

# STATE OF NEW YORK

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9007--B

## IN ASSEMBLY

January 19, 2022

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A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution -- read once 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 public health law, in relation to the implementation of the Nurses Across New York (NANY) program (Part A); intentionally omitted (Part B); to amend part D of chapter 56 of the laws of 2014, amending the education law relating to enacting the "nurse practitioners modernization act", in relation to the effectiveness thereof (Part C); in relation to establishing the health care and mental hygiene worker bonuses (Part D); to amend the public health law, in relation to increasing general public health work base grants for both full-service and partial-service counties and allow for local health departments to claim up to fifty percent of personnel service costs (Part E); intentionally omitted (Part F); intentionally omitted (Part G); to repeal sections 91 and 92 of part H of chapter 59 of the laws of 2011 relating to the year to year rate of growth of Department of Health state funds and Medicaid funding, relating to the state Medicaid spending cap and related processes (Part H); relating to provide a one percent across the board payment increase to all qualifying fee-for-service Medicaid rates (Part I); to amend the public health law, in relation to extending the statutory requirement to reweight and rebase acute hospital rates (Part J); to amend the public health law, in relation to the creation of a new statewide health care facility transformation program (Part K); intentionally omitted (Part L); to amend the public health law, in relation to the definition of revenue in the minimum spending statute for nursing homes and the rates of payment and rates of reimbursement for residential health care facilities, and in relation to making a temporary payment to facilities in severe financial distress (Part M); to amend the social services law, in relation to Medicaid eligibility requirements for seniors and disabled individuals; and to repeal certain provisions of such law relating thereto (Part N); to amend the social services law and the public health law, in relation to providing increased rates for private duty nursing services that are provided to medically frag-

EXPLANATION--Matter in *italics* (underscored) is new; matter in brackets [ ] is old law to be omitted.

A

LBD12671-04-2

ile adults (Part O); intentionally omitted (Part P); to amend the public health law and the social services law, in relation to permitting the commissioner of health to submit a waiver that expands eligibility for New York's basic health program and increases the federal poverty limit cap for basic health program eligibility from two hundred to two hundred fifty percent; to amend the social services law, in relation to allowing pregnant individuals to be eligible for the basic health program and maintain coverage in the basic health program for one year post pregnancy and to deem a child born to an individual covered under the basic health program to be eligible for medical assistance; and providing for the repeal of certain provisions upon the expiration thereof (Part Q); intentionally omitted (Part R); to amend the social services law, in relation to including expanded pre-natal and post-partum care as standard coverage when determined to be necessary; and to repeal section 369-hh of the social services law, relating thereto (Part S); intentionally omitted (Part T); to amend the public health law, in relation to updating the definition of the terms "covered health care services" and "premium payment" (Part U); intentionally omitted (Part V); to amend the social services law, in relation to eliminating unnecessary requirements for utilization reviews (Part W); intentionally omitted (Part X); intentionally omitted (Part Y); to amend chapter 266 of the laws of 1986 amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, in relation to extending the physicians medical malpractice program; to amend part J of chapter 63 of the laws of 2001 amending chapter 266 of the laws of 1986, amending the civil practice law and rules and other laws relating to malpractice and professional medical conduct, relating to the effectiveness of certain provisions of such chapter, in relation to extending certain provisions concerning the hospital excess liability pool; and to amend part H of chapter 57 of the laws of 2017, amending the New York Health Care Reform Act of 1996 and other laws relating to extending certain provisions relating thereto, in relation to extending provisions relating to excess coverage (Part Z); intentionally omitted (Part AA); intentionally omitted (Part BB); to amend the social services law, the executive law and the public health law, in relation to extending various provisions relating to health and mental hygiene; to amend part C of chapter 58 of the laws of 2009, amending the public health law relating to payment by governmental agencies for general hospital inpatient services, in relation to the effectiveness thereof; to amend part E of chapter 56 of the laws of 2013, amending the public health law relating to the general public health work program, in relation to the effectiveness thereof; to amend chapter 474 of the laws of 1996, amending the education law and other laws relating to rates for residential health care facilities, in relation to the effectiveness thereof; to amend chapter 21 of the laws of 2011, amending the education law relating to authorizing pharmacists to perform collaborative drug therapy management with physicians in certain settings, in relation to the effectiveness thereof; to amend part II of chapter 54 of the laws of 2016, amending part C of chapter 58 of the laws of 2005 relating to authorizing reimbursements for expenditures made by or on behalf of social services districts for medical assistance for needy persons and administration thereof, in relation to the effectiveness thereof; to amend chapter 74 of the laws of 2020, relating to directing the department of health to convene a work group on rare diseases, in relation to the effectiveness thereof; and to



amend chapter 414 of the laws of 2018, creating the radon task force, in relation to the effectiveness thereof (Part CC); in relation to establishing a cost of living adjustment for designated human services programs (Part DD); to amend the mental hygiene law, in relation to a 9-8-8 suicide prevention and behavioral health crisis hotline system (Part EE); to amend the social services law, in relation to reinvesting savings recouped from behavioral health transition into managed care back into behavioral health services (Part FF); intentionally omitted (Part GG); intentionally omitted (Part HH); to amend the mental hygiene law, in relation to providing for requirements for recovery living residences (Part II); to amend the mental hygiene law, in relation to expanding the scope of the alcohol awareness program to become the substance use awareness program (Part JJ); intentionally omitted (Part KK); to amend chapter 56 of the laws of 2013 amending the public health law and other laws relating to general hospital reimbursement for annual rates, in relation to extending government rates for behavioral services and referencing the office of addiction services and supports; to amend part H of chapter 111 of the laws of 2010 relating to increasing Medicaid payments to providers through managed care organizations and providing equivalent fees through an ambulatory patient group methodology, in relation to extending government rates for behavioral services referencing the office of addiction services and supports and in relation to the effectiveness thereof (Part LL); to amend Kendra's law, in relation to extending the expiration thereof; and to amend the mental hygiene law, in relation to permitting video conferencing for certain physicians regarding assisted outpatient treatment (Part MM); to amend the mental hygiene law, in relation to rental and mortgage payments for the mentally ill (Part NN); to amend part L of chapter 59 of the laws of 2016, amending the mental hygiene law relating to the appointment of temporary operators for the continued operation of programs and the provision of services for persons with serious mental illness and/or developmental disabilities and/or chemical dependence, in relation to the effectiveness thereof (Part OO); to amend the public health law, in relation to the adult cystic fibrosis assistance program (Part PP); to amend the public health law, in relation to expanding review of correctional health services and health care staffing at correctional facilities (Part QQ); to amend the social services law, in relation to coverage for services provided by school-based health centers for medical assistance recipients; and to amend part JJ of chapter 57 of the laws of 2021 amending the social services law relating to managed care programs, in relation to the effectiveness thereof (Part RR); to amend the social services law, in relation to expanding eligibility for the medicare savings program (Part SS); to amend the public health law and part H of chapter 59 of the laws of 2011, amending the public health law and other laws relating to known and projected department of health state fund Medicaid expenditures, in relation to fair pay for home care aides (Part TT); and to amend the tax law, in relation to the deposit of certain revenues from taxes into the New York state agency trust fund, distressed provider assistance account; to amend chapter 56 of the laws of 2020 amending the tax law and the social services law relating to certain Medicaid management, in relation to the effectiveness thereof; and to repeal certain provisions of the tax law relating to financially distressed hospitals (Part UU)



The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act enacts into law major components of legislation  
2 necessary to implement the state health and mental hygiene budget for  
3 the 2022-2023 state fiscal year. Each component is wholly contained  
4 within a Part identified as Parts A through UU. The effective date for  
5 each particular provision contained within such Part is set forth in the  
6 last section of such Part. Any provision in any section contained within  
7 a Part, including the effective date of the Part, which makes a refer-  
8 ence to a section "of this act", when used in connection with that  
9 particular component, shall be deemed to mean and refer to the corre-  
10 sponding section of the Part in which it is found. Section three of this  
11 act sets forth the general effective date of this act.

12

## PART A

13 Section 1. Short title. This act shall be known and may be cited as  
14 the "nurses across New York (NANY) program".

15 § 2. The public health law is amended by adding a new section 2807-aa  
16 to read as follows:

17 § 2807-aa. Nurse loan repayment program. 1. (a) Monies shall be made  
18 available, subject to appropriations, for purposes of loan repayment  
19 awards in accordance with the provisions of this section for regis-  
20 tered professional nurses licensed to practice under section sixty-nine  
21 hundred five of the education law and licensed practical nurses licensed  
22 under section sixty-nine hundred six of the education law. Funding  
23 shall be allocated regionally with one-third of available funds going to  
24 New York city and two-thirds of available funds going to the rest of the  
25 state.

26 (i) Loan repayment awards made under this section shall be awarded to  
27 repay student loans of nurses who work in areas determined to be under-  
28 served areas in New York state and who agree to work in such areas for a  
29 period of three consecutive years. A nurse may be deemed to be practic-  
30 ing in an underserved area if they practice in a facility, physician's  
31 office, nurse practitioner's office, or physician assistant's office  
32 that primarily serves an underserved population without regard to wheth-  
33 er the population or the facility or office is located in an under-  
34 served area. For purposes of this section, "underserved areas" shall be  
35 located in New York state and shall include, but not be limited to,  
36 areas designated by the federal government as a health professional  
37 shortage area, a medically underserved area, or medically underserved  
38 population, non-profit diagnostic and treatment centers which primarily  
39 serve Medicaid eligible or uninsured patients, and other areas and popu-  
40 lations as determined by the commissioner.

41 (ii) Loan repayment awards made under this section shall not exceed  
42 the total qualifying outstanding debt of the nurse from student loans  
43 to cover tuition and other related educational expenses, made by or  
44 guaranteed by the federal or state government, or made by a lending or  
45 educational institution approved under title IV of the federal higher  
46 education act. Loan repayment awards shall be used solely to repay  
47 outstanding student loan debt.

48 (iii) Nurses shall be eligible for a loan repayment award to be deter-  
49 mined by the commissioner over a three-year period distributed as  
50 follows: thirty percent of total award for the first year; thirty  
51 percent of total award for the second year; and any unpaid balance of



1 the total award not to exceed the maximum award amount for the third  
2 year.

3 (iv) In the event that a three-year commitment under this section is  
4 not fulfilled, the recipient shall be responsible for repayment of  
5 amounts paid which shall be calculated in accordance with the formula  
6 set forth in subdivision (b) of section two hundred fifty-four-o of  
7 title forty-two of the United States Code, as amended, or any regu-  
8 lations made thereunder.

9 (b) The commissioner may postpone, change or waive the service obli-  
10 gation and repayment amounts set forth in subparagraphs (i) and (iv) of  
11 paragraph (a) of this subdivision in individual circumstances where  
12 there is compelling need or hardship.

13 2. To develop a streamlined application process for the nurse loan  
14 repayment program set forth under this section, the department  
15 shall appoint a stakeholder work group from recommendations made by  
16 associations representing nurses, general hospitals and other health  
17 care facilities. Such recommendations shall be made by September thirti-  
18 eth, two thousand twenty-two.

19 3. In the event there are undistributed funds within amounts made  
20 available for distributions under this section, such funds shall be  
21 reallocated and distributed in current or subsequent distribution peri-  
22 ods for the purpose set forth in this section.

23 § 3. This act shall take effect immediately; provided, however, that  
24 section two of this act shall be deemed to have been in full force and  
25 effect on and after April 1, 2022.

26 PART B

27 Intentionally Omitted

28 PART C

29 Section 1. Section 3 of part D of chapter 56 of the laws of 2014,  
30 amending the education law relating to enacting the "nurse practitioners  
31 modernization act", as amended by section 10 of part S of chapter 57 of  
32 the laws of 2021, is amended to read as follows:

33 § 3. This act shall take effect on the first of January after it shall  
34 have become a law [and shall expire June 30 of the seventh year after it  
35 shall have become a law, when upon such date the provisions of this act  
36 shall be deemed repealed]; provided, however, that effective immediate-  
37 ly, the addition, amendment and/or repeal of any rule or regulation  
38 necessary for the implementation of this act on its effective date is  
39 authorized and directed to be made and completed on or before such  
40 effective date.

41 § 2. This act shall take effect immediately and shall be deemed to  
42 have been in full force and effect on and after April 1, 2022.

43 PART D

44 Section 1. Short title. This act shall be known and may be cited as  
45 the "health care and mental hygiene worker bonuses for state employees"  
46 act.

47 § 2. Health care and mental hygiene worker bonuses for state employ-  
48 ees. 1. An employee who is employed by a state operated facility, an  
49 institutional or direct-care setting operated by the executive branch of

1 the State of New York or a public hospital operated by the state univer-  
2 sity of New York shall be eligible for the health care and mental  
3 hygiene worker bonus. The bonus shall only be paid to employees that  
4 receive an annualized base salary of one hundred twenty-five thousand  
5 dollars or less. For purposes of this act, "employee" shall mean front-  
6 line health care and mental hygiene practitioners, technicians, assist-  
7 ants and aides that provide hands on health or care services to  
8 patients, without regard to whether the worker is employed on a full-  
9 time, part-time, salaried, hourly, or temporary basis, that received an  
10 annualized base salary of one hundred twenty-five thousand dollars or  
11 less, to include such titles as determined by the commissioner of  
12 health, in consultation with the commissioner of the office of mental  
13 health, the office for people with developmental disabilities, the  
14 office of addiction services and supports, and the office of children  
15 and family services.

16 2. Employees shall be eligible for health care and mental hygiene  
17 worker bonuses in an amount up to but not exceeding three thousand  
18 dollars per employee. The payment of bonuses shall be paid based on the  
19 average number of hours worked during two vesting periods between Octo-  
20 ber first, two thousand twenty-one and March thirty-first, two thousand  
21 twenty-three, based on the employee's start date with the employer. No  
22 employee's first vesting period may begin later than March thirty-first,  
23 two thousand twenty-three, and in total both vesting periods may not  
24 exceed one year in duration. For each vesting period, payments shall be  
25 in accordance with the following:

26 (a) employees who have worked an average of at least twenty but less  
27 than twenty-seven hours per week over the course of a vesting period  
28 shall receive a five hundred dollar bonus for the vesting period;

29 (b) employees who have worked an average of at least twenty-seven but  
30 less than thirty-five hours per week over the course of a vesting period  
31 shall receive a one thousand dollar bonus for such vesting period; and

32 (c) employees who have worked an average of at least thirty-five hours  
33 per week over the course of a vesting period shall receive a one thou-  
34 sand five hundred dollar bonus for such vesting period.

35 3. For the purposes of this section, "vesting period" shall mean a  
36 series of six-month periods between the dates of October first, two  
37 thousand twenty-one and March thirty-first, two thousand twenty-four for  
38 which employees that are continuously employed by an employer during  
39 such six-month periods, in accordance with a schedule issued by the  
40 commissioner of health or relevant agency commissioner as applicable,  
41 may become eligible for a bonus pursuant to subdivision two of this  
42 section.

43 § 3. An employee under this act shall be limited to a bonus of three  
44 thousand dollars per employee.

45 § 4. Notwithstanding any provision of law to the contrary, any bonus  
46 payment paid under this act, to the extent includible in gross income  
47 for federal income tax purposes, shall not be subject to state or local  
48 income tax.

49 § 5. This act shall take effect immediately.

50

#### PART E

51 Section 1. Subdivision 1 of section 605 of the public health law, as  
52 amended by section 20 of part E of chapter 56 of the laws of 2013, is  
53 amended to read as follows:

1 1. A state aid base grant shall be reimbursed to municipalities for  
2 the core public health services identified in section six hundred two of  
3 this title, in an amount of the greater of [sixty-five] one dollar and  
4 thirty cents per capita, for each person in the municipality, or [six  
5 hundred fifty thousand dollars] seven hundred fifty thousand dollars,  
6 provided that the municipality expends at least [six hundred fifty thou-  
7 sand dollars] seven hundred fifty thousand dollars, for such core public  
8 health services. A municipality must provide all the core public health  
9 services identified in section six hundred two of this title to qualify  
10 for such base grant unless the municipality has the approval of the  
11 commissioner to expend the base grant on a portion of such core public  
12 health services. If any services in such section are not provided, the  
13 commissioner [may] shall limit the municipality's per capita or base  
14 grant to reflect the scope of the reduced services, in an amount not to  
15 exceed five hundred seventy-seven thousand five hundred dollars. The  
16 commissioner may use the amount that is not granted to contract with  
17 agencies, associations, or organizations to provide such services; or  
18 the health department may use such proportionate share to provide the  
19 services upon approval of the director of the division of the budget.

20 § 2. Subdivision 2 of section 605 of the public health law, as amended  
21 by section 1 of part 0 of chapter 57 of the laws of 2019, is amended to  
22 read as follows:

23 2. State aid reimbursement for public health services provided by a  
24 municipality under this title, shall be made if the municipality is  
25 providing some or all of the core public health services identified in  
26 section six hundred two of this title, pursuant to an approved applica-  
27 tion for state aid, at a rate of no less than thirty-six per centum,  
28 except for the city of New York which shall receive no less than twenty  
29 per centum, of the difference between the amount of moneys expended by  
30 the municipality for public health services required by section six  
31 hundred two of this title during the fiscal year and the base grant  
32 provided pursuant to subdivision one of this section. Provided, however,  
33 that a municipality's documented fringe benefit costs submitted under an  
34 application for state aid and otherwise eligible for reimbursement under  
35 this article shall not exceed fifty per centum of the municipality's  
36 eligible personnel services. No such reimbursement shall be provided for  
37 services that are not eligible for state aid pursuant to this article.

38 § 3. Subdivision 2 of section 616 of the public health law, as added  
39 by chapter 901 of the laws of 1986, is amended, and a new subdivision 4  
40 is added to read as follows:

41 2. No payments shall be made from moneys appropriated for the purpose  
42 of this article to a municipality for contributions by the municipality  
43 for indirect costs [and fringe benefits, including but not limited to,  
44 employee retirement funds, health insurance and federal old age and  
45 survivors insurance].

46 4. Moneys appropriated for the purposes of this article to a munici-  
47 pality may include reimbursement of a municipality's fringe benefits,  
48 including but not limited to employee retirement funds, health insurance  
49 and federal old age and survivor's insurance. However, costs submitted  
50 under an application for state aid must be consistent with a munici-  
51 pality's documented fringe benefit costs and shall not exceed fifty per  
52 centum of the municipality's eligible personnel services.

53 § 4. This act shall take effect immediately and shall be deemed to  
54 have been in full force and effect on and after April 1, 2022.

1

Intentionally Omitted

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PART G

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Intentionally Omitted

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PART H

5 Section 1. Sections 91 and 92 of part H of chapter 59 of the laws of  
6 2011 relating to the year to year rate of growth of Department of Health  
7 state funds and Medicaid funding are REPEALED.

8 § 2. This act shall take effect immediately.

9

PART I

10 Section 1. 1. Notwithstanding any provision of law to the contrary,  
11 for the state fiscal years beginning April 1, 2022, and thereafter, all  
12 department of health Medicaid payments made for services provided on and  
13 after April 1, 2022, shall be subject to a uniform rate increase of one  
14 percent, subject to the approval of the commissioner of the department  
15 of health and director of the budget. Such rate increase shall be  
16 subject to federal financial participation.

17 2. The following types of payments shall be exempt from increases  
18 pursuant to this section:

19 (a) payments that would violate federal law including, but not limited  
20 to, hospital disproportionate share payments that would be in excess of  
21 federal statutory caps;

22 (b) payments made by other state agencies including, but not limited  
23 to, those made pursuant to articles 16, 31 and 32 of the mental hygiene  
24 law;

25 (c) payments the state is obligated to make pursuant to court orders  
26 or judgments;

27 (d) payments for which the non-federal share does not reflect any  
28 state funding; and

29 (e) at the discretion of the commissioner of health and the director  
30 of the budget, payments with regard to which it is determined that  
31 application of increases pursuant to this section would result, by oper-  
32 ation of federal law, in a lower federal medical assistance percentage  
33 applicable to such payments.

34 § 2. This act shall take effect immediately and shall be deemed to  
35 have been in full force and effect on and after April 1, 2022.

36

PART J

37 Section 1. Paragraph (c) of subdivision 35 of section 2807-c of the  
38 public health law, as amended by section 32 of part C of chapter 60 of  
39 the laws of 2014, is amended to read as follows:

40 (c) The base period reported costs and statistics used for rate-set-  
41 ting for operating cost components, including the weights assigned to  
42 diagnostic related groups, shall be updated no less frequently than  
43 every four years and the new base period [shall] may be no more than  
44 four years prior to the first applicable rate period that utilizes such  
45 new base period provided, however, that the first updated base period  
46 shall begin on or after April first, two thousand fourteen, but no later



1 than July first, two thousand fourteen; and further provided that the  
2 updated base period subsequent to July first, two thousand eighteen  
3 shall begin on or after January first, two thousand twenty-four.

4 § 2. This act shall take effect immediately and shall be deemed to  
5 have been in full force and effect on and after April 1, 2022.

6

## PART K

7 Section 1. The public health law is amended by adding a new section  
8 2825-g to read as follows:

9 § 2825-g. Health care facility transformation program: statewide IV.

10 1. A statewide health care facility transformation program is hereby  
11 established within the department for the purpose of transforming, rede-  
12 signing, and strengthening quality health care services in alignment  
13 with statewide and regional health care needs, and in the ongoing  
14 pandemic response. The program shall also provide funding, subject to  
15 lawful appropriation, in support of capital projects that facilitate  
16 furthering such transformational goals.

17 2. The commissioner shall enter into an agreement with the dormitory  
18 authority of the state of New York pursuant to section sixteen hundred  
19 eighty-r of the public authorities law, which shall apply to this agree-  
20 ment, subject to the approval of the director of the division of the  
21 budget, for the purposes of the distribution, and administration of  
22 available funds, pursuant to such agreement, and made available pursuant  
23 to this section and appropriation. Such funds may be awarded and  
24 distributed by the department for grants to health care facilities  
25 including but not limited to, hospitals, residential health care facili-  
26 ties, adult care facilities licensed under title two of article seven of  
27 the social services law, diagnostic and treatment centers, and clinics  
28 licensed or granted an operating certificate pursuant to this chapter or  
29 the mental hygiene law, children's residential treatment facilities  
30 licensed pursuant to article thirty-one of the mental hygiene law,  
31 assisted living programs approved by the department pursuant to section  
32 four hundred sixty-one-l of the social services law, behavioral health  
33 facilities licensed or granted an operating certificate pursuant to  
34 articles thirty-one and thirty-two of the mental hygiene law, home care  
35 providers certified or licensed pursuant to article thirty-six of this  
36 chapter, primary care providers, community-based programs funded under  
37 the office of mental health, the office for people with developmental  
38 disabilities, the office of addiction services and supports or through a  
39 local governmental unit as defined under article forty-one of the mental  
40 hygiene law, family and child service providers licensed under article  
41 twenty-nine-I of this chapter, and independent practice associations or  
42 organizations. A copy of such agreement, and any amendments thereto,  
43 shall be provided by the department to the chair of the senate finance  
44 committee, the chair of the assembly ways and means committee, and the  
45 director of the division of the budget no later than thirty days after  
46 such agreement is finalized. Projects awarded, in whole or part, under  
47 sections twenty-eight hundred twenty-five-a and twenty-eight hundred  
48 twenty-five-b of this article shall not be eligible for grants or awards  
49 made available under this section.

50 3. Notwithstanding subdivision two of this section or any inconsistent  
51 provision of law to the contrary, and upon approval of the director of  
52 the budget, the commissioner may, subject to the availability of lawful  
53 appropriation, award up to four hundred fifty million dollars of the  
54 funds made available pursuant to this section for unfunded project



1 applications submitted in response to the request for application number  
2 18406 issued by the department on September thirtieth, two thousand  
3 twenty-one pursuant to section twenty-eight hundred twenty-five-f of  
4 this article. Authorized amounts to be awarded pursuant to applications  
5 submitted in response to the request for application number 18406 shall  
6 be awarded no later than December thirty-first, two thousand twenty-two.  
7 Provided, however, that a minimum of:

8 (a) at least one hundred million dollars of total awarded funds shall  
9 be made to community-based health care providers, which for purposes of  
10 this section shall be defined as a diagnostic and treatment center  
11 licensed or granted an operating certificate under this article; a  
12 mental health clinic licensed or granted an operating certificate under  
13 article thirty-one of the mental hygiene law; a substance use disorder  
14 treatment clinic licensed or granted an operating certificate under  
15 article thirty-two of the mental hygiene law; independent practice asso-  
16 ciations or organizations; a clinic licensed or granted an operating  
17 certificate under article sixteen of the mental hygiene law; a home care  
18 provider certified or licensed pursuant to article thirty-six of this  
19 chapter; primary care providers, or hospices licensed or granted an  
20 operating certificate pursuant to article forty of this chapter; a  
21 mental health outpatient provider licensed or granted an operating  
22 certificate under article thirty-one of the mental hygiene law, a  
23 substance use disorder treatment provider licensed or granted an oper-  
24 ating certificate under article thirty-two of the mental hygiene law,  
25 a program licensed under article forty-one of the mental hygiene law,  
26 a community-based program funded under the office of mental health, the  
27 office for people with developmental disabilities, the office of  
28 addiction services and supports or through a local governmental unit as  
29 defined under article forty-one of the mental hygiene law, or a family  
30 and child service provider licensed under article twenty-nine-I of  
31 this chapter; and

32 (b) fifty million dollars of total awarded funds shall be made to  
33 residential health care facilities or adult care facilities.

34 4. Up to two hundred million dollars of the funds appropriated for  
35 this program shall be awarded for grants to health care providers for  
36 purposes of modernization of an emergency department of regional signif-  
37 icance. For purposes of this subdivision, an emergency department shall  
38 be considered to have regional significance if it: (a) serves as Level 1  
39 trauma center with the highest volume in its region; (b) includes the  
40 capacity to segregate patients with communicable diseases, trauma or  
41 severe behavioral health issues from other patients in the emergency  
42 department; (c) provides training in emergency care and trauma care to  
43 residents from multiple hospitals in the region; and (d) serves a high  
44 proportion of Medicaid patients.

45 5. (a) Up to seven hundred fifty million dollars of the funds appro-  
46 priated for this program shall be awarded, without a competitive bid or  
47 request for proposal process, for grants to health care providers (here-  
48 after "applicants").

49 (b) Awards made pursuant to this subdivision shall provide funding  
50 only for capital projects, to the extent lawful appropriation and fund-  
51 ing is available, to build innovative, patient-centered models of care,  
52 increase access to care, to improve the quality of care and to ensure  
53 financial sustainability of health care providers.

54 6. Up to one hundred fifty million dollars of the funds appropriated  
55 for this program shall be awarded, without a competitive bid or request

1 for proposal process, for technological and telehealth transformation  
2 projects.

3 7. Up to fifty million dollars of the funds appropriated for this  
4 program shall be awarded, without a competitive bid or a request for  
5 proposal process, to residential and community-based alternatives to the  
6 traditional model of nursing home care.

7 8. Disbursement of awards may be contingent on achieving certain proc-  
8 ess and performance metrics and milestones that are structured to ensure  
9 that the goals of the project are achieved. Awardees shall be notified  
10 whether section two hundred twenty or two hundred twenty-four-a of the  
11 labor law apply to any construction work that may be performed for  
12 projects funded under this section.

13 9. The department shall provide a report on a quarterly basis to the  
14 chairs of the senate finance, assembly ways and means, and senate and  
15 assembly health committees, until such time as the department determines  
16 that the projects that receive funding pursuant to this section are  
17 substantially complete. Such reports shall be submitted no later than  
18 sixty days after the close of the quarter, and shall include, for each  
19 award, the name of the applicant, a description of the project or  
20 purpose, the amount of the award, disbursement date, and status of  
21 achievement of process and performance metrics and milestones pursuant  
22 to subdivision six of this section.

23 § 2. This act shall take effect immediately and shall be deemed to  
24 have been in full force and effect on and after April 1, 2022.

