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S T A T E O F N E W Y O R K

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2007-2008 Regular Sessions

I N A S S E M B L Y

February 26, 2007

Introduced by M. of A. GOTTFRIED, JOHN, BACALLES, BENEDETTO, CAHILL, CANESTRARI, DESTITO, EDDINGTON, FIELDS, KOON, MILLMAN, STIRPE, J. RIVERA, ESPAILLAT, GALEF, MAGNARELLI -- Multi-Sponsored by -- M. of A. ABBATE, BRENNAN, BROOK-KRASNY, COLTON, CROUCH, FARRELL, GLICK, D. GORDON, T. GORDON, HEASTIE, JACOBS, KOLB, LAFAYETTE, LIFTON, V. LOPEZ, MAISEL, MARKEY, MAYERSON, McENENY, PHEFFER, REILLY, SPANO, SWEENEY, THIELE, TOWNS, WEISENBERG -- (at request of the Governor) -- read once and referred to the Committee on Health -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the social services law and the state finance law, in relation to Medicaid payment rates and health insurance for personal care services and employer and labor partnerships for family health plus

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Paragraph (a) of subdivision 3-a of section 367-o of the
- 2 social services law, as added by section 42 of part A of chapter 58 of
- 3 the laws of 2007, is amended to read as follows:
- 4 (a) Notwithstanding subdivision three of this section or any other
- 5 contrary provision of law and subject to the availability of federal
- 6 financial participation, the commissioner of health shall, for periods
- 7 on and after July first, two thousand seven THROUGH MARCH THIRTY-FIRST,
- 8 TWO THOUSAND EIGHT, and within amounts appropriated, adjust rates of
- 9 payments for certified home health agencies and providers of personal
- 10 care services who, (i) are located in a city with a population of over
- 11 one million persons, or in a county with a population of over nine
- 12 hundred thousand persons if such county is located within the metropol-
- 13 itan commuter transportation district created pursuant to section twelve

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1 hundred sixty-two of the public authorities law; and (ii) provide more
2 than fifty percent of their total annual hours of home care services to
3 recipients of medical assistance; and (iii) contribute, as of July
4 first, two thousand seven, to a group health insurance plan or employer
5 based group health plan on behalf of their employees.

6 S 2. The social services law is amended by adding a new section 369-ff
7 to read as follows:

8 S 369-FF. EMPLOYER PARTNERSHIPS FOR FAMILY HEALTH PLUS. 1. (A) AN
9 EMPLOYER OR TAFT-HARTLEY FUND MAY ELECT TO OFFER FAMILY HEALTH PLUS
10 INSURANCE PLANS APPROVED UNDER THE FAMILY HEALTH PLUS PROGRAM TO ALL
11 EMPLOYEES OR MEMBERS AND FAMILY MEMBERS OF EMPLOYEES OR MEMBERS. IF AN
12 EMPLOYER OR TAFT-HARTLEY FUND CHOOSES TO OFFER FAMILY HEALTH PLUS INSUR-
13 ANCE PLANS, THE EMPLOYER OR TAFT-HARTLEY FUND SHALL PAY TO THE COMMIS-
14 SIONER OR THE COMMISSIONER`S DESIGNEE A SUM OF MONEY EQUAL TO AT LEAST
15 SEVENTY PERCENT OF THE PREMIUM OR A FIXED DOLLAR AMOUNT, AS DETERMINED
16 BY THE COMMISSIONER, APPLICABLE TO EACH ENROLLING EMPLOYEE OR MEMBER.
17 EACH EMPLOYEE OR MEMBER WHO ENROLLS SHALL, THROUGH THE EMPLOYER OR
18 TAFT-HARTLEY FUND, PAY TO THE COMMISSIONER OR THE COMMISSIONER`S DESIG-
19 NEE THE BALANCE OF THE PREMIUM. IF THE EMPLOYEE`S OR MEMBER`S SHARE OF
20 THE PREMIUM IS COVERED BY THE EMPLOYER SPONSORED HEALTH COVERAGE OR
21 PREMIUM ASSISTANCE PROGRAMS SET FORTH IN THIS TITLE, TITLE ELEVEN OF
22 THIS ARTICLE, OR TITLE ONE-A OF ARTICLE TWENTY-FIVE OF THE PUBLIC HEALTH
23 LAW, THEN THE EMPLOYEE`S OR MEMBER`S SHARE OF THE PREMIUM SHALL BE PAID
24 UNDER SUCH PROGRAM. NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGU-
25 LATION TO THE CONTRARY, THE COMMISSIONER MAY, FOR CHILDREN UNDER THE AGE
26 OF TWENTY-ONE, REQUIRE FAMILY HEALTH PLUS INSURANCE PLANS TO COVER ALL
27 BENEFITS COVERED UNDER TITLE ONE-A OF ARTICLE TWENTY-FIVE OF THE PUBLIC
28 HEALTH LAW.

