§ 2807-p. Comprehensive diagnostic and treatment centers indigent care program. 1. (a) For periods prior to July first, two thousand three, and on and after July first, two thousand five the commissioner is authorized to make payments to eligible diagnostic and treatment centers, to the extent of funds available therefor, up to forty-eight million dollars annually, to assist in meeting losses resulting from uncompensated care. The amount of funds available for such payments pursuant to subdivision four of this section shall be the amount remaining after the allocation provided in section seven of chapter four hundred thirty-three of the laws of nineteen hundred ninety-seven as amended by section seventy-five of chapter one of the laws of nineteen hundred ninety-nine.

(b) For periods on and after July first, two thousand three, through June thirtieth, two thousand five, the commissioner shall, subject to the availability of federal financial participation, adjust medical assistance rates of payment to assist in meeting losses resulting from uncompensated care, provided, however, in the event federal financial participation is not available, the commissioner is authorized to continue to make payments to eligible diagnostic and treatment centers, to the extent of funds available therefor, in accordance with provisions of paragraph (a) of this subdivision and without regard to the provisions of subdivisions four-a and four-b of this section.

(c) Notwithstanding paragraph (a) of this subdivision, subdivision four-c of this section or any other inconsistent provision of this section, distributions made pursuant to this section for annual periods on and after July first, two thousand nine shall be subject to a uniform reduction of two percent.

(d) The commissioner may require facilities receiving distributions pursuant to this section as a condition of participating in such distributions, to provide reports and data to the department as the commissioner deems necessary to adequately implement the provisions of this section.

2. Definitions. (a) "Eligible diagnostic and treatment centers", for purposes of this section, shall mean voluntary non-profit and publicly sponsored diagnostic and treatment centers providing a comprehensive range of primary health care services which can demonstrate losses from

disproportionate share of uncompensated care during a base period two years prior to the grant period; provided that for periods on and after January first, two thousand four an eligible diagnostic and treatment center shall not include any voluntary non-profit diagnostic and treatment center controlling, controlled by or under common control with a health maintenance organization, as defined by subdivision one of section forty-four hundred one of this chapter; provided further that for purposes of this section, a health maintenance organization shall not include a prepaid health services plan licensed pursuant to section forty-four hundred three-a of this chapter. For periods on and after July first, two thousand three, the base period and the grant period shall be the calendar year.

(b) "Uncompensated care need", for purposes of this section, means losses from reported self-pay and free visits multiplied by the facility's medical assistance payment rate for the applicable distribution year, offset by payments received from such patients during the reporting period.

3. (a) During the period January first, nineteen hundred ninety-seven through September thirtieth, nineteen hundred ninety-seven and for each fiscal year period commencing on October first thereafter through December thirty-first, nineteen hundred ninety-nine and for periods on and after January first, two thousand, diagnostic and treatment centers shall be eligible for allocations of funds or for rate adjustments determined in accordance with this section to reflect the needs of the diagnostic and treatment center for the financing of losses resulting from uncompensated care.

(b) A diagnostic and treatment center qualifying for a distribution or a rate adjustment pursuant to this section shall provide assurances satisfactory to the commissioner that it shall undertake reasonable efforts to maintain financial support from community and public funding sources and reasonable efforts to collect payments for services from third-party insurance payors, governmental payors and self-paying patients.

(c) To be eligible for an allocation of funds or a rate adjustment pursuant to this section, a diagnostic and treatment center must provide a comprehensive range of primary health care services and must

demonstrate that a minimum of five percent of total clinic visits reported during the applicable base year period were to uninsured individuals. The commissioner may retrospectively reduce the allocations of funds or the rate adjustments to a diagnostic and treatment center if it is determined that provider management actions or decisions have caused a significant reduction for the grant period in the delivery of comprehensive primary health care services to uncompensated care residents of the community.

