*** § 2807-s. Professional education pool funding.** 1. (a) Payments to general hospitals by all specified third-party payors, as defined in paragraph (b) of subdivision one-a of this section, making payments on a rate, charge, negotiated payment, or other basis for inpatient hospital services provided to persons who are not eligible for payments as beneficiaries of title XVIII of the federal social security act (medicare) or eligible for medical assistance pursuant to title eleven of article five of the social services law (including enrollees in medicaid managed care programs) or eligible for the family health plus program pursuant to title eleven-D of article five of the social services law, and related payments of patient deductible and coinsurance amounts and of secondary third-party payors, shall include a surcharge for a regional allowance on inpatient hospital net patient service revenues in the percentage amount and for the periods specified in subdivision two of this section. Any such allowance shall be submitted by general hospitals to the commissioner or the commissioner's designee in accordance with subdivision five of this section.

(b) The allowance established pursuant to this section shall not be applicable to specified third-party payors filing an election and making payments to the commissioner or the commissioner's designee in accordance with section twenty-eight hundred-seven-t of this article and pursuant to paragraph (a) of subdivision five of section twenty-eight hundred seven-j of this article, nor to related payments of patient deductible and coinsurance amounts and of secondary third-party payors.

1-a. Definitions. (a) "Third-party coverage", for purposes of this section and section twenty-eight hundred seven-t of this article, shall include payments by a specified third-party payor making payments on behalf of a patient; whether made directly to a general hospital or indirectly as indemnity or similar payments made to the patient (or patient's representative such as parent or family member) for inpatient hospital services provided by a general hospital, or through the use of payments made payable to both the general hospital and the patient or patient's representative, or similar devices.

(b) "Specified third-party payors", for purposes of this section and sections twenty-eight hundred seven-j and twenty-eight hundred seven-t of this article, shall include corporations organized and operating in

accordance with article forty-three of the insurance law, organizations operating in accordance with the provisions of article forty-four of this chapter, self-insured funds and administrators acting on behalf of self-insured funds, and commercial insurers authorized to write accident and health insurance and whose policy provides coverage on an expense incurred basis. Specified third-party payors, for purposes of this section, shall not include governmental agencies or providers of coverage pursuant to the comprehensive motor vehicle insurance reparations act, the workers' compensation law, the volunteer firefighters' benefit law, or the volunteer ambulance workers' benefit law.

(c) "Regions", for purposes of this section and section twenty-eight hundred seven-t of this article shall mean the regions as defined in paragraph (b) of subdivision sixteen of section twenty-eight hundred seven-c of this article as in effect on June thirtieth, nineteen hundred ninety-six.

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

(b) the result expressed as a percentage of:

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

(ii) the total estimated nineteen hundred ninety-six general hospital inpatient revenue of all general hospitals in the region, excluding (A) an estimate of revenue from services provided to beneficiaries of title XVIII of the federal social security act (medicare), (B) an estimate of revenue from services provided to patients eligible for payments by governmental agencies, patients eligible for payments pursuant to the comprehensive motor vehicle insurance reparations act, the workers' compensation law, the volunteer firefighters' benefit law, and the volunteer ambulance workers' benefit law, and self-pay patients, (C)

from general hospitals providing graduate medical education in the aggregate an amount equal to the amount specified in subparagraph (i) of this subdivision, other than the components of such amount allocable to payors specified in clause (B) of this subparagraph, and (D) an estimate of revenue reductions related to negotiated reimbursement in nineteen hundred ninety-seven with specified third-party payors which shall be a uniform statewide percentage estimated reduction.

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

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

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

(iv) The regional percentage allowance for periods on and after July first, two thousand seven, for all general hospitals in the region applicable to specified third-party payors, and applicable to related patient coinsurance and deductible amounts, shall be the same regional percentage allowance calculated pursuant to subparagraph (iii) of this

paragraph for the period January first, two thousand six through June thirtieth, two thousand seven.

3. Inpatient hospital net patient service revenues, for purposes of this section, shall mean for general hospitals all moneys received for or on account of inpatient hospital services provided to persons with third-party coverage from a specified third-party payor, including capitation payments allocable to inpatient hospital services, less refunds, for patients discharged or contracted hospital inpatient service obligations for periods on or after January first, nineteen hundred ninety-seven excluding the following subject to the provisions of subdivision eight of this section:

(a) revenue received from the allowances pursuant to section twenty-eight hundred seven-j of this article and this section; and

(b) revenue received from physician practice or faculty practice plan discrete billings for private practicing physician services.