25

## PART L

26

Intentionally Omitted

27

## PART M

28 Section 1. Paragraph (d) of subdivision 2-c of section 2808 of the  
29 public health law, as amended by section 26-a of part C of chapter 60 of  
30 the laws of 2014, is amended to read as follows:

31 (d) The commissioner shall promulgate regulations, and may promulgate  
32 emergency regulations, to implement the provisions of this subdivision.  
33 Such regulations shall be developed in consultation with the nursing  
34 home industry and advocates for residential health care facility resi-  
35 dents and, further, the commissioner shall provide notification concern-  
36 ing such regulations to the chairs of the senate and assembly health  
37 committees, the chair of the senate finance committee and the chair of  
38 the assembly ways and means committee. Such regulations shall include  
39 provisions for rate adjustments or payment enhancements to facilitate a  
40 minimum four-year transition of facilities to the rate-setting methodol-  
41 ogy established by this subdivision and may also include, but not be  
42 limited to, provisions for facilitating quality improvements in residen-  
43 tial health care facilities. For purposes of facilitating quality  
44 improvements through the establishment of a nursing home quality pool to  
45 be funded at the discretion of the commissioner by (i) adjustments in  
46 medical assistance rates, (ii) funds made available through state appro-  
47 priations, or (iii) a combination thereof, those facilities that  
48 contribute to the quality pool, but are deemed ineligible for quality  
49 pool payments due exclusively to a specific case of employee misconduct,  
50 shall nevertheless be eligible for a quality pool payment if the facili-  
51 ty properly reported the incident, did not receive a survey citation



1 from the commissioner or the Centers for Medicare and Medicaid Services  
 2 establishing the facility's culpability with regard to such misconduct  
 3 and, but for the specific case of employee misconduct, the facility  
 4 would have otherwise received a quality pool payment. Regulations  
 5 pertaining to the facilitation of quality improvement may be made effec-  
 6 tive for periods on and after January first, two thousand thirteen.

7 § 2. The opening paragraph and paragraph (i) of subdivision (g) of  
 8 section 2826 of the public health law, as added by section 6 of part J  
 9 of chapter 60 of the laws of 2015, are amended to read as follows:

10 Notwithstanding subdivision (a) of this section, and within amounts  
 11 appropriated for such purposes as described herein, for the period of  
 12 April first, two thousand [fifteen] twenty-two through March thirty-  
 13 first, two thousand [sixteen] twenty-three, the commissioner may award a  
 14 temporary adjustment to the non-capital components of rates, or make  
 15 temporary lump-sum Medicaid payments to eligible [general hospitals]  
 16 facilities in severe financial distress to enable such facilities to  
 17 maintain operations and vital services while such facilities establish  
 18 long term solutions to achieve sustainable health services.

19 (i) Eligible [general hospitals] facilities shall include:

20 (A) a public hospital, which for purposes of this subdivision, shall  
 21 mean a general hospital operated by a county or municipality, but shall  
 22 exclude any such hospital operated by a public benefit corporation;

23 (B) a federally designated critical access hospital;

24 (C) a federally designated sole community hospital; [or]

25 (D) a residential health care facility;

26 (E) adult care facility; or

27 (F) a general hospital that is a safety net hospital, which for  
 28 purpose of this subdivision shall mean:

29 (1) such hospital has at least thirty percent of its inpatient  
 30 discharges made up of Medicaid eligible individuals, uninsured individ-  
 31 uals or Medicaid dually eligible individuals and with at least thirty-  
 32 five percent of its outpatient visits made up of Medicaid eligible indi-  
 33 viduals, uninsured individuals or Medicaid dually-eligible individuals;  
 34 or

35 (2) such hospital serves at least thirty percent of the residents of a  
 36 county or a multi-county area who are Medicaid eligible individuals,  
 37 uninsured individuals or Medicaid dually-eligible individuals; or

38 (G) an independent practice association or accountable care organiza-  
 39 tion authorized under applicable regulations that participate in managed  
 40 care provider network arrangements with any of the provider types in  
 41 subparagraphs (A) through (F) of this paragraph.

42 § 3. This act shall take effect immediately and shall be deemed to  
 43 have been in full force and effect on and after April 1, 2022.

44

## PART N

45 Section 1. Subparagraph 4 of paragraph (b) of subdivision 1 of section  
 46 366 of the social services law, as added by section 1 of part D of chap-  
 47 ter 56 of the laws of 2013, is amended to read as follows:

48 (4) An individual who is a pregnant woman or is a member of a family  
 49 that contains a dependent child living with a parent or other caretaker  
 50 relative is eligible for standard coverage if [his or her MAGI] their  
 51 MAGI household income does not exceed the MAGI-equivalent of one hundred  
 52 [thirty] thirty-three percent of the [highest amount that ordinarily  
 53 would have been paid to a person without any income or resources under  
 54 the family assistance program as it existed on the first day of Novem-



1 ber, nineteen hundred ninety-seven] federal poverty line for the appli-  
2 cable family size, which shall be calculated in accordance with guidance  
3 issued by the Secretary of the United States department of health and  
4 human services; for purposes of this subparagraph, the term dependent  
5 child means a person who is under eighteen years of age, or is eighteen  
6 years of age and a full-time student, who is deprived of parental  
7 support or care by reason of the death, continued absence, or physical  
8 or mental incapacity of a parent, or by reason of the unemployment of  
9 the parent, as defined by the department of health.

10 § 2. Subparagraph 2 of paragraph (c) of subdivision 1 of section 366  
11 of the social services law, as added by section 1 of part D of chapter  
12 56 of the laws of 2013, is amended to read as follows:

13 (2) An individual who, although not receiving public assistance or  
14 care for [his or her] their maintenance under other provisions of this  
15 chapter, has income [and resources], including available support from  
16 responsible relatives, that does not exceed the amounts set forth in  
17 paragraph (a) of subdivision two of this section, and is (i) sixty-five  
18 years of age or older, or certified blind or certified disabled or (ii)  
19 for reasons other than income or resources, is eligible for federal  
20 supplemental security income benefits and/or additional state payments.

21 § 3. Subparagraph 5 of paragraph (c) of subdivision 1 of section 366  
22 of the social services law, as added by section 1 of part D of chapter  
23 56 of the laws of 2013, is amended to read as follows:

24 (5) A disabled individual at least sixteen years of age, but under the  
25 age of sixty-five, who: would be eligible for benefits under the supple-  
26 mental security income program but for earnings in excess of the allow-  
27 able limit; has net available income that does not exceed two hundred  
28 fifty percent of the applicable federal income official poverty line, as  
29 defined and updated by the United States department of health and human  
30 services, for a one-person or two-person household, as defined by the  
31 commissioner in regulation; [has household resources, as defined in  
32 paragraph (e) of subdivision two of section three hundred sixty-six-c of  
33 this title, other than retirement accounts, that do not exceed twenty  
34 thousand dollars for a one-person household or thirty thousand dollars  
35 for a two-person household, as defined by the commissioner in regu-  
36 lation;] and contributes to the cost of medical assistance provided  
37 pursuant to this subparagraph in accordance with subdivision twelve of  
38 section three hundred sixty-seven-a of this title; for purposes of this  
39 subparagraph, disabled means having a medically determinable impairment  
40 of sufficient severity and duration to qualify for benefits under  
41 section 1902(a)(10)(A)(ii)(xv) of the social security act.

42 § 4. Subparagraph 10 of paragraph (c) of subdivision 1 of section 366  
43 of the social services law, as added by section 1 of part D of chapter  
44 56 of the laws of 2013, is amended to read as follows:

45 (10) A resident of a home for adults operated by a social services  
46 district, or a residential care center for adults or community residence  
47 operated or certified by the office of mental health, and has not,  
48 according to criteria promulgated by the department consistent with this  
49 title, sufficient income, or in the case of a person sixty-five years of  
50 age or older, certified blind, or certified disabled, sufficient income  
51 [and resources], including available support from responsible relatives,  
52 to meet all the costs of required medical care and services available  
53 under this title.

54 § 5. Paragraph (a) of subdivision 2 of section 366 of the social  
55 services law, as separately amended by chapter 32 and 588 of the laws of  
56 1968, the opening paragraph as amended by chapter 41 of the laws of

1 1992, subparagraph 1 as amended by section 27 of part C of chapter 109  
2 of the laws of 2006, subparagraphs 3 and 6 as amended by chapter 938 of  
3 the laws of 1990, subparagraph 4 as amended by section 43 and subpara-  
4 graph 7 as amended by section 47 of part C of chapter 58 of the laws of  
5 2008, subparagraph 5 as amended by chapter 576 of the laws of 2007,  
6 subparagraph 9 as amended by chapter 110 of the laws of 1971, subpara-  
7 graph 10 as added by chapter 705 of the laws of 1988, clauses (i) and  
8 (ii) of subparagraph 10 as amended by chapter 672 of the laws of 2019,  
9 clause (iii) of subparagraph 10 as amended by chapter 170 of the laws of  
10 1994, and subparagraph 11 as added by chapter 576 of the laws of 2015,  
11 is amended to read as follows:

12 (a) The following [income and resources] shall be exempt and shall not  
13 be taken into consideration in determining a person's eligibility for  
14 medical care, services and supplies available under this title:

15 (1) (i) for applications for medical assistance filed on or before  
16 December thirty-first, two thousand five, a homestead which is essential  
17 and appropriate to the needs of the household;

18 (ii) for applications for medical assistance filed on or after January  
19 first, two thousand six, a homestead which is essential and appropriate  
20 to the needs of the household; provided, however, that in determining  
21 eligibility of an individual for medical assistance for nursing facility  
22 services and other long term care services, the individual shall not be  
23 eligible for such assistance if the individual's equity interest in the  
24 homestead exceeds seven hundred fifty thousand dollars; provided  
25 further, that the dollar amount specified in this clause shall be  
26 increased, beginning with the year two thousand eleven, from year to  
27 year, in an amount to be determined by the secretary of the federal  
28 department of health and human services, based on the percentage  
29 increase in the consumer price index for all urban consumers, rounded to  
30 the nearest one thousand dollars. If such secretary does not determine  
31 such an amount, the department of health shall increase such dollar  
32 amount based on such increase in the consumer price index. Nothing in  
33 this clause shall be construed as preventing an individual from using a  
34 reverse mortgage or home equity loan to reduce the individual's total  
35 equity interest in the homestead. The home equity limitation established  
36 by this clause shall be waived in the case of a demonstrated hardship,  
37 as determined pursuant to criteria established by such secretary. The  
38 home equity limitation shall not apply if one or more of the following  
39 persons is lawfully residing in the individual's homestead: (A) the  
40 spouse of the individual; or (B) the individual's child who is under the  
41 age of twenty-one, or is blind or permanently and totally disabled, as  
42 defined in section 1614 of the federal social security act.

43 (2) [essential personal property;

44 (3) a burial fund, to the extent allowed as an exempt resource under  
45 the cash assistance program to which the applicant is most closely  
46 related;

47 (4) savings in amounts equal to one hundred fifty percent of the  
48 income amount permitted under subparagraph seven of this paragraph,  
49 provided, however, that the amounts for one and two person households  
50 shall not be less than the amounts permitted to be retained by house-  
51 holds of the same size in order to qualify for benefits under the feder-  
52 al supplemental security income program;

53 (5) (i) such income as is disregarded or exempt under the cash  
54 assistance program to which the applicant is most closely related for  
55 purposes of this subparagraph, cash assistance program means either the  
56 aid to dependent children program as it existed on the sixteenth day of

1 July, nineteen hundred ninety-six, or the supplemental security income  
2 program; and

3 (ii) such income of a disabled person (as such term is defined in  
4 section 1614(a)(3) of the federal social security act (42 U.S.C. section  
5 1382c(a)(3)) or in accordance with any other rules or regulations estab-  
6 lished by the social security administration), that is deposited in  
7 trusts as defined in clause (iii) of subparagraph two of paragraph (b)  
8 of this subdivision in the same calendar month within which said income  
9 is received;

10 [(6)] (3) health insurance premiums;

11 [(7)] (4) income based on the number of family members in the medical  
12 assistance household, as defined in regulations by the commissioner  
13 consistent with federal regulations under title XIX of the federal  
14 social security act [and calculated as follows:

15 (i) The amounts for one and two person households and families shall  
16 be equal to twelve times the standard of monthly need for determining  
17 eligibility for and the amount of additional state payments for aged,  
18 blind and disabled persons pursuant to section two hundred nine of this  
19 article rounded up to the next highest one hundred dollars for eligible  
20 individuals and couples living alone, respectively.

21 (ii) The amounts for households of three or more shall be calculated  
22 by increasing the income standard for a household of two, established  
23 pursuant to clause (i) of this subparagraph, by fifteen percent for each  
24 additional household member above two, such that the income standard for  
25 a three-person household shall be one hundred fifteen percent of the  
26 income standard for a two-person household, the income standard for a  
27 four-person household shall be one hundred thirty percent of the income  
28 standard for a two-person household, and so on.

29 (iii)] that does not exceed one hundred thirty-eight percent of the  
30 federal poverty line for the applicable family size, which shall be  
31 calculated in accordance with guidance issued by the United States  
32 secretary for health and human services and with other provisions of  
33 this section.

34 (5) No other income [or resources], including federal old-age, survi-  
35 vors and disability insurance, state disability insurance or other  
36 payroll deductions, whether mandatory or optional, shall be exempt and  
37 all other income [and resources] shall be taken into consideration and  
38 required to be applied toward the payment or partial payment of the cost  
39 of medical care and services available under this title, to the extent  
40 permitted by federal law.

41 [(9) Subject to subparagraph eight, the] (6) The department, upon the  
42 application of a local social services district, after passage of a  
43 resolution by the local legislative body authorizing such application,  
44 may adjust the income exemption based upon the variations between cost  
45 of shelter in urban areas and rural areas in accordance with standards  
46 prescribed by the United States secretary of health, education and  
47 welfare.

48 [(10)] (7) (i) A person who is receiving or is eligible to receive  
49 federal supplemental security income payments and/or additional state  
50 payments is entitled to a personal needs allowance as follows:

51 (A) for the personal expenses of a resident of a residential health  
52 care facility, as defined by section twenty-eight hundred one of the  
53 public health law, the amount of fifty-five dollars per month;

54 (B) for the personal expenses of a resident of an intermediate care  
55 facility operated or licensed by the office for people with develop-  
56 mental disabilities or a patient of a hospital operated by the office of

1 mental health, as defined by subdivision ten of section 1.03 of the  
2 mental hygiene law, the amount of thirty-five dollars per month.

3 (ii) A person who neither receives nor is eligible to receive federal  
4 supplemental security income payments and/or additional state payments  
5 is entitled to a personal needs allowance as follows:

6 (A) for the personal expenses of a resident of a residential health  
7 care facility, as defined by section twenty-eight hundred one of the  
8 public health law, the amount of fifty dollars per month;

9 (B) for the personal expenses of a resident of an intermediate care  
10 facility operated or licensed by the office for people with develop-  
11 mental disabilities or a patient of a hospital operated by the office of  
12 mental health, as defined by subdivision ten of section 1.03 of the  
13 mental hygiene law, the amount of thirty-five dollars per month.

14 (iii) Notwithstanding the provisions of clauses (i) and (ii) of this  
15 subparagraph, the personal needs allowance for a person who is a veteran  
16 having neither a spouse nor a child, or a surviving spouse of a veteran  
17 having no child, who receives a reduced pension from the federal veter-  
18 ans administration, and who is a resident of a nursing facility, as  
19 defined in section 1919 of the federal social security act, shall be  
20 equal to such reduced monthly pension but shall not exceed ninety  
21 dollars per month.

22 [(11)] (8) subject to the availability of federal financial partic-  
23 ipation, any amount, including earnings thereon, in a qualified NY ABLE  
24 account as established pursuant to article eighty-four of the mental  
25 hygiene law, any contributions to such NY ABLE account, and any distrib-  
26 ution for qualified disability expenses from such account; provided  
27 however, that such exemption shall be consistent with section 529A of  
28 the Internal Revenue Code of 1986, as amended.

29 § 6. Subparagraphs 1 and 2 of paragraph (b) of subdivision 2 of  
30 section 366 of the social services law, subparagraph 1 as amended by  
31 chapter 638 of the laws of 1993 and as designated by chapter 170 of the  
32 laws of 1994, subparagraph 2 as added by chapter 170 of the laws of  
33 1994, clause (iii) of subparagraph 2 as amended by chapter 187 of the  
34 laws of 2017, clause (iv) of subparagraph 2 as amended by chapter 656 of  
35 the laws of 1997 and as further amended by section 104 of part A of  
36 chapter 62 of the laws of 2011, and clause (vi) of subparagraph 2 as  
37 added by chapter 435 of the laws of 2018, are amended to read as  
38 follows:

39 (1) In establishing standards for determining eligibility for and  
40 amount of such assistance, the department shall take into account only  
41 such income [and resources], in accordance with federal requirements, as  
42 [are] is available to the applicant or recipient and as would not be  
43 required to be disregarded or set aside for future needs, and there  
44 shall be a reasonable evaluation of any such income [or resources]. The  
45 department shall not consider the availability of an option for an  
46 accelerated payment of death benefits or special surrender value pursu-  
47 ant to paragraph one of subsection (a) of section one thousand one  
48 hundred thirteen of the insurance law, or an option to enter into a  
49 viatical settlement pursuant to the provisions of article seventy-eight  
50 of the insurance law, as an available resource in determining eligibil-  
51 ity for an amount of such assistance, provided, however, that the  
52 payment of such benefits shall be considered in determining eligibility  
53 for and amount of such assistance. There shall not be taken into consid-  
54 eration the financial responsibility of any individual for any applicant  
55 or recipient of assistance under this title unless such applicant or  
56 recipient is such individual's spouse or such individual's child who is



1 under twenty-one years of age. In determining the eligibility of a child  
2 who is categorically eligible as blind or disabled, as determined under  
3 regulations prescribed by the social security act for medical assist-  
4 ance, the income [and resources] of parents or spouses of parents are  
5 not considered available to that child if she/he does not regularly  
6 share the common household even if the child returns to the common  
7 household for periodic visits. In the application of standards of eligi-  
8 bility with respect to income, costs incurred for medical care, whether  
9 in the form of insurance premiums or otherwise, shall be taken into  
10 account. Any person who is eligible for, or reasonably appears to meet  
11 the criteria of eligibility for, benefits under title XVIII of the  
12 federal social security act shall be required to apply for and fully  
13 utilize such benefits in accordance with this chapter.

14 (2) In evaluating the income [and resources] available to an applicant  
15 for or recipient of medical assistance, for purposes of determining  
16 eligibility for and the amount of such assistance, the department must  
17 consider assets [held in or] paid from trusts created by such applicant  
18 or recipient, as determined pursuant to the regulations of the depart-  
19 ment, in accordance with the provisions of this subparagraph.

20 (i) In the case of a revocable trust created by an applicant or recip-  
21 ient, as determined pursuant to regulations of the department[: the  
22 trust corpus must be considered to be an available resource;], payments  
23 made from the trust to or for the benefit of such applicant or recipient  
24 must be considered to be available income; and any other payments from  
25 the trust must be considered to be assets disposed of by such applicant  
26 or recipient for purposes of paragraph (d) of subdivision five of this  
27 section.

28 (ii) In the case of an irrevocable trust created by an applicant or  
29 recipient, as determined pursuant to regulations of the department: any  
30 portion of the trust corpus, and of the income generated by the trust  
31 corpus, from which no payment can under any circumstances be made to  
32 such applicant or recipient must be considered, as of the date of estab-  
33 lishment of the trust, or, if later, the date on which payment to the  
34 applicant or recipient is foreclosed, to be assets disposed of by such  
35 applicant or recipient for purposes of paragraph (d) of subdivision five  
36 of this section; [any portion of the trust corpus, and of the income  
37 generated by the trust corpus, from which payment could be made to or  
38 for the benefit of such applicant or recipient must be considered to be  
39 an available resource;] payments made from the trust to or for the bene-  
40 fit of such applicant or recipient must be considered to be available  
41 income; and any other payments from the trust must be considered to be  
42 assets disposed of by such applicant or recipient for purposes of para-  
43 graph (d) of subdivision five of this section.

44 (iii) Notwithstanding the provisions of clauses (i) and (ii) of this  
45 subparagraph, in the case of an applicant or recipient who is disabled,  
46 as such term is defined in section 1614(a)(3) of the federal social  
47 security act, the department must not consider as available income [or  
48 resources] the [corpus or] income of the following trusts which comply  
49 with the provisions of the regulations authorized by clause (iv) of this  
50 subparagraph: (A) a trust containing the assets of such a disabled indi-  
51 vidual which was established for the benefit of the disabled individual  
52 while such individual was under sixty-five years of age by the individ-  
53 ual, a parent, grandparent, legal guardian, or court of competent juris-  
54 diction, if upon the death of such individual the state will receive all  
55 amounts remaining in the trust up to the total value of all medical  
56 assistance paid on behalf of such individual; (B) and a trust containing

1 the assets of such a disabled individual established and managed by a  
2 non-profit association which maintains separate accounts for the benefit  
3 of disabled individuals, but, for purposes of investment and management  
4 of trust funds, pools the accounts, provided that accounts in the trust  
5 fund are established solely for the benefit of individuals who are disa-  
6 bled as such term is defined in section 1614(a)(3) of the federal social  
7 security act by such disabled individual, a parent, grandparent, legal  
8 guardian, or court of competent jurisdiction, and to the extent that  
9 amounts remaining in the individual's account are not retained by the  
10 trust upon the death of the individual, the state will receive all such  
11 remaining amounts up to the total value of all medical assistance paid  
12 on behalf of such individual. Notwithstanding any law to the contrary,  
13 a not-for-profit corporation may, in furtherance of and as an adjunct to  
14 its corporate purposes, act as trustee of a trust for persons with disa-  
15 bilities established pursuant to this subclause, provided that a trust  
16 company, as defined in subdivision seven of section one hundred-c of the  
17 banking law, acts as co-trustee.

18 (iv) The department shall promulgate such regulations as may be neces-  
19 sary to carry out the provisions of this subparagraph. Such regulations  
20 shall include provisions for: assuring the fulfillment of fiduciary  
21 obligations of the trustee with respect to the remainder interest of the  
22 department or state; monitoring pooled trusts; applying this subdivision  
23 to legal instruments and other devices similar to trusts, in accordance  
24 with applicable federal rules and regulations; and establishing proce-  
25 dures under which the application of this subdivision will be waived  
26 with respect to an applicant or recipient who demonstrates that such  
27 application would work an undue hardship on him or her, in accordance  
28 with standards specified by the secretary of the federal department of  
29 health and human services. Such regulations may require: notification of  
30 the department of the creation or funding of such a trust for the bene-  
31 fit of an applicant for or recipient of medical assistance; notification  
32 of the department of the death of a beneficiary of such a trust who is a  
33 current or former recipient of medical assistance; in the case of a  
34 trust, the corpus of which exceeds one hundred thousand dollars, notifi-  
35 cation of the department of transactions tending to substantially  
36 deplete the trust corpus; notification of the department of any trans-  
37 actions involving transfers from the trust corpus for less than fair  
38 market value; the bonding of the trustee when the assets of such a trust  
39 equal or exceed one million dollars, unless a court of competent juris-  
40 diction waives such requirement; and the bonding of the trustee when the  
41 assets of such a trust are less than one million dollars, upon order of  
42 a court of competent jurisdiction. The department, together with the  
43 department of financial services, shall promulgate regulations governing  
44 the establishment, management and monitoring of trusts established  
45 pursuant to subclause (B) of clause (iii) of this subparagraph in which  
46 a not-for-profit corporation and a trust company serve as co-trustees.

47 (v) Notwithstanding any acts, omissions or failures to act of a trus-  
48 tee of a trust which the department or a local social services official  
49 has determined complies with the provisions of clause (iii) and the  
50 regulations authorized by clause (iv) of this subparagraph, the depart-  
51 ment must not consider the [corpus or] income of any such trust as  
52 available income [or resources] of the applicant or recipient who is  
53 disabled, as such term is defined in section 1614(a)(3) of the federal  
54 social security act. The department's remedy for redress of any acts,  
55 omissions or failures to act by such a trustee which acts, omissions or  
56 failures are considered by the department to be inconsistent with the

1 terms of the trust, contrary to applicable laws and regulations of the  
2 department, or contrary to the fiduciary obligations of the trustee  
3 shall be the commencement of an action or proceeding under subdivision  
4 one of section sixty-three of the executive law to safeguard or enforce  
5 the state's remainder interest in the trust, or such other action or  
6 proceeding as may be lawful and appropriate as to assure compliance by  
7 the trustee or to safeguard and enforce the state's remainder interest  
8 in the trust.

9 (vi) The department shall provide written notice to an applicant for  
10 or recipient of medical assistance who is or reasonably appears to be  
11 eligible for medical assistance except for having income exceeding  
12 applicable income levels. The notice shall inform the applicant or  
13 recipient, in plain language, that in certain circumstances the medical  
14 assistance program does not count the income of disabled applicants and  
15 recipients if it is placed in a trust described in clause (iii) of this  
16 subparagraph. The notice shall be included with the eligibility notice  
17 provided to such applicants and recipients and shall reference where  
18 additional information may be found on the department's website. This  
19 clause shall not be construed to change any criterion for eligibility  
20 for medical assistance.

21 § 7. Paragraph (a) of subdivision 3 of section 366 of the social  
22 services law, as amended by chapter 110 of the laws of 1971, is amended  
23 to read as follows:

24 (a) Medical assistance shall be furnished to applicants in cases  
25 where, although such applicant has a responsible relative with suffi-  
26 cient income [and resources] to provide medical assistance as determined  
27 by the regulations of the department, the income [and resources] of the  
28 responsible relative are not available to such applicant because of the  
29 absence of such relative or the refusal or failure of such relative to  
30 provide the necessary care and assistance. In such cases, however, the  
31 furnishing of such assistance shall create an implied contract with such  
32 relative, and the cost thereof may be recovered from such relative in  
33 accordance with title six of article three of this chapter and other  
34 applicable provisions of law.

35 § 8. Paragraph h of subdivision 6 of section 366 of the social  
36 services law, as amended by section 69-b of part C of chapter 58 of the  
37 laws of 2008, is amended to read as follows:

38 h. Notwithstanding any other provision of this chapter or any other  
39 law to the contrary, for purposes of determining medical assistance  
40 eligibility for persons specified in paragraph b of this subdivision,  
41 the income [and resources] of responsible relatives shall not be deemed  
42 available for as long as the person meets the criteria specified in this  
43 subdivision.

44 § 9. Subparagraph (vii) of paragraph b of subdivision 7 of section 366  
45 of the social services law, as amended by chapter 324 of the laws of  
46 2004, is amended to read as follows:

47 (vii) be ineligible for medical assistance because the income [and  
48 resources] of responsible relatives are deemed available to him or her,  
49 causing him or her to exceed the income or resource eligibility level  
50 for such assistance;

51 § 10. Paragraph j of subdivision 7 of section 366 of the social  
52 services law, as amended by chapter 324 of the laws of 2004, is amended  
53 to read as follows:

54 j. Notwithstanding any other provision of this chapter other than  
55 subdivision six of this section or any other law to the contrary, for  
56 purposes of determining medical assistance eligibility for persons spec-

1 ified in paragraph b of this subdivision, the income [and resources] of  
2 a responsible relative shall not be deemed available for as long as the  
3 person meets the criteria specified in this subdivision.

4 § 11. Subdivision 8 of section 366 of the social services law, as  
5 added by chapter 41 of the laws of 1992, is amended to read as follows:

6 8. Notwithstanding any inconsistent provision of this chapter or any  
7 other law to the contrary, income [and resources] which are otherwise  
8 exempt from consideration in determining a person's eligibility for  
9 medical care, services and supplies available under this title, shall be  
10 considered available for the payment or part payment of the costs of  
11 such medical care, services and supplies as required by federal law and  
12 regulations.

13 § 12. Subparagraph (vi) of paragraph b of subdivision 9 of section 366  
14 of the social services law, as added by chapter 170 of the laws of 1994,  
15 is amended to read as follows:

16 (vi) be eligible or, if discharged, would be eligible for medical  
17 assistance, or are ineligible for medical assistance because the income  
18 [and resources] of responsible relatives are or, if discharged, would be  
19 deemed available to such persons causing them to exceed the income [or  
20 resource] eligibility level for such assistance;

21 § 13. Paragraph k of subdivision 9 of section 366 of the social  
22 services law, as added by chapter 170 of the laws of 1994, is amended to  
23 read as follows:

24 k. Notwithstanding any provision of this chapter other than subdivi-  
25 sion six or seven of this section, or any other law to the contrary, for  
26 purposes of determining medical assistance eligibility for persons spec-  
27 ified in paragraphs b and c of this subdivision, the income [and  
28 resources] of a responsible relative shall not be deemed available for  
29 as long as the person meets the criteria specified in this subdivision.