4. (a) (i) The total amount of funds to be allocated and distributed for uncompensated care to eligible voluntary non-profit diagnostic and treatment centers for a distribution period prior to July first, two thousand three, and on and after July first, two thousand five through December thirty-first, two thousand six, in accordance with this subdivision shall be limited to thirty-three percent of the funds available therefor pursuant to paragraph (a) of subdivision one of this section and, for the period January first, two thousand seven through December thirty-first, two thousand seven, such distributions shall be limited to sixteen and one-half percent of the funds available therefor.

(ii) The total amount of funds to be allocated and distributed for uncompensated care to eligible publicly sponsored diagnostic and treatment centers for a grant period prior to July first, two thousand three, and on and after July first, two thousand five through December thirty-first, two thousand six, in accordance with this subdivision shall be limited to sixty-seven percent of funds available therefor pursuant to paragraph (a) of subdivision one of this section and, for the period January first, two thousand seven through December thirty-first, two thousand seven, such distributions shall be limited to thirty-three and one-half percent of the funds available therefor; provided, however, that for periods up through December thirty-first, two thousand seven, forty-one percent of the amount of funds allocated for distribution to eligible publicly sponsored diagnostic and treatment centers shall be available for clinics operating under the auspices of the New York city health and hospitals corporation as established by chapter one thousand sixteen of the laws of nineteen hundred sixty-nine as amended.

(iii) (A) Notwithstanding any inconsistent provision of this

paragraph, for the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-nine and for periods on and after January first, two thousand through December thirty-first, two thousand two, and for periods on and after January first, two thousand four through December thirty-first, two thousand seven, in the event that federal financial participation is not available for rate adjustments pursuant to this section, diagnostic and treatment centers which received an allowance pursuant to paragraph (f) of subdivision two of section twenty-eight hundred seven of this article for the period through December thirty-first, nineteen hundred ninety-six shall receive an annual uncompensated care distribution allocation of funds of not less than the amount that would have been received for any losses associated with the delivery of bad debt and charity care for nineteen hundred ninety-five had the provisions of paragraph (f) of subdivision two of section twenty-eight hundred seven of this article remained in effect, provided, however, that for the period January first, two thousand seven through December thirty-first, two thousand seven, the dollar value of the application of the provisions of this subparagraph for any such diagnostic and treatment center shall be reduced by fifty percent.

(B) For the period January first, two thousand three through June thirtieth, two thousand three, and for the period July first, two thousand three through December thirty-first, two thousand three and in the event that federal financial participation is not available for rate adjustments pursuant to this section, each such diagnostic and treatment center shall receive an uncompensated care distribution allocation of funds of not less than one-half the amount calculated pursuant to clause (A) of this subparagraph.

(b) (i) A nominal payment amount for the financing of losses associated with the delivery of uncompensated care will be established for each eligible diagnostic and treatment center. The nominal payment amount shall be calculated as the sum of the dollars attributable to the application of an incrementally increasing nominal coverage percentage of base year period losses associated with the delivery of uncompensated care for percentage increases in the relationship between base year period eligible uninsured care clinic visits and base year period total clinic visits according to the following scale:

% of eligible bad debt and charity care clinic visits to total visits	% of nominal financial loss coverage
up to 15%	50%
15 - 30%	75%
30%+	100%

(ii) For periods prior to January first, two thousand eight, if the sum of the nominal payment amounts for all eligible voluntary non-profit diagnostic and treatment centers or for all eligible public diagnostic and treatment centers or for all clinics operating under the auspices of the New York city health and hospitals corporation is less than the amount allocated for uncompensated care allowances pursuant to paragraph (a) of this subdivision for such diagnostic and treatment centers respectively, the nominal coverage percentages of base year period losses associated with the delivery of uncompensated care pursuant to this scale may be increased to not more than one hundred percent for voluntary non-profit diagnostic and treatment centers or for public diagnostic and treatment centers or for all clinics operating under the auspices of the New York city health and hospitals corporation in accordance with rules and regulations adopted by the council and approved by the commissioner.

