§ 365-m. Administration and management of behavioral health services. 1. The commissioners of the office of mental health and the office of alcoholism and substance abuse services, in consultation with the commissioner of health, the impacted local governmental units and with the approval of the division of the budget, shall have responsibility for jointly designating regional entities to provide administrative and management services for the purposes of prior approving and coordinating the provision of behavioral health services, facilitating the continuity of post-hospitalization behavioral health and the integration of behavioral health services with other services available under this title, for recipients of medical assistance who are not enrolled in managed care, and for such approval, coordination, facilitating continuity and integration of behavioral health services that are not provided through managed care programs under this title for individuals regardless of whether or not such individuals are enrolled in managed care programs. Such regional entities shall also be responsible for promoting appropriate care and service utilization while safeguarding against unnecessary utilization of such care and services and assuring that payments are consistent with the efficient and economical delivery of quality care.

2. In exercising this responsibility, the commissioners of the office of mental health and the office of alcoholism and substance abuse services are authorized to contract, after consultation with the commissioner of health and the impacted local governmental units, with regional behavioral health organizations or other entities. Such contracts may include responsibility for receipt, review, and determination of prior authorization requests for behavioral health care and services under subdivision one of this section, consistent with criteria established or approved by the commissioners of mental health and alcoholism and substance abuse services, and authorization of appropriate care and services based on documented patient medical need.

3. Notwithstanding any inconsistent provision of sections one hundred twelve and one hundred sixty-three of the state finance law, or section one hundred forty-two of the economic development law, or any other law to the contrary, the commissioners of the office of mental health and

the office of alcoholism and substance abuse services are authorized to enter into a contract or contracts under subdivisions one and two of this section without a competitive bid or request for proposal process, provided, however, that:

(a) the office of mental health and the office of alcoholism and substance abuse services shall post on their websites, for a period of no less than thirty days:

(i) a description of the proposed services to be provided pursuant to the contractor contracts;

(ii) the criteria for selection of a contractor or contractors;

(iii) the period of time during which a prospective contractor may seek selection, which shall be no less than thirty days after such information is first posted on the website; and

(iv) the manner by which a prospective contractor may seek such selection, which may include submission by electronic means;

(b) all reasonable and responsive submissions that are received from prospective contractors in timely fashion shall be reviewed by the commissioners; and

(c) the commissioners of the office of mental health and the office of alcoholism and substance abuse services, in consultation with the commissioner of health and the impacted local governmental units, shall select such contractor or contractors that, in their discretion, have demonstrated the ability to effectively, efficiently, and economically integrate behavioral health and health services; have the requisite expertise and financial resources; have demonstrated that their directors, sponsors, members, managers, partners or operators have the requisite character, competence and standing in the community, and are best suited to serve the purposes of this section. In selecting such contractor or contractors, the commissioners shall:

(i) ensure that any such contractor or contractors have an adequate network of providers to meet the behavioral health and health needs of enrollees, and shall review the adequacy prior to approval of any such contract or contracts, and upon contract renewal or expansion. To the extent that the network has been determined to meet standards set forth in subdivision five of section four thousand four hundred three of the public health law, such network shall be deemed adequate.

(ii) ensure that such contractor or contractors shall make level of

care and coverage determinations utilizing evidence-based tools or guidelines designated to address the behavioral health needs of enrollees.

(iii) ensure sufficient access to behavioral health and health services for eligible enrollees by establishing and monitoring penetration rates of any such contractor or contractors.

(iv) establish standards to encourage the use of services, products and care recommended, ordered or prescribed by a provider to sufficiently address the behavioral health and health services needs of enrollees; and monitor the application of such standards to ensure that they sufficiently address the behavioral health and health services needs of enrollees.

4. The commissioners of the office of mental health, the office of alcoholism and substance abuse services and the department of health, shall have the responsibility for jointly designating on a regional basis, after consultation with the local social services district and local governmental unit, as such term is defined in the mental hygiene law, of a city with a population of over one million persons, and after consultation of other affected counties, a limited number of special needs managed care plans under section three hundred sixty-four-j of this title capable of managing the behavioral and physical health needs of medical assistance enrollees with significant behavioral health needs. Initial designations of such plans should be made no later than April first, two thousand fourteen, provided, however, such designations shall be contingent upon a determination by such state commissioners that the entities to be designated have the capacity and financial ability to provide services in such plans, and that the region has a sufficient population and service base to support such plans. Once designated, the commissioner of health shall make arrangements to enroll such enrollees in such plans and to pay such plans on a capitated or other basis to manage, coordinate, and pay for behavioral and physical health medical assistance services for such enrollees. Notwithstanding any inconsistent provision of section one hundred twelve and one hundred sixty-three of the state finance law, and section one hundred forty-two of the economic development law, or any other law to the contrary, the designations of such plans, and any resulting contracts with such plans

or providers are authorized to be entered into by such state commissioners without a competitive bid or request for proposal process, provided however that:

(a) the department of health, the office of mental health and the office of alcoholism and substance abuse services shall post on their websites, for a period of not less than thirty days:

(i) a description of the proposed services to be provided by the plans or systems;

(ii) the criteria for selection of a plan or system;

(iii) the period of time during which a prospective plan or system may seek selection, which shall be no less than thirty days after such information is first posted on the website; and

(iv) the manner by which a prospective plan or system may seek such selection, which may include submission by electronic means;

(b) all reasonable and responsive submissions that are received from prospective plans or systems in timely fashion shall be reviewed by the commissioners; and

(c) the commissioners of the office of mental health and the office of alcoholism and substance abuse services, in consultation with the commissioner of health, shall select such plans or systems that, in their discretion, have demonstrated the ability to effectively, efficiently, and economically manage the behavioral and physical health needs of medical assistance enrollees with significant behavioral health needs; have the requisite expertise and financial resources; have demonstrated that their directors, sponsors, members, managers, partners or operators have the requisite character, competence and standing in the community, and are best suited to serve the purposes of this section. Oversight of such contracts with such plans, providers or provider systems shall be the joint responsibility of such state commissioners, and for contracts affecting a city with a population of over one million persons, also with the city's local social services district and local governmental unit, as such term is defined in the mental hygiene law.

In selecting such plans or systems, the commissioners shall:

(i) ensure that any such plans or systems have an adequate network of providers to meet the behavioral health and health needs of enrollees, and shall review the adequacy prior to approval of any such plans or

systems, and upon contract renewal or expansion. To the extent that the network has been determined to meet standards set forth in subdivision five of section four thousand four hundred three of the public health law, such network shall be deemed adequate.

(ii) ensure that such plans or systems shall make level of care and coverage determinations utilizing evidence-based tools or guidelines designed to address the behavioral health needs of enrollees.

(iii) ensure sufficient access to behavioral health and health services for eligible enrollees by establishing and monitoring penetration rates of any such plans or systems.

(iv) establish standards to encourage the use of services, products and care recommended, ordered or prescribed by a provider to sufficiently address the behavioral health and health services needs of enrollees; and monitor the application of such standards to ensure that they sufficiently address the behavioral health and health services needs of enrollees.

5. (a) Pursuant to appropriations within the offices of mental health or addiction services and supports, the department of health shall reinvest savings realized through the transition of populations covered by this section from the applicable Medicaid fee-for-service system to a managed care model, including savings realized through the recovery of premiums from managed care providers which represent a reduction of spending on qualifying behavioral health services against established premium targets for behavioral health services and the medical loss ratio applicable to special needs managed care plans, for the purpose of increasing investment in community based behavioral health services, including residential services certified by the office of addiction services and supports. The methodologies used to calculate the savings shall be developed by the commissioner of health and the director of the budget in consultation with the commissioners of the office of mental health and the office of addiction services and supports. In no event shall the full annual value of the reinvestment pursuant to this subdivision exceed the value of the premiums recovered from managed care providers which represent a reduction of spending on qualifying behavioral health services. Within any fiscal year where appropriation increases are recommended for reinvestment, insofar as managed care

transition savings do not occur as estimated, then spending for such reinvestment may be reduced in the next year's annual budget itemization.

(b) Beginning April first, two thousand twenty-two, the department shall post on its website information about the recovery of premiums from managed care providers which represent a reduction of spending on qualifying behavioral health services against established premium targets for behavioral health services and the medical loss ratio applicable to special needs managed care plans. Such information shall include at a minimum: (i) a copy of the department's notification to each managed care provider that seeks a recovery of such premiums; and (ii) a list of managed care providers by name that have been subject to a recovery of such premiums, specifying the amount of premium that has been recovered from each managed care provider and year. In the initial posting, the department shall include all premiums recovered to date as required by this subdivision, by named managed care provider, amount and year.

(c) The commissioner shall include information regarding the funds available for reinvestment, including how savings are calculated and how the reinvestment was utilized pursuant to this section in the annual report required under section forty-five-c of part A of chapter fifty-six of the laws of two thousand thirteen.