4. (a) For periods prior to January first, two thousand five, the commissioner is authorized to contract with the article forty-three insurance law plans, or such other contractors as the commissioner shall designate, to receive and distribute funds from the allowances established pursuant to this section and funds from the assessments established pursuant to section twenty-eight hundred seven-t of this article. In the event contracts with the article forty-three insurance law plans or other commissioner's designees are effectuated, the commissioner shall conduct annual audits of the receipt and distribution of the funds. The reasonable costs and expenses of an administrator as approved by the commissioner, not to exceed for personnel services on an annual basis eight hundred fifty thousand dollars for collection and distribution of allowances established pursuant to this section and assessments established pursuant to this section and assessments established pursuant to section twenty-eight hundred seven-t of this article shall be paid from the allowance and assessment funds.

(b) 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, contracts in effect for administration of

bad debt and charity care pools for the period January first, nineteen hundred ninety-six through June thirtieth, nineteen hundred ninety-six pursuant to section twenty-eight hundred seven-c of this article may be extended to provide for administration pursuant to this section, and section twenty-eight hundred seven-t of this article and may be amended as may be necessary.

5. Funds due by a general hospital to the commissioner or the commissioner's designee from the allowance pursuant to this section shall be due and shall be collected under the terms and conditions provided for payment and collection of allowances pursuant to section twenty-eight hundred seven-j of this article.

6. The amount allocated to each region for purposes of calculating the regional allowance percentage pursuant to this section for each year during the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-nine and the regional assessments pursuant to section twenty-eight hundred seven-t of this article for each year during the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-nine and for each year on and after January first, two thousand, shall be the sum of the factors computed in paragraphs (b), (d) and (f) of this subdivision, if such factors are applicable to a given year, as follows:

(a) (i) A gross annual statewide amount for nineteen hundred ninety-seven shall be five hundred eighty-nine million dollars.

(ii) A gross annual statewide amount for nineteen hundred ninety-eight shall be five hundred eighty-nine million dollars.

(iii) A gross annual statewide amount for nineteen hundred ninety-nine shall be five hundred eighty-nine million dollars.

(iv) A gross annual statewide amount for two thousand shall be five hundred eighty-nine million dollars.

(v) A gross annual statewide amount for two thousand one shall be five hundred sixty-nine million dollars.

(vi) A gross annual statewide amount for two thousand two shall be five hundred eighty-nine million dollars.

(vii) A gross annual statewide amount for two thousand three shall be five hundred eighty-nine million dollars.

(viii) A gross annual statewide amount for two thousand four and two thousand five shall be six hundred twenty-four million dollars.

(ix) A gross annual statewide amount for two thousand six shall be six hundred seventy-four million dollars.

(x) A gross statewide amount for the period January first, two thousand seven through March thirty-first, two thousand seven shall be one hundred sixty-eight million five hundred thousand dollars, and for the period April first, two thousand seven through December thirty-first, two thousand seven shall be five hundred sixty-one million seven hundred fifty thousand dollars.

(xi) A gross statewide amount for the period January first, two thousand eight through March thirty-first, two thousand eight, shall be one hundred eighty-seven million two hundred fifty thousand dollars.

(xii) A gross statewide amount for the period April first, two thousand eight through December thirty-first, two thousand eight, shall be five hundred sixty-one million seven hundred fifty thousand dollars.

(xiii) A gross statewide amount for the period October first, two thousand eight through March thirty-first, two thousand nine, shall be one hundred seventy-four million two hundred thousand dollars. Such amount shall be separately reported and paid in six monthly installments by the tenth day of each month from October two thousand eight to March two thousand nine. Such reports and payments must initially be based on each payers' monthly enrollment count for the preceding month and shall be reconciled on a month to month basis to reflect the actual monthly enrollment counts for the applicable month.

(xiv) A gross annual statewide amount for the period January first, two thousand nine through December thirty-first, two thousand fourteen, shall be nine hundred forty-four million dollars.

(xv) A gross annual statewide amount for the period January first, two thousand fifteen through December thirty-first, two thousand twenty-two, shall be one billion forty-five million dollars.

(xvi) A gross annual statewide amount for the period January first, two thousand twenty-three to December thirty-first, two thousand twenty-six shall be one billion eighty-five million dollars, forty million dollars annually of which shall be allocated under section twenty-eight hundred seven-o of this article among the municipalities of and the state of New York based on each municipality's share and the

state's share of early intervention program expenditures not reimbursable by the medical assistance program for the latest twelve month period for which such data is available.