(c) For periods prior to January first, two thousand eight, the uncompensated care allocations of funds for each eligible voluntary non-profit diagnostic and treatment center, as computed in accordance with paragraph (a) of this subdivision, shall be based on the dollar value of the result of the ratio of total funds allocated for distributions for voluntary non-profit diagnostic and treatment centers pursuant to paragraph (a) of this subdivision to the total statewide nominal payment amounts for all eligible voluntary non-profit diagnostic and treatment centers determined in accordance with paragraph (b) of this subdivision applied to the nominal payment amount for each such diagnostic and treatment center.

(d) For periods prior to January first, two thousand eight, the uncompensated care allocations of funds for each eligible public diagnostic and treatment center, other than clinics operating under the auspices of the New York city health and hospitals corporation and as computed in accordance with paragraph (a) of this subdivision, shall be based on the dollar value of the result of the ratio of total funds

allocated for distributions for public diagnostic and treatment centers, other than clinics operating under the auspices of the New York city health and hospitals corporation, pursuant to paragraph (a) of this subdivision to the total statewide nominal payment amounts for all eligible public diagnostic and treatment centers, other than clinics operating under the auspices of the New York city health and hospitals corporation, determined in accordance with paragraph (b) of this subdivision applied to the nominal payment amount for each such diagnostic and treatment center.

(e) For periods prior to January first, two thousand eight, the uncompensated care grant allocations of funds for each eligible public diagnostic and treatment center operating under the auspices of the New York city health and hospitals corporation, as computed in accordance with paragraph (a) of this subdivision, shall be based on the dollar value of the result of the ratio of total funds allocated for distributions for public diagnostic and treatment centers operating under the auspices of the New York city health and hospitals corporation pursuant to paragraph (a) of this subdivision to the total statewide nominal payment amounts for all eligible public diagnostic and treatment centers operating under the auspices of the New York city health and hospitals corporation determined in accordance with paragraph (b) of this subdivision applied to the nominal payment amount for each such diagnostic and treatment center.

(f) For periods prior to January first, two thousand eight, any residual amount allocated for distribution to a classification of diagnostic and treatment centers in accordance with this subdivision shall be reallocated by the commissioner for distributions to the other classifications based on remaining need.

(g) For periods on and after January first, two thousand seven, the uncompensated care allocations of funds for each eligible diagnostic and treatment center, other than allocations made pursuant to paragraphs (c), (d), (e) or (f) of this subdivision, shall be based on the dollar value of the result of the ratio of total funds allocated for distributions for all eligible diagnostic and treatment centers to the total statewide nominal payment amounts for all eligible diagnostic and treatment centers determined in accordance with paragraph (b) of this subdivision applied to the nominal payment amount for each such

diagnostic and treatment center.

4-a. (a)(i) For periods on and after July first, two thousand three, through June thirtieth, two thousand five, funds shall be made available for adjustments to rates of payments made pursuant to paragraph (b) of subdivision one of this section for eligible voluntary non-profit diagnostic and treatment centers in accordance with subparagraphs (ii) and (iii) of this paragraph, for the following periods in the following aggregate amounts:

(A) For the period July first, two thousand three through December thirty-first, two thousand three, up to seven million five hundred thousand dollars;

(B) For the period January first, two thousand four through December thirty-first, two thousand four, up to fifteen million dollars;

(C) For the period January first, two thousand five through June thirtieth, two thousand five, up to seven million five hundred thousand dollars.

(ii) A nominal payment amount for the financing of losses associated with the delivery of uncompensated care will be established for each eligible diagnostic and treatment center. The nominal payment amount shall be calculated as the sum of the dollars attributable to the application of an incrementally increasing nominal coverage percentage of base year period losses associated with the delivery of uncompensated care for percentage increases in the relationship between base year period eligible uninsured care clinic visits and base year period total clinic visits according to the following scale:

% of eligible bad debt and charity care clinic visits to total visits	% of nominal financial loss coverage
up to 15%	50%
15 - 30%	75%
30%+	100%

(iii) The uncompensated care rate adjustments for each eligible voluntary non-profit diagnostic and treatment center shall be based on the dollar value of the result of the ratio of total funds allocated for distributions for voluntary non-profit diagnostic and treatment centers pursuant to subparagraph (i) of this paragraph, to the total statewide nominal payment amounts for all eligible voluntary non-profit diagnostic

and treatment centers determined in accordance with subparagraph (ii) of this paragraph applied to the nominal payment amount for each such diagnostic and treatment center.

