accordance with subparagraph (i) of this paragraph. Notwithstanding section one hundred sixty-three of the state finance law, the commissioner may select and contract with the independent actuary selected pursuant to subdivision eighteen of section three hundred sixty-four-j of the social services

law, without a competitive bid or request for proposal process. Such independent actuary shall review and make recommendations concerning appropriate actuarial assumptions relevant to the establishment of reimbursement methodologies, including but not limited to the adequacy of subsidy payment amounts in relation to the population to be served adjusted for case mix, the scope of services approved organizations must provide, the utilization of such services and the network of providers required to meet state standards.

9. The commissioner shall, within amounts available therefor, contract with community-based and other marketing organizations for purposes of public education, outreach, and recruitment of eligible children, including the distribution of applications and information regarding enrollment. In awarding such contracts, the commissioner shall consider the marketing, outreach and recruitment efforts of approved organizations, and the extent to which such organizations are able to effectively target efforts in geographic regions where the proportion of eligible children enrolled under this title are lower than in other geographic regions of the state. Community-based organizations shall include, but not be limited to: day care centers, schools, community-based diagnostic and treatment centers, and hospitals.

10. Notwithstanding any other law or agreement to the contrary, and except in the case of a child or children who also becomes eligible for medical assistance, benefits under this title shall be considered secondary to any other plan of insurance or benefit program, except the children and youth with special health care needs support services program and the early intervention program, under which an eligible child may have coverage.

11. (a) An approved organization shall submit required reports and information to the commissioner in such form and at times, at least annually, as may be required by the commissioner and specified in contracts and official department of health administrative guidance, in order to evaluate the operations and results of the program and quality of care being provided by such organizations. Such reports and information shall include, but not be limited to, enrollee demographics

(applicable only until the state enrollment center is implemented), program utilization and expense, patient care outcomes and patient specific medical information, including encounter data maintained by an approved organization for purposes of quality assurance and oversight. Any information or data collected pursuant to this paragraph shall be kept confidential in accordance with Title XXI of the federal social security act or any other applicable state or federal law.

(b) In the event an approved organization fails to submit any required report and information, as specified in contracts and official department of health administrative guidance, on or before the due date specified by the commissioner, the commissioner may reduce the approved organization's subsidy payments by up to a total of two percent each month for a period beginning on the first day of the calendar month following the original due date of the required report and information and continuing until the last day of the calendar month in which the required report and information are submitted; provided however, an approved organization shall not be subject to the percentage reduction under the following conditions: (i) for any new report for which such organization did not have reasonable notice which shall be at least sixty days notice of its requirement, data and submission specifications, and due date by certified mail to the approved organization's chief financial officer; or (ii) for any report, upon a finding by the commissioner that such report was not submitted on a timely basis for good cause, which may include, but not be limited to, additional time required to modify or add to computer data systems.

12. The commissioner shall, in consultation with the superintendent, establish procedures to coordinate the child health insurance plan with the medical assistance program, including but not limited to, procedures to maximize enrollment of eligible children under those programs by identification and transfer of children who are eligible or who become eligible to receive medical assistance and procedures to facilitate changes in enrollment status for children who are ineligible for subsidies under this section and for children who are no longer eligible for medical assistance in order to facilitate and ensure continuity of coverage. The commissioner shall review, on an annual basis, the eligibility verification and recertification procedures of approved

organizations under this title to insure the appropriate enrollment of children. Such review shall include, but not be limited to, an audit of a statistically representative sample of cases from among all approved organizations and shall be applicable to any period during which an approved organization's responsibilities include determining eligibility. In the event such review and audit reveals cases which do not meet the eligibility criteria for coverage set forth in this section, that information shall be forwarded to the approved organization and the commissioner for appropriate action.

12-a. The commissioner shall establish procedures to audit approved organizations for compliance with the requirements of this title, including the requirements of subdivision twelve of this section, contractual provisions established thereunder and advisory memoranda issued by the commissioner, title XXI of the federal social security act and any implementing federal regulations, and requirements set forth in the state child health plan established pursuant to title XXI of the federal social security act. Approved organizations shall comply with such procedures and make available any data necessary to perform such audits. Audit procedures shall include, but not be limited to, the following:

(a) standards and procedures for a preliminary audit to be conducted on no more than an annual basis;

(b) standards and procedures for the submission of a plan of correction by an approved organization, including time periods allowed to implement such plan of correction;

(c) standards and procedures for a second audit, including an exit conference which provides an approved organization the opportunity to rebut the composition of the audit sample as representative prior to recovery of subsidy payments and the imposition of penalties;

(d) standards and procedures for recovery of subsidy payments made for ineligible children, which, notwithstanding any inconsistent provisions of this title, may include recoveries based on extrapolated findings from a statistically representative sample of cases which shall be actuarially based and consistent with accepted auditing standards; and

(e) standards and procedures for the imposition of penalties for substantial noncompliance, which may include, but not be limited to,

financial penalties in addition to penalties set forth in section twelve of this chapter and consistent with applicable federal standards, as specified in contracts, and contract termination; provided however

(f) audit standards and procedures established pursuant to this section, including penalties, shall be applicable to eligibility determinations made by approved organizations only for periods during which an approved organization's responsibilities include making such eligibility determinations.