(xvii) A gross annual statewide amount for the period January first, two thousand twenty-seven to December thirty-first, two thousand twenty-nine shall be one billion eighty-five million dollars, forty million dollars annually of which shall be allocated under section twenty-eight hundred seven-o of this article among the municipalities of and the state of New York based on each municipality's share and the state's share of early intervention program expenditures not reimbursable by the medical assistance program for the latest twelve month period for which such data is available.

(b) The amount specified in paragraph (a) of this subdivision shall be allocated among the regions based on each region's proportional share of the sum of the estimated revenue of all general hospitals in the region, excluding revenue related to services provided to beneficiaries of title XVIII of the federal social security act (medicare), related to one hundred percent of the direct medical education expenses and fifty-nine and five-tenths percent of indirect medical education expenses reflected in general hospital inpatient revenue compared to the sum of such amounts for all regions, based on estimated nineteen hundred ninety-six data and statistics, excluding an estimate of revenue from services provided to patients eligible for payments by governmental agencies, patients eligible for payments pursuant to the comprehensive motor vehicle insurance reparations act, the workers' compensation law, the volunteer firefighters' benefit law, and the volunteer ambulance workers' benefit law, and self-pay patients.

(c) (i) A further gross annual statewide amount for nineteen hundred ninety-seven shall be sixty-four million dollars.

(ii) A further gross annual statewide amount for nineteen hundred ninety-eight shall be sixty-four million dollars.

(iii) A further gross annual statewide amount for nineteen hundred ninety-nine shall be eighty-nine million dollars.

(iv) A further gross annual statewide amount for two thousand, two thousand one, two thousand two, two thousand three, two thousand four, two thousand five, two thousand six, two thousand seven, two thousand eight, two thousand nine, two thousand ten, two thousand eleven, two

thousand twelve and two thousand thirteen shall be eighty-nine million dollars.

(v) A further gross annual statewide amount for the period January first, two thousand fourteen through December thirty-first, two thousand fourteen, shall be eighty-nine million dollars.

(d) For each year, the amount specified in paragraph (c) of this subdivision shall be allocated among the regions based on the same regional percentage allocations as determined in accordance with paragraph (b) of this subdivision.

(e) A further gross annual statewide amount shall be twelve million dollars for each period prior to January first, two thousand fifteen.

(f) For each year, the amount specified in paragraph (e) of this subdivision shall be allocated among the regions based on each region's allocated share of the AIDS drug assistance program expenditures for the latest annual period for which such data are available.

(g) A further gross statewide amount for the state fiscal year two thousand twenty-two shall be forty million dollars.

(h) The amount specified in paragraph (g) of this subdivision shall be allocated under section twenty-eight hundred seven-o of this article among the municipalities and the state of New York based on each municipality's share and the state's share of early intervention program expenditures not reimbursable by the medical assistance program for the latest twelve month period for which such data is available.

7. Funds accumulated, including income from invested funds, from the allowances specified in this section and the assessments pursuant to section twenty-eight hundred seven-t of this article, including interest and penalties, shall be deposited by the commissioner or the commissioner's designee as follows:

(a) funds shall be accumulated in regional professional education pools established by the commissioner or the healthcare reform act (HCRA) resources fund established pursuant to section ninety-two-dd of the state finance law, whichever is applicable, for distribution in accordance with section twenty-eight hundred seven-m of this article, in the following amounts:

(i) ninety-two and forty-five-hundredths percent of the funds accumulated less seventy-six million dollars for the period January

first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-seven,

(ii) ninety-two and forty-five-hundredths percent of the funds accumulated less seventy-six million dollars for the period January first, nineteen hundred ninety-eight through December thirty-first, nineteen hundred ninety-eight,

(iii) ninety-two and forty-five-hundredths percent of the funds accumulated less one hundred one million dollars for the period January first, nineteen hundred ninety-nine through December thirty-first, nineteen hundred ninety-nine,

(iv) four hundred ninety-four million dollars on an annual basis for the periods January first, two thousand through December thirty-first, two thousand three,

(v) four hundred sixty-three million dollars for the period January first, two thousand four through December thirty-first, two thousand four,

(vi) four hundred eighty-eight million dollars for the period January first, two thousand five through December thirty-first, two thousand five,

(vii) four hundred ninety-four million dollars for the period January first, two thousand six through December thirty-first, two thousand six,

(viii) four hundred seventy million dollars for the period January first, two thousand seven through December thirty-first, two thousand seven,

(ix) four hundred forty-six million six hundred thousand dollars for the period January first, two thousand eight through December thirty-first, two thousand eight,

(x) forty-seven million two hundred ten thousand dollars on an annual basis for the periods January first, two thousand nine through December thirty-first, two thousand ten;

(xi) eleven million eight hundred thousand dollars for the period January first, two thousand eleven through March thirty-first, two thousand eleven;

(xii) twenty-three million eight hundred thirty-six thousand dollars for the period April first, two thousand eleven through March thirty-first, two thousand twelve;

(xiii) twenty-three million eight hundred thirty-six thousand dollars

each state fiscal year for the period April first, two thousand twelve through March thirty-first, two thousand twenty-nine;

(xiv) provided, however, for periods prior to January first, two thousand nine, amounts set forth in this paragraph may be reduced by the commissioner in an amount to be approved by the director of the budget to reflect the amount received from the federal government under the state's 1115 waiver which is directed under its terms and conditions to the graduate medical education program established pursuant to section twenty-eight hundred seven-m of this article;

(xv) provided further, however, for periods prior to July first, two thousand nine, amounts set forth in this paragraph shall be reduced by an amount equal to the total actual distribution reductions for all facilities pursuant to paragraph (e) of subdivision three of section twenty-eight hundred seven-m of this article; and

(xvi) provided further, however, for periods prior to July first, two thousand nine, amounts set forth in this paragraph shall be reduced by an amount equal to the actual distribution reductions for all facilities pursuant to paragraph (s) of subdivision one of section twenty-eight hundred seven-m of this article.

(b) funds shall be added to the funds collected by the commissioner for distribution in accordance with section twenty-eight hundred seven-j of this article, in the following amounts:

(i) seven and fifty-five-hundredths percent of the funds accumulated less seventy-six million dollars for the period January first, nineteen hundred ninety-seven through December thirty-first, nineteen hundred ninety-seven,

(ii) seven and fifty-five-hundredths percent of the funds accumulated less seventy-six million dollars for the period January first, nineteen hundred ninety-eight through December thirty-first, nineteen hundred ninety-eight,

(iii) seven and fifty-five-hundredths percent of the funds accumulated less one hundred one million dollars for the period January first, nineteen hundred ninety-nine through December thirty-first, nineteen hundred ninety-nine,

(iv) the remaining balance of the funds accumulated for each period on and after January first, two thousand; and

(c) further funds shall be added to the funds collected by the

commissioner for distribution in accordance with section twenty-eight hundred seven-j of this article:

(i) for the nineteen hundred ninety-seven period, seventy-six million dollars;

(ii) for the nineteen hundred ninety-eight period, seventy-six million dollars; and

(iii) for the nineteen hundred ninety-nine period, one hundred one million dollars.

(d) funds shall be added to the funds collected by the commissioner for distribution in accordance with section twenty-eight hundred seven-o of this article, in the following amount: forty million dollars for the period beginning April first, two thousand twenty-two, and continuing each state fiscal year thereafter.

8. Each exclusion from the allowances effective on or after January first, nineteen hundred ninety-seven established pursuant to this section shall be contingent upon either: (a) qualification of the allowances for waiver pursuant to federal law and regulation; or (b) consistent with federal law and regulation, not requiring a waiver by the secretary of the department of health and human services related to such exclusion; in order for the allowances under this section to be qualified as a broad-based health care related tax for purposes of the revenues received by the state pursuant to the allowances not reducing the amount expended by the state as medical assistance for purposes of federal financial participation. The commissioner shall collect the allowances relying on such exclusions, pending any contrary action by the secretary of the department of health and human services. In the event the secretary of the department of health and human services determines that the allowances do not so qualify based on any such exclusion, then the exclusion shall be deemed to have been null and void as of January first, nineteen hundred ninety-seven, and the commissioner shall collect any retroactive amount due as a result, without interest or penalty provided the general hospital pays the retroactive amount due within ninety days of notice from the commissioner to the general hospital that an exclusion is null and void. Interest and penalties shall be measured from the due date of ninety days following notice from the commissioner or the commissioner's designee to the general hospital.

9. Revenue from the allowances pursuant to this section shall not be included in gross revenue received for purposes of the assessments pursuant to subdivision eighteen of section twenty-eight hundred seven-c of this article, subject to the provisions of paragraph (e) of subdivision eighteen of section twenty-eight hundred seven-c of this article, and 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.

* NB Expires December 31, 2029