(b)(i) For periods on and after July first, two thousand three through June thirtieth, two thousand five, funds shall be made available for adjustments to rates of payments made pursuant to paragraph (b) of subdivision one of this section for eligible public diagnostic and treatment centers, other than clinics operated under the auspices of the New York city health and hospitals corporation, in accordance with subparagraphs (ii) and (iii) of this paragraph, for the following periods in the following aggregate amounts:

(A) For the period July first, two thousand three through December thirty-first, two thousand three, up to nine million dollars;

(B) For the period January first, two thousand four through December thirty-first, two thousand four, up to eighteen million dollars;

(C) For the period January first, two thousand five through June thirtieth, two thousand five, up to nine million dollars.

(ii) A nominal payment amount for the financing of losses associated with the delivery of uncompensated care will be established for each eligible diagnostic and treatment center. The nominal payment amount shall be calculated as the sum of the dollars attributable to the application of an incrementally increasing nominal coverage percentage of base year period losses associated with the delivery of uncompensated care for percentage increases in the relationship between base year period eligible uninsured care clinic visits and base year period total clinic visits according to the following scale:

% of eligible bad debt and charity care clinic visits to total visits	% of nominal financial loss coverage
up to 15%	50%
15 - 30%	75%
30%+	100%

(iii) The uncompensated care rate adjustments for each eligible public diagnostic and treatment center, other than clinics operating under the auspices of the New York city health and hospitals corporation, shall be based on the dollar value of the result of the ratio of total funds allocated for distributions for public diagnostic and treatment centers, other than clinics operating under the auspices of the New York city

health and hospitals corporation, pursuant to subparagraph (i) of this paragraph to the total statewide nominal payment amounts for all eligible public diagnostic and treatment centers, other than clinics operating under the auspices of the New York city health and hospitals corporation, determined in accordance with subparagraph (ii) of this paragraph applied to the nominal payment amount for each such diagnostic and treatment center.

(c)(i) For periods on and after July first, two thousand three, through June thirtieth, two thousand five, funds shall be made available for adjustments to rates of payments made pursuant to paragraph (b) of subdivision one of this section for eligible public diagnostic and treatment centers operating under the auspices of the New York city health and hospitals corporation, in accordance with subparagraphs (ii) and (iii) of this paragraph, for the following periods in the following aggregate amounts:

(A) For the period July first, two thousand three through December thirty-first, two thousand three, up to six million dollars;

(B) For the period January first, two thousand four through December thirty-first, two thousand four, up to twelve million dollars;

(C) For the period January first, two thousand five through June thirtieth, two thousand five, up to six million dollars.

(ii) A nominal payment amount for the financing of losses associated with the delivery of uncompensated care will be established for each eligible diagnostic and treatment center. The nominal payment amount shall be calculated as the sum of the dollars attributable to the application of an incrementally increasing nominal coverage percentage of base year period losses associated with the delivery of uncompensated care for percentage increases in the relationship between base year period eligible uninsured care clinic visits and base year period total clinic visits according to the following scale:

% of eligible bad debt and charity care clinic visits to total visits	% of nominal financial loss coverage
up to 15%	50%
15 - 30%	75%
30%+	100%

(iii) The uncompensated care rate adjustment, for each eligible public diagnostic and treatment center operating under the auspices of the New

York city health and hospitals corporation shall be based on the dollar value of the result of the ratio of total funds allocated for distributions for public diagnostic and treatment centers operating under the auspices of the New York city health and hospitals corporation pursuant to subparagraph (i) of this paragraph to the total statewide nominal payment amounts for all eligible public diagnostic and treatment centers operating under the auspices of the New York city health and hospitals corporation determined in accordance with subparagraph (ii) of this paragraph applied to the nominal payment amount for each such diagnostic and treatment center.

