**§ 2559. Medical assistance program payments.** 1. Nothing in this title shall be construed to permit the department or any other state agency or municipality to reduce medical assistance or other assistance or services available to eligible children.

2. Notwithstanding any other provisions of law, costs incurred for early intervention services that otherwise qualify as medical assistance that are furnished to an eligible child who is also eligible for benefits pursuant to title eleven of article five of the social services law are considered to be medical assistance for purposes of payments to providers and state reimbursement to the extent that federal financial participation is available therefor.

3. (a) Parents shall provide the municipality and the service coordinator with a written referral from a primary care provider as documentation, for eligible children, of the medical necessity of early intervention services.

(b) Providers shall utilize the department's fiscal agent and data system for claiming payment for evaluations and services rendered under the early intervention program.

(c) A municipality, or its designee, and a provider shall be subrogated, to the extent of the expenditures by such municipality or for early intervention services furnished to persons eligible for benefits under this title, to any rights such person may have or be entitled to from the medical assistance program. The provider shall submit notice to the insurer or plan administrator of his or her exercise of such right of subrogation upon the provider's assignment as the early intervention service provider for the child. The right of subrogation does not attach to benefits paid or provided prior to receipt of written notice of the exercise of subrogation rights. Notwithstanding any inconsistent provision of this title, except as provided for herein, no third party payor other than the medical assistance program shall be required to reimburse for early intervention services provided under this title.

4. Notwithstanding any other provision of law, the commissioner, pursuant to a memorandum of understanding with the commissioner of the

office for people with developmental disabilities, shall develop and submit a medicaid home and community based services waiver, pursuant to section 1915c of the social security act, for the purpose of creating a waiver program to provide and finance services for children who qualify for the early intervention program. In further establishing eligibility criteria under the waiver program, the commissioner, in conjunction with the commissioner of the office for people with developmental disabilities, shall establish health, developmental and psycho-social criteria which shall permit the broadest eligibility based on criteria for the early intervention program and federal standards for participation in a waiver program. The waiver application shall be submitted pursuant to section 1915c of the social security act no later than January first, two thousand four.

5. Notwithstanding any law to the contrary, there is hereby established an early intervention demonstration project to be conducted in Albany, Montgomery, Rensselaer, Saratoga and Schenectady Counties. Such project shall be for the purposes of facilitating coverage eligibility determinations and claims submissions for early intervention services. The commissioner is hereby authorized and directed to facilitate and, within the amounts appropriated, shall award grant funds for the implementation and operation of such demonstration project which shall be conducted by an association representative of health maintenance organizations licensed under article forty-four of this chapter and article forty-three of the insurance law in conjunction with the commissioner and the counties specified in this subdivision.

Such demonstration shall include the development of an integrated web portal enabling access to health plan data bases to facilitate coverage eligibility, benefit determinations and claims submission and processing. Such access shall be subject to all federal and state laws for the confidentiality of personal and medical record information. The demonstration will develop technology solutions to facilitate coverage determinations and streamline and monitor claims processes and payment.

The association conducting the demonstration, the commissioner and participating counties shall submit a report to the temporary president

of the senate and the speaker of the assembly, not later than one year following the commencement of the program's operation, describing the experiences, feasibility and advisability of replication, and any additional recommendations for continuation, modification or cessation of the program.