30 § 14. Paragraph (d) of subdivision 12 of section 366 of the social  
31 services law, as added by section 1 of part E of chapter 58 of the laws  
32 of 2006, is amended to read as follows:

33 (d) Notwithstanding any provision of this chapter or any other law to  
34 the contrary, for purposes of determining medical assistance eligibility  
35 for persons specified in paragraph (b) of this subdivision, the income  
36 [and resources] of a legally responsible relative shall not be deemed  
37 available for as long as the person meets the criteria specified in this  
38 subdivision; provided, however, that such income shall continue to be  
39 deemed unavailable should responsibility for the care and placement of  
40 the person be returned to [his or her] their parent or other legally  
41 responsible person.

42 § 15. Paragraph (b) of subdivision 2 of section 366-a of the social  
43 services law is REPEALED and paragraphs (c) and (d), paragraph (d) as  
44 added by section 29 of part B of chapter 58 of the laws of 2010, are  
45 relettered paragraphs (b) and (c).

46 § 16. Paragraph (c) of subdivision 2 of section 366-a of the social  
47 services law, as added by section 29 of part B of section 58 of the laws  
48 of 2010 and as relettered by section fifteen of this act, is amended to  
49 read as follows:

50 (c) Notwithstanding the provisions of paragraph (a) of this subdivi-  
51 sion, an applicant or recipient [whose eligibility under this title is  
52 determined without regard to the amount of his or her accumulated  
53 resources] may attest to the amount of interest income generated by  
54 [such] resources if the amount of such interest income is expected to be  
55 immaterial to medical assistance eligibility, as determined by the  
56 commissioner of health. In the event there is an inconsistency between

1 the information reported by the applicant or recipient and any informa-  
2 tion obtained by the commissioner of health from other sources and such  
3 inconsistency is material to medical assistance eligibility, the commis-  
4 sioner of health shall request that the applicant or recipient provide  
5 adequate documentation to verify [his or her] their interest income.

6 § 17. Paragraph (d) of subdivision 2 of section 366-a of the social  
7 services law, as amended by chapter 535 of the laws of 2010, is  
8 REPEALED.

9 § 18. Paragraph (a) of subdivision 8 of section 366-a of the social  
10 services law, as amended by section 7 of part B of chapter 58 of the  
11 laws of 2010, is amended to read as follows:

12 (a) Notwithstanding subdivisions two and five of this section, infor-  
13 mation concerning income [and resources] of applicants for and recipi-  
14 ents of medical assistance may be verified by matching client informa-  
15 tion with information contained in the wage reporting system established  
16 by section one hundred seventy-one-a of the tax law and in similar  
17 systems operating in other geographically contiguous states, by means of  
18 an income verification performed pursuant to a memorandum of understand-  
19 ing with the department of taxation and finance pursuant to subdivision  
20 four of section one hundred seventy-one-b of the tax law, and, to the  
21 extent required by federal law, with information contained in the non-  
22 wage income file maintained by the United States internal revenue  
23 service, in the beneficiary data exchange maintained by the United  
24 States department of health and human services, and in the unemployment  
25 insurance benefits file. Such matching shall provide for procedures  
26 which document significant inconsistent results of matching activities.  
27 Nothing in this section shall be construed to prohibit activities the  
28 department reasonably believes necessary to conform with federal  
29 requirements under section one thousand one hundred thirty-seven of the  
30 social security act.

31 § 19. Subdivision 1 of section 366-c of the social services law, as  
32 added by chapter 558 of the laws of 1989, is amended to read as follows:

33 1. Notwithstanding any other provision of law to the contrary, in  
34 determining the eligibility for medical assistance of a person defined  
35 as an institutionalized spouse, the income [and resources] of such  
36 person and the person's community spouse shall be treated as provided in  
37 this section.

38 § 20. Paragraphs (c), (d) and (e) of subdivision 2 of section 366-c of  
39 the social services law are REPEALED and paragraphs (f), (g), (h), (i),  
40 (j) and (k) of subdivision 2 are relettered paragraphs (c), (d), (e),  
41 (f), (g) and (h).

42 § 21. Subdivisions 5 and 6 of section 366-c of the social services law  
43 are REPEALED and subdivisions 7 and 8 are renumbered subdivisions 5 and  
44 6.

45 § 22. Subdivisions 5 and 6 of section 366-c of the social services  
46 law, as added by chapter 558 of the laws of 1989 and as relettered by  
47 section twenty-one of this act, are amended to read as follows:

48 5. (a) At the beginning or after the commencement of a continuous  
49 period of institutionalization, either spouse may request [an assessment  
50 of the total value of their resources or] a determination of the commu-  
51 nity spouse monthly income allowance, the amount of the family allow-  
52 ance, or the method of computing the amount of the family allowance, or  
53 the method of computing the amount of the community spouse income allow-  
54 ance.

55 (b) (i) [Upon receipt of a request pursuant to paragraph (a) of this  
56 subdivision together with all relevant documentation of the resources of

1 both spouses, the social services district shall assess and document the  
2 total value of the spouses' resources and provide each spouse with a  
3 copy of the assessment and the documentation upon which it was based. If  
4 the request is not part of an application for medical assistance bene-  
5 fits, the social services district may charge a fee for the assessment  
6 which is related to the cost of preparing and copying the assessment and  
7 documentation which fee may not exceed twenty-five dollars.

8 (ii)] The social services district shall also notify each requesting  
9 spouse of the community spouse monthly income allowance, of the amount,  
10 if any, of the family allowances, and of the method of computing the  
11 amount of the community spouse monthly income allowance.

12 [(c)](ii) The social services district shall also provide to the  
13 spouse a notice of the right to a fair hearing at the time of provision  
14 of the information requested under paragraph (a) of this subdivision or  
15 after a determination of eligibility for medical assistance. Such notice  
16 shall be in the form prescribed or approved by the commissioner and  
17 include a statement advising the spouse of the right to a fair hearing  
18 under this section.

19 6. (a) If, after a determination on an application for medical assist-  
20 ance has been made, either spouse is dissatisfied with the determination  
21 of the community spouse monthly allowance[, ] or the amount of monthly  
22 income otherwise available to the community spouse, [the computation of  
23 the spousal share of resources, the attribution of resources or the  
24 determination of the community spouse's resource allocation,] the spouse  
25 may request a fair hearing to dispute such determination. Such hearing  
26 shall be held within thirty days of the request therefor.

27 (b) If either spouse establishes that the community spouse needs  
28 income above the level established by the social services district as  
29 the minimum monthly maintenance needs allowance, based upon exceptional  
30 circumstances which result in significant financial distress (as defined  
31 by the commissioner in regulations), the department shall substitute an  
32 amount adequate to provide additional necessary income from the income  
33 otherwise available to the institutionalized spouse.

34 [(c) If either spouse establishes that income generated by the commu-  
35 nity spouse resource allowance, established by the social services  
36 district, is inadequate to raise the community spouse's income to the  
37 minimum monthly maintenance needs allowance, the department shall estab-  
38 lish a resource allowance for the spousal share of the institutionalized  
39 spouse adequate to provide such minimum monthly maintenance needs allow-  
40 ance.]

41 § 23. The commissioner of health shall, consistent with the social  
42 services law, make any necessary amendments to the state plan for  
43 medical assistance submitted pursuant to section three hundred sixty-  
44 three of the social services law, in order to ensure federal financial  
45 participation in expenditures under the provisions of this act. The  
46 provisions of this act shall not take effect unless all necessary  
47 approvals under federal law and regulation have been obtained to receive  
48 federal financial participation for the costs of services provide here-  
49 under.

50 § 24. This act shall take effect January 1, 2023, subject to federal  
51 financial participation; provided, however that the amendments to para-  
52 graph h of subdivision 6 of section 366 of the social services law made  
53 by section eight of this act shall not affect the repeal of such subdi-  
54 vision and shall be deemed repealed therewith; provided further that the  
55 commissioner of health shall notify the legislative bill drafting  
56 commission upon the occurrence of federal financial participation in

1 order that the commission may maintain an accurate and timely effective  
2 data base of the official text of the laws of the state of New York in  
3 furtherance of effectuating the provisions of section 44 of the legisla-  
4 tive law and section 70-b of the public officers law.

5

## PART O

6 Section 1. Subdivisions 2 and 3 of section 367-r of the social  
7 services law, subdivision 2 as amended and subdivision 3 as added by  
8 section 2 of part PP of chapter 56 of the laws of 2020, are amended to  
9 read as follows:

10 2. Medically fragile children and adults. (a) In addition, the  
11 commissioner shall further increase rates for private duty nursing  
12 services that are provided to medically fragile children to ensure the  
13 availability of such services to such children. Furthermore, no later  
14 than sixty days after the chapter of the laws of two thousand twenty-two  
15 that amended this subdivision takes effect, increased rates shall be  
16 extended for private duty nursing services provided to medically fragile  
17 adults. In establishing rates of payment under this subdivision, the  
18 commissioner shall consider the cost neutrality of such rates as related  
19 to the cost effectiveness of caring for medically fragile children and  
20 adults in a non-institutional setting as compared to an institutional  
21 setting. Medically fragile children shall, for the purposes of this  
22 subdivision, have the same meaning as in subdivision three-a of section  
23 thirty-six hundred fourteen of the public health law. For purposes of  
24 this subdivision, "medically fragile adult" shall be defined as any  
25 individual who previously qualified as a medically fragile child but no  
26 longer meets the age requirement. Such increased rates for services  
27 rendered to such children and adults may take into consideration the  
28 elements of cost, geographical differentials in the elements of cost  
29 considered, economic factors in the area in which the private duty nurs-  
30 ing service is provided, costs associated with the provision of private  
31 duty nursing services to medically fragile children and adults, and the  
32 need for incentives to improve services and institute economies and such  
33 increased rates shall be payable only to those private duty nurses who  
34 can demonstrate, to the satisfaction of the department of health, satis-  
35 factory training and experience to provide services to such children and  
36 adults. Such increased rates shall be determined based on application  
37 of the case mix adjustment factor for AIDS home care program services  
38 rates as determined pursuant to applicable regulations of the department  
39 of health. The commissioner may promulgate regulations to implement the  
40 provisions of this subdivision.

41 (b) Private duty nursing services providers which have their rates  
42 adjusted pursuant to paragraph (b) of subdivision one of this section  
43 and paragraph (a) of this subdivision shall use such funds solely for  
44 the purposes of recruitment and retention of private duty nurses or to  
45 ensure the delivery of private duty nursing services to medically frag-  
46 ile children and adults and are prohibited from using such funds for any  
47 other purpose. Funds provided under paragraph (b) of subdivision one of  
48 this section and paragraph (a) of this subdivision are not intended to  
49 supplant support provided by a local government. Each such provider,  
50 with the exception of self-employed private duty nurses, shall submit,  
51 at a time and in a manner to be determined by the commissioner of  
52 health, a written certification attesting that such funds will be used  
53 solely for the purpose of recruitment and retention of private duty  
54 nurses or to ensure the delivery of private duty nursing services to

1 medically fragile children and adults. The commissioner of health is  
2 authorized to audit each such provider to ensure compliance with the  
3 written certification required by this subdivision and shall recoup all  
4 funds determined to have been used for purposes other than recruitment  
5 and retention of private duty nurses or the delivery of private duty  
6 nursing services to medically fragile children and adults. Such recoup-  
7 ment shall be in addition to any other penalties provided by law.

8 (c) The commissioner of health shall, subject to the provisions of  
9 paragraph (b) of this subdivision, and the provisions of subdivision  
10 three of this section, and subject to the availability of federal finan-  
11 cial participation, annually increase fees for the fee-for-service  
12 reimbursement of private duty nursing services provided to medically  
13 fragile children by fee-for-service private duty nursing services  
14 providers who enroll and participate in the provider directory pursuant  
15 to subdivision three of this section, over a period of three years,  
16 commencing October first, two thousand twenty, by one-third annual  
17 increments, until such fees for reimbursement equal the final benchmark  
18 payment designed to ensure adequate access to the service. In developing  
19 such benchmark the commissioner of health may utilize the average two  
20 thousand eighteen Medicaid managed care payments for reimbursement of  
21 such private duty nursing services. The commissioner may promulgate  
22 regulations to implement the provisions of this paragraph.

23 (d) The commissioner of health shall, subject to the provisions of  
24 paragraph (b) of this subdivision, and the provisions of subdivision  
25 three of this section, and subject to the availability of federal finan-  
26 cial participation, increase fees for the fee-for-service reimbursement  
27 of private duty nursing services provided to medically fragile adults by  
28 fee-for-service private duty nursing services providers who enroll and  
29 participate in the provider directory pursuant to subdivision three of  
30 this section, no later than sixty days after the chapter of the laws of  
31 two thousand twenty-two that amended this subdivision takes effect, so  
32 such fees for reimbursement equal the benchmark payment designed to  
33 ensure adequate access to the service. In developing such benchmark the  
34 commissioner of health may utilize the average two thousand twenty Medi-  
35 caid managed care payments for reimbursement of such private duty nurs-  
36 ing services. The commissioner may promulgate regulations to implement  
37 the provisions of this paragraph.

38 3. Provider directory for fee-for-service private duty nursing  
39 services provided to medically fragile children and adults. The commis-  
40 sioner of health is authorized to establish a directory of qualified  
41 providers for the purpose of promoting the availability and ensuring  
42 delivery of fee-for-service private duty nursing services to medically  
43 fragile children [and individuals transitioning out of such category of  
44 care] and adults. Qualified providers enrolling in the directory shall  
45 ensure the availability and delivery of and shall provide such services  
46 to those individuals as are in need of such services, and shall receive  
47 increased reimbursement for such services pursuant to [paragraph (c)]  
48 paragraphs (c) and (d) of subdivision two of this section. The directory  
49 shall offer enrollment to all private duty nursing services providers to  
50 promote and ensure the participation in the directory of all nursing  
51 services providers available to serve medically fragile children and  
52 adults.

53 § 2. Subdivision 3-a of section 3614 of the public health law, as  
54 amended by section 9 of part C of chapter 109 of the laws of 2006, is  
55 amended to read as follows:



1 3-a. Medically fragile children and adults. Rates of payment for  
2 continuous nursing services for medically fragile children and adults  
3 provided by a certified home health agency, a licensed home care  
4 services agency or a long term home health care program shall be estab-  
5 lished to ensure the availability of such services, whether provided by  
6 registered nurses or licensed practical nurses who are employed by or  
7 under contract with such agencies or programs, and shall be established  
8 at a rate that is at least equal to rates of payment for such services  
9 rendered to patients eligible for AIDS home care programs; provided,  
10 however, that a certified home health agency, a licensed home care  
11 services agency or a long term home health care program that receives  
12 such enhanced rates for continuous nursing services for medically frag-  
13 ile children and adults shall use such enhanced rates to increase  
14 payments to registered nurses and licensed practical nurses who provide  
15 such services. In the case of services provided by certified home health  
16 agencies and long term home health care programs through contracts with  
17 licensed home care services agencies, rate increases received by such  
18 certified home health agencies and long term home health care programs  
19 pursuant to this subdivision shall be reflected in payments made to the  
20 registered nurses or licensed practical nurses employed by such licensed  
21 home care services agencies to render services to these children and  
22 adults. In establishing rates of payment under this subdivision, the  
23 commissioner shall consider the cost neutrality of such rates as related  
24 to the cost effectiveness of caring for medically fragile children and  
25 adults in a non-institutional setting as compared to an institutional  
26 setting. For the purposes of this subdivision, a medically fragile child  
27 shall mean a child who is at risk of hospitalization or institutional-  
28 ization, including but not limited to children who are technologically-  
29 dependent for life or health-sustaining functions, require complex medi-  
30 cation regimen or medical interventions to maintain or to improve their  
31 health status or are in need of ongoing assessment or intervention to  
32 prevent serious deterioration of their health status or medical compli-  
33 cations that place their life, health or development at risk, but who  
34 are capable of being cared for at home if provided with appropriate home  
35 care services, including but not limited to case management services and  
36 continuous nursing services. For the purposes of this subdivision, a  
37 medically fragile adult shall mean any individual who previously quali-  
38 fied as a medically fragile child but no longer meets the age require-  
39 ment. The commissioner shall promulgate regulations to implement  
40 provisions of this subdivision and may also direct the providers speci-  
41 fied in this subdivision to provide such additional information and in  
42 such form as the commissioner shall determine is reasonably necessary to  
43 implement the provisions of this subdivision.  
44 § 3. This act shall take effect immediately.

45

## PART P

46

Intentionally Omitted

47

## PART Q

48 Section 1. Section 268-c of the public health law is amended by adding  
49 a new subdivision 25 to read as follows:

50 25. The commissioner is authorized to submit the appropriate waiver  
51 applications to the United States secretary of health and human services



1 and/or the department of the treasury to waive any applicable provisions  
2 of the Patient Protection and Affordable Care Act, Pub. L. 111-148 as  
3 amended, or successor provisions, as provided for by 42 U.S.C. 18052,  
4 and any other waivers necessary to achieve the purposes of high quality,  
5 affordable coverage through NY State of Health, the official health plan  
6 marketplace. The commissioner shall implement the state plans of any  
7 such waiver in a manner consistent with applicable state and federal  
8 laws, as authorized by the secretary of health and human services and/or  
9 the secretary of the treasury pursuant to 42 U.S.C. 18052. Copies of  
10 such original waiver applications and amendments thereto shall be  
11 provided to the chair of the senate finance committee, the chair of the  
12 assembly ways and means committee and the chairs of the senate and  
13 assembly health committees simultaneously with their submission to the  
14 federal government.

15 § 2. Paragraph (d) of subdivision 3 of section 369-gg of the social  
16 services law, as amended by section 2 of part H of chapter 57 of the  
17 laws of 2021, is amended to read as follows:

18 (d) (i) except as provided by subparagraph (ii) of this paragraph, has  
19 household income at or below two hundred percent of the federal poverty  
20 line defined and annually revised by the United States department of  
21 health and human services for a household of the same size; and [(ii)]  
22 has household income that exceeds one hundred thirty-three percent of  
23 the federal poverty line defined and annually revised by the United  
24 States department of health and human services for a household of the  
25 same size; [however, MAGI eligible aliens lawfully present in the United  
26 States with household incomes at or below one hundred thirty-three  
27 percent of the federal poverty line shall be eligible to receive cover-  
28 age for health care services pursuant to the provisions of this title if  
29 such alien would be ineligible for medical assistance under title eleven  
30 of this article due to his or her immigration status.]

31 (ii) subject to federal approval and the use of state funds, unless  
32 the commissioner may use funds under subdivision seven of this section,  
33 has household income at or below two hundred fifty percent of the feder-  
34 al poverty line defined and annually revised by the United States  
35 department of health and human services for a household of the same  
36 size; and has household income that exceeds one hundred thirty-three  
37 percent of the federal poverty line defined and annually revised by the  
38 United States department of health and human services for a household of  
39 the same size;

40 (iii) subject to federal approval if required and the use of state  
41 funds, unless the commissioner may use funds under subdivision seven of  
42 this section, a pregnant individual who is eligible for and receiving  
43 coverage for health care services pursuant to this title is eligible to  
44 continue to receive health care services pursuant to this title during  
45 the pregnancy and for a period of one year following the end of the  
46 pregnancy without regard to any change in the income of the household  
47 that includes the pregnant individual, even if such change would render  
48 the pregnant individual ineligible to receive health care services  
49 pursuant to this title;

50 (iv) subject to federal approval, a child born to an individual eligi-  
51 ble for and receiving coverage for health care services pursuant to this  
52 title who would be eligible for coverage pursuant to subparagraphs (2)  
53 or (4) of paragraph (b) of subdivision 1 of section three hundred and  
54 sixty-six of the social services law shall be deemed to have applied for  
55 medical assistance and to have been found eligible for such assistance

1 on the date of such birth and to remain eligible for such assistance for  
2 a period of one year.

3 An applicant who fails to make an applicable premium payment, if any,  
4 shall lose eligibility to receive coverage for health care services in  
5 accordance with time frames and procedures determined by the commission-  
6 er.

7 § 3. Paragraph (d) of subdivision 3 of section 369-gg of the social  
8 services law, as added by section 51 of part C of chapter 60 of the laws  
9 of 2014, is amended to read as follows:

10 (d) (i) except as provided by subparagraph (ii) of this paragraph, has  
11 household income at or below two hundred percent of the federal poverty  
12 line defined and annually revised by the United States department of  
13 health and human services for a household of the same size; and [(ii)]  
14 has household income that exceeds one hundred thirty-three percent of  
15 the federal poverty line defined and annually revised by the United  
16 States department of health and human services for a household of the  
17 same size; [however, MAGI eligible aliens lawfully present in the United  
18 States with household incomes at or below one hundred thirty-three  
19 percent of the federal poverty line shall be eligible to receive cover-  
20 age for health care services pursuant to the provisions of this title if  
21 such alien would be ineligible for medical assistance under title eleven  
22 of this article due to his or her immigration status.]

23 (ii) subject to federal approval and the use of state funds, unless  
24 the commissioner may use funds under subdivision seven of this section,  
25 has household income at or below two hundred fifty percent of the feder-  
26 al poverty line defined and annually revised by the United States  
27 department of health and human services for a household of the same  
28 size; and has household income that exceeds one hundred thirty-three  
29 percent of the federal poverty line defined and annually revised by the  
30 United States department of health and human services for a household of  
31 the same size;

32 (iii) subject to federal approval if required and the use of state  
33 funds, unless the commissioner may use funds under subdivision seven of  
34 this section, a pregnant individual who is eligible for and receiving  
35 coverage for health care services pursuant to this title is eligible to  
36 continue to receive health care services pursuant to this title during  
37 the pregnancy and for a period of one year following the end of the  
38 pregnancy without regard to any change in the income of the household  
39 that includes the pregnant individual, even if such change would render  
40 the pregnant individual ineligible to receive health care services  
41 pursuant to this title;

42 (iv) subject to federal approval, a child born to an individual eligi-  
43 ble for and receiving coverage for health care services pursuant to this  
44 title who would be eligible for coverage pursuant to subparagraphs (2)  
45 or (4) of paragraph (b) of subdivision 1 of section three hundred and  
46 sixty-six of the social services law shall be deemed to have applied for  
47 medical assistance and to have been found eligible for such assistance  
48 on the date of such birth and to remain eligible for such assistance for  
49 a period of one year.

50 An applicant who fails to make an applicable premium payment shall  
51 lose eligibility to receive coverage for health care services in accord-  
52 ance with time frames and procedures determined by the commissioner.

53 § 4. Paragraph (c) of subdivision 1 of section 369-gg of the social  
54 services law, as amended by section 2 of part H of chapter 57 of the  
55 laws of 2021, is amended to read as follows:

1 (c) "Health care services" means (i) the services and supplies as  
2 defined by the commissioner in consultation with the superintendent of  
3 financial services, and shall be consistent with and subject to the  
4 essential health benefits as defined by the commissioner in accordance  
5 with the provisions of the patient protection and affordable care act  
6 (P.L. 111-148) and consistent with the benefits provided by the refer-  
7 ence plan selected by the commissioner for the purposes of defining such  
8 benefits, [and] (ii) dental and vision services as defined by the  
9 commissioner, and (iii) as defined by the commissioner and subject to  
10 federal approval, certain services and supports provided to enrollees  
11 eligible pursuant to subparagraph one of paragraph (g) of subdivision  
12 one of section three hundred sixty-six of this article who have func-  
13 tional limitations and/or chronic illnesses that have the primary  
14 purpose of supporting the ability of the enrollee to live or work in the  
15 setting of their choice, which may include the individual's home, a  
16 worksite, or a provider-owned or controlled residential setting;

17 § 5. Paragraph (c) of subdivision 1 of section 369-gg of the social  
18 services law, as added by section 51 of part C of chapter 60 of the laws  
19 of 2014, is amended to read as follows:

20 (c) "Health care services" means (i) the services and supplies as  
21 defined by the commissioner in consultation with the superintendent of  
22 financial services, and shall be consistent with and subject to the  
23 essential health benefits as defined by the commissioner in accordance  
24 with the provisions of the patient protection and affordable care act  
25 (P.L. 111-148) and consistent with the benefits provided by the refer-  
26 ence plan selected by the commissioner for the purposes of defining such  
27 benefits, and (ii) as defined by the commissioner and subject to federal  
28 approval, certain services and supports provided to enrollees eligible  
29 pursuant to subparagraph one of paragraph (g) of subdivision one of  
30 section three hundred sixty-six of this article who have functional  
31 limitations and/or chronic illnesses that have the primary purpose of  
32 supporting the ability of the enrollee to live or work in the setting of  
33 their choice, which may include the individual's home, a worksite, or a  
34 provider-owned or controlled residential setting;

35 § 6. Paragraph (c) of subdivision 1 of section 369-gg of the social  
36 services law, as amended by section 2 of part H of chapter 57 of the  
37 laws of 2021, is amended to read as follows:

38 (c) "Health care services" means (i) the services and supplies as  
39 defined by the commissioner in consultation with the superintendent of  
40 financial services, and shall be consistent with and subject to the  
41 essential health benefits as defined by the commissioner in accordance  
42 with the provisions of the patient protection and affordable care act  
43 (P.L. 111-148) and consistent with the benefits provided by the refer-  
44 ence plan selected by the commissioner for the purposes of defining such  
45 benefits, [and] (ii) dental and vision services as defined by the  
46 commissioner, and (iii) as defined by the commissioner and subject to  
47 federal approval, certain services and supports provided to enrollees  
48 who have functional limitations and/or chronic illnesses that have the  
49 primary purpose of supporting the ability of the enrollee to live or  
50 work in the setting of their choice, which may include the individual's  
51 home, a worksite, or a provider-owned or controlled residential setting;

52 § 7. Paragraph (c) of subdivision 1 of section 369-gg of the social  
53 services law, as added by section 51 of part C of chapter 60 of the laws  
54 of 2014, is amended to read as follows:

55 (c) "Health care services" means (i) the services and supplies as  
56 defined by the commissioner in consultation with the superintendent of

1 financial services, and shall be consistent with and subject to the  
2 essential health benefits as defined by the commissioner in accordance  
3 with the provisions of the patient protection and affordable care act  
4 (P.L. 111-148) and consistent with the benefits provided by the refer-  
5 ence plan selected by the commissioner for the purposes of defining such  
6 benefits, and (ii) as defined by the commissioner and subject to federal  
7 approval, certain services and supports provided to enrollees who have  
8 functional limitations and/or chronic illnesses that have the primary  
9 purpose of supporting the ability of the enrollee to live or work in the  
10 setting of their choice, which may include the individual's home, a  
11 worksite, or a provider-owned or controlled residential setting;

12 § 7-a. Section 369-gg of the social services law is amended by adding  
13 a new subdivision 3-a to read as follows:

14 3-a. Alternate eligibility. A person shall be eligible to receive  
15 coverage for health care services under this title, without regard to  
16 federal financial participation, if he or she is a resident of New York  
17 state, has household income below two hundred fifty percent of the  
18 federal poverty line as defined and annually revised by the United  
19 States department of health and human services for a household of the  
20 same size, and is ineligible for federal financial participation in the  
21 basic health program under 42 USC section 18051 on the basis of immi-  
22 gration status, but otherwise meets the eligibility requirements in  
23 paragraphs (b) and (c) of subdivision three of this section. An appli-  
24 cant who fails to make an applicable premium payment shall lose eligi-  
25 bility to receive coverage for health care services in accordance with  
26 time frames and procedures determined by the commissioner.

27 § 7-b. Paragraph (b) of subdivision 5 of section 369-gg of the social  
28 services law, as amended by section 2 of part H of chapter 57 of the  
29 laws of 2021, is amended to read as follows:

30 (b) The commissioner shall establish cost sharing obligations for  
31 enrollees, subject to federal approval. There shall be no cost-sharing  
32 obligations for enrollees for dental and vision services as defined in  
33 subparagraph (ii) of paragraph (c) of subdivision one of this section;  
34 services and supports as defined in subparagraph (iii) of paragraph (c)  
35 of subdivision one of this section; and health care services authorized  
36 under subparagraphs (iii) and (iv) of paragraph (d) of subdivision three  
37 of this section.