(d) (i) Notwithstanding the provisions of paragraph (b) of this subdivision and any other provisions of this chapter, municipalities which received state aid pursuant to article two of this chapter for the nineteen hundred eighty-nine--nineteen hundred ninety state fiscal year in support of non-hospital based free-standing or local health department operated general medical clinics shall receive an uncompensated care rate adjustment for the period July first, two thousand three through December thirty-first, two thousand three, of not less than one-half the amount received in the nineteen hundred eighty-nine--nineteen hundred ninety state fiscal year for general medical clinics.

(ii) For the period January first, two thousand four through December thirty-first, two thousand four, each such municipality shall receive an uncompensated care rate adjustment of not less than twice the amount calculated pursuant to subparagraph (i) of this paragraph.

(iii) For the period January first, two thousand five through June thirtieth, two thousand five, each such municipality shall receive an annual uncompensated care rate adjustment of not less than the amount calculated pursuant to subparagraph (i) of this paragraph.

(e) (i) Notwithstanding any inconsistent provision of this subdivision, for the period July first, two thousand three through December thirty-first, two thousand three, diagnostic and treatment centers which received an allowance pursuant to paragraph (f) of subdivision two of section twenty-eight hundred seven of this article for the period through December thirty-first, nineteen hundred ninety-six shall receive an uncompensated care rate adjustment of not less than one-half the amount that would have been received for any

losses associated with the delivery of bad debt and charity care for nineteen hundred ninety-five had the provisions of paragraph (f) of subdivision two of section twenty-eight hundred seven of this article remained in effect.

(ii) For the period January first, two thousand four through December thirty-first, two thousand four, each such diagnostic and treatment center shall receive an uncompensated care rate adjustment of not less than twice the amount calculated pursuant to subparagraph (i) of this paragraph.

(iii) For the period January first, two thousand five through June thirtieth, two thousand five, each such diagnostic and treatment center shall receive an annual uncompensated care rate adjustment of not less than the amount calculated pursuant to subparagraph (i) of this paragraph, and shall be subject to subsequent adjustment or reconciliation.

(f) Any residual amount allocated for distribution to a classification of diagnostic and treatment centers in accordance with this subdivision shall be reallocated by the commissioner for distributions to the other classifications based on remaining need.

4-b. (a) For periods on and after July first, two thousand three, through June thirtieth, two thousand five, funds shall be made available for adjustments to rates of payment made pursuant to paragraph (b) of subdivision one of this section for eligible diagnostic and treatment centers with less than two years of operating experience, and diagnostic and treatment centers which have received certificate of need approval on applications which indicate a significant increase in uninsured visits, for the following periods and in the following aggregate amounts:

(i) For the period July first, two thousand three through December thirty-first, two thousand three, up to one million five hundred thousand dollars;

(ii) For the period January first, two thousand four through December thirty-first, two thousand four, up to three million dollars;

(iii) For the period January first, two thousand five through June thirtieth, two thousand five, up to one million five hundred thousand dollars.

(b) To be eligible for a rate adjustment pursuant to this section, a diagnostic and treatment center shall be a voluntary, non-profit or publicly sponsored diagnostic and treatment center providing a comprehensive range of primary health care services and be eligible to receive a medicaid budgeted rate prior to April first of the applicable rate adjustment period after which time, the department shall issue rate adjustments pursuant to this subdivision for such periods. Rate adjustments made pursuant to this subdivision shall be allocated based upon each eligible facility's proportional share of costs for services rendered to uninsured patients which have otherwise not been used for establishing distributions pursuant to subdivision four-a of this section. For the purposes of this subdivision costs shall be measured by multiplying each facility's medicaid budgeted rate by the estimated number of visits reported for services anticipated to be rendered to uninsured patients meeting the aforementioned criteria, less any anticipated patient service revenues received from such uninsured patients, during the applicable rate adjustment period.

4-c. Notwithstanding any provision of law to the contrary, the commissioner shall make additional payments for uncompensated care to voluntary non-profit diagnostic and treatment centers that are eligible for distributions under subdivision four of this section in the following amounts: for the period June first, two thousand six through December thirty-first, two thousand six, in the amount of seven million five hundred thousand dollars, for the period January first, two thousand seven through December thirty-first, two thousand seven, seven million five hundred thousand dollars, for the period January first, two thousand eight through December thirty-first, two thousand eight, seven million five hundred thousand dollars, for the period January first, two thousand nine through December thirty-first, two thousand nine, fifteen million five hundred thousand dollars, for the period January first, two thousand ten through December thirty-first, two thousand ten, seven million five hundred thousand dollars, for the period January first, two thousand eleven though December thirty-first, two thousand eleven, seven million five hundred thousand dollars, for the period January first, two thousand twelve through December thirty-first, two thousand twelve, seven million five hundred thousand dollars, for the period January

first, two thousand thirteen through December thirty-first, two thousand thirteen, seven million five hundred thousand dollars, for the period January first, two thousand fourteen through December thirty-first, two thousand fourteen, seven million five hundred thousand dollars, for the period January first, two thousand fifteen through December thirty-first, two thousand fifteen, seven million five hundred thousand dollars, for the period January first two thousand sixteen through December thirty-first, two thousand sixteen, seven million five hundred thousand dollars, for the period January first, two thousand seventeen through December thirty-first, two thousand seventeen, seven million five hundred thousand dollars, for the period January first, two thousand eighteen through December thirty-first, two thousand eighteen, seven million five hundred thousand dollars, for the period January first, two thousand nineteen through December thirty-first, two thousand nineteen, seven million five hundred thousand dollars, for the period January first, two thousand twenty through December thirty-first, two thousand twenty, seven million five hundred thousand dollars, for the period January first, two thousand twenty-one through December thirty-first, two thousand twenty-one, seven million five hundred thousand dollars, for the period January first, two thousand twenty-two through December thirty-first, two thousand twenty-two, seven million five hundred thousand dollars, for the period January first, two thousand twenty-three through December thirty-first, two thousand twenty-three, seven million five hundred thousand dollars, for the period January first, two thousand twenty-four through December thirty-first, two thousand twenty-four, seven million five hundred thousand dollars, for the period January first, two thousand twenty-five through December thirty-first, two thousand twenty-five, seven million five hundred thousand dollars, for the period January first, two thousand twenty-six through December thirty-first, two thousand twenty-six, seven million five hundred thousand dollars, for the period January first, two thousand twenty-seven through December thirty-first, two thousand twenty-seven, seven million five hundred thousand dollars, for the period January first, two thousand twenty-eight through December thirty-first, two thousand twenty-eight, seven million five hundred thousand dollars, and for the period January first, two thousand twenty-nine through March thirty-first, two thousand twenty-nine, in the

amount of one million six hundred thousand dollars, provided, however, that for periods on and after January first, two thousand eight, such additional payments shall be distributed to voluntary, non-profit diagnostic and treatment centers and to public diagnostic and treatment centers in accordance with paragraph (g) of subdivision four of this section. In the event that federal financial participation is available for rate adjustments pursuant to this section, the commissioner shall make such payments as additional adjustments to rates of payment for voluntary non-profit diagnostic and treatment centers that are eligible for distributions under subdivision four-a of this section in the following amounts: for the period June first, two thousand six through December thirty-first, two thousand six, fifteen million dollars in the aggregate, and for the period January first, two thousand seven through June thirtieth, two thousand seven, seven million five hundred thousand dollars in the aggregate. The amounts allocated pursuant to this paragraph shall be aggregated with and distributed pursuant to the same methodology applicable to the amounts allocated to such diagnostic and treatment centers for such periods pursuant to subdivision four of this section if federal financial participation is not available, or pursuant to subdivision four-a of this section if federal financial participation is available. Notwithstanding section three hundred sixty-eight-a of the social services law, there shall be no local share in a medical assistance payment adjustment under this subdivision.

5. Diagnostic and treatment centers shall furnish to the department such reports and information as may be required by the commissioner to assess the cost, quality, access to, effectiveness and efficiency of uncompensated care provided. The council shall adopt rules and regulations, subject to the approval of the commissioner, to establish uniform reporting and accounting principles designed to enable diagnostic and treatment centers to fairly and accurately determine and report uncompensated care visits and the costs of uncompensated care. In order to be eligible for an allocation of funds pursuant to this section, a diagnostic and treatment center must be in compliance with uncompensated care reporting requirements.

6. Notwithstanding any inconsistent provision of law to the contrary,

the availability or payment of funds to a diagnostic and treatment center pursuant to this section shall not be admissible as a defense, offset or reduction in any action or proceeding relating to any bill or claim for amounts due for services provided by a diagnostic and treatment center.

7. Revenue from distributions to a diagnostic and treatment center pursuant to this section shall not be included in gross revenue received for purposes of the assessments pursuant to section twenty-eight hundred seven-d of this article, subject to the provisions of subdivision twelve of section twenty-eight hundred seven-d of this article.

8. (a) For periods on or after January first, two thousand through June thirtieth, two thousand three, payments made to an eligible diagnostic and treatment center pursuant to this section shall be reduced or increased by an amount equal to the amount of any overpayments or underpayments made against grants awarded pursuant to section seven of chapter four hundred thirty-three of the laws of nineteen hundred ninety-seven for the period three years prior to the annual awards made pursuant to this section.

(b) The determination of such overpayments or underpayments shall be based on the submission by eligible facilities of reports reflecting actual uncompensated care data, as required by the commissioner, which are attributable to prior periods. Submission of such reports is a condition for an eligible facility's receipt of payments pursuant to this section.

(c) For any periods in which a facility does not receive payments pursuant to this section, the amount of any prior period overpayment may be offset against payments for medical assistance made to such facility pursuant to title eleven of article five of the social services law and credited to funds allocated pursuant to this section. Any prior period underpayment to an eligible facility may be paid to such facility in a subsequent period.

9. Adjustments to rates of payment made pursuant to this section may be added to rates of payment or made as aggregate payments to eligible diagnostic and treatment centers and shall not be subject to subsequent

adjustment or reconciliation, provided, however, that in the event such adjustments are made as aggregate payments, then notwithstanding any law, rule or regulation to the contrary responsibility for the local share of such aggregate payments shall be apportioned to a local social services district based on the most recent geographic utilization data available to the department for eligible diagnostic and treatment center services for payments in accordance with subdivisions four-a and four-b of this section for all diagnostic and treatment center services provided in accordance with section three hundred sixty-five-a of the social services law, regardless of whether another social services district or the department may otherwise be responsible for furnishing medical assistance to the eligible persons receiving such services.

10. (a) Notwithstanding any inconsistent provision of this section or any other contrary provision of law, the commissioner is authorized to seek a waiver from the federal department of health and human services pursuant to section eleven hundred fifteen of the federal social security act, or such other federal law provision as may be deemed appropriate, seeking federal financial participation in payments made pursuant to this section, in which case the state funding made available pursuant to this section shall be utilized as the non-federal share of such payments. To the extent as may be required, payments made pursuant to this section and in accordance with this subdivision, may be deemed to be disproportionate share hospital payments in accordance with the provisions of the federal social security act.

(b) If federal financial participation in payments made pursuant to this section are made available in accordance with the provisions of this subdivision, free-standing clinics licensed solely pursuant to article thirty-one of the mental hygiene law shall also be deemed eligible for participation in such payments to the same degree and in accordance with the same distribution methodology otherwise provided in this section, provided, however, that only those units of service provided by such free-standing clinics that constitute medical services that are otherwise eligible for consideration for Medicaid payments shall be reflected in distributions made pursuant to this section, and further provided, however, that the commissioner may, in consultation with the commissioner of the office of mental health, require such

clinics, as a condition of receiving such distributions, to provide reports and data to the department as the commissioner deems necessary to adequately implement the provisions of this subdivision with regard to such clinics.