§ 367-o. Health insurance demonstration programs. 1. Notwithstanding any inconsistent provision of law, the commissioner of health is authorized to establish one or more demonstration programs for the purposes of providing additional knowledge and experience in mechanisms to provide, maintain or subsidize health insurance coverage for unemployed and underemployed health care workers.

2. Health insurance continuation demonstration. (a) The commissioner of health is hereby authorized to establish mechanisms to improve the process of authorizing medical assistance payment of health insurance premiums, pursuant to paragraph (c) of subdivision one of section three hundred sixty-seven-a of this title, on behalf of personal care and home health care workers who reside in any city with a population of one million or more and any county with a population of nine hundred thousand or more if such city or county is located within the metropolitan commuter transportation district created pursuant to section twelve hundred sixty-two of the public authorities law, and whose employment is irregular, episodic, or cyclical, and whose health insurance coverage therefore is frequently disrupted. Notwithstanding the provisions of section three hundred sixty-five of this title, the commissioner of health shall exercise discretion to determine whether medical assistance payment of such premiums is cost effective. If the commissioner of health determines that the test of cost effectiveness of insurance premiums is based on other than a case-by-case basis, no medical assistance payment for such premiums will be made until the commissioner of health obtains all necessary approvals under federal law and regulation to receive federal financial participation in the costs of such medical assistance.

(b) The commissioner of health is authorized in consultation with the superintendent of financial services to require group health insurance plans and employer-based group health plans to report to the department or its designee, insofar as such reporting does not violate any provisions of the federal Employee Retirement Income Security Act of 1974 (ERISA), at such times and in such manner as the commissioner of health shall decide, any information needed to operate such a demonstration project, including, but not limited to, the number of persons in such plans who become ineligible each month for the

continuation coverage described in paragraph (a) of this subdivision. In addition, every health maintenance organization certified under article forty-four of the public health law and every insurer licensed by the superintendent of financial services shall submit reports to the superintendent and to the commissioner of health in such form and at such times as may be required to implement the provisions of this subdivision.

3. Rate incentive demonstration. With respect to a demonstration program authorized by subdivision one of this section, the commissioner of health may solicit and accept applications for participation in the demonstration program from any employer, or group of employers, of personal care workers or home health workers, who are employed in any city with a population of one million or more and any county with a population of nine hundred thousand or more if such city or county is located within the metropolitan commuter transportation district created pursuant to section twelve hundred sixty-two of the public authorities law, and whose employers provide services primarily to medical assistance recipients, if the following conditions are met:

(a) at least fifty percent of the persons receiving services from such employers are recipients of medical assistance;

(b) the employer contributes to a group health insurance plan or employer based group health plan on behalf of such employees; and

(c) no benefits are provided under the group health insurance plan or employer based group health plan in excess of the benefits provided to the majority of hospital workers in the community in which the personal care and home health care workers are employed. The commissioner of health is authorized to add up to fifty-eight million dollars per year for the period January first, two thousand through December thirty-first, two thousand two, and up to one hundred sixty-three million dollars per year for the period January first, two thousand three through June thirtieth, two thousand seven, to rates of payment for qualifying personal care providers and certified home health agencies who are approved to participate in the demonstration program. The commissioner may modify the amounts made available for any specific annual period so long as the total amount made available for the period of the demonstration is not exceeded.

3-a. (a) Notwithstanding subdivision three of this section or any other contrary provision of law and subject to the availability of federal financial participation, the commissioner of health shall, for periods on and after July first, two thousand seven through March thirty-first, two thousand eight, and within amounts appropriated, adjust rates of payments for certified home health agencies and providers of personal care services who, (i) are located in a city with a population of over one million persons, or in a county with a population of over nine hundred thousand persons if such county is located within the metropolitan commuter transportation district created pursuant to section twelve hundred sixty-two of the public authorities law; and (ii) provide more than fifty percent of their total annual hours of home care services to recipients of medical assistance; and (iii) contribute, as of July first, two thousand seven, to a group health insurance plan or employer based group health plan on behalf of their employees.

(b) Payments made pursuant to this subdivision to eligible providers shall be made proportionally in the form of an add-on to rates of payment, based on each eligible provider's most currently available total annual hours of home care services, as reported to the department, provided to recipients of medical assistance.

(c) Providers which have their rates of payment adjusted pursuant to this subdivision shall use such funds solely for the purpose of supporting health insurance coverage for their employees and are prohibited from using such funds for any other purpose. The commissioner of health is authorized to audit such providers for the purpose of ensuring compliance with the provisions of this paragraph and shall recoup any funds determined to have been used for purposes other than as authorized by this subdivision.

4. Notwithstanding any other law, rule or regulation to the contrary, any subscriber contract issued by an organization certified pursuant to article forty-four of the public health law may, for purposes of implementation of the demonstration authorized by subdivision three of this section, be issued on an experience rated basis.

5. Between January first, two thousand and December thirty-first, two thousand two, the state share amount for all demonstrations pursuant to this section shall be no more than twenty-seven million dollars per twelve month period if averaged over the term of the demonstration; and between January first, two thousand three and June thirtieth, two thousand seven, the state share amount for all demonstrations pursuant to this section shall be no more than sixty-nine million dollars per twelve month period if averaged over the term of the demonstration and between July first, two thousand seven and March thirty-first, two thousand eight, the state share of medical assistance payments authorized in accordance with subdivision two of this section shall not exceed two million eight hundred fifty thousand dollars.