38 § 8. This act shall take effect immediately and shall be deemed to  
39 have been in full force and effect on and after April 1, 2022, provided  
40 however:

41 (a) the amendments to paragraph (d) of subdivision 3 and paragraph (b)  
42 of subdivision 5 of section 369-gg of the social services law made by  
43 sections two and seven-b of this act shall be subject to the expiration  
44 and reversion of such paragraph pursuant to section 3 of part H of chap-  
45 ter 57 of the laws of 2021 as amended, when upon such date the  
46 provisions of section three of this act shall take effect;

47 (b) section four of this act shall expire and be deemed repealed  
48 December 31, 2024; provided, however, the amendments to paragraph (c) of  
49 subdivision 1 of section 369-gg of the social services law made by such  
50 section of this act shall be subject to the expiration and reversion of  
51 such paragraph pursuant to section 2 of part H of chapter 57 of the laws  
52 of 2021 when upon such date, the provisions of section five of this act  
53 shall take effect; provided, however, the amendments to such paragraph  
54 made by section five of this act shall expire and be deemed repealed  
55 December 31, 2024; and

1 (c) section six of this act shall take effect January 1, 2025;  
2 provided, however, the amendments to paragraph (c) of subdivision 1 of  
3 section 369-gg of the social services law made by such section of this  
4 act shall be subject to the expiration and reversion of such paragraph  
5 pursuant to section 2 of part H of chapter 57 of the laws of 2021 when  
6 upon such date, the provisions of section seven of this act shall take  
7 effect.

8 (d) section seven-a of this act shall take effect on the one hundred  
9 eightieth day after it shall have become a law. Effective immediately,  
10 the addition, amendment and/or repeal of any rule or regulation neces-  
11 sary for the implementation of this act on its effective date are  
12 authorized to be made and completed on or before such effective date.

13 PART R

14 Intentionally Omitted

15 PART S

16 Section 1. Subdivision 2 of section 365-a of the social services law  
17 is amended by adding a new paragraph (jj) to read as follows:

18 (jj) pre-natal and post-partum care and services for the purpose of  
19 improving maternal health outcomes and reduction of maternal mortality,  
20 when such services are recommended by a physician or other health care  
21 practitioner authorized under title eight of the education law, and  
22 provided by qualified practitioners. Such services shall include but  
23 not be limited to nutrition services provided by certified dietitians  
24 and certified nutritionists; care coordination, case management, and  
25 peer support; patient navigation services; services provided by licensed  
26 clinical social workers; dyadic services; Bluetooth-enabled devices for  
27 remote patient monitoring; and other services determined by the commis-  
28 sioner of health; provided, however, that the provisions of this para-  
29 graph shall not take effect unless there is federal financial partic-  
30 ipation. Nothing in this paragraph shall be construed to modify any  
31 licensure, certification or scope of practice provision under title  
32 eight of the education law.

33 § 2. Subparagraph 3 of paragraph (d) of subdivision 1 of section 366  
34 of the social services law, as added by section 1 of part D of chapter  
35 56 of the laws of 2013, is amended to read as follows:

36 (3) cooperates with the appropriate social services official or the  
37 department in establishing paternity or in establishing, modifying, or  
38 enforcing a support order with respect to his or her child; provided,  
39 however, that nothing herein contained shall be construed to require a  
40 payment under this title for care or services, the cost of which may be  
41 met in whole or in part by a third party; notwithstanding the foregoing,  
42 a social services official shall not require such cooperation if the  
43 social services official or the department determines that such actions  
44 would be detrimental to the best interest of the child, applicant, or  
45 recipient, or with respect to pregnant women during pregnancy and during  
46 the [sixty-day] one year period beginning on the last day of pregnancy,  
47 in accordance with procedures and criteria established by regulations of  
48 the department consistent with federal law; and

49 § 3. Subparagraph 1 of paragraph (b) of subdivision 4 of section 366  
50 of the social services law, as added by section 2 of part D of chapter  
51 56 of the laws of 2013, is amended to read as follows:

1 (1) A pregnant woman eligible for medical assistance under subpara-  
2 graph two or four of paragraph (b) of subdivision one of this section on  
3 any day of her pregnancy will continue to be eligible for such care and  
4 services [through the end of the month in which the sixtieth day follow-  
5 ing the end of the pregnancy occurs,] for a period of one year beginning  
6 on the last day of pregnancy, without regard to any change in the income  
7 of the family that includes the pregnant woman, even if such change  
8 otherwise would have rendered her ineligible for medical assistance.

9 § 4. Section 369-hh of the social services law is REPEALED.

10 § 5. This act shall take effect immediately and shall be deemed to  
11 have been in full force and effect on and after April 1, 2022; provided,  
12 however, that sections two, three and four of this act shall take effect  
13 March 1, 2023.

14 PART T

15 Intentionally Omitted

16 PART U

17 Section 1. Subdivision 7 of section 2510 of the public health law, as  
18 amended by chapter 436 of the laws of 2021, is amended to read as  
19 follows:

20 7. "Covered health care services" means: the services of physicians,  
21 optometrists, nurses, nurse practitioners, midwives and other related  
22 professional personnel which are provided on an outpatient basis,  
23 including routine well-child visits; diagnosis and treatment of illness  
24 and injury; inpatient health care services; laboratory tests; diagnostic  
25 x-rays; prescription and non-prescription drugs, ostomy and other  
26 medical supplies and durable medical equipment; radiation therapy;  
27 chemotherapy; hemodialysis; outpatient blood clotting factor products  
28 and other treatments and services furnished in connection with the care  
29 of hemophilia and other blood clotting protein deficiencies; emergency  
30 room services; ambulance services; hospice services; emergency, preven-  
31 tive and routine dental care, including [medically necessary] orthodon-  
32 tia but excluding cosmetic surgery; emergency, preventive and routine  
33 vision care, including eyeglasses; speech and hearing services; [and,]  
34 inpatient and outpatient mental health, alcohol and substance abuse  
35 services, including children and family treatment and support services,  
36 children's home and community based services, assertive community treat-  
37 ment services and residential rehabilitation for youth services which  
38 shall be reimbursed in accordance with the ambulatory patient group  
39 (APG) rate-setting methodology under section twenty-eight hundred seven  
40 of this chapter; and health-related services provided by voluntary  
41 foster care agency health facilities licensed pursuant to article twen-  
42 ty-nine-I of this chapter; as defined by the commissioner [in consulta-  
43 tion with the superintendent]. "Covered health care services" shall not  
44 include drugs, procedures and supplies for the treatment of erectile  
45 dysfunction when provided to, or prescribed for use by, a person who is  
46 required to register as a sex offender pursuant to article six-C of the  
47 correction law, provided that any denial of coverage of such drugs,  
48 procedures or supplies shall provide the patient with the means of  
49 obtaining additional information concerning both the denial and the  
50 means of challenging such denial.



1 § 2. Subdivision 9 of section 2510 of the public health law is amended  
2 by adding a new paragraph (e) to read as follows:

3 (e) for periods on or after October first, two thousand twenty-two,  
4 amounts as follows:

5 (i) no payments are required for eligible children whose family house-  
6 hold income is less than two hundred twenty-three percent of the non-  
7 farm federal poverty level and for eligible children who are American  
8 Indians or Alaskan Natives, as defined by the United States department  
9 of health and human services, whose family household income is less than  
10 two hundred fifty-one percent of the non-farm federal poverty level; and

11 (ii) fifteen dollars per month for each eligible child whose family  
12 household income is between two hundred twenty-three percent and two  
13 hundred fifty percent of the non-farm federal poverty level, but no more  
14 than forty-five dollars per month per family; and

15 (iii) thirty dollars per month for each eligible child whose family  
16 household income is between two hundred fifty-one percent and three  
17 hundred percent of the non-farm federal poverty level, but no more than  
18 ninety dollars per month per family; and

19 (iv) forty-five dollars per month for each eligible child whose family  
20 household income is between three hundred one percent and three hundred  
21 fifty percent of the non-farm federal poverty level, but no more than  
22 one hundred thirty-five dollars per month per family; and

23 (v) sixty dollars per month for each eligible child whose family  
24 household income is between three hundred fifty-one percent and four  
25 hundred percent of the non-farm federal poverty level, but no more than  
26 one hundred eighty dollars per month per family.

27 § 3. This act shall take effect immediately; provided, however, that  
28 section one of this act shall take effect January 1, 2023 and section  
29 two of this act shall take effect April 1, 2022.

30 PART V

31 Intentionally Omitted

32 PART W

33 Section 1. Section 365-g of the social services law, as added by chap-  
34 ter 938 of the laws of 1990, subdivisions 1 and 3 as amended by chapter  
35 165 of the laws of 1991, subdivisions 2 and 4 as amended by section 31  
36 of part C of chapter 58 of the laws of 2008, clause (B) of subparagraph  
37 (iii) of paragraph (b) of subdivision 3 as amended by chapter 59 of the  
38 laws of 1993, subparagraphs (vi) and (vii) of paragraph (b) of subdivi-  
39 sion 3 as amended and subparagraph (viii) as added by section 31-b of  
40 part C of chapter 58 of the laws of 2008, subdivision 5 as amended by  
41 chapter 41 of the laws of 1992, paragraphs (f) and (g) of subdivision 5  
42 as amended by and paragraphs (h) and (i) as added by section 31-a of  
43 part C of chapter 58 of the laws of 2008, is amended to read as follows:

44 § 365-g. Utilization [thresholds] review for certain care, services  
45 and supplies. 1. The department may implement a system for utilization  
46 [controls] review, pursuant to this section, for persons eligible for  
47 benefits under this title, [including annual service limitations or  
48 utilization thresholds above which the department may not pay for addi-  
49 tional care, services or supplies, unless such care, services or  
50 supplies have been previously approved by the department or unless such  
51 care, services or supplies were provided pursuant to subdivision three,



1 four or five of this section] to evaluate the appropriateness and quali-  
2 ty of medical assistance, and safeguard against unnecessary utilization  
3 of care and services, which shall include a post-payment review process  
4 to develop and review beneficiary utilization profiles, provider service  
5 profiles, and exceptions criteria to correct misutilization practices of  
6 beneficiaries and providers; and for referral to the office of Medicaid  
7 inspector general where suspected fraud, waste or abuse are identified  
8 in the unnecessary or inappropriate use of care, services or supplies  
9 furnished under this title.

10 2. The department may [implement] review utilization [thresholds] by  
11 provider service type, medical procedure and patient, in consultation  
12 with the state department of mental hygiene, other appropriate state  
13 agencies, and other stakeholders including provider and consumer repre-  
14 sentatives. In [developing] reviewing utilization [thresholds], the  
15 department shall consider historical recipient utilization patterns,  
16 patient-specific diagnoses and burdens of illness, and the anticipated  
17 recipient needs in order to maintain good health.

18 3. If the department implements [a] utilization [threshold program]  
19 review, at a minimum, such [program must] review shall include:

20 (a) prior notice to the recipients affected by [the] utilization  
21 [threshold program] review, which the notice must describe: [(i)] the  
22 nature and extent of the utilization [program] review, [the procedures  
23 for obtaining an exemption from or increase in a utilization threshold,]  
24 the recipients' fair hearing rights, and referral to an informational  
25 toll-free hot-line operated by the department; and

26 [(ii) alternatives to the utilization threshold program such as  
27 enrollment in managed care programs and referral to preferred primary  
28 care providers designated pursuant to subdivision twelve of section  
29 twenty-eight hundred seven of the public health law; and]

30 (b) procedures for:

31 (i) requesting an increase in amount of authorized services;

32 (ii) extending amount of authorized services when an application for  
33 an increase in the amount of authorized services is pending;

34 (iii) requesting an exemption from utilization [thresholds] reviews,  
35 which the procedure must:

36 (A) allow the recipient, or a provider on behalf of a recipient, to  
37 apply to the department for an exemption from one or more utilization  
38 [thresholds] reviews based upon documentation of the medical necessity  
39 for services in excess of the threshold,

40 (B) provided for exemptions consistent with department guidelines for  
41 approving exemptions, which guidelines must be established by the  
42 department in consultation with the department of health and, as appro-  
43 priate, with the department of mental hygiene, and consistent with the  
44 current regulations of the office of mental health governing outpatient  
45 treatment.

46 (C) provide for an exemption when medical and clinical documentation  
47 substantiates a condition of a chronic medical nature which requires  
48 ongoing and frequent use of medical care, services or supplies such that  
49 an increase in the amount of authorized services is not sufficient to  
50 meet the medical needs of the recipient;

51 [(iv) reimbursing a provider, regardless of the recipient's previous  
52 use of services, when care, services or supplies are provided in a case  
53 of urgent medical need, as defined by the department, or when provided  
54 on an emergency basis, as defined by the department;

55 (v) notifying recipients of and referring recipients to appropriate  
56 and accessible managed care programs and to preferred primary care

1 providers designated pursuant to subdivision twelve of section twenty-  
2 eight hundred seven of the public health law at the same time such  
3 recipients are notified that they are nearing or have reached the utili-  
4 zation threshold for each specific provider type;

5 (vi) notifying recipients at the same time such recipients are noti-  
6 fied that they have received an exemption from a utilization threshold,  
7 an increase in the amount of authorized services, or that they are near-  
8 ing or have reached their utilization threshold, of their possible  
9 eligibility for federal disability benefits and directing such recipi-  
10 ents to their social services district for information and assistance in  
11 securing such benefits;

12 (vii) cooperating with social services districts in sharing informa-  
13 tion collected and developed by the department regarding recipients'  
14 medical records; and

15 (viii)] (iv) assuring that no request for an increase in amount of  
16 authorized services or for an exemption from utilization [thresholds]  
17 reviews shall be denied unless the request is first reviewed by a health  
18 care professional possessing appropriate clinical expertise.

19 4. The utilization [thresholds] review established pursuant to this  
20 section shall not apply to [mental retardation and] developmental disa-  
21 bilities services provided in clinics certified under article twenty-  
22 eight of the public health law, or article twenty-two or article thir-  
23 ty-one of the mental hygiene law.

24 5. Utilization [thresholds] review established pursuant to this  
25 section shall not apply to services, even though such services might  
26 otherwise be subject to utilization [thresholds] review, when provided  
27 as follows:

28 (a) through a managed care program;

29 (b) subject to prior approval or prior authorization;

30 (c) as family planning services;

31 (d) as methadone maintenance services;

32 (e) on a fee-for-services basis to in-patients in general hospitals  
33 certified under article twenty-eight of the public health law or article  
34 thirty-one of the mental hygiene law and residential health care facili-  
35 ties, with the exception of podiatrists' services;

36 (f) for hemodialysis;

37 (g) through or by referral from a preferred primary care provider  
38 designated pursuant to subdivision twelve of section twenty-eight  
39 hundred seven of the public health law;

40 (h) pursuant to a court order; or

41 (i) as a condition of eligibility for any other public program,  
42 including but not limited to public assistance.

43 6. The department shall consult with representatives of medical  
44 assistance providers, social services districts, voluntary organizations  
45 that represent or advocate on behalf of recipients, the managed care  
46 advisory council and other state agencies regarding the ongoing opera-  
47 tion of a utilization [threshold] review system.

48 7. On or before February first, nineteen hundred ninety-two, the  
49 commissioner shall submit to the governor, the temporary president of  
50 the senate and the speaker of the assembly a report detailing the imple-  
51 mentation of the utilization threshold program and evaluating the  
52 results of establishing utilization thresholds. Such report shall  
53 include, but need not be limited to, a description of the program as  
54 implemented; the number of requests for increases in service above the  
55 threshold amounts by provider and type of service; the number of exten-  
56 sions granted; the number of claims that were submitted for emergency



1 care or urgent care above the threshold level; the number of recipients  
2 referred to managed care; an estimate of the fiscal savings to the  
3 medical assistance program as a result of the program; recommendations  
4 for medical condition that may be more appropriately served through  
5 managed care programs; and the costs of implementing the program.

6 § 2. This act shall take effect July 1, 2022; provided, however, that:

7 a. the amendments to subdivision 5 of section 365-g of the social  
8 services law made by section one of this act shall not affect the expi-  
9 ration and reversion of paragraphs (f) and (g) of such subdivision  
10 pursuant to subdivision (i-1) of section 79 of part C of chapter 58 of  
11 the laws of 2008, as amended; and

12 b. the amendments to subdivision 5 of section 365-g of the social  
13 services law made by section one of this act shall not affect the repeal  
14 of paragraphs (h) and (i) of such subdivision pursuant to subdivision  
15 (i-1) of section 79 of part C of chapter 58 of the laws of 2008, as  
16 amended.

17 PART X

18 Intentionally Omitted

19 PART Y

20 Intentionally Omitted

21 PART Z

22 Section 1. Intentionally Omitted.

23 § 2. Paragraph (a) of subdivision 1 of section 18 of chapter 266 of  
24 the laws of 1986, amending the civil practice law and rules and other  
25 laws relating to malpractice and professional medical conduct, as  
26 amended by section 1 of part K of chapter 57 of the laws of 2021, is  
27 amended to read as follows:

28 (a) The superintendent of financial services and the commissioner of  
29 health or their designee shall, from funds available in the hospital  
30 excess liability pool created pursuant to subdivision 5 of this section,  
31 purchase a policy or policies for excess insurance coverage, as author-  
32 ized by paragraph 1 of subsection (e) of section 5502 of the insurance  
33 law; or from an insurer, other than an insurer described in section 5502  
34 of the insurance law, duly authorized to write such coverage and actual-  
35 ly writing medical malpractice insurance in this state; or shall  
36 purchase equivalent excess coverage in a form previously approved by the  
37 superintendent of financial services for purposes of providing equiv-  
38 alent excess coverage in accordance with section 19 of chapter 294 of  
39 the laws of 1985, for medical or dental malpractice occurrences between  
40 July 1, 1986 and June 30, 1987, between July 1, 1987 and June 30, 1988,  
41 between July 1, 1988 and June 30, 1989, between July 1, 1989 and June  
42 30, 1990, between July 1, 1990 and June 30, 1991, between July 1, 1991  
43 and June 30, 1992, between July 1, 1992 and June 30, 1993, between July  
44 1, 1993 and June 30, 1994, between July 1, 1994 and June 30, 1995,  
45 between July 1, 1995 and June 30, 1996, between July 1, 1996 and June  
46 30, 1997, between July 1, 1997 and June 30, 1998, between July 1, 1998  
47 and June 30, 1999, between July 1, 1999 and June 30, 2000, between July  
48 1, 2000 and June 30, 2001, between July 1, 2001 and June 30, 2002,

1 between July 1, 2002 and June 30, 2003, between July 1, 2003 and June  
2 30, 2004, between July 1, 2004 and June 30, 2005, between July 1, 2005  
3 and June 30, 2006, between July 1, 2006 and June 30, 2007, between July  
4 1, 2007 and June 30, 2008, between July 1, 2008 and June 30, 2009,  
5 between July 1, 2009 and June 30, 2010, between July 1, 2010 and June  
6 30, 2011, between July 1, 2011 and June 30, 2012, between July 1, 2012  
7 and June 30, 2013, between July 1, 2013 and June 30, 2014, between July  
8 1, 2014 and June 30, 2015, between July 1, 2015 and June 30, 2016,  
9 between July 1, 2016 and June 30, 2017, between July 1, 2017 and June  
10 30, 2018, between July 1, 2018 and June 30, 2019, between July 1, 2019  
11 and June 30, 2020, between July 1, 2020 and June 30, 2021, [and] between  
12 July 1, 2021 and June 30, 2022, and between July 1, 2022 and June 30,  
13 2023 or reimburse the hospital where the hospital purchases equivalent  
14 excess coverage as defined in subparagraph (i) of paragraph (a) of  
15 subdivision 1-a of this section for medical or dental malpractice occur-  
16 rences between July 1, 1987 and June 30, 1988, between July 1, 1988 and  
17 June 30, 1989, between July 1, 1989 and June 30, 1990, between July 1,  
18 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992, between  
19 July 1, 1992 and June 30, 1993, between July 1, 1993 and June 30, 1994,  
20 between July 1, 1994 and June 30, 1995, between July 1, 1995 and June  
21 30, 1996, between July 1, 1996 and June 30, 1997, between July 1, 1997  
22 and June 30, 1998, between July 1, 1998 and June 30, 1999, between July  
23 1, 1999 and June 30, 2000, between July 1, 2000 and June 30, 2001,  
24 between July 1, 2001 and June 30, 2002, between July 1, 2002 and June  
25 30, 2003, between July 1, 2003 and June 30, 2004, between July 1, 2004  
26 and June 30, 2005, between July 1, 2005 and June 30, 2006, between July  
27 1, 2006 and June 30, 2007, between July 1, 2007 and June 30, 2008,  
28 between July 1, 2008 and June 30, 2009, between July 1, 2009 and June  
29 30, 2010, between July 1, 2010 and June 30, 2011, between July 1, 2011  
30 and June 30, 2012, between July 1, 2012 and June 30, 2013, between July  
31 1, 2013 and June 30, 2014, between July 1, 2014 and June 30, 2015,  
32 between July 1, 2015 and June 30, 2016, between July 1, 2016 and June  
33 30, 2017, between July 1, 2017 and June 30, 2018, between July 1, 2018  
34 and June 30, 2019, between July 1, 2019 and June 30, 2020, between July  
35 1, 2020 and June 30, 2021, [and] between July 1, 2021 and June 30, 2022,  
36 and between July 1, 2022 and June 30, 2023 for physicians or dentists  
37 certified as eligible for each such period or periods pursuant to subdi-  
38 vision 2 of this section by a general hospital licensed pursuant to  
39 article 28 of the public health law; provided that no single insurer  
40 shall write more than fifty percent of the total excess premium for a  
41 given policy year; and provided, however, that such eligible physicians  
42 or dentists must have in force an individual policy, from an insurer  
43 licensed in this state of primary malpractice insurance coverage in  
44 amounts of no less than one million three hundred thousand dollars for  
45 each claimant and three million nine hundred thousand dollars for all  
46 claimants under that policy during the period of such excess coverage  
47 for such occurrences or be endorsed as additional insureds under a  
48 hospital professional liability policy which is offered through a volun-  
49 tary attending physician ("channeling") program previously permitted by  
50 the superintendent of financial services during the period of such  
51 excess coverage for such occurrences. During such period, such policy  
52 for excess coverage or such equivalent excess coverage shall, when  
53 combined with the physician's or dentist's primary malpractice insurance  
54 coverage or coverage provided through a voluntary attending physician  
55 ("channeling") program, total an aggregate level of two million three  
56 hundred thousand dollars for each claimant and six million nine hundred



1 thousand dollars for all claimants from all such policies with respect  
2 to occurrences in each of such years provided, however, if the cost of  
3 primary malpractice insurance coverage in excess of one million dollars,  
4 but below the excess medical malpractice insurance coverage provided  
5 pursuant to this act, exceeds the rate of nine percent per annum, then  
6 the required level of primary malpractice insurance coverage in excess  
7 of one million dollars for each claimant shall be in an amount of not  
8 less than the dollar amount of such coverage available at nine percent  
9 per annum; the required level of such coverage for all claimants under  
10 that policy shall be in an amount not less than three times the dollar  
11 amount of coverage for each claimant; and excess coverage, when combined  
12 with such primary malpractice insurance coverage, shall increase the  
13 aggregate level for each claimant by one million dollars and three  
14 million dollars for all claimants; and provided further, that, with  
15 respect to policies of primary medical malpractice coverage that include  
16 occurrences between April 1, 2002 and June 30, 2002, such requirement  
17 that coverage be in amounts no less than one million three hundred thou-  
18 sand dollars for each claimant and three million nine hundred thousand  
19 dollars for all claimants for such occurrences shall be effective April  
20 1, 2002.

21 § 3. Subdivision 3 of section 18 of chapter 266 of the laws of 1986,  
22 amending the civil practice law and rules and other laws relating to  
23 malpractice and professional medical conduct, as amended by section 2 of  
24 part K of chapter 57 of the laws of 2021, is amended to read as follows:

25 (3) (a) The superintendent of financial services shall determine and  
26 certify to each general hospital and to the commissioner of health the  
27 cost of excess malpractice insurance for medical or dental malpractice  
28 occurrences between July 1, 1986 and June 30, 1987, between July 1, 1988  
29 and June 30, 1989, between July 1, 1989 and June 30, 1990, between July  
30 1, 1990 and June 30, 1991, between July 1, 1991 and June 30, 1992,  
31 between July 1, 1992 and June 30, 1993, between July 1, 1993 and June  
32 30, 1994, between July 1, 1994 and June 30, 1995, between July 1, 1995  
33 and June 30, 1996, between July 1, 1996 and June 30, 1997, between July  
34 1, 1997 and June 30, 1998, between July 1, 1998 and June 30, 1999,  
35 between July 1, 1999 and June 30, 2000, between July 1, 2000 and June  
36 30, 2001, between July 1, 2001 and June 30, 2002, between July 1, 2002  
37 and June 30, 2003, between July 1, 2003 and June 30, 2004, between July  
38 1, 2004 and June 30, 2005, between July 1, 2005 and June 30, 2006,  
39 between July 1, 2006 and June 30, 2007, between July 1, 2007 and June  
40 30, 2008, between July 1, 2008 and June 30, 2009, between July 1, 2009  
41 and June 30, 2010, between July 1, 2010 and June 30, 2011, between July  
42 1, 2011 and June 30, 2012, between July 1, 2012 and June 30, 2013,  
43 between July 1, 2013 and June 30, 2014, between July 1, 2014 and June  
44 30, 2015, between July 1, 2015 and June 30, 2016, between July 1, 2016  
45 and June 30, 2017, between July 1, 2017 and June 30, 2018, between July  
46 1, 2018 and June 30, 2019, between July 1, 2019 and June 30, 2020,  
47 between July 1, 2020 and June 30, 2021, [and] between July 1, 2021 and  
48 June 30, 2022, and between July 1, 2022 and June 30, 2023 allocable to  
49 each general hospital for physicians or dentists certified as eligible  
50 for purchase of a policy for excess insurance coverage by such general  
51 hospital in accordance with subdivision 2 of this section, and may amend  
52 such determination and certification as necessary.

53 (b) The superintendent of financial services shall determine and  
54 certify to each general hospital and to the commissioner of health the  
55 cost of excess malpractice insurance or equivalent excess coverage for  
56 medical or dental malpractice occurrences between July 1, 1987 and June

1 30, 1988, between July 1, 1988 and June 30, 1989, between July 1, 1989  
2 and June 30, 1990, between July 1, 1990 and June 30, 1991, between July  
3 1, 1991 and June 30, 1992, between July 1, 1992 and June 30, 1993,  
4 between July 1, 1993 and June 30, 1994, between July 1, 1994 and June  
5 30, 1995, between July 1, 1995 and June 30, 1996, between July 1, 1996  
6 and June 30, 1997, between July 1, 1997 and June 30, 1998, between July  
7 1, 1998 and June 30, 1999, between July 1, 1999 and June 30, 2000,  
8 between July 1, 2000 and June 30, 2001, between July 1, 2001 and June  
9 30, 2002, between July 1, 2002 and June 30, 2003, between July 1, 2003  
10 and June 30, 2004, between July 1, 2004 and June 30, 2005, between July  
11 1, 2005 and June 30, 2006, between July 1, 2006 and June 30, 2007,  
12 between July 1, 2007 and June 30, 2008, between July 1, 2008 and June  
13 30, 2009, between July 1, 2009 and June 30, 2010, between July 1, 2010  
14 and June 30, 2011, between July 1, 2011 and June 30, 2012, between July  
15 1, 2012 and June 30, 2013, between July 1, 2013 and June 30, 2014,  
16 between July 1, 2014 and June 30, 2015, between July 1, 2015 and June  
17 30, 2016, between July 1, 2016 and June 30, 2017, between July 1, 2017  
18 and June 30, 2018, between July 1, 2018 and June 30, 2019, between July  
19 1, 2019 and June 30, 2020, between July 1, 2020 and June 30, 2021, [and]  
20 between July 1, 2021 and June 30, 2022, and between July 1, 2022 and  
21 June 30, 2023 allocable to each general hospital for physicians or  
22 dentists certified as eligible for purchase of a policy for excess  
23 insurance coverage or equivalent excess coverage by such general hospi-  
24 tal in accordance with subdivision 2 of this section, and may amend such  
25 determination and certification as necessary. The superintendent of  
26 financial services shall determine and certify to each general hospital  
27 and to the commissioner of health the ratable share of such cost alloca-  
28 ble to the period July 1, 1987 to December 31, 1987, to the period Janu-  
29 ary 1, 1988 to June 30, 1988, to the period July 1, 1988 to December 31,  
30 1988, to the period January 1, 1989 to June 30, 1989, to the period July  
31 1, 1989 to December 31, 1989, to the period January 1, 1990 to June 30,  
32 1990, to the period July 1, 1990 to December 31, 1990, to the period  
33 January 1, 1991 to June 30, 1991, to the period July 1, 1991 to December  
34 31, 1991, to the period January 1, 1992 to June 30, 1992, to the period  
35 July 1, 1992 to December 31, 1992, to the period January 1, 1993 to June  
36 30, 1993, to the period July 1, 1993 to December 31, 1993, to the period  
37 January 1, 1994 to June 30, 1994, to the period July 1, 1994 to December  
38 31, 1994, to the period January 1, 1995 to June 30, 1995, to the period  
39 July 1, 1995 to December 31, 1995, to the period January 1, 1996 to June  
40 30, 1996, to the period July 1, 1996 to December 31, 1996, to the period  
41 January 1, 1997 to June 30, 1997, to the period July 1, 1997 to December  
42 31, 1997, to the period January 1, 1998 to June 30, 1998, to the period  
43 July 1, 1998 to December 31, 1998, to the period January 1, 1999 to June  
44 30, 1999, to the period July 1, 1999 to December 31, 1999, to the period  
45 January 1, 2000 to June 30, 2000, to the period July 1, 2000 to December  
46 31, 2000, to the period January 1, 2001 to June 30, 2001, to the period  
47 July 1, 2001 to June 30, 2002, to the period July 1, 2002 to June 30,  
48 2003, to the period July 1, 2003 to June 30, 2004, to the period July 1,  
49 2004 to June 30, 2005, to the period July 1, 2005 and June 30, 2006, to  
50 the period July 1, 2006 and June 30, 2007, to the period July 1, 2007  
51 and June 30, 2008, to the period July 1, 2008 and June 30, 2009, to the  
52 period July 1, 2009 and June 30, 2010, to the period July 1, 2010 and  
53 June 30, 2011, to the period July 1, 2011 and June 30, 2012, to the  
54 period July 1, 2012 and June 30, 2013, to the period July 1, 2013 and  
55 June 30, 2014, to the period July 1, 2014 and June 30, 2015, to the  
56 period July 1, 2015 and June 30, 2016, to the period July 1, 2016 and

1 June 30, 2017, to the period July 1, 2017 to June 30, 2018, to the peri-  
2 od July 1, 2018 to June 30, 2019, to the period July 1, 2019 to June 30,  
3 2020, to the period July 1, 2020 to June 30, 2021, [and] to the period  
4 July 1, 2021 to June 30, 2022, and to the period July 1, 2022 to June  
5 30, 2023.

6 § 4. Paragraphs (a), (b), (c), (d) and (e) of subdivision 8 of section  
7 18 of chapter 266 of the laws of 1986, amending the civil practice law  
8 and rules and other laws relating to malpractice and professional  
9 medical conduct, as amended by section 3 of part K of chapter 57 of the  
10 laws of 2021, are amended to read as follows:

11 (a) To the extent funds available to the hospital excess liability  
12 pool pursuant to subdivision 5 of this section as amended, and pursuant  
13 to section 6 of part J of chapter 63 of the laws of 2001, as may from  
14 time to time be amended, which amended this subdivision, are insuffi-  
15 cient to meet the costs of excess insurance coverage or equivalent  
16 excess coverage for coverage periods during the period July 1, 1992 to  
17 June 30, 1993, during the period July 1, 1993 to June 30, 1994, during  
18 the period July 1, 1994 to June 30, 1995, during the period July 1, 1995  
19 to June 30, 1996, during the period July 1, 1996 to June 30, 1997,  
20 during the period July 1, 1997 to June 30, 1998, during the period July  
21 1, 1998 to June 30, 1999, during the period July 1, 1999 to June 30,  
22 2000, during the period July 1, 2000 to June 30, 2001, during the period  
23 July 1, 2001 to October 29, 2001, during the period April 1, 2002 to  
24 June 30, 2002, during the period July 1, 2002 to June 30, 2003, during  
25 the period July 1, 2003 to June 30, 2004, during the period July 1, 2004  
26 to June 30, 2005, during the period July 1, 2005 to June 30, 2006,  
27 during the period July 1, 2006 to June 30, 2007, during the period July  
28 1, 2007 to June 30, 2008, during the period July 1, 2008 to June 30,  
29 2009, during the period July 1, 2009 to June 30, 2010, during the period  
30 July 1, 2010 to June 30, 2011, during the period July 1, 2011 to June  
31 30, 2012, during the period July 1, 2012 to June 30, 2013, during the  
32 period July 1, 2013 to June 30, 2014, during the period July 1, 2014 to  
33 June 30, 2015, during the period July 1, 2015 to June 30, 2016, during  
34 the period July 1, 2016 to June 30, 2017, during the period July 1, 2017  
35 to June 30, 2018, during the period July 1, 2018 to June 30, 2019,  
36 during the period July 1, 2019 to June 30, 2020, during the period July  
37 1, 2020 to June 30, 2021, [and] during the period July 1, 2021 to June  
38 30, 2022, and during the period July 1, 2022 to June 30, 2023 allocated  
39 or reallocated in accordance with paragraph (a) of subdivision 4-a of  
40 this section to rates of payment applicable to state governmental agen-  
41 cies, each physician or dentist for whom a policy for excess insurance  
42 coverage or equivalent excess coverage is purchased for such period  
43 shall be responsible for payment to the provider of excess insurance  
44 coverage or equivalent excess coverage of an allocable share of such  
45 insufficiency, based on the ratio of the total cost of such coverage for  
46 such physician to the sum of the total cost of such coverage for all  
47 physicians applied to such insufficiency.

48 (b) Each provider of excess insurance coverage or equivalent excess  
49 coverage covering the period July 1, 1992 to June 30, 1993, or covering  
50 the period July 1, 1993 to June 30, 1994, or covering the period July 1,  
51 1994 to June 30, 1995, or covering the period July 1, 1995 to June 30,  
52 1996, or covering the period July 1, 1996 to June 30, 1997, or covering  
53 the period July 1, 1997 to June 30, 1998, or covering the period July 1,  
54 1998 to June 30, 1999, or covering the period July 1, 1999 to June 30,  
55 2000, or covering the period July 1, 2000 to June 30, 2001, or covering  
56 the period July 1, 2001 to October 29, 2001, or covering the period

1 April 1, 2002 to June 30, 2002, or covering the period July 1, 2002 to  
2 June 30, 2003, or covering the period July 1, 2003 to June 30, 2004, or  
3 covering the period July 1, 2004 to June 30, 2005, or covering the peri-  
4 od July 1, 2005 to June 30, 2006, or covering the period July 1, 2006 to  
5 June 30, 2007, or covering the period July 1, 2007 to June 30, 2008, or  
6 covering the period July 1, 2008 to June 30, 2009, or covering the peri-  
7 od July 1, 2009 to June 30, 2010, or covering the period July 1, 2010 to  
8 June 30, 2011, or covering the period July 1, 2011 to June 30, 2012, or  
9 covering the period July 1, 2012 to June 30, 2013, or covering the peri-  
10 od July 1, 2013 to June 30, 2014, or covering the period July 1, 2014 to  
11 June 30, 2015, or covering the period July 1, 2015 to June 30, 2016, or  
12 covering the period July 1, 2016 to June 30, 2017, or covering the peri-  
13 od July 1, 2017 to June 30, 2018, or covering the period July 1, 2018 to  
14 June 30, 2019, or covering the period July 1, 2019 to June 30, 2020, or  
15 covering the period July 1, 2020 to June 30, 2021, or covering the peri-  
16 od July 1, 2021 to June 30, 2022, or covering the period July 1, 2022 to  
17 June 30, 2023 shall notify a covered physician or dentist by mail,  
18 mailed to the address shown on the last application for excess insurance  
19 coverage or equivalent excess coverage, of the amount due to such  
20 provider from such physician or dentist for such coverage period deter-  
21 mined in accordance with paragraph (a) of this subdivision. Such amount  
22 shall be due from such physician or dentist to such provider of excess  
23 insurance coverage or equivalent excess coverage in a time and manner  
24 determined by the superintendent of financial services.

25 (c) If a physician or dentist liable for payment of a portion of the  
26 costs of excess insurance coverage or equivalent excess coverage cover-  
27 ing the period July 1, 1992 to June 30, 1993, or covering the period  
28 July 1, 1993 to June 30, 1994, or covering the period July 1, 1994 to  
29 June 30, 1995, or covering the period July 1, 1995 to June 30, 1996, or  
30 covering the period July 1, 1996 to June 30, 1997, or covering the peri-  
31 od July 1, 1997 to June 30, 1998, or covering the period July 1, 1998 to  
32 June 30, 1999, or covering the period July 1, 1999 to June 30, 2000, or  
33 covering the period July 1, 2000 to June 30, 2001, or covering the peri-  
34 od July 1, 2001 to October 29, 2001, or covering the period April 1,  
35 2002 to June 30, 2002, or covering the period July 1, 2002 to June 30,  
36 2003, or covering the period July 1, 2003 to June 30, 2004, or covering  
37 the period July 1, 2004 to June 30, 2005, or covering the period July 1,  
38 2005 to June 30, 2006, or covering the period July 1, 2006 to June 30,  
39 2007, or covering the period July 1, 2007 to June 30, 2008, or covering  
40 the period July 1, 2008 to June 30, 2009, or covering the period July 1,  
41 2009 to June 30, 2010, or covering the period July 1, 2010 to June 30,  
42 2011, or covering the period July 1, 2011 to June 30, 2012, or covering  
43 the period July 1, 2012 to June 30, 2013, or covering the period July 1,  
44 2013 to June 30, 2014, or covering the period July 1, 2014 to June 30,  
45 2015, or covering the period July 1, 2015 to June 30, 2016, or covering  
46 the period July 1, 2016 to June 30, 2017, or covering the period July 1,  
47 2017 to June 30, 2018, or covering the period July 1, 2018 to June 30,  
48 2019, or covering the period July 1, 2019 to June 30, 2020, or covering  
49 the period July 1, 2020 to June 30, 2021, or covering the period July 1,  
50 2021 to June 30, 2022, or covering the period July 1, 2022 to June 30,  
51 2023 determined in accordance with paragraph (a) of this subdivision  
52 fails, refuses or neglects to make payment to the provider of excess  
53 insurance coverage or equivalent excess coverage in such time and manner  
54 as determined by the superintendent of financial services pursuant to  
55 paragraph (b) of this subdivision, excess insurance coverage or equiv-  
56 alent excess coverage purchased for such physician or dentist in accord-





1 ance with this section for such coverage period shall be cancelled and  
2 shall be null and void as of the first day on or after the commencement  
3 of a policy period where the liability for payment pursuant to this  
4 subdivision has not been met.

5 (d) Each provider of excess insurance coverage or equivalent excess  
6 coverage shall notify the superintendent of financial services and the  
7 commissioner of health or their designee of each physician and dentist  
8 eligible for purchase of a policy for excess insurance coverage or  
9 equivalent excess coverage covering the period July 1, 1992 to June 30,  
10 1993, or covering the period July 1, 1993 to June 30, 1994, or covering  
11 the period July 1, 1994 to June 30, 1995, or covering the period July 1,  
12 1995 to June 30, 1996, or covering the period July 1, 1996 to June 30,  
13 1997, or covering the period July 1, 1997 to June 30, 1998, or covering  
14 the period July 1, 1998 to June 30, 1999, or covering the period July 1,  
15 1999 to June 30, 2000, or covering the period July 1, 2000 to June 30,  
16 2001, or covering the period July 1, 2001 to October 29, 2001, or cover-  
17 ing the period April 1, 2002 to June 30, 2002, or covering the period  
18 July 1, 2002 to June 30, 2003, or covering the period July 1, 2003 to  
19 June 30, 2004, or covering the period July 1, 2004 to June 30, 2005, or  
20 covering the period July 1, 2005 to June 30, 2006, or covering the peri-  
21 od July 1, 2006 to June 30, 2007, or covering the period July 1, 2007 to  
22 June 30, 2008, or covering the period July 1, 2008 to June 30, 2009, or  
23 covering the period July 1, 2009 to June 30, 2010, or covering the peri-  
24 od July 1, 2010 to June 30, 2011, or covering the period July 1, 2011 to  
25 June 30, 2012, or covering the period July 1, 2012 to June 30, 2013, or  
26 covering the period July 1, 2013 to June 30, 2014, or covering the peri-  
27 od July 1, 2014 to June 30, 2015, or covering the period July 1, 2015 to  
28 June 30, 2016, or covering the period July 1, 2016 to June 30, 2017, or  
29 covering the period July 1, 2017 to June 30, 2018, or covering the peri-  
30 od July 1, 2018 to June 30, 2019, or covering the period July 1, 2019 to  
31 June 30, 2020, or covering the period July 1, 2020 to June 30, 2021, or  
32 covering the period July 1, 2021 to June 30, 2022, or covering the peri-  
33 od July 1, 2022 to June 1, 2023 that has made payment to such provider  
34 of excess insurance coverage or equivalent excess coverage in accordance  
35 with paragraph (b) of this subdivision and of each physician and dentist  
36 who has failed, refused or neglected to make such payment.

37 (e) A provider of excess insurance coverage or equivalent excess  
38 coverage shall refund to the hospital excess liability pool any amount  
39 allocable to the period July 1, 1992 to June 30, 1993, and to the period  
40 July 1, 1993 to June 30, 1994, and to the period July 1, 1994 to June  
41 30, 1995, and to the period July 1, 1995 to June 30, 1996, and to the  
42 period July 1, 1996 to June 30, 1997, and to the period July 1, 1997 to  
43 June 30, 1998, and to the period July 1, 1998 to June 30, 1999, and to  
44 the period July 1, 1999 to June 30, 2000, and to the period July 1, 2000  
45 to June 30, 2001, and to the period July 1, 2001 to October 29, 2001,  
46 and to the period April 1, 2002 to June 30, 2002, and to the period July  
47 1, 2002 to June 30, 2003, and to the period July 1, 2003 to June 30,  
48 2004, and to the period July 1, 2004 to June 30, 2005, and to the period  
49 July 1, 2005 to June 30, 2006, and to the period July 1, 2006 to June  
50 30, 2007, and to the period July 1, 2007 to June 30, 2008, and to the  
51 period July 1, 2008 to June 30, 2009, and to the period July 1, 2009 to  
52 June 30, 2010, and to the period July 1, 2010 to June 30, 2011, and to  
53 the period July 1, 2011 to June 30, 2012, and to the period July 1, 2012  
54 to June 30, 2013, and to the period July 1, 2013 to June 30, 2014, and  
55 to the period July 1, 2014 to June 30, 2015, and to the period July 1,  
56 2015 to June 30, 2016, to the period July 1, 2016 to June 30, 2017, and

1 to the period July 1, 2017 to June 30, 2018, and to the period July 1,  
2 2018 to June 30, 2019, and to the period July 1, 2019 to June 30, 2020,  
3 and to the period July 1, 2020 to June 30, 2021, and to the period July  
4 1, 2021 to June 30, 2022, and to the period July 1, 2022 to June 30,  
5 2023 received from the hospital excess liability pool for purchase of  
6 excess insurance coverage or equivalent excess coverage covering the  
7 period July 1, 1992 to June 30, 1993, and covering the period July 1,  
8 1993 to June 30, 1994, and covering the period July 1, 1994 to June 30,  
9 1995, and covering the period July 1, 1995 to June 30, 1996, and cover-  
10 ing the period July 1, 1996 to June 30, 1997, and covering the period  
11 July 1, 1997 to June 30, 1998, and covering the period July 1, 1998 to  
12 June 30, 1999, and covering the period July 1, 1999 to June 30, 2000,  
13 and covering the period July 1, 2000 to June 30, 2001, and covering the  
14 period July 1, 2001 to October 29, 2001, and covering the period April  
15 1, 2002 to June 30, 2002, and covering the period July 1, 2002 to June  
16 30, 2003, and covering the period July 1, 2003 to June 30, 2004, and  
17 covering the period July 1, 2004 to June 30, 2005, and covering the  
18 period July 1, 2005 to June 30, 2006, and covering the period July 1,  
19 2006 to June 30, 2007, and covering the period July 1, 2007 to June 30,  
20 2008, and covering the period July 1, 2008 to June 30, 2009, and cover-  
21 ing the period July 1, 2009 to June 30, 2010, and covering the period  
22 July 1, 2010 to June 30, 2011, and covering the period July 1, 2011 to  
23 June 30, 2012, and covering the period July 1, 2012 to June 30, 2013,  
24 and covering the period July 1, 2013 to June 30, 2014, and covering the  
25 period July 1, 2014 to June 30, 2015, and covering the period July 1,  
26 2015 to June 30, 2016, and covering the period July 1, 2016 to June 30,  
27 2017, and covering the period July 1, 2017 to June 30, 2018, and cover-  
28 ing the period July 1, 2018 to June 30, 2019, and covering the period  
29 July 1, 2019 to June 30, 2020, and covering the period July 1, 2020 to  
30 June 30, 2021, and covering the period July 1, 2021 to June 30, 2022,  
31 and covering the period July 1, 2022 to June 30, 2023 for a physician or  
32 dentist where such excess insurance coverage or equivalent excess cover-  
33 age is cancelled in accordance with paragraph (c) of this subdivision.

34 § 5. Section 40 of chapter 266 of the laws of 1986, amending the civil  
35 practice law and rules and other laws relating to malpractice and  
36 professional medical conduct, as amended by section 4 of part K of chap-  
37 ter 57 of the laws of 2021, is amended to read as follows:

38 § 40. The superintendent of financial services shall establish rates  
39 for policies providing coverage for physicians and surgeons medical  
40 malpractice for the periods commencing July 1, 1985 and ending June 30,  
41 [2022] 2023; provided, however, that notwithstanding any other provision  
42 of law, the superintendent shall not establish or approve any increase  
43 in rates for the period commencing July 1, 2009 and ending June 30,  
44 2010. The superintendent shall direct insurers to establish segregated  
45 accounts for premiums, payments, reserves and investment income attrib-  
46 utable to such premium periods and shall require periodic reports by the  
47 insurers regarding claims and expenses attributable to such periods to  
48 monitor whether such accounts will be sufficient to meet incurred claims  
49 and expenses. On or after July 1, 1989, the superintendent shall impose  
50 a surcharge on premiums to satisfy a projected deficiency that is  
51 attributable to the premium levels established pursuant to this section  
52 for such periods; provided, however, that such annual surcharge shall  
53 not exceed eight percent of the established rate until July 1, [2022]  
54 2023, at which time and thereafter such surcharge shall not exceed twen-  
55 ty-five percent of the approved adequate rate, and that such annual  
56 surcharges shall continue for such period of time as shall be sufficient

1 to satisfy such deficiency. The superintendent shall not impose such  
2 surcharge during the period commencing July 1, 2009 and ending June 30,  
3 2010. On and after July 1, 1989, the surcharge prescribed by this  
4 section shall be retained by insurers to the extent that they insured  
5 physicians and surgeons during the July 1, 1985 through June 30, [2022]  
6 2023 policy periods; in the event and to the extent physicians and  
7 surgeons were insured by another insurer during such periods, all or a  
8 pro rata share of the surcharge, as the case may be, shall be remitted  
9 to such other insurer in accordance with rules and regulations to be  
10 promulgated by the superintendent. Surcharges collected from physicians  
11 and surgeons who were not insured during such policy periods shall be  
12 apportioned among all insurers in proportion to the premium written by  
13 each insurer during such policy periods; if a physician or surgeon was  
14 insured by an insurer subject to rates established by the superintendent  
15 during such policy periods, and at any time thereafter a hospital,  
16 health maintenance organization, employer or institution is responsible  
17 for responding in damages for liability arising out of such physician's  
18 or surgeon's practice of medicine, such responsible entity shall also  
19 remit to such prior insurer the equivalent amount that would then be  
20 collected as a surcharge if the physician or surgeon had continued to  
21 remain insured by such prior insurer. In the event any insurer that  
22 provided coverage during such policy periods is in liquidation, the  
23 property/casualty insurance security fund shall receive the portion of  
24 surcharges to which the insurer in liquidation would have been entitled.  
25 The surcharges authorized herein shall be deemed to be income earned for  
26 the purposes of section 2303 of the insurance law. The superintendent,  
27 in establishing adequate rates and in determining any projected defi-  
28 ciency pursuant to the requirements of this section and the insurance  
29 law, shall give substantial weight, determined in his discretion and  
30 judgment, to the prospective anticipated effect of any regulations  
31 promulgated and laws enacted and the public benefit of stabilizing  
32 malpractice rates and minimizing rate level fluctuation during the peri-  
33 od of time necessary for the development of more reliable statistical  
34 experience as to the efficacy of such laws and regulations affecting  
35 medical, dental or podiatric malpractice enacted or promulgated in 1985,  
36 1986, by this act and at any other time. Notwithstanding any provision  
37 of the insurance law, rates already established and to be established by  
38 the superintendent pursuant to this section are deemed adequate if such  
39 rates would be adequate when taken together with the maximum authorized  
40 annual surcharges to be imposed for a reasonable period of time whether  
41 or not any such annual surcharge has been actually imposed as of the  
42 establishment of such rates.

43 § 6. Section 5 and subdivisions (a) and (e) of section 6 of part J of  
44 chapter 63 of the laws of 2001, amending chapter 266 of the laws of  
45 1986, amending the civil practice law and rules and other laws relating  
46 to malpractice and professional medical conduct, as amended by section 5  
47 of part K of chapter 57 of the laws of 2021, are amended to read as  
48 follows:

49 § 5. The superintendent of financial services and the commissioner of  
50 health shall determine, no later than June 15, 2002, June 15, 2003, June  
51 15, 2004, June 15, 2005, June 15, 2006, June 15, 2007, June 15, 2008,  
52 June 15, 2009, June 15, 2010, June 15, 2011, June 15, 2012, June 15,  
53 2013, June 15, 2014, June 15, 2015, June 15, 2016, June 15, 2017, June  
54 15, 2018, June 15, 2019, June 15, 2020, June 15, 2021, [and] June 15,  
55 2022, and June 15, 2023 the amount of funds available in the hospital  
56 excess liability pool, created pursuant to section 18 of chapter 266 of

1 the laws of 1986, and whether such funds are sufficient for purposes of  
2 purchasing excess insurance coverage for eligible participating physi-  
3 cians and dentists during the period July 1, 2001 to June 30, 2002, or  
4 July 1, 2002 to June 30, 2003, or July 1, 2003 to June 30, 2004, or July  
5 1, 2004 to June 30, 2005, or July 1, 2005 to June 30, 2006, or July 1,  
6 2006 to June 30, 2007, or July 1, 2007 to June 30, 2008, or July 1, 2008  
7 to June 30, 2009, or July 1, 2009 to June 30, 2010, or July 1, 2010 to  
8 June 30, 2011, or July 1, 2011 to June 30, 2012, or July 1, 2012 to June  
9 30, 2013, or July 1, 2013 to June 30, 2014, or July 1, 2014 to June 30,  
10 2015, or July 1, 2015 to June 30, 2016, or July 1, 2016 to June 30,  
11 2017, or July 1, 2017 to June 30, 2018, or July 1, 2018 to June 30,  
12 2019, or July 1, 2019 to June 30, 2020, or July 1, 2020 to June 30,  
13 2021, or July 1, 2021 to June 30, 2022, or July 1, 2022 to June 30, 2023  
14 as applicable.

15 (a) This section shall be effective only upon a determination, pursu-  
16 ant to section five of this act, by the superintendent of financial  
17 services and the commissioner of health, and a certification of such  
18 determination to the state director of the budget, the chair of the  
19 senate committee on finance and the chair of the assembly committee on  
20 ways and means, that the amount of funds in the hospital excess liabil-  
21 ity pool, created pursuant to section 18 of chapter 266 of the laws of  
22 1986, is insufficient for purposes of purchasing excess insurance cover-  
23 age for eligible participating physicians and dentists during the period  
24 July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30, 2003, or July  
25 1, 2003 to June 30, 2004, or July 1, 2004 to June 30, 2005, or July 1,  
26 2005 to June 30, 2006, or July 1, 2006 to June 30, 2007, or July 1, 2007  
27 to June 30, 2008, or July 1, 2008 to June 30, 2009, or July 1, 2009 to  
28 June 30, 2010, or July 1, 2010 to June 30, 2011, or July 1, 2011 to June  
29 30, 2012, or July 1, 2012 to June 30, 2013, or July 1, 2013 to June 30,  
30 2014, or July 1, 2014 to June 30, 2015, or July 1, 2015 to June 30,  
31 2016, or July 1, 2016 to June 30, 2017, or July 1, 2017 to June 30,  
32 2018, or July 1, 2018 to June 30, 2019, or July 1, 2019 to June 30,  
33 2020, or July 1, 2020 to June 30, 2021, or July 1, 2021 to June 30,  
34 2022, or July 1, 2022 to June 30, 2023 as applicable.

35 (e) The commissioner of health shall transfer for deposit to the  
36 hospital excess liability pool created pursuant to section 18 of chapter  
37 266 of the laws of 1986 such amounts as directed by the superintendent  
38 of financial services for the purchase of excess liability insurance  
39 coverage for eligible participating physicians and dentists for the  
40 policy year July 1, 2001 to June 30, 2002, or July 1, 2002 to June 30,  
41 2003, or July 1, 2003 to June 30, 2004, or July 1, 2004 to June 30,  
42 2005, or July 1, 2005 to June 30, 2006, or July 1, 2006 to June 30,  
43 2007, as applicable, and the cost of administering the hospital excess  
44 liability pool for such applicable policy year, pursuant to the program  
45 established in chapter 266 of the laws of 1986, as amended, no later  
46 than June 15, 2002, June 15, 2003, June 15, 2004, June 15, 2005, June  
47 15, 2006, June 15, 2007, June 15, 2008, June 15, 2009, June 15, 2010,  
48 June 15, 2011, June 15, 2012, June 15, 2013, June 15, 2014, June 15,  
49 2015, June 15, 2016, June 15, 2017, June 15, 2018, June 15, 2019, June  
50 15, 2020, June 15, 2021, [and] June 15, 2022, and June 15, 2023 as  
51 applicable.

52 § 7. Section 20 of part H of chapter 57 of the laws of 2017, amending  
53 the New York Health Care Reform Act of 1996 and other laws relating to  
54 extending certain provisions thereto, as amended by section 6 of part K  
55 of chapter 57 of the laws of 2021, is amended to read as follows:

1 § 20. Notwithstanding any law, rule or regulation to the contrary,  
2 only physicians or dentists who were eligible, and for whom the super-  
3 intendent of financial services and the commissioner of health, or their  
4 designee, purchased, with funds available in the hospital excess liabil-  
5 ity pool, a full or partial policy for excess coverage or equivalent  
6 excess coverage for the coverage period ending the thirtieth of June,  
7 two thousand [twenty-one] twenty-two, shall be eligible to apply for  
8 such coverage for the coverage period beginning the first of July, two  
9 thousand [twenty-one] twenty-two; provided, however, if the total number  
10 of physicians or dentists for whom such excess coverage or equivalent  
11 excess coverage was purchased for the policy year ending the thirtieth  
12 of June, two thousand [twenty-one] twenty-two exceeds the total number  
13 of physicians or dentists certified as eligible for the coverage period  
14 beginning the first of July, two thousand [twenty-one] twenty-two, then  
15 the general hospitals may certify additional eligible physicians or  
16 dentists in a number equal to such general hospital's proportional share  
17 of the total number of physicians or dentists for whom excess coverage  
18 or equivalent excess coverage was purchased with funds available in the  
19 hospital excess liability pool as of the thirtieth of June, two thousand  
20 [twenty-one] twenty-two, as applied to the difference between the number  
21 of eligible physicians or dentists for whom a policy for excess coverage  
22 or equivalent excess coverage was purchased for the coverage period  
23 ending the thirtieth of June, two thousand [twenty-one] twenty-two and  
24 the number of such eligible physicians or dentists who have applied for  
25 excess coverage or equivalent excess coverage for the coverage period  
26 beginning the first of July, two thousand [twenty-one] twenty-two.  
27 § 8. This act shall take effect immediately and shall be deemed to  
28 have been in full force and effect on and after April 1, 2022.

29 PART AA

30 Intentionally Omitted

31 PART BB

32 Intentionally Omitted

33 PART CC

34 Section 1. Paragraph (m) of subdivision 3 of section 461-1 of the  
35 social services law, as added by section 2 of part B of chapter 57 of  
36 the laws of 2018, is amended to read as follows:

37 (m) Beginning April first, two thousand [twenty-three] twenty-five,  
38 additional assisted living program beds shall be approved on a case by  
39 case basis whenever the commissioner of health is satisfied that public  
40 need exists at the time and place and under circumstances proposed by  
41 the applicant.

42 (i) The consideration of public need may take into account factors  
43 such as, but not limited to, regional occupancy rates for adult care  
44 facilities and assisted living program occupancy rates and the extent to  
45 which the project will serve individuals receiving medical assistance.

46 (ii) Existing assisted living program providers may apply for approval  
47 to add up to nine additional assisted living program beds that do not  
48 require major renovation or construction under an expedited review proc-

1 ess. The expedited review process is available to applicants that are in  
2 good standing with the department of health, and are in compliance with  
3 appropriate state and local requirements as determined by the department  
4 of health. The expedited review process shall allow certification of the  
5 additional beds for which the commissioner of health is satisfied that  
6 public need exists within ninety days of such department's receipt of a  
7 satisfactory application.

8 § 2. Subdivision (f) of section 129 of part C of chapter 58 of the  
9 laws of 2009, amending the public health law relating to payment by  
10 governmental agencies for general hospital inpatient services, as  
11 amended by section 6 of part E of chapter 57 of the laws of 2019, is  
12 amended to read as follows:

13 (f) section twenty-five of this act shall expire and be deemed  
14 repealed April 1, [2022] 2025;

15 § 3. Subdivision (c) of section 122 of part E of chapter 56 of the  
16 laws of 2013 amending the public health law relating to the general  
17 public health work program, as amended by section 7 of part E of chapter  
18 57 of the laws of 2019, is amended to read as follows:

19 (c) section fifty of this act shall take effect immediately and shall  
20 expire [nine years after it becomes law] and be deemed repealed April 1,  
21 2031;

22 § 4. Paragraph (a) of subdivision 1 of section 212 of chapter 474 of  
23 the laws of 1996, amending the education law and other laws relating to  
24 rates for residential healthcare facilities, as amended by section 22 of  
25 part E of chapter 57 of the laws of 2019, is amended to read as follows:

26 (a) Notwithstanding any inconsistent provision of law or regulation to  
27 the contrary, effective beginning August 1, 1996, for the period April  
28 1, 1997 through March 31, 1998, April 1, 1998 for the period April 1,  
29 1998 through March 31, 1999, August 1, 1999, for the period April 1,  
30 1999 through March 31, 2000, April 1, 2000, for the period April 1, 2000  
31 through March 31, 2001, April 1, 2001, for the period April 1, 2001  
32 through March 31, 2002, April 1, 2002, for the period April 1, 2002  
33 through March 31, 2003, and for the state fiscal year beginning April 1,  
34 2005 through March 31, 2006, and for the state fiscal year beginning  
35 April 1, 2006 through March 31, 2007, and for the state fiscal year  
36 beginning April 1, 2007 through March 31, 2008, and for the state fiscal  
37 year beginning April 1, 2008 through March 31, 2009, and for the state  
38 fiscal year beginning April 1, 2009 through March 31, 2010, and for the  
39 state fiscal year beginning April 1, 2010 through March 31, 2016, and  
40 for the state fiscal year beginning April 1, 2016 through March 31,  
41 2019, and for the state fiscal year beginning April 1, 2019 through  
42 March 31, 2022, and for the state fiscal year beginning April 1, 2022  
43 through March 31, 2025, the department of health is authorized to pay  
44 public general hospitals, as defined in subdivision 10 of section 2801  
45 of the public health law, operated by the state of New York or by the  
46 state university of New York or by a county, which shall not include a  
47 city with a population of over one million, of the state of New York,  
48 and those public general hospitals located in the county of Westchester,  
49 the county of Erie or the county of Nassau, additional payments for  
50 inpatient hospital services as medical assistance payments pursuant to  
51 title 11 of article 5 of the social services law for patients eligible  
52 for federal financial participation under title XIX of the federal  
53 social security act in medical assistance pursuant to the federal laws  
54 and regulations governing disproportionate share payments to hospitals  
55 up to one hundred percent of each such public general hospital's medical  
56 assistance and uninsured patient losses after all other medical assist-



1 ance, including disproportionate share payments to such public general  
2 hospital for 1996, 1997, 1998, and 1999, based initially for 1996 on  
3 reported 1994 reconciled data as further reconciled to actual reported  
4 1996 reconciled data, and for 1997 based initially on reported 1995  
5 reconciled data as further reconciled to actual reported 1997 reconciled  
6 data, for 1998 based initially on reported 1995 reconciled data as  
7 further reconciled to actual reported 1998 reconciled data, for 1999  
8 based initially on reported 1995 reconciled data as further reconciled  
9 to actual reported 1999 reconciled data, for 2000 based initially on  
10 reported 1995 reconciled data as further reconciled to actual reported  
11 2000 data, for 2001 based initially on reported 1995 reconciled data as  
12 further reconciled to actual reported 2001 data, for 2002 based initial-  
13 ly on reported 2000 reconciled data as further reconciled to actual  
14 reported 2002 data, and for state fiscal years beginning on April 1,  
15 2005, based initially on reported 2000 reconciled data as further recon-  
16 ciled to actual reported data for 2005, and for state fiscal years  
17 beginning on April 1, 2006, based initially on reported 2000 reconciled  
18 data as further reconciled to actual reported data for 2006, for state  
19 fiscal years beginning on and after April 1, 2007 through March 31,  
20 2009, based initially on reported 2000 reconciled data as further recon-  
21 ciled to actual reported data for 2007 and 2008, respectively, for state  
22 fiscal years beginning on and after April 1, 2009, based initially on  
23 reported 2007 reconciled data, adjusted for authorized Medicaid rate  
24 changes applicable to the state fiscal year, and as further reconciled  
25 to actual reported data for 2009, for state fiscal years beginning on  
26 and after April 1, 2010, based initially on reported reconciled data  
27 from the base year two years prior to the payment year, adjusted for  
28 authorized Medicaid rate changes applicable to the state fiscal year,  
29 and further reconciled to actual reported data from such payment year,  
30 and to actual reported data for each respective succeeding year. The  
31 payments may be added to rates of payment or made as aggregate payments  
32 to an eligible public general hospital.

33 § 5. Section 5 of chapter 21 of the laws of 2011, amending the educa-  
34 tion law relating to authorizing pharmacists to perform collaborative  
35 drug therapy management with physicians in certain settings, as amended  
36 by section 20 of part BB of chapter 56 of the laws of 2020, is amended  
37 to read as follows:

38 § 5. This act shall take effect on the one hundred twentieth day after  
39 it shall have become a law, provided, however, that the provisions of  
40 sections two, three, and four of this act shall expire and be deemed  
41 repealed July 1, [2022] 2024; provided, however, that the amendments to  
42 subdivision 1 of section 6801 of the education law made by section one  
43 of this act shall be subject to the expiration and reversion of such  
44 subdivision pursuant to section 8 of chapter 563 of the laws of 2008,  
45 when upon such date the provisions of section one-a of this act shall  
46 take effect; provided, further, that effective immediately, the addi-  
47 tion, amendment and/or repeal of any rule or regulation necessary for  
48 the implementation of this act on its effective date are authorized and  
49 directed to be made and completed on or before such effective date.

50 § 6. Section 2 of part II of chapter 54 of the laws of 2016, amending  
51 part C of chapter 58 of the laws of 2005 relating to authorizing  
52 reimbursements for expenditures made by or on behalf of social services  
53 districts for medical assistance for needy persons and administration  
54 thereof, as amended by section 1 of item C of subpart H of part XXX of  
55 chapter 58 of the laws of 2020, is amended to read as follows:

1 § 2. This act shall take effect immediately and shall expire and be  
2 deemed repealed March 31, [2022] 2024.

3 § 7. Intentionally omitted.

4 § 8. Paragraph (c) of subdivision 6 of section 958 of the executive  
5 law, as added by chapter 337 of the laws of 2018, is amended to read as  
6 follows:

7 (c) prepare and issue a report on the working group's findings and  
8 recommendations by May first, two thousand [nineteen] twenty-three to  
9 the governor, the temporary president of the senate and the speaker of  
10 the assembly.

11 § 9. Subdivision 2 of section 207-a of the public health law, as added  
12 by chapter 364 of the laws of 2018, is amended to read as follows:

13 2. Such report shall be submitted to the temporary president of the  
14 senate and the speaker of the assembly no later than October first, two  
15 thousand [nineteen] twenty-two. The department and the commissioner of  
16 mental health may engage stakeholders in the compilation of the report,  
17 including but not limited to, medical research institutions, health care  
18 practitioners, mental health providers, county and local government, and  
19 advocates.

20 § 10. Sections 2 and 3 of chapter 74 of the laws of 2020 relating to  
21 directing the department of health to convene a work group on rare  
22 diseases, as amended by chapter 199 of the laws of 2021, are amended to  
23 read as follows:

24 § 2. The department of health, in collaboration with the department of  
25 financial services, shall convene a workgroup of individuals with exper-  
26 tise in rare diseases, including physicians, nurses and other health  
27 care professionals with experience researching, diagnosing or treating  
28 rare diseases; members of the scientific community engaged in rare  
29 disease research; representatives from the health insurance industry;  
30 individuals who have a rare disease or caregivers of a person with a  
31 rare disease; and representatives of rare disease patient organizations.  
32 The workgroup's focus shall include, but not be limited to: identifying  
33 best practices that could improve the awareness of rare diseases and  
34 referral of people with potential rare diseases to specialists and eval-  
35 uating barriers to treatment, including financial barriers on access to  
36 care. The department of health shall prepare a written report summariz-  
37 ing opinions and recommendations from the workgroup which includes a  
38 list of existing, publicly accessible resources on research, diagnosis,  
39 treatment, coverage options and education relating to rare diseases. The  
40 workgroup shall convene no later than December twentieth, two thousand  
41 twenty-one and this report shall be submitted to the governor, speaker  
42 of the assembly and temporary president of the senate no later than  
43 [three] four years following the effective date of this act and shall be  
44 posted on the department of health's website.

45 § 3. This act shall take effect on the same date and in the same  
46 manner as a chapter of the laws of 2019, amending the public health law  
47 relating to establishing the rare disease advisory council, as proposed  
48 in legislative bills numbers S. 4497 and A. 5762; provided, however,  
49 that the provisions of section two of this act shall expire and be  
50 deemed repealed [three] four years after such effective date.

51 § 11. Sections 5 and 6 of chapter 414 of the laws of 2018, creating  
52 the radon task force, as amended by section 1 of item M of subpart B of  
53 part XXX of chapter 58 of the laws of 2020, are amended to read as  
54 follows:

55 § 5. A report of the findings and recommendations of the task force  
56 and any proposed legislation necessary to implement such findings shall



1 be filed with the governor, the temporary president of the senate, the  
2 speaker of the assembly, the minority leader of the senate, and the  
3 minority leader of the assembly on or before November first, two thou-  
4 sand [twenty-one] twenty-two.

5 § 6. This act shall take effect immediately and shall expire and be  
6 deemed repealed December 31, [2021] 2022.

7 § 12. This act shall take effect immediately and shall be deemed to  
8 have been in full force and effect on and after April 1, 2022; provided,  
9 however, that section eleven of this act shall be deemed to have been in  
10 full force and effect on and after December 31, 2021; and provided,  
11 further, that the amendments to section 2 of chapter 74 of the laws of  
12 2020 made by section ten of this act and the amendments to section 5 of  
13 chapter 414 of the laws of 2018 made by section eleven of this act,  
14 shall not affect the repeal of such sections and be deemed repealed  
15 therewith.

16

## PART DD

17 Section 1. 1. Subject to available appropriations and approval of the  
18 director of the budget, the commissioners of the department of health,  
19 office of mental health, office for people with developmental disabili-  
20 ties, office of addiction services and supports, office of temporary and  
21 disability assistance, office of children and family services, and the  
22 state office for the aging shall establish a cost of living adjustment  
23 (COLA), effective April 1, 2022, for projecting for the effects of  
24 inflation upon rates of payments, contracts, or any other form of  
25 reimbursement for the programs and services listed in paragraphs (i),  
26 (ii), (iii), (iv), (v), (vi), and (vii) of subdivision six of this  
27 section. The COLA established herein shall be applied to the appropri-  
28 ate portion of reimbursable costs or contract amounts. Where appropri-  
29 ate, transfers to the department of health (DOH) shall be made as  
30 reimbursement for the state share of medical assistance.

31 2. In developing cost of living adjustments under this section, the  
32 commissioners shall use the most recent congressional budget office  
33 estimate of the budget year's U.S. consumer price index for all urban  
34 consumers published in the congressional budget office economic and  
35 budget outlook after June first of the budget year prior to the year for  
36 which rates of payments, contracts or any other form of reimbursement  
37 are being developed.

38 3. After final U.S. consumer price index (CPI) for all urban consum-  
39 ers published by the United States department of labor, bureau of labor  
40 statistics, for a particular budget year, the commissioners shall recon-  
41 cile such final CPI with the estimate used in subdivision two of this  
42 section and any difference will be included in the next prospective cost  
43 of living adjustment.

44 4. Notwithstanding any inconsistent provision of law, subject to the  
45 approval of the director of the budget and available appropriations  
46 therefore, for the period of April 1, 2022 through March 31, 2023, the  
47 commissioners shall provide funding to support an eleven percent (11%)  
48 cost of living adjustment under this section for all eligible programs  
49 and services as determined pursuant to subdivision six of this section.

50 5. Notwithstanding any inconsistent provision of law, and as approved  
51 by the director of the budget, the 11 percent cost of living adjustment  
52 (COLA) established herein shall be inclusive of all other cost of living  
53 type increases, inflation factors, or trend factors that are newly  
54 applied effective April 1, 2022. Except for the 11 percent cost of

1 living adjustment (COLA) established herein, for the period commencing  
2 on April 1, 2022 the commissioners shall not apply any other new cost of  
3 living adjustments for the purpose of establishing rates of payments,  
4 contracts or any other form of reimbursement. The phrase "all other cost  
5 of living type increases, inflation factors, or trend factors" as  
6 defined in this subdivision shall not include payments made pursuant to  
7 the American Rescue Plan Act or other federal relief programs related to  
8 the Coronavirus Disease 2019 (COVID-19) pandemic Public Health Emergen-  
9 cy.

10 6. Eligible programs and services. (i) Programs and services funded,  
11 licensed, or certified by the office of mental health (OMH) eligible for  
12 the cost of living adjustment established herein, pending federal  
13 approval where applicable, include: office of mental health licensed  
14 outpatient programs, pursuant to parts 587 and 599 of title 14 CRR-NY of  
15 the office of mental health regulations including clinic, continuing day  
16 treatment, day treatment, intensive outpatient programs and partial  
17 hospitalization; outreach; crisis residence; crisis stabilization,  
18 crisis/respite beds; mobile crisis, part 590 comprehensive psychiatric  
19 emergency program services; crisis intervention; home based crisis  
20 intervention; family care; supported single room occupancy; supported  
21 housing; supported housing community services; treatment congregate;  
22 supported congregate; community residence - children and youth;  
23 treatment/apartment; supported apartment; community residence single  
24 room occupancy; on-site rehabilitation; employment programs; recreation;  
25 respite care; transportation; psychosocial club; assertive community  
26 treatment; case management; care coordination, including health home  
27 plus services; local government unit administration; monitoring and  
28 evaluation; children and youth vocational services; single point of  
29 access; school-based mental health program; family support children and  
30 youth; advocacy/support services; drop in centers; recovery centers;  
31 transition management services; bridge; home and community based waiver  
32 services; behavioral health waiver services authorized pursuant to the  
33 section 1115 MRT waiver; self-help programs; consumer service dollars;  
34 conference of local mental hygiene directors; multicultural initiative;  
35 ongoing integrated supported employment services; supported education;  
36 mentally ill/chemical abuse (MICA) network; personalized recovery  
37 oriented services; children and family treatment and support services;  
38 residential treatment facilities operating pursuant to part 584 of title  
39 14-NYCRR; geriatric demonstration programs; community-based mental  
40 health family treatment and support; coordinated children's service  
41 initiative; homeless services; and promises zone.

42 (ii) Programs and services funded, licensed, or certified by the  
43 office for people with developmental disabilities (OPWDD) eligible for  
44 the cost of living adjustment established herein, pending federal  
45 approval where applicable, include: local/unified services; chapter 620  
46 services; voluntary operated community residential services; article 16  
47 clinics; day treatment services; family support services; 100% day  
48 training; epilepsy services; traumatic brain injury services; hepatitis  
49 B services; independent practitioner services for individuals with  
50 intellectual and/or developmental disabilities; crisis services for  
51 individuals with intellectual and/or developmental disabilities; family  
52 care residential habilitation; supervised residential habilitation;  
53 supportive residential habilitation; respite; day habilitation; prevoca-  
54 tional services; supported employment; community habilitation; interme-  
55 diate care facility day and residential services; specialty hospital;  
56 pathways to employment; intensive behavioral services; basic home and



1 community based services (HCBS) plan support; health home services  
2 provided by care coordination organizations; community transition  
3 services; family education and training; fiscal intermediary; support  
4 broker; and personal resource accounts.

5 (iii) Programs and services funded, licensed, or certified by the  
6 office of addiction services and supports (OASAS) eligible for the cost  
7 of living adjustment established herein, pending federal approval where  
8 applicable, include: medically supervised withdrawal services - residen-  
9 tial; medically supervised withdrawal services - outpatient; medically  
10 managed detoxification; medically monitored withdrawal; inpatient reha-  
11 bilitation services; outpatient opioid treatment; residential opioid  
12 treatment; KEEP units outpatient; residential opioid treatment to absti-  
13 nence; problem gambling treatment; medically supervised outpatient;  
14 outpatient rehabilitation; specialized services substance abuse  
15 programs; home and community based waiver services pursuant to subdivi-  
16 sion 9 of section 366 of the social services law; children and family  
17 treatment and support services; continuum of care rental assistance case  
18 management; NY/NY III post-treatment housing; NY/NY III housing for  
19 persons at risk for homelessness; permanent supported housing; youth  
20 clubhouse; recovery community centers; recovery community organizing  
21 initiative; residential rehabilitation services for youth (RRSY); inten-  
22 sive residential; community residential; supportive living; residential  
23 services; job placement initiative; case management; family support  
24 navigator; local government unit administration; peer engagement; voca-  
25 tional rehabilitation; support services; HIV early intervention  
26 services; dual diagnosis coordinator; problem gambling resource centers;  
27 problem gambling prevention; prevention resource centers; primary  
28 prevention services; other prevention services; and community services.

29 (iv) Programs and services funded, licensed, or certified by the  
30 office of temporary and disability assistance (OTDA) eligible for the  
31 cost of living adjustment established herein, pending federal approval  
32 where applicable, include: nutrition outreach and education program  
33 (NOEP) and the New York state supportive housing program (NYSSHP).

34 (v) Programs and services funded, licensed, or certified by the office  
35 of children and family services (OCFS) eligible for the cost of living  
36 adjustment established herein, pending federal approval where applica-  
37 ble, include: programs for which the office of children and family  
38 services establishes maximum state aid rates pursuant to section 398-a  
39 of the social services law and section 4003 of the education law; emer-  
40 gency foster homes; foster family boarding homes and therapeutic foster  
41 homes as defined by the regulations of the office of children and family  
42 services; supervised settings as defined by subdivision twenty-two of  
43 section 371 of the social services law; adoptive parents receiving  
44 adoption subsidy pursuant to section 453 of the social services law;  
45 congregate and scattered supportive housing programs and supportive  
46 services provided under the NY/NY III supportive housing agreement to  
47 young adults leaving or having recently left foster care; and preventive  
48 services as defined pursuant to section 409 of the social services law.

49 (vi) Programs and services funded, licensed, or certified by the state  
50 office for the aging (SOFA) eligible for the cost of living adjustment  
51 established herein, pending federal approval where applicable, include:  
52 community services for the elderly; expanded in-home services for the  
53 elderly; and supplemental nutrition assistance program.

54 (vii) Programs and services funded, licensed, or certified by the  
55 state department of health (DOH) eligible for the cost of living adjust-  
56 ment established herein, pending federal approval where applicable,

1 shall include the health home care management program as authorized by  
2 section 365-1 of the social services law.

3 7. Each local government unit or direct contract provider receiving  
4 funding for the cost of living adjustment established herein shall  
5 submit a written certification, in such form and at such time as each  
6 commissioner shall prescribe, attesting how such funding will be or was  
7 used to first promote the recruitment and retention of non-executive  
8 direct care staff, non-executive direct support professionals, non-exe-  
9 cutive clinical staff, or respond to other critical non-personal service  
10 costs prior to supporting any salary increases or other compensation for  
11 executive level job titles.

12 8. Notwithstanding any inconsistent provision of law to the contrary,  
13 agency commissioners shall be authorized to recoup funding from a local  
14 governmental unit or direct contract provider for the cost of living  
15 adjustment established herein determined to have been used in a manner  
16 inconsistent with the appropriation, or any other provision of this  
17 section. Such agency commissioners shall be authorized to employ any  
18 legal mechanism to recoup such funds, including an offset of other funds  
19 that are owed to such local governmental unit or direct contract provid-  
20 er.

21 § 2. This act shall take effect immediately and shall be deemed to  
22 have been in full force and effect on and after April 1, 2022.

23

## PART EE

24 Section 1. Short title. This act shall be known and may be cited as  
25 the "9-8-8 suicide prevention and behavioral health crisis hotline act".

26 § 2. The mental hygiene law is amended by adding a new section 36.03  
27 to read as follows:

28 § 36.03 9-8-8 suicide prevention and behavioral health crisis hotline  
29 system.

30 (a) Definitions. When used in this article, the following words and  
31 phrases shall have the following meanings unless the specific context  
32 clearly indicates otherwise:

33 (1) "9-8-8" means the three digit phone number designated by the  
34 federal communications commission for the purpose of connecting individ-  
35 uals experiencing a behavioral health crisis with suicide prevention and  
36 behavioral health crisis counselors, mobile crisis teams, and crisis  
37 stabilization services and other behavioral health crises services  
38 through the national suicide prevention lifeline.

39 (2) "9-8-8 crisis hotline center" means a state-identified and funded  
40 center participating in the National Suicide Prevention Lifeline Network  
41 to respond to statewide or regional 9-8-8 calls.

42 (3) "Crisis stabilization centers" means facilities providing short-  
43 term observation and crisis stabilization services jointly licensed by  
44 the office of mental health and the office of addiction services and  
45 supports under section 36.01 of this article.

46 (4) "Crisis residential services" means a short-term residential  
47 program designed to provide residential and support services to persons  
48 with symptoms of mental illness who are at risk of or experiencing a  
49 psychiatric crisis.

50 (5) "Crisis intervention services" means the continuum to address  
51 crisis intervention, crisis stabilization, and crisis residential treat-  
52 ment needs that are wellness, resiliency, and recovery oriented. Crisis  
53 intervention services include but not limited to: crisis stabilization  
54 centers, mobile crisis teams, and crisis residential services.



1 (6) "Behavioral health professional" shall mean any of the following,  
2 but shall not be limited to:

3 (i) a licensed clinical social worker, licensed under article one  
4 hundred fifty-four of the education law;

5 (ii) a licensed psychologist, licensed under article one  
6 hundred fifty-three of the education law;

7 (iii) a registered professional nurse, licensed under article  
8 one hundred thirty-nine of the education law;

9 (iv) a licensed master social worker, licensed under article  
10 one hundred fifty-four of the education law, under the supervision  
11 of a physician, psychologist or licensed clinical social worker;

12 (v) a licensed mental health counselor, licensed under article one  
13 hundred sixty-three of the education law; or

14 (vi) a credentialed alcoholism and substance use counselor with a  
15 valid credential issued or approved by the office.

16 (7) "Peer" shall mean an individual who is a current or former recipi-  
17 ent of mental health or substance use services who provides advocacy and  
18 mutual support for other services users through a model of shared  
19 personal experience, who is employed on the basis of their personal  
20 knowledge and recovery from a mental illness, addiction, or both, and  
21 who meets the certification requirements set forth by the New York state  
22 peer specialist certification board.

23 (8) "Family peer advocates" shall mean individuals with lived experi-  
24 ence as the biological, foster, or adoptive parents or primary caregiv-  
25 ers of a child or youth with a social, emotional, behavioral, mental  
26 health, substance use disorder, or developmental disability, who meet  
27 the current requirements for a credentialed family peer advocate, or  
28 other certification related to culturally responsive trauma-informed  
29 care.

30 (9) "Mobile crisis team" means a team licensed, certified, or author-  
31 ized by the office of mental health and the office of addiction services  
32 and supports to provide community-based mental health or substance use  
33 disorder interventions for individuals who are experiencing a mental  
34 health or substance use disorder crisis. Members of a mobile crisis  
35 team may include, but not be limited to: behavioral health profes-  
36 sionals family peer advocates, and peers.

37 (10) "National suicide prevention lifeline" or "NSPL" means the  
38 national network of local crisis centers that provide free and confiden-  
39 tial emotional support to people in suicidal crisis or emotional  
40 distress twenty-four hours a day, seven days a week via a toll-free  
41 hotline number, which receives calls made through the 9-8-8 system. The  
42 toll-free number is maintained by the Assistant Secretary for Mental  
43 Health and Substance Use under Section 50-E-3 of the Public Health  
44 Service Act, Section 290bb-36c of Title 42 of the United States Code.

45 (b) The commissioner of the office of mental health, in conjunction  
46 with the commissioner of the office of addiction services and supports,  
47 shall have joint oversight of the 9-8-8 suicide prevention and behav-  
48 ioral health crisis hotline and shall work in concert with NSPL for the  
49 purposes of ensuring consistency of public messaging.

50 (c) The commissioner of the office of mental health, in conjunction  
51 with the commissioner of the office of addiction services and supports,  
52 shall, on or before July sixteenth, two thousand twenty-two, designate a  
53 crisis hotline center or centers to provide or arrange for crisis inter-  
54 vention services to individuals accessing the 9-8-8 suicide prevention  
55 and behavioral health crisis hotline from anywhere within the state

1 twenty-four hours a day, seven days a week. Each 9-8-8 crisis hotline  
2 center shall do all of the following:

3 (1) A designated hotline center shall have an active agreement with  
4 the administrator of the National Suicide Prevention Lifeline for  
5 participation within the network.

6 (2) A designated hotline center shall meet NSPL requirements and best  
7 practices guidelines for operation and clinical standards.

8 (3) A designated hotline center may utilize technology, including but  
9 not limited to, chat and text that is interoperable between and across  
10 the 9-8-8 suicide prevention and behavioral health crisis hotline system  
11 and the administrator of the National Suicide Prevention Lifeline.

12 (4) A designated hotline center shall accept transfers of any call  
13 from 9-1-1 pertaining to a behavioral health crisis.

14 (5) A designated hotline center shall ensure coordination between the  
15 9-8-8 crisis hotline centers, 9-1-1, behavioral health crisis services,  
16 and, when appropriate, other specialty behavioral health warm lines and  
17 hotlines and other emergency services. If a law enforcement, medical,  
18 or fire response is also needed, 9-8-8 and 9-1-1 operators shall coordi-  
19 nate the simultaneous deployment of those services with mobile crisis  
20 services.

21 (6) A designated hotline center shall have the authority to deploy  
22 crisis intervention services, including but not limited to mobile crisis  
23 teams, and coordinate access to crisis stabilization centers, and other  
24 behavioral health crisis intervention services, as appropriate, and  
25 according to guidelines and best practices established by New York State  
26 and the NSPL.

27 (7) A designated hotline center shall meet the requirements set forth  
28 by New York State and the NSPL for serving high risk and specialized  
29 populations including but not limited to: Black, African American,  
30 Hispanic, Latino, Asian, Pacific Islander, Native American, Alaskan  
31 Native; lesbian, gay, bisexual, transgender, nonbinary, queer, and ques-  
32 tioning individuals; veterans; members of rural communities; individuals  
33 with intellectual and developmental disabilities; individuals experienc-  
34 ing homelessness or housing instability; immigrants and refugees; chil-  
35 dren and youth; older adults; and religious communities as identified by  
36 the federal Substance Abuse and Mental Health Services Administration,  
37 including training requirements and policies for providing linguis-  
38 tically and culturally competent care.

39 (8) A designated hotline center shall provide follow-up services as  
40 needed to individuals accessing the 9-8-8 suicide prevention and behav-  
41 ioral health crisis hotline consistent with guidance and policies estab-  
42 lished by New York State and the NSPL. Follow-up services guidelines  
43 and policies shall include but not be limited to: (i) criteria for  
44 enrollment in a designated hotline center follow-up program, including  
45 consideration of a caller's suicide risk, staff resources, the crisis  
46 center's capacity to follow up with a caller, an individual's consent to  
47 participate in such follow-up program, and any relevant state or federal  
48 confidentiality provisions; (ii) linkage to services as needed; and  
49 (iii) the maximum duration of involvement that is appropriate with the  
50 follow-up program depending on an individual's potential risk level.

51 (9) A designated hotline center shall provide data, and reports, and  
52 participate in evaluations and quality improvement activities as  
53 required by the office of mental health and the office of addiction  
54 services and supports.

55 (d) The commissioner of the office of mental health, in conjunction  
56 with the commissioner of the office of addiction services and supports,

1 shall establish a comprehensive list of reporting metrics regarding the  
2 9-8-8 suicide prevention and behavioral health crisis hotline's usage,  
3 services and impact which shall include, at a minimum:

4 (1) The volume of requests for assistance that the 9-8-8 suicide  
5 prevention and behavioral health crisis hotline received;

6 (2) The average length of time taken to respond to each request for  
7 assistance, and the aggregate rates of call abandonment;

8 (3) The types of requests for assistance that the 9-8-8 suicide  
9 prevention and behavioral health crisis hotline received; and

10 (4) The number of mobile crisis teams dispatched.

11 (e) The commissioner of the office of mental health, in conjunction  
12 with the commissioner of the office of addiction services and supports,  
13 shall submit an annual report on or by December thirty-first, two thou-  
14 sand twenty-three and annually thereafter, regarding the comprehensive  
15 list of reporting metrics to the governor, the temporary president of  
16 the senate, the speaker of the assembly, the minority leader of the  
17 senate and the minority leader of the assembly.

18 (f) Moneys allocated for the payment of costs determined in consulta-  
19 tion with the commissioners of mental health and the office of addiction  
20 services and supports associated with the administration, design,  
21 installation, construction, operation, or maintenance of a 9-8-8 suicide  
22 prevention and behavioral health crisis hotline system serving the  
23 state, including, but not limited to: staffing, hardware, software,  
24 consultants, financing and other administrative costs to operate crisis  
25 call-centers throughout the state and the provision of acute and crisis  
26 intervention services for mental health and substance use disorder by  
27 directly responding to the 9-8-8 hotline established pursuant to the  
28 National Suicide Hotline Designation Act of 2020 (47 U.S.C. § 251a) and  
29 rules adopted by the Federal Communications Commission, including such  
30 costs incurred by the state, shall not supplant any separate existing,  
31 future appropriations, or future funding sources dedicated to the 9-8-8  
32 crisis response system.

33 § 3. This act shall take effect immediately.

34 PART FF

35 Section 1. Subdivision 5 of section 365-m of the social services law,  
36 as added by section 11 of part C of chapter 60 of the laws of 2014, is  
37 amended to read as follows:

38 5. Pursuant to appropriations within the offices of mental health or  
39 addiction services and supports, the department of health shall reinvest  
40 [funds allocated for behavioral health services, which are general fund  
41 savings directly related to] savings realized through the transition of  
42 populations covered by this section from the applicable Medicaid fee-  
43 for-service system to a managed care model, including savings [resulting  
44 from the reduction of inpatient and outpatient behavioral health  
45 services provided under the Medicaid programs licensed or certified  
46 pursuant to article thirty-one or thirty-two of the mental hygiene law,  
47 or programs that are licensed pursuant to both article thirty-one of the  
48 mental hygiene law and article twenty-eight of the public health law, or  
49 certified under both article thirty-two of the mental hygiene law and  
50 article twenty-eight of the public health law] realized through the  
51 recovery of premiums from managed care providers which represent a  
52 reduction of spending on qualifying behavioral health services against  
53 established premium targets for behavioral health services and the  
54 medical loss ratio applicable to special needs managed care plans, for



1 the purpose of increasing investment in community based behavioral  
2 health services, including residential services certified by the office  
3 of [alcoholism and substance abuse] addiction services and supports.  
4 The methodologies used to calculate the savings shall be developed by  
5 the commissioner of health and the director of the budget in consulta-  
6 tion with the commissioners of the office of mental health and the  
7 office of [alcoholism and substance abuse] addiction services and  
8 supports. In no event shall the full annual value of the [community  
9 based behavioral health service] reinvestment [savings attributable to  
10 the transition to managed care] pursuant to this subdivision exceed the  
11 [twelve month value of the department of health general fund reductions  
12 resulting from such transition] value of the premiums recovered from  
13 managed care providers which represent a reduction of spending on quali-  
14 fying behavioral health services. Within any fiscal year where appropri-  
15 ation increases are recommended for reinvestment, insofar as managed  
16 care transition savings do not occur as estimated, [and general fund  
17 savings do not result,] then spending for such reinvestment may be  
18 reduced in the next year's annual budget itemization. [The commissioner  
19 of health shall promulgate regulations, and prior to October first, two  
20 thousand fifteen, may promulgate emergency regulations as required to  
21 distribute funds pursuant to this subdivision; provided, however, that  
22 any emergency regulations promulgated pursuant to this section shall  
23 expire no later than December thirty-first, two thousand fifteen.] The  
24 commissioner shall include detailed descriptions of the methodology used  
25 to calculate savings, information regarding the funds available for  
26 reinvestment, the results of applying such methodologies, the details  
27 regarding implementation of such reinvestment pursuant to this section[,  
28 and any regulations promulgated under this subdivision,] in the annual  
29 report required under section forty-five-c of part A of chapter fifty-  
30 six of the laws of two thousand thirteen. Beginning April first, two  
31 thousand twenty-two, the department shall also post on its website the  
32 list of managed care providers that provided a recovery of premiums  
33 under this section, a detailed accounting of the amount that was recov-  
34 ered from each provider, and the dates that the recovery was applied to,  
35 beginning with recoveries from two thousand thirteen. After the initial  
36 posting of this information on its website, the department shall update  
37 it on an annual basis by December thirty-first each year.

38 § 2. This act shall take effect immediately.

39 PART GG

40 Intentionally Omitted

41 PART HH

42 Intentionally Omitted

43 PART II

44 Section 1. Subdivision 38 of section 1.03 of the mental hygiene law,  
45 as amended by chapter 281 of the laws of 2019, is amended and a new  
46 subdivision 59 is added to read as follows:

47 38. "Residential services facility" or "Alcoholism community resi-  
48 dence" means any facility licensed or operated pursuant to article thir-



1 ty-two of this chapter which provides residential services for the  
2 treatment of an addiction disorder and a homelike environment, including  
3 room, board and responsible supervision as part of an overall service  
4 delivery system. Provided however, "recovery living residence" as  
5 defined in subdivision fifty-nine of this section shall not be consid-  
6 ered a residential services facility for the purposes of this chapter.

7 59. "Recovery living residence" means any shared residence in the  
8 state that has been certified by the office of addiction services and  
9 supports and meets criteria established pursuant to section 32.05-a of  
10 this chapter, where the owner or operator provides a supportive living  
11 arrangement for individuals recovering from a substance use disorder.

12 § 2. The mental hygiene law is amended by adding a new section 32.05-a  
13 to read as follows:

14 § 32.05-a Certification of recovery living residences.

15 1. No person or entity may purport to operate a recovery living resi-  
16 dence except upon compliance with the regulations promulgated pursuant  
17 to this section. Any person or entity shall be considered purporting to  
18 operate a recovery living residence, regardless of whether such person  
19 or entity is offering onsite recovery services, so long as such person  
20 or entity holds itself out as a place where an individual reasonably  
21 believes such person or entity is providing recovery services and/or a  
22 sober environment.

23 2. The commissioner shall promulgate regulations consistent with this  
24 section for the purpose of certifying recovery living residences.  
25 Recovery living residences shall provide a supportive home like living  
26 environment for individuals recovering from a substance use disorder.

27 3. Such regulations shall be evidence-based, utilizing information  
28 from sources with expertise in treatment and recovery, with a focus on  
29 appropriate settings and activities most suited toward the recovery of  
30 the individual. Such regulations shall, at minimum, provide for:

31 (a) access to a certified alcohol and substance abuse counselor either  
32 onsite or via telehealth services;

33 (b) appropriate responses to individuals who relapse, which take into  
34 consideration the need for the individual to continue their recovery  
35 process at the residence as well as the impact on other residents;

36 (c) access to a licensed professional whose scope of practice includes  
37 the diagnosis of mental health disorders either onsite or via telehealth  
38 services for those recovering from a co-occurring mental health disor-  
39 der;

40 (d) informing individuals of their rights while residing at the resi-  
41 dence, which shall include but not be limited to rights related to  
42 privacy and confidentiality as provided by state and federal law, rights  
43 related to potential eviction from the recovery living residence and  
44 general rights and procedures related to individuals while residing in  
45 the recovery living residence; and

46 (e) operating procedures, which shall include administrative oper-  
47 ations as well as ensuring residents are receiving other necessary  
48 health care services.

49 4. (a) The commissioner may certify recovery living residences that:  
50 (i) complete an application for such certification; (ii) are in compli-  
51 ance with the regulations established pursuant to subdivision two of  
52 this section; (iii) have demonstrated a need for a recovery living resi-  
53 dence in the particular location identified by the applicant; (iv) can  
54 provide evidence or demonstrate their ability to effectively deliver an  
55 appropriate environment for individuals recovering from a substance use



1 disorder; and (v) meet or exceed the housing quality standards for safe  
2 and habitual housing which are established by local housing codes.

3 (b) As part of the application process, the applicant shall be  
4 required to demonstrate the outreach such applicant conducted in the  
5 community, including input provided by the community, concerns raised by  
6 the community and steps such applicant has taken or will take to poten-  
7 tially remediate some of those concerns.

8 5. Once the commissioner has certified a location as a recovery living  
9 residence, such residence shall be included on the office's website as  
10 an available option for individuals seeking such an environment.

11 6. The commissioner shall regulate and ensure residences who are  
12 certified to be a recovery living residence are continuing to meet the  
13 requirements of this section. The commissioner has the authority to  
14 inspect such residences and impose penalties, including limiting, revok-  
15 ing or suspending a certification, as appropriate, for failure to comply  
16 with the provisions of this section.

17 7. Currently operating non-certified residences shall have up to sixty  
18 days following the effective date of this section to ensure compliance  
19 with the regulations established pursuant to subdivision two of this  
20 section.

21 § 3. Subdivisions 1, 2, 3, 5 and 6 of section 32.06 of the mental  
22 hygiene law, as added by chapter 223 of the laws of 2018, are amended to  
23 read as follows:

24 1. For purposes of this section, unless the context clearly requires  
25 otherwise, "provider" shall mean any person, firm, partnership, group,  
26 practice association, fiduciary, employer, representative thereof or any  
27 other entity who is providing or purporting to provide substance use  
28 disorder services or operating or purporting to operate a recovery  
29 living residence. Provided, however, that "provider" shall not include  
30 a person receiving substance use disorder services from the provider.

31 2. No provider shall intentionally solicit, receive, accept or agree  
32 to receive or accept any payment, benefit or other consideration in any  
33 form to the extent such payment, benefit or other consideration is given  
34 for the referral of a person as a potential patient for substance use  
35 disorder services or as a resident at a recovery living residence.

36 3. No provider providing or purporting to provide substance use disor-  
37 der services or operating or purporting to operate a recovery living  
38 residence pursuant to this chapter, shall intentionally make, offer,  
39 give, or agree to make, offer, or give any payment, benefit or other  
40 consideration in any form to the extent such payment, benefit or other  
41 consideration is given for the referral of a person as a potential  
42 patient for substance use disorder services.

43 5. Any provider who intentionally violates the provisions of subdivi-  
44 sion two or three of this section shall be guilty of a misdemeanor as  
45 defined in the penal law. Additionally, any entity purporting to oper-  
46 ate a recovery living residence without receiving a certification from  
47 the office shall, upon reasonable notice of non-compliance, be guilty of  
48 a misdemeanor as defined in the penal law; provided, however, this  
49 provision shall not apply to currently operating non-certified resi-  
50 dences who are taking steps to come into compliance with section 32.05-a  
51 of this article and have submitted an application to the office and are  
52 awaiting certification from the commissioner.

53 6. If the commissioner has reason to believe a provider has violated  
54 subdivision two or three of this section, the commissioner may proceed  
55 to investigate and institute enforcement actions, as may be authorized  
56 pursuant to the applicable provisions of this article. Additionally, if



1 the commissioner has reason to believe an entity is operating a recovery  
2 living residence without receiving a certification from the office or  
3 purporting to operate a recovery living residence, the commissioner may  
4 proceed to investigate and institute enforcement actions, as may be  
5 authorized pursuant to the applicable provisions of this article.

6 § 4. This act shall take effect on the sixtieth day after it shall  
7 have become a law.

8

## PART JJ

9 Section 1. The section heading and subdivisions (a) and (d) of section  
10 19.25 of the mental hygiene law, as added by chapter 223 of the laws of  
11 1992, are amended to read as follows:

12 [Alcohol] Substance use awareness program.

13 (a) The office shall establish [an alcohol] a substance use awareness  
14 program within the office which shall focus upon, but not be limited to,  
15 the health effects and social costs of [alcoholism and alcohol abuse]  
16 substance use disorders.

17 (d) [A] Upon completion, a certificate of completion shall be sent to  
18 the court by the [office upon completion of the program by all] program  
19 for participants who have been ordered by the court to complete such  
20 program.

21 § 2. This act shall take effect immediately.

22

## PART KK

23

Intentionally Omitted

24

## PART LL

25 Section 1. Section 48-a of part A of chapter 56 of the laws of 2013  
26 amending the public health law and other laws relating to general hospi-  
27 tal reimbursement for annual rates, as amended by section 18 of part E  
28 of chapter 57 of the laws of 2019, is amended to read as follows:

29 § 48-a. 1. Notwithstanding any contrary provision of law, the commis-  
30 sioners of the office of [alcoholism and substance abuse] addiction  
31 services and supports and the office of mental health are authorized,  
32 subject to the approval of the director of the budget, to transfer to  
33 the commissioner of health state funds to be utilized as the state share  
34 for the purpose of increasing payments under the medicaid program to  
35 managed care organizations licensed under article 44 of the public  
36 health law or under article 43 of the insurance law. Such managed care  
37 organizations shall utilize such funds for the purpose of reimbursing  
38 providers licensed pursuant to article 28 of the public health law or  
39 article 36, 31 or 32 of the mental hygiene law for ambulatory behavioral  
40 health services, as determined by the commissioner of health, in consul-  
41 tation with the commissioner of [alcoholism and substance abuse]  
42 addiction services and supports and the commissioner of the office of  
43 mental health, provided to medicaid enrolled outpatients and for all  
44 other behavioral health services except inpatient included in New York  
45 state's Medicaid redesign waiver approved by the centers for medicare  
46 and Medicaid services (CMS). Such reimbursement shall be in the form of  
47 fees for such services which are equivalent to the payments established  
48 for such services under the ambulatory patient group (APG) rate-setting  
49 methodology as utilized by the department of health, the office of



1 [alcoholism and substance abuse] addiction services and supports, or the  
2 office of mental health for rate-setting purposes or any such other fees  
3 pursuant to the Medicaid state plan or otherwise approved by CMS in the  
4 Medicaid redesign waiver; provided, however, that the increase to such  
5 fees that shall result from the provisions of this section shall not, in  
6 the aggregate and as determined by the commissioner of health, in  
7 consultation with the commissioner of [alcoholism and substance abuse]  
8 addiction services and supports and the commissioner of the office of  
9 mental health, be greater than the increased funds made available pursu-  
10 ant to this section. The increase of such ambulatory behavioral health  
11 fees to providers available under this section shall be for all rate  
12 periods on and after the effective date of section [1] 18 of part [P] E  
13 of chapter 57 of the laws of [2017] 2019 through March 31, [2023] 2027  
14 for patients in the city of New York, for all rate periods on and after  
15 the effective date of section [1] 18 of part [P] E of chapter 57 of the  
16 laws of [2017] 2019 through March 31, [2023] 2027 for patients outside  
17 the city of New York, and for all rate periods on and after the effec-  
18 tive date of such chapter through March 31, [2023] 2027 for all services  
19 provided to persons under the age of twenty-one; provided, however, the  
20 commissioner of health, in consultation with the commissioner of [alco-  
21 holism and substance abuse] addiction services and supports and the  
22 commissioner of mental health, may require, as a condition of approval  
23 of such ambulatory behavioral health fees, that aggregate managed care  
24 expenditures to eligible providers meet the alternative payment method-  
25 ology requirements as set forth in attachment I of the New York state  
26 medicaid section one thousand one hundred fifteen medicaid redesign team  
27 waiver as approved by the centers for medicare and medicaid services.  
28 The commissioner of health shall, in consultation with the commissioner  
29 of [alcoholism and substance abuse] addiction services and supports and  
30 the commissioner of mental health, waive such conditions if a sufficient  
31 number of providers, as determined by the commissioner, suffer a finan-  
32 cial hardship as a consequence of such alternative payment methodology  
33 requirements, or if he or she shall determine that such alternative  
34 payment methodologies significantly threaten individuals access to ambu-  
35 latory behavioral health services. Such waiver may be applied on a  
36 provider specific or industry wide basis. Further, such conditions may  
37 be waived, as the commissioner determines necessary, to comply with  
38 federal rules or regulations governing these payment methodologies.  
39 Nothing in this section shall prohibit managed care organizations and  
40 providers from negotiating different rates and methods of payment during  
41 such periods described above, subject to the approval of the department  
42 of health. The department of health shall consult with the office of  
43 [alcoholism and substance abuse] addiction services and supports and the  
44 office of mental health in determining whether such alternative rates  
45 shall be approved. The commissioner of health may, in consultation with  
46 the commissioner of [alcoholism and substance abuse] addiction services  
47 and supports and the commissioner of the office of mental health,  
48 promulgate regulations, including emergency regulations promulgated  
49 prior to October 1, 2015 to establish rates for ambulatory behavioral  
50 health services, as are necessary to implement the provisions of this  
51 section. Rates promulgated under this section shall be included in the  
52 report required under section 45-c of part A of this chapter.

53 2. Notwithstanding any contrary provision of law, the fees paid by  
54 managed care organizations licensed under article 44 of the public  
55 health law or under article 43 of the insurance law, to providers  
56 licensed pursuant to article 28 of the public health law or article 36,



1 31 or 32 of the mental hygiene law, for ambulatory behavioral health  
2 services provided to patients enrolled in the child health insurance  
3 program pursuant to title 1-A of article 25 of the public health law,  
4 shall be in the form of fees for such services which are equivalent to  
5 the payments established for such services under the ambulatory patient  
6 group (APG) rate-setting methodology or any such other fees established  
7 pursuant to the Medicaid state plan. The commissioner of health shall  
8 consult with the commissioner of [alcoholism and substance abuse]  
9 addiction services and supports and the commissioner of the office of  
10 mental health in determining such services and establishing such fees.  
11 Such ambulatory behavioral health fees to providers available under this  
12 section shall be for all rate periods on and after the effective date of  
13 this chapter through March 31, [2023] 2027, provided, however, that  
14 managed care organizations and providers may negotiate different rates  
15 and methods of payment during such periods described above, subject to  
16 the approval of the department of health. The department of health  
17 shall consult with the office of [alcoholism and substance abuse]  
18 addiction services and supports and the office of mental health in  
19 determining whether such alternative rates shall be approved. The  
20 report required under section 16-a of part C of chapter 60 of the laws  
21 of 2014 shall also include the population of patients enrolled in the  
22 child health insurance program pursuant to title 1-A of article 25 of  
23 the public health law in its examination on the transition of behavioral  
24 health services into managed care.

25 § 2. Section 1 of part H of chapter 111 of the laws of 2010 relating  
26 to increasing Medicaid payments to providers through managed care organ-  
27 izations and providing equivalent fees through an ambulatory patient  
28 group methodology, as amended by section 19 of part E of chapter 57 of  
29 the laws of 2019, is amended to read as follows:

30 Section 1. a. Notwithstanding any contrary provision of law, the  
31 commissioners of mental health and [alcoholism and substance abuse]  
32 addiction services and supports are authorized, subject to the approval  
33 of the director of the budget, to transfer to the commissioner of health  
34 state funds to be utilized as the state share for the purpose of  
35 increasing payments under the Medicaid program to managed care organiza-  
36 tions licensed under article 44 of the public health law or under arti-  
37 cle 43 of the insurance law. Such managed care organizations shall  
38 utilize such funds for the purpose of reimbursing providers licensed  
39 pursuant to article 28 of the public health law, or pursuant to article  
40 36, 31 or article 32 of the mental hygiene law for ambulatory behavioral  
41 health services, as determined by the commissioner of health in consul-  
42 tation with the commissioner of mental health and commissioner of [alco-  
43 holism and substance abuse] addiction services and supports, provided to  
44 Medicaid enrolled outpatients and for all other behavioral health  
45 services except inpatient included in New York state's Medicaid redesign  
46 waiver approved by the centers for Medicare and Medicaid services (CMS).  
47 Such reimbursement shall be in the form of fees for such services which  
48 are equivalent to the payments established for such services under the  
49 ambulatory patient group (APG) rate-setting methodology as utilized by  
50 the department of health or by the office of mental health or office of  
51 [alcoholism and substance abuse] addiction services and supports for  
52 rate-setting purposes or any such other fees pursuant to the Medicaid  
53 state plan or otherwise approved by CMS in the Medicaid redesign waiver;  
54 provided, however, that the increase to such fees that shall result from  
55 the provisions of this section shall not, in the aggregate and as deter-  
56 mined by the commissioner of health in consultation with the commission-

1 ers of mental health and [alcoholism and substance abuse] addiction  
2 services and supports, be greater than the increased funds made avail-  
3 able pursuant to this section. The increase of such behavioral health  
4 fees to providers available under this section shall be for all rate  
5 periods on and after the effective date of section [2] 19 of part [P] E  
6 of chapter 57 of the laws of [2017] 2019 through March 31, [2023] 2027  
7 for patients in the city of New York, for all rate periods on and after  
8 the effective date of section [2] 19 of part [P] E of chapter 57 of the  
9 laws of [2017] 2019 through March 31, [2023] 2027 for patients outside  
10 the city of New York, and for all rate periods on and after the effec-  
11 tive date of section [2] 19 of part [P] E of chapter 57 of the laws of  
12 [2017] 2019 through March 31, [2023] 2027 for all services provided to  
13 persons under the age of twenty-one; provided, however, the commissioner  
14 of health, in consultation with the commissioner of [alcoholism and  
15 substance abuse] addiction services and supports and the commissioner of  
16 mental health, may require, as a condition of approval of such ambulatory  
17 behavioral health fees, that aggregate managed care expenditures to  
18 eligible providers meet the alternative payment methodology requirements  
19 as set forth in attachment I of the New York state medicaid section one  
20 thousand one hundred fifteen medicaid redesign team waiver as approved  
21 by the centers for medicare and medicaid services. The commissioner of  
22 health shall, in consultation with the commissioner of [alcoholism and  
23 substance abuse] addiction services and supports and the commissioner of  
24 mental health, waive such conditions if a sufficient number of provid-  
25 ers, as determined by the commissioner, suffer a financial hardship as a  
26 consequence of such alternative payment methodology requirements, or if  
27 he or she shall determine that such alternative payment methodologies  
28 significantly threaten individuals access to ambulatory behavioral  
29 health services. Such waiver may be applied on a provider specific or  
30 industry wide basis. Further, such conditions may be waived, as the  
31 commissioner determines necessary, to comply with federal rules or regu-  
32 lations governing these payment methodologies. Nothing in this section  
33 shall prohibit managed care organizations and providers from negotiating  
34 different rates and methods of payment during such periods described,  
35 subject to the approval of the department of health. The department of  
36 health shall consult with the office of [alcoholism and substance abuse]  
37 addiction services and supports and the office of mental health in  
38 determining whether such alternative rates shall be approved. The  
39 commissioner of health may, in consultation with the commissioners of  
40 mental health and [alcoholism and substance abuse] addiction services  
41 and supports, promulgate regulations, including emergency regulations  
42 promulgated prior to October 1, 2013 that establish rates for behavioral  
43 health services, as are necessary to implement the provisions of this  
44 section. Rates promulgated under this section shall be included in the  
45 report required under section 45-c of part A of chapter 56 of the laws  
46 of 2013.

47 b. Notwithstanding any contrary provision of law, the fees paid by  
48 managed care organizations licensed under article 44 of the public  
49 health law or under article 43 of the insurance law, to providers  
50 licensed pursuant to article 28 of the public health law or article 36,  
51 31 or 32 of the mental hygiene law, for ambulatory behavioral health  
52 services provided to patients enrolled in the child health insurance  
53 program pursuant to title 1-A of article 25 of the public health law,  
54 shall be in the form of fees for such services which are equivalent to  
55 the payments established for such services under the ambulatory patient  
56 group (APG) rate-setting methodology. The commissioner of health shall

1 consult with the commissioner of [alcoholism and substance abuse]  
2 addiction services and supports and the commissioner of the office of  
3 mental health in determining such services and establishing such fees.  
4 Such ambulatory behavioral health fees to providers available under this  
5 section shall be for all rate periods on and after the effective date of  
6 this chapter through March 31, [2023] 2027, provided, however, that  
7 managed care organizations and providers may negotiate different rates  
8 and methods of payment during such periods described above, subject to  
9 the approval of the department of health. The department of health shall  
10 consult with the office of [alcoholism and substance abuse] addiction  
11 services and supports and the office of mental health in determining  
12 whether such alternative rates shall be approved. The report required  
13 under section 16-a of part C of chapter 60 of the laws of 2014 shall  
14 also include the population of patients enrolled in the child health  
15 insurance program pursuant to title 1-A of article 25 of the public  
16 health law in its examination on the transition of behavioral health  
17 services into managed care.

18 § 3. Section 2 of part H of chapter 111 of the laws of 2010, relating  
19 to increasing Medicaid payments to providers through managed care organ-  
20 izations and providing equivalent fees through an ambulatory patient  
21 group methodology, as amended by section 20 of part E of chapter 57 of  
22 the laws of 2019, is amended to read as follows:

23 § 2. This act shall take effect immediately and shall be deemed to  
24 have been in full force and effect on and after April 1, 2010, and shall  
25 expire on March 31, [2023] 2027.

26 § 4. This act shall take effect immediately; provided, however that  
27 the amendments to section 1 of part H of chapter 111 of the laws of  
28 2010, relating to increasing Medicaid payments to providers through  
29 managed care organizations and providing equivalent fees through an  
30 ambulatory patient group methodology, made by section two of this act  
31 shall not affect the expiration of such section and shall expire there-  
32 with.

33

## PART MM

34 Section 1. Section 18 of chapter 408 of the laws of 1999, constituting  
35 Kendra's law, as amended by chapter 67 of the laws of 2017, is amended  
36 to read as follows:

37 § 18. This act shall take effect immediately, provided that section  
38 fifteen of this act shall take effect April 1, 2000, provided, further,  
39 that subdivision (e) of section 9.60 of the mental hygiene law as added  
40 by section six of this act shall be effective 90 days after this act  
41 shall become law; and that this act shall expire and be deemed repealed  
42 June 30, [2022] 2027.

43 § 2. Paragraph 2 of subdivision (h) of section 9.60 of the mental  
44 hygiene law, as amended by chapter 158 of the laws of 2005, is amended  
45 to read as follows:

46 (2) The court shall not order assisted outpatient treatment unless an  
47 examining physician, who recommends assisted outpatient treatment and  
48 has personally examined the subject of the petition no more than ten  
49 days before the filing of the petition, testifies in person or by video-  
50 conference at the hearing, provided however, a physician shall only be  
51 authorized to testify by video conference when it has been shown that  
52 diligent efforts have been met to attend such hearing in person and the  
53 subject of the petition consents to the physician testifying by video  
54 conference. Such physician shall state the facts and clinical determi-

1 nations which support the allegation that the subject of the petition  
2 meets each of the criteria for assisted outpatient treatment.

3 § 3. This act shall take effect immediately, provided, however that  
4 the amendments to section 9.60 of the mental hygiene law made by section  
5 two of this act shall not affect the repeal of such section and shall be  
6 deemed repealed therewith.

7

## PART NN

8 Section 1. Section 41.38 of the mental hygiene law, as amended by  
9 chapter 218 of the laws of 1988, is amended to read as follows:

10 § 41.38 Rental and mortgage payments of community residential facilities  
11 for the mentally ill.

12 (a) "Supportive housing" shall mean, for the purpose of this section  
13 only, the method by which the commissioner contracts to provide rental  
14 support and funding for non-clinical support services in order to main-  
15 tain recipient stability.

16 (b) Notwithstanding any inconsistent provision of this article, the  
17 commissioner may reimburse voluntary agencies for the reasonable cost of  
18 rental of or the reasonable mortgage payment or the reasonable principal  
19 and interest payment on a loan for the purpose of financing an ownership  
20 interest in, and proprietary lease from, an organization formed for the  
21 purpose of the cooperative ownership of real estate, together with other  
22 necessary costs associated with rental or ownership of property, for a  
23 community residence [or], a residential care center for adults, or  
24 supportive housing, under [his] their jurisdiction less any income  
25 received from a state or federal agency or third party insurer which is  
26 specifically intended to offset the cost of rental of the facility or  
27 housing a client at the facility, subject to the availability of appro-  
28 priations therefor and such commissioner's certification of the reason-  
29 ableness of the rental cost, mortgage payment, principal and interest  
30 payment on a loan as provided in this section or other necessary costs  
31 associated with rental or ownership of property, with the approval of  
32 the director of the budget.

33 § 2. This act shall take effect April 1, 2022.

34

## PART OO

35 Section 1. Section 4 of part L of chapter 59 of the laws of 2016,  
36 amending the mental hygiene law relating to the appointment of temporary  
37 operators for the continued operation of programs and the provision of  
38 services for persons with serious mental illness and/or developmental  
39 disabilities and/or chemical dependence, as amended by section 1 of part  
40 U of chapter 57 of the laws of 2021, is amended to read as follows:

41 § 4. This act shall take effect immediately and shall be deemed to  
42 have been in full force and effect on and after April 1, 2016; provided,  
43 however, that sections one and two of this act shall expire and be  
44 deemed repealed on March 31, [2022] 2025.

45 § 2. This act shall take effect immediately.

46

## PART PP

47 Section 1. The public health law is amended by adding a new article  
48 27-g to read as follows:

49

ARTICLE 27-G

50

ADULT CYSTIC FIBROSIS ASSISTANCE PROGRAM



1 Section 2795. Adult cystic fibrosis assistance program.

2 § 2795. Adult cystic fibrosis assistance program. 1. The commissioner  
3 shall establish a program to reimburse the cost of providing health care  
4 or health insurance to eligible individuals who have cystic fibrosis.

5 2. To be a fully eligible individual for whom health care will be  
6 provided under this section, such individual:

7 (a) shall be at least twenty-one years old;

8 (b) shall have been diagnosed as having cystic fibrosis;

9 (c) shall have resided in the state for a minimum of twelve continuous  
10 months immediately prior to application for services under this section;

11 (d) shall not be eligible for medical benefits under any group or  
12 individual health insurance policy; and

13 (e) shall not be eligible for medical assistance pursuant to title  
14 eleven of article five of the social services law solely due to earned  
15 income.

16 3. To be a partially eligible individual for whom health care will be  
17 provided under this section, such individual shall meet all the criteria  
18 of a fully eligible individual except that a partially eligible individ-  
19 ual shall be an individual who is eligible for medical benefits under  
20 any group or individual health insurance policy but which does not cover  
21 all services necessary for the care and treatment of cystic fibrosis.

22 4. The commissioner shall require each fully eligible individual, upon  
23 determination of eligibility, to make application to a private health  
24 insurance provider as prescribed by the commissioner for an individual  
25 health insurance policy. If and when such policy is granted, the commis-  
26 sioner shall approve payment for the associated premium.

27 5. The commissioner shall authorize payment for services related to  
28 the care and treatment of cystic fibrosis not otherwise covered by a  
29 health insurance policy. Providers of such services shall be reimbursed  
30 at the same rate and claims for payment shall be made as if such indi-  
31 vidual was eligible for benefits pursuant to title eleven of article  
32 five of the social services law.

33 6. All eligible individuals shall be required to contribute seven  
34 percent of their net annual income toward the cost of care and/or the  
35 cost of the annual health insurance premium.

36 7. The commissioner shall, in consultation with the commissioner of  
37 social services, promulgate rules and regulations necessary to implement  
38 the provisions of this article.

39 § 2. This act shall take effect immediately.

40

PART QQ

41 Section 1. Subdivision 26 of section 206 of the public health law, as  
42 separately amended by chapters 45 and 322 of the laws of 2021, is  
43 amended and a new subdivision 26-a is added to read as follows:

44 26. (a) The commissioner [is hereby authorized and directed to], in  
45 consultation with the commissioner of addiction services and supports in  
46 relation to subparagraph (x) of this paragraph, shall review any policy  
47 or practice instituted in facilities operated by the department of  
48 corrections and community supervision, and in all local correctional  
49 facilities, as defined in subdivision sixteen of section two of the  
50 correction law, regarding:

51 (i) human immunodeficiency virus (HIV) [,] and acquired immunodeficien-  
52 cy syndrome (AIDS) [,];

53 (ii) hepatitis C (HCV) [, and];



1 (iii) COVID-19[, including the prevention of the transmission of and  
2 the treatment of such infections and diseases among incarcerated indi-  
3 viduals];

4 (iv) emerging infectious diseases;

5 (v) women's health;

6 (vi) transgender health;

7 (vii) chronic health conditions including but not limited to asthma,  
8 diabetes, and heart disease;

9 (viii) health care services for individuals fifty years of age or  
10 older;

11 (ix) discharge planning of health care services including planning for  
12 discharges requiring residential placement or long-term care services;  
13 and

14 (x) substance use disorders.

15 (b) Such [review] reviews shall be performed at least annually, and  
16 shall focus on whether such [policy or practice is] policies or prac-  
17 tices are consistent with current, generally accepted medical standards  
18 and procedures used to prevent the transmission of and to treat those  
19 infections and diseases among the general public. In performing such  
20 reviews, in order to determine the quality and adequacy of care and  
21 treatment provided, department personnel are authorized to enter correc-  
22 tional facilities and inspect policy and procedure manuals and medical  
23 protocols, interview health services providers and incarcerated indivi-  
24 dual-patients, review medical grievances, and inspect a representative  
25 sample of medical records of incarcerated individuals known to be  
26 infected with any such infections or diseases. Prior to initiating a  
27 review of a correctional system, the commissioner shall inform the  
28 public, including patients, their families and patient advocates, of the  
29 scheduled review and invite them to provide the commissioner with rele-  
30 vant information.

31 (c) Upon the completion of such review, the department shall, in writ-  
32 ing, approve such policy or practice as instituted in facilities oper-  
33 ated by the department of corrections and community supervision, and in  
34 any local correctional facility, or, based on specific, written recom-  
35 mendations, direct the department of corrections and community super-  
36 vision, or the authority responsible for the provision of medical care  
37 to incarcerated individuals in local correctional facilities to prepare  
38 and implement a corrective plan to address deficiencies in areas where  
39 such policy or practice fails to conform to current, generally accepted  
40 medical standards and procedures. The commissioner shall monitor the  
41 implementation of such corrective plans and shall conduct such further  
42 reviews as the commissioner deems necessary to ensure that identified  
43 deficiencies in those policies and practices are corrected. All written  
44 reports pertaining to reviews provided for in this subdivision shall not  
45 contain individual patient identifying information and shall be [main-  
46 tained, under such conditions as the commissioner shall prescribe, as]  
47 public information [available for public inspection] and shall be posted  
48 on the department's website.

49 (d) As used in this subdivision, "emerging infectious disease" means  
50 an infection that has increased recently or is threatening to increase  
51 in the near future.

52 26-a. (a) The department, in consultation with the department of  
53 corrections and community supervision, shall biennially study health  
54 care staffing in facilities operated by the department of corrections  
55 and community supervision and in local correctional facilities as

1 defined in subdivision sixteen of section two of the correction law. The  
2 study shall examine:

3 (i) adequacy of staffing, including in specialties such as women's,  
4 transgender, and geriatric health care;

5 (ii) potential challenges such as salary adequacy or geographic  
6 factors; and

7 (iii) impact of staffing levels on availability of services.

8 (b) The first such study shall be completed and submitted to the  
9 governor, the temporary president of the senate, and the speaker of the  
10 assembly no later than one year after the effective date of this subdi-  
11 vision.

12 § 2. This act shall take effect immediately.

13

#### PART RR

14 Section 1. Paragraph (d-3) of subdivision 3 of section 364-j of the  
15 social services law, as added by section 1 of part JJ of chapter 57 of  
16 the laws of 2021, is amended to read as follows:

17 (d-3) Services provided in school-based health centers shall not be  
18 provided to medical assistance recipients through managed care programs  
19 established pursuant to this section [until at least April first, two  
20 thousand twenty-three,] and shall continue to be provided outside of  
21 managed care programs.

22 § 2. Section 2 of part JJ of chapter 57 of the laws of 2021 amending  
23 the social services law relating to managed care programs, is amended to  
24 read as follows:

25 § 2. This act shall take effect immediately [and shall expire April 1,  
26 2023, when upon such date the provisions of this act shall be deemed  
27 repealed]; provided [further,] that the amendments to section 364-j of  
28 the social services law made by section one of this act shall not affect  
29 the repeal of such section and shall be deemed repealed therewith.

30 § 3. This act shall take effect immediately; provided, however, that  
31 the amendments to section 364-j of the social services law made by  
32 section one of this act shall not affect the repeal of such section and  
33 shall be deemed repealed therewith.

34

#### PART SS

35 Section 1. Subdivision 3 of section 367-a of the social services law,  
36 as amended by chapter 558 of the laws of 1989, paragraph (a) as amended  
37 by chapter 81 of the laws of 1995, subparagraph 1 of paragraph (b) as  
38 designated and subparagraph 2 as added by section 41 of part C of chap-  
39 ter 58 of the laws of 2008, paragraph (c) as added by chapter 651 of the  
40 laws of 1990, paragraph (d) as amended by section 27 of part B of chap-  
41 ter 109 of the laws of 2010, paragraph (e) as added by section 16 of  
42 part D of chapter 56 of the laws of 2013, subparagraph 2 of paragraph  
43 (e) as amended by section 52 of part C of chapter 60 of the laws of  
44 2014, is amended to read as follows:

45 3. (a) As used in this subdivision, the following terms shall have the  
46 following meanings:

47 (1) "Qualified medicare beneficiary" means a person who is entitled to  
48 hospital insurance benefits under part A of title XVIII of the federal  
49 social security act, whose income does not exceed one hundred percent of  
50 the official federal poverty line applicable to the person's family size  
51 and whose resources do not exceed twice the maximum amount of resources  
52 a person may have in order to qualify for benefits under the federal

1 supplemental security income program of title XVI of the federal social  
2 security act, as determined for purposes of such program. To the  
3 extent that federal financial participation is available, a person  
4 whose resources are in excess of the amount specified in this  
5 subparagraph but otherwise meets the requirements shall be  
6 considered a "qualified medicare beneficiary".

7 (2) "Specified low income medicare beneficiary" means a person who  
8 would be a qualified medicare beneficiary except that person's income  
9 exceeds one hundred percent of the federal income poverty line applica-  
10 ble to the person's family size, but is less than one hundred twenty  
11 percent of such poverty line.

12 (3) "Qualified individual" means a person who is entitled to hospital  
13 insurance benefits under part A of title XVIII of the federal social  
14 security act and whose income exceeds the income level established by  
15 the state and is at least one hundred twenty percent, but less than one  
16 hundred thirty-five percent, of the federal poverty level, for a family  
17 of the size involved and who is not otherwise eligible for medical  
18 assistance under this article; referred to as a qualified individual.

19 (4) "Qualified disabled and working individual" means an individ-  
20 ual who is not otherwise eligible for medical assistance and:

21 (i) who is entitled to enroll for hospital insurance benefits under  
22 section 1818A of part A of title XVIII of the federal social security  
23 act;

24 (ii) whose income does not exceed two hundred percent of the official  
25 federal poverty line applicable to the person's family size; and

26 (iii) whose resources do not exceed twice the maximum amount of  
27 resources that an individual or a couple, in the case of a married  
28 individual, may have and obtain federal supplemental security income  
29 benefits under title XVI of the federal social security act, as  
30 determined for purposes of that program.

31 For purposes of this subparagraph, income and resources are  
32 determined by the same methodology as is used for determining  
33 eligibility under the federal supplemental security income benefits  
34 under title XVI of the federal social security act.

35 (b) Payment of premiums for enrolling qualified disabled and working  
36 individuals and qualified medicare beneficiaries under Part A of title  
37 XVIII of the federal social security act and for enrolling such benefi-  
38 ciaries and eligible recipients of public assistance under part B of  
39 title XVIII of the federal social security act, together with the costs  
40 of the applicable co-insurance and deductible amounts on behalf of such  
41 beneficiaries, and recipients, and premiums under section 1839 of the  
42 federal social security act for [persons who would be qualified medicare  
43 beneficiaries except that their incomes exceed one hundred percent of  
44 the federal income poverty line applicable to the person's family size  
45 but, in calendar years nineteen hundred ninety-three and nineteen  
46 hundred ninety-four, is less than one hundred ten percent of such pover-  
47 ty line and, in calendar year beginning in nineteen hundred ninety-five,  
48 is less than one hundred twenty percent of such poverty line] specified  
49 low income medicare beneficiaries shall be made and the cost thereof  
50 borne by the state or by the state and social services districts,  
51 respectively, in accordance with the regulations of the department,  
52 provided, however, that the share of the cost to be borne by a social  
53 services district, if any, shall in no event exceed the proportionate  
54 share borne by such district with respect to other expenditures under  
55 this title. Moreover, if the director of the budget approves, payment  
56 of premiums for enrolling persons who have been determined to be eligi-

1 ble for medical assistance only may be made and the cost thereof borne  
2 or shared pursuant to this subdivision.

3 [(b) (1) For purposes of this subdivision, "qualified medicare benefi-  
4 ciaries" are those persons who are entitled to hospital insurance bene-  
5 fits under part A of title XVIII of the federal social security act,  
6 whose income does not exceed one hundred percent of the official federal  
7 poverty line applicable to the person's family size and whose resources  
8 do not exceed twice the maximum amount of resources a person may have in  
9 order to qualify for benefits under the federal supplemental security  
10 income program of title XVI of the federal social security act, as  
11 determined for purposes of such program.

12 (2) Notwithstanding any provision of subparagraph one of this para-  
13 graph to the contrary, to the extent that federal financial partic-  
14 ipation is available, a person whose resources are in excess of the  
15 amount specified but otherwise meets the requirements of subparagraph  
16 one of this paragraph shall be considered a "qualified medicare benefi-  
17 ciary" for the purposes of this subdivision. The commissioner is author-  
18 ized to submit amendments to the state plan for medical assistance  
19 and/or submit one or more applications for waivers of the federal social  
20 security act, to obtain the federal approvals necessary to implement  
21 this subparagraph.

22 (c) (1) For purposes of this subdivision, "qualified disabled and  
23 working individuals" are individuals who are not otherwise eligible for  
24 medical assistance and:

25 (i) who are entitled to enroll for hospital insurance benefits under  
26 section 1818A of part A of title XVIII of the federal social security  
27 act;

28 (ii) whose income does not exceed two hundred percent of the official  
29 federal poverty line applicable to the person's family size; and

30 (iii) whose resources do not exceed twice the maximum amount of  
31 resources that an individual or a couple, in the case of a married indi-  
32 vidual, may have and obtain federal supplemental security income bene-  
33 fits under title XVI of the federal social security act, as determined  
34 for purposes of that program.

35 (2) For purposes of this paragraph, income and resources are deter-  
36 mined by the same methodology as is used for determining eligibility  
37 under the federal supplemental security income benefits under title XVI  
38 of the federal social security act.

39 (d)] (c) (1) Beginning April first, two thousand two and to the extent  
40 that federal financial participation is available at a one hundred  
41 percent federal Medical assistance percentage and subject to sections  
42 1933 and 1902(a)(10)(E)(iv) of the federal social security act, medical  
43 assistance shall be available for full payment of medicare part B premi-  
44 ums for qualified individuals [(referred to as qualified individuals 1)  
45 who are entitled to hospital insurance benefits under part A of title  
46 XVIII of the federal social security act and whose income exceeds the  
47 income level established by the state and is at least one hundred twenty  
48 percent, but less than one hundred thirty-five percent, of the federal  
49 poverty level, for a family of the size involved and who are not other-  
50 wise eligible for medical assistance under the state plan;].

51 (2) Premium payments for the individuals described in subparagraph one  
52 of this paragraph will be one hundred percent federally funded up to the  
53 amount of the federal allotment. The department shall discontinue  
54 enrollment into the program when the part B premium payments made pursu-  
55 ant to subparagraph one of this paragraph meet the yearly federal allot-  
56 ment.

1 [(3) The commissioner of health shall develop a simplified application  
2 form, consistent with federal law, for payments pursuant to this  
3 section. The commissioner of health, in cooperation with the office for  
4 the aging, shall publicize the availability of such payments to medicare  
5 beneficiaries.]

6 (d) Commencing April first, two thousand twenty-two, and subject to  
7 federal approval, which the commissioner shall seek, the following shall  
8 apply:

9 (1) For qualified medicare beneficiaries all countable income over one  
10 hundred percent of the federal poverty level, up to one hundred twenty  
11 percent of the federal poverty level, shall be disregarded, after taking  
12 all other disregards, deductions, and exclusions under federal and state  
13 law into account for those persons eligible pursuant to this section.

14 (2) For specified low income medicare beneficiaries all countable  
15 income over one hundred twenty percent of the federal poverty level, up  
16 to one hundred thirty-eight percent of the federal poverty level, shall  
17 be disregarded, after taking all other disregards, deductions, and  
18 exclusions under federal and state law into account for those persons  
19 eligible pursuant to this section.

20 (3) For qualifying individuals all countable income over one hundred  
21 thirty-eight percent of the federal poverty level, up to one hundred  
22 fifty-six percent of the federal poverty level, shall be disregarded,  
23 after taking all other disregards, deductions, and exclusions under  
24 federal and state law into account for those persons eligible pursuant  
25 to this section.

26 (e) (1) Payment of premiums for enrolling individuals in qualified  
27 health plans offered through a health insurance exchange established  
28 pursuant to the federal Patient Protection and Affordable Care Act (P.L.  
29 111-148), as amended by the federal Health Care and Education Reconcil-  
30 iation Act of 2010 (P.L. 111-152), shall be available to individuals  
31 who:

32 (i) immediately prior to being enrolled in the qualified health plan,  
33 were or would have been eligible under the family health plus program as  
34 a parent or stepparent of a child under the age of twenty-one, and whose  
35 MAGI household income, as defined in subparagraph eight of paragraph (a)  
36 of subdivision one of section three hundred sixty-six of this title,  
37 exceeds one hundred thirty-three percent of the federal poverty line for  
38 the applicable family size;

39 (ii) are not otherwise eligible for medical assistance under this  
40 title; and

41 (iii) are enrolled in a standard health plan in the silver level, as  
42 defined in 42 U.S.C. 18022.

43 (2) Payment pursuant to this paragraph shall be for premium obli-  
44 gations of the individual under the qualified health plan and shall  
45 continue only if and for so long as the individual's MAGI household  
46 income exceeds one hundred thirty-three percent, but does not exceed one  
47 hundred fifty percent, of the federal poverty line for the applicable  
48 family size, or, if earlier, until the individual is eligible for  
49 enrollment in a standard health plan pursuant to section three hundred  
50 sixty-nine-gg of this article.

51 (3) The commissioner of health shall submit amendments to the state  
52 plan for medical assistance and/or submit one or more applications for  
53 waivers of the federal social security act as may be necessary to  
54 receive federal financial participation in the costs of payments made  
55 pursuant to this paragraph; provided further, however, that nothing in  
56 this subparagraph shall be deemed to affect payments for premiums pursu-

1 ant to this paragraph if federal financial participation in the costs of  
2 such payments is not available.

3 § 2. This act shall take effect on the thirtieth day after it shall  
4 have become a law. Effective immediately, the addition, amendment and/or  
5 repeal of any rule or regulation necessary for the implementation of  
6 this act on its effective date are authorized to be made and completed  
7 on or before such effective date.

8

## PART TT

9 Section 1. The public health law is amended by adding a new section  
10 3614-f to read as follows:

11 § 3614-f. Fair pay for home care. 1. For the purpose of this section,  
12 "home care aide" shall have the same meaning defined in section thirty-  
13 six hundred fourteen-c of this article.

14 2. Beginning October first, two thousand twenty-two, the minimum wage  
15 for a home care aide shall be no less than one hundred and fifty percent  
16 of the higher of: (a) the otherwise applicable minimum wage under  
17 section six hundred fifty-two of the labor law, or (b) any otherwise  
18 applicable wage rule or order under article nineteen of the labor law.

19 3. Where any home care aide is paid less than required by this  
20 section, the home care aide, or the commissioner of labor acting on  
21 behalf of the home care aide, may bring an action under article six or  
22 nineteen of the labor law.

23 4. (a) The commissioner shall establish a regional minimum hourly base  
24 reimbursement rate for all providers employing workers subject to the  
25 minimum wage provisions established in subdivision one of this section.  
26 The regional minimum hourly base reimbursement rate shall be based on  
27 regions established by the commissioner, provided that for areas subject  
28 to section thirty-six hundred fourteen-c of this article, each area with  
29 a different prevailing rate of total compensation, as defined in that  
30 section, shall be its own region.

31 (b) For the purposes of this section, "regional minimum hourly base  
32 reimbursement rate" means a reimbursement rate that reflects the average  
33 combined costs associated with the provision of direct service inclusive  
34 of, but not limited to, overtime costs; all benefits; all payroll taxes,  
35 including but not limited to federal insurance contributions act, medi-  
36 care, federal unemployment tax act, state unemployment insurance, disa-  
37 bility insurance, workers' compensation, and the metropolitan transpor-  
38 tation authority tax; related increases tied to base wages such as  
39 compression; reasonable administrative costs as defined by the commis-  
40 sioner; allowances for capital costs; the development of profit or  
41 reserves as allowable by law or regulations of the commissioner; and any  
42 additional supplemental payments.

43 (c) For home and community-based services under the 1915(c) Nursing  
44 Home Transition and Diversion and Traumatic Brain Injury Medicaid Waiv-  
45 ers, the regional rate shall be developed in accordance with waiver rate  
46 determination methodology.

47 5. (a) The regional minimum hourly base reimbursement rate shall be no  
48 less than the following:

49 (i) thirty-eight dollars and fifty cents per hour in the wage parity  
50 region, encompassing all counties subject to section thirty-six hundred  
51 fourteen of this article; and

52 (ii) thirty-eight dollars and eighteen cents per hour for the counties  
53 in the remainder of the state.



1 (b) For consumer directed personal assistance services provided under  
2 section three hundred sixty-five-f of the social services law, the  
3 regional minimum hourly base reimbursement rate shall reflect the rates  
4 established in paragraph (a) of this subdivision, provided that the  
5 commissioner may reduce such rates by no more than twelve and nine-  
6 tenths percent. In the event that such reduction occurs, a per member,  
7 per month increase reflective of actual administrative and general  
8 costs, adjusted to reflect regional differences as regions are defined  
9 in this section, shall be made to fiscal intermediaries administering  
10 such programs. If the department or a managed care organization chooses  
11 not to utilize the per member, per month payment established pursuant to  
12 this paragraph, the regional minimum hourly base reimbursement rate for  
13 that region, as defined in paragraph (a) of this subdivision, shall  
14 apply.

15 6. No payment made to a provider who employs home care aides subject  
16 to this section that is less than the regional minimum hourly base  
17 reimbursement rate established by the commissioner for a region for  
18 services provided under authorization by a local department of social  
19 services, a managed care provider under section three hundred sixty-  
20 four-j of the social services law, or a managed long-term care provider  
21 under section forty-four hundred three-f of this chapter shall be deemed  
22 adequate.

23 (a) The commissioner shall submit any and all necessary applications  
24 for approvals and/or waivers to the federal centers for medicare and  
25 medicaid services to secure approval to establish minimum hourly base  
26 reimbursement rates and make state-directed payments to providers for  
27 the purposes of supporting wage increases.

28 (b) Directed payments shall be made to such providers of medicaid  
29 services through contracts with managed care organizations where appli-  
30 cable, provided that the commissioner ensures that such directed  
31 payments are in accordance with the terms of this section.

32 (c) The commissioner shall ensure that managed care capitation is  
33 adjusted to ensure rate adequacy for the managed care organizations.

34 7. Nothing in this section shall preclude providers employing home  
35 care aides covered under this section or payers from contracting for  
36 services at rates higher than the regional minimum hourly base  
37 reimbursement rate if the parties agree to such terms.

38 8. The commissioner shall publish and post regional minimum hourly  
39 base reimbursement rates annually and shall take all necessary steps to  
40 advise commercial and government programs payers of home care services  
41 of the regional minimum hourly base reimbursement rates and require  
42 other state authorized payers to reimburse providers of home care  
43 services at the minimum hourly base reimbursement rate.

44 § 2. Section 3614-d of the public health law, as added by section 49  
45 of part B of chapter 57 of the laws of 2015, is amended to read as  
46 follows:

47 § 3614-d. Universal standards for coding of payment for medical  
48 assistance claims for long term care. Claims for payment submitted under  
49 contracts or agreements with insurers under the medical assistance  
50 program for home and community-based long-term care services provided  
51 under this article, by fiscal intermediaries operating pursuant to  
52 section three hundred sixty-five-f of the social services law, and by  
53 residential health care facilities operating pursuant to article twen-  
54 ty-eight of this chapter shall have standard billing codes. Such insur-  
55 ers shall include but not be limited to Medicaid managed care plans and  
56 managed long term care plans. Such payments shall be based on universal



1 billing codes approved by the department or a nationally accredited  
2 organization as approved by the department; provided, however, such  
3 coding shall be consistent with any codes developed as part of the  
4 uniform assessment system for long term care established by the depart-  
5 ment and shall include, for any entity operating pursuant to this arti-  
6 cle or section three hundred sixty-five-f of the social services law  
7 that is unable to control the cumulative hours worked by an individual  
8 in a given payroll period, a code that is specific to the hourly cost of  
9 services at an overtime rate.

10 § 3. Paragraph (c) of subdivision 1 of section 92 of part H of chapter  
11 59 of the laws of 2011 amending the public health law and other laws  
12 relating to known and projected department of health state fund Medicaid  
13 expenditures, as amended by section 1 of part CCC of chapter 56 of the  
14 laws of 2020, is amended to read as follows:

15 (c) Projections may be adjusted by the director of the budget to  
16 account for any changes in the New York state federal medical assistance  
17 percentage amount established pursuant to the federