§ 367-h. Payment for assisted living programs. 1. Subject to the approval of the state director of the budget, the commissioner may authorize the payment of medical assistance funds for assisted living programs, as defined in section four hundred sixty-one-l of this chapter, in accordance with capitated rates of payment established pursuant to subdivision six of section thirty-six hundred fourteen of the public health law.

2. No assisted living program shall cease providing services to a medical assistance recipient solely because the cost of his or her care exceeds the amount of such capitated payments.

3. No medical assistance payments shall be made pursuant to this section while payments are also being made for inpatient care in a residential health care facility or hospital with respect to the same person.

4. This section shall be effective if, and as long as, federal financial participation is available for medical assistance expenditures made pursuant to it.