14. The commissioner, in consultation with the superintendent, shall enter into agreements with one or more persons, not-for-profit corporations, or other organizations, other than a state employee, official or agency, for the performance of a comprehensive evaluation of the implementation and effectiveness of the child health insurance program. Notwithstanding any inconsistent provision of law, the commissioner may allocate and distribute from funds otherwise available for distribution for purposes of this title an amount not to exceed five hundred thousand dollars for the costs of such evaluation. The evaluation shall include, but not be limited to:

(a) the overall effect of the child health insurance program on access to, utilization and quality of primary and preventive health care services, including, but not limited to, patterns of service utilization, geographic availability of service providers, possible reductions in uncompensated care as a result of the program, and enrollee satisfaction with program administration, services and quality;

(b) the impact of the child health insurance program on the health status of program participants, including the comparative impact on families that have a child enrolled in the program and other children that are not eligible and do not have coverage;

(c) the effect of the child health insurance program on emergency room utilization, including the effectiveness of preventing inappropriate utilization;

(d) the geographic accessibility of the child health insurance program, including the availability and accessibility of service providers, premium levels and premium increases;

(e) the effect of community-based and statewide outreach education efforts;

(f) the results of a statistically valid sampling of cases verifying certification and recertification of eligibility for subsidy payments under this title including but not limited to data on failure by approved organizations to adequately verify enrollee eligibility;

(g) any recommendations for programmatic changes to improve the child health insurance program based on program evaluation and enrollee satisfaction data; and

(h) a cost and patient outcome comparison of indemnity plans and managed care plans offered under this program.

A preliminary evaluation shall be submitted to the governor and the legislature by April first, nineteen hundred ninety-five and a further evaluation shall be submitted by January first, nineteen hundred ninety-six.

14-a. The commissioner shall enter into an agreement with one or more persons, not-for-profit corporations, or other organizations, other than a state employee, official or agency, for comprehensive research concerning the health care coverage of children in New York state. The organization conducting the research shall, at least annually, issue a report of its findings to the governor and the legislature. The research shall include, but not be limited to:

(a) a survey of the uninsured in the state;

(b) on-going comprehensive studies of the characteristics of uninsured children and their families, including demographic characteristics, and reasons such children and families are uninsured;

(c) the collection and dissemination of data and other relevant information relating to the health care coverage of children and their families; and

(d) a review of such factors relating to the uninsured in New York state as the commissioner, in consultation with the superintendent, shall require.

15. Notwithstanding any inconsistent provision of section one hundred twelve or one hundred sixty-three of the state finance law or any other law, at the discretion of the commissioner without a competitive bid or request for proposal process:

(a) contractual arrangements with approved organizations to provide primary and preventive health care services coverage for eligible children, or with organizations for purposes of public education, outreach and recruitment of eligible children, in effect in nineteen hundred ninety-three may be extended to provide for primary and preventive health care services coverage for eligible children or public education, outreach and recruitment of eligible children in nineteen hundred ninety-four and nineteen hundred ninety-five and those contractual arrangements with approved organizations to provide primary and preventive health care services coverage for eligible children in effect for nineteen hundred ninety-five may be extended through June thirtieth, nineteen hundred ninety-six to provide an uninterrupted continuation of services and additional time for program evaluation and may be amended as may be necessary, provided, however, that the commissioner shall periodically review the process of ensuring adequate participation of approved organizations under this section; and

(b) contractual arrangements with approved organizations to provide primary and preventive health care services coverage for eligible children, or with organizations for purposes of public education, outreach and recruitment of eligible children in effect in the period January first, nineteen hundred ninety-six through June thirtieth, nineteen hundred ninety-six may be extended for public education, outreach and recruitment of eligible children through December thirty-first, nineteen hundred ninety-six and to provide for primary and preventive health care services coverage for eligible children through such periods for which such coverage continues to apply prior to the addition of coverage for inpatient health care services to provide an uninterrupted continuation of services and may be amended as may be necessary.

* 16. The commissioner and the commissioner of social services shall jointly develop a simplified application form for coverage under this title, the medical assistance program and the federal women, infants and children program, and shall also develop appropriate verification and sampling procedures for the child health insurance plan in order to facilitate the appropriate enrollment of eligible children into the child health insurance plan, the medical assistance program, and the women, infants and children program. Nothing in this subdivision shall

be construed to require that eligibility documentation requirements for the services under this title shall apply to the medical assistance program, nor shall this subdivision be construed to preclude eligibility for any person pending the development of that application. Such application shall be available for use by local social services districts and approved organizations under this title by June thirtieth, nineteen hundred ninety-four.

* NB Expired July 1, 2007

16-a. The commissioner shall develop a simplified recertification form for use by approved organizations in renewing coverage for eligible children under this title. The form shall include requests only for such information that is: (i) reasonably necessary to determine continued eligibility for coverage under this title; and (ii) subject to change since the date of the household's initial application.

17. The commissioner, in consultation with the superintendent, is authorized to establish and operate a child health information service which shall utilize advanced telecommunications technologies to meet the health information and support needs of children, parents and medical professionals, which shall include, but not be limited to, treatment guidelines for children, treatment protocols, research articles and standards for the care of children from birth through eighteen years of age. Such information shall not constitute the practice of medicine, as defined in article one hundred thirty-one of the education law.

18. Premium Assistance Program. (a) The commissioner shall establish a premium assistance program for the purchase of family coverage under a group health plan or health insurance coverage that includes coverage of an eligible child, as defined in subdivision four of section twenty-five hundred ten of this article, contingent upon:

(i) a determination by the commissioner that the purchase of family coverage under this subdivision is cost effective relative to the amount the state would pay to obtain coverage under this title solely for the eligible child or children; and

(ii) the availability of federal financial participation in accordance with a waiver application submitted by the commissioner and approved by

the secretary of the department of health and human services.

(b) The commissioner shall establish and specify standards for the implementation of the premium assistance program in the federal waiver application, including, but not limited to, the following:

(i) standards for eligibility of children and families for and enrollment in the premium assistance program which shall include, at a minimum, the eligibility criteria set forth in subdivision two of this section; provided that:

(A) participation in the program for a child who resides in a household having a household income at or below two hundred fifty percent of the non-farm federal poverty level (as defined and updated by the United States department of health and human services) shall be voluntary and an eligible child may disenroll from the premium assistance program at any time and enroll in individual coverage under this title; and

(B) participation in the program for a child who resides in a household having a household income between two hundred fifty-one and four hundred percent of the non-farm federal poverty level (as defined and updated by the United States department of health and human services) and meets certain eligibility criteria shall be mandatory. A child in this income group who meets the criteria for enrollment in the premium assistance program shall not be eligible for individual coverage under this title;

(ii) standards for required levels of employer contributions toward the cost of premiums for family coverage;

(iii) standards for the level of state payment toward the cost of premiums for family coverage;

(iv) standards for the scope and level of benefits to be provided in the premium assistance program;

(v) standards for data collection including, but not limited to, data regarding the substitution of health insurance coverage that would be provided to eligible children in the absence of family coverage purchased pursuant to this subdivision; and

(vi) any other standards deemed necessary by the commissioner to implement the premium assistance program.

(c) The state share of the cost of the premium assistance program, if implemented, shall be funded within amounts appropriated for the purpose

of providing healthcare coverage for uninsured and underinsured children pursuant to this title.

19. Claims submitted to an approved organization for payment for medical care, services, or supplies furnished by an out-of-network health care provider must be submitted within fifteen months of the date the medical care, services, or supplies were furnished to an eligible person to be valid and enforceable against the approved organization. If a claim by an out-of-network health care provider is not submitted within fifteen months of the date that the medical care, services or supplies were furnished and the claim is subsequently denied by the approved organization for that reason, such out-of-network health care provider shall not seek payment for such medical care, services or supplies from the enrollee. This deadline for claims submission shall not apply where the claims submission is warranted to address findings or recommendations identified in a state or federal audit except where such audit also indicates that an inappropriate provider payment was solely the fault of the out-of-network health care provider.

20. For approved organizations with negotiated rates of payment for inpatient hospital services under contracts in effect on April first, two thousand eight, that have a payment rate methodology for such inpatient hospital services that utilizes rates calculated by the department of health pursuant to paragraph (a) or (a-2) of subdivision one of section twenty-eight hundred seven-c of the public health law for patients under the medical assistance program, such rate shall not include adjustments pursuant to subdivision thirty-three of section twenty-eight hundred seven-c of this chapter for contract periods prior to January first, two thousand ten.

21. The commissioner may make any necessary amendments to a contract pursuant to this section with an approved organization, as defined in subdivision two of section twenty-five hundred ten of this title, to allow such approved organization to participate as a qualified health plan in a state health benefit exchange established pursuant to the federal Patient Protection and Affordable Care Act (P.L. 111-148), as amended by the federal Health Care and Education Reconciliation Act of

2010 (P.L. 111-152).

22. Notwithstanding the provisions of this title and effective on and after January first, two thousand twenty-three, the consultative, review, and approval functions of the superintendent of financial services related to administration of the child health insurance plan are no longer applicable and references to those functions in this title shall be null and void. The child health insurance plan set forth in this title shall be administered solely by the commissioner. All child health insurance plan policies reviewed and approved by the superintendent of financial services in accordance with section eleven hundred twenty of the insurance law shall remain in effect until the commissioner establishes a process to review and approve member handbooks in accordance with the requirements of Title XXI of the federal social security act and implementing regulations, and such member handbooks are issued by approved organizations to enrollees in place of child health insurance plan policies which were subject to review under section eleven hundred twenty of the insurance law.