29 (B) WHERE AN EMPLOYER OR TAFT-HARTLEY FUND CHOOSES TO OFFER FAMILY
30 HEALTH PLUS INSURANCE PLANS UNDER THIS SECTION, SUCH EMPLOYER OR
31 TAFT-HARTLEY FUND SHALL DISSEMINATE TO ALL EMPLOYEES OR MEMBERS INFORMA-
32 TION REGARDING EMPLOYER SPONSORED HEALTH COVERAGE OR PREMIUM ASSISTANCE
33 PROGRAMS SET FORTH IN THIS TITLE, TITLE ELEVEN OF THIS ARTICLE, OR TITLE
34 ONE-A OF ARTICLE TWENTY-FIVE OF THE PUBLIC HEALTH LAW. THE INFORMATION
35 SHALL BE PROVIDED BY THE COMMISSIONER TO EMPLOYERS OR TAFT-HARTLEY FUNDS
36 OFFERING FAMILY HEALTH INSURANCE PLANS AND DISSEMINATED BY EMPLOYERS OR
37 TAFT-HARTLEY FUNDS TO EMPLOYEES OR MEMBERS IN A FORM AND MANNER SPECI-
38 FIED BY THE COMMISSIONER.

39 (C) SUBJECT TO FEDERAL APPROVAL, AN EMPLOYER OR TAFT-HARTLEY FUND
40 CHOOSING TO OFFER FAMILY HEALTH PLUS INSURANCE PLANS IN ACCORDANCE WITH
41 PARAGRAPH (A) OF THIS SUBDIVISION WHICH (I) DID NOT PREVIOUSLY OFFER
42 HEALTH INSURANCE TO ITS EMPLOYEES OR MEMBERS OR (II) CURRENTLY OFFERS
43 HEALTH INSURANCE TO ITS EMPLOYEES OR MEMBERS BUT THE EMPLOYER`S OR
44 TAFT-HARTLEY FUND`S ABILITY TO CONTINUE TO OFFER SUCH COVERAGE IS IN
45 JEOPARDY, AS DETERMINED BY THE COMMISSIONER, MAY BE ELIGIBLE FOR STATE
46 SUBSIDIES TOWARDS THE COST OF ITS SHARE OF THE PREMIUM ONLY FOR EMPLOY-
47 EES OR MEMBERS WHO OTHERWISE MAY BE ELIGIBLE FOR FAMILY HEALTH PLUS,
48 CHILD HEALTH PLUS OR MEDICAL ASSISTANCE UNDER THIS TITLE, TITLE ONE-A OF
49 ARTICLE TWENTY-FIVE OF THE PUBLIC HEALTH LAW OR TITLE ELEVEN OF THIS
50 ARTICLE, RESPECTIVELY. AN EMPLOYEE OR MEMBER IDENTIFIED AS POTENTIALLY
51 ELIGIBLE FOR FAMILY HEALTH PLUS, CHILD HEALTH PLUS OR MEDICAL ASSISTANCE
52 THROUGH A PROCESS SPECIFIED BY THE COMMISSIONER SHALL APPLY TO THE
53 APPROPRIATE PROGRAM FOR AN ELIGIBILITY DETERMINATION. THE AVAILABILITY
54 AND AMOUNT OF STATE SUBSIDIES PROVIDED PURSUANT TO THIS PARAGRAPH AND
55 ELIGIBILITY CRITERIA FOR SUCH SUBSIDIES SHALL BE DETERMINED BY THE

1 EFFECTIVE RELATIVE TO PAYMENTS MADE UNDER THE FAMILY HEALTH PLUS, CHILD
2 HEALTH PLUS AND MEDICAL ASSISTANCE PROGRAMS, WHICHEVER PROGRAM IS APPLI-
3 CABLE.

4 (D) ALL MONEYS PAID TO THE COMMISSIONER UNDER THIS SECTION SHALL BE
5 DEPOSITED BY THE COMMISSIONER IN THE FAMILY HEALTH PLUS EMPLOYER PART-
6 NERSHIP ACCOUNT ESTABLISHED UNDER SECTION NINETY-ONE-G OF THE STATE
7 FINANCE LAW. NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO
8 THE CONTRARY, THE COMMISSIONER MAY ISSUE A REQUEST FOR PROPOSALS AND
9 ENTER INTO ONE OR MORE CONTRACTS TO ADMINISTER THE BILLING AND
10 COLLECTION OF PREMIUMS DUE UNDER THIS SECTION.

11 (E) THE COMMISSIONER OR THE COMMISSIONER'S DESIGNEE IS AUTHORIZED TO
12 ACT AS A HEALTH PLAN COORDINATOR BETWEEN EMPLOYERS OR TAFT-HARTLEY FUNDS
13 AND HEALTH PLANS IF THE COMMISSIONER DETERMINES THAT A HEALTH PLAN COOR-
14 DINATOR WILL BE HELPFUL IN THE EFFECTIVE IMPLEMENTATION OF THIS SECTION
15 OR IN FACILITATING THE OFFERING OF MULTIPLE HEALTH PLANS BY EMPLOYERS OR
16 TAFT-HARTLEY FUNDS TO THEIR EMPLOYEES OR MEMBERS. THE COMMISSIONER IS
17 ALSO AUTHORIZED TO AMEND EXISTING FACILITATED ENROLLMENT CONTRACTS IF
18 NECESSARY TO IMPLEMENT THIS SECTION.

19 2. INDIVIDUALS ENROLLED IN FAMILY HEALTH PLUS PLANS UNDER THIS SECTION
20 SHALL NOT COUNT TOWARDS THE PERCENTAGE SPECIFIED IN CLAUSE (B) OF
21 SUBPARAGRAPH (IV) OF PARAGRAPH (A) OF SUBDIVISION TWO OF SECTION THREE
22 HUNDRED SIXTY-NINE-EE OF THIS TITLE OR TOWARDS THE PERCENTAGE SPECIFIED
23 IN SUBPARAGRAPH (II) OF PARAGRAPH (D) OF SUBDIVISION TWO OF SECTION
24 TWENTY-FIVE HUNDRED ELEVEN OF THE PUBLIC HEALTH LAW.

25 3. COVERAGE UNDER THIS SECTION SHALL BE COMMUNITY RATED AND THE UNDER-
26 WRITING OF SUCH COVERAGE SHALL INVOLVE NO MORE THAN THE IMPOSITION OF A
27 PRE-EXISTING CONDITION LIMITATION AS PERMITTED BY THE INSURANCE LAW. ANY
28 EMPLOYEE OR MEMBER OR FAMILY MEMBER OF AN EMPLOYEE OR MEMBER APPLYING
29 FOR COVERAGE UNDER SUCH PARAGRAPH MUST BE ACCEPTED BY THE PLAN AT ALL
30 TIMES THROUGHOUT THE YEAR AND CANNOT BE TERMINATED DUE TO CLAIMS EXPERI-
31 ENCE. TERMINATION OF COVERAGE MAY BE BASED ONLY ON ONE OR MORE OF THE
32 REASONS SET FORTH IN SUBSECTION (C) OF SECTION FOUR THOUSAND THREE
33 HUNDRED FOUR OR SUBSECTION (J) OF SECTION FOUR THOUSAND THREE HUNDRED
34 FIVE OF THE INSURANCE LAW. FOR THE PURPOSES OF THIS SUBDIVISION, "COMMU-
35 NITY RATED" MEANS A RATING METHODOLOGY IN WHICH THE PREMIUM FOR ALL
36 PERSONS COVERED BY A POLICY OR CONTRACT FORM IS THE SAME, BASED ON THE
37 EXPERIENCE OF THE ENTIRE POOL OF RISKS COVERED BY THAT POLICY OR
38 CONTRACT FORM WITHOUT REGARD TO AGE, SEX, HEALTH STATUS OR OCCUPATION
39 EXCEPT THAT THE POOL OF RISKS SHALL EXCLUDE INDIVIDUALS ENROLLED IN A
40 FAMILY HEALTH PLUS INSURANCE PLAN UNDER SECTION THREE HUNDRED
41 SIXTY-NINE-EE OF THIS TITLE IF REQUIRED BY FEDERAL REGULATIONS GOVERNING
42 ACTUARIAL SOUNDNESS FOR MEDICAID MANAGED CARE PREMIUM RATES. THIS SUBDI-
43 VISION DOES NOT PROHIBIT THE USE OF PREMIUM RATE STRUCTURES TO ESTABLISH
44 DIFFERENT PREMIUM RATES FOR INDIVIDUALS AS OPPOSED TO FAMILY UNITS. THE
45 PREMIUM OR PREMIUMS FOR COVERAGE UNDER PARAGRAPHS (A) AND (C) OF SUBDI-
46 VISION ONE OF THIS SECTION SHALL BE ESTABLISHED BY THE COMMISSIONER.

47 4. THE STATE SHARE OF THE COST OF COVERAGE PROVIDED PURSUANT TO PARA-
48 GRAPH (C) OF SUBDIVISION ONE OF THIS SECTION SHALL BE FUNDED WITHIN
49 AMOUNTS APPROPRIATED FOR THIS PURPOSE.

50 S 3. The state finance law is amended by adding a new section 91-g to
51 read as follows:

52 S 91-G. FAMILY HEALTH PLUS EMPLOYER PARTNERSHIP ACCOUNT. 1. THERE IS
53 HEREBY CREATED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE
54 COMMISSIONER OF TAXATION AND FINANCE AN ACCOUNT OF THE SPECIAL REVENUE
55 FUND TO BE KNOWN AS THE FAMILY HEALTH PLUS EMPLOYER PARTNERSHIP ACCOUNT.

1 SUCH ACCOUNT SHALL CONSIST OF ALL REVENUE RECEIVED PURSUANT TO SECTION
2 THREE HUNDRED SIXTY-NINE-FF OF THE SOCIAL SERVICES LAW.

3 2. UPON APPROPRIATION, MONEYS IN THE FUND SHALL BE MADE AVAILABLE FOR
4 EXPENSES RELATED TO THE FAMILY HEALTH PLUS PROGRAM.

5 S 4. Severability clause. If any clause, sentence, paragraph, section,
6 or part of this act, or any application thereof, shall be held to be
7 invalid by any court, that shall not affect, impair or invalidate the
8 remainder thereof, but shall be confined in its operation to the clause,
9 sentence, paragraph, section or part of this act or application thereof
10 directly involved in the controversy in which such judgment shall have
11 been rendered.

12 S 5. This act shall take effect on July 1, 2007; provided, however,
13 that section two of this act shall take effect on the first of April
14 next succeeding the date on which it shall have become a law. The
15 commissioner of health shall take any steps necessary, including the
16 promulgation of rules and regulations, contract amendments and
17 submission of any required federal waiver applications and state plan
18 amendments, prior to the effective date of this act to assure the timely
19 implementation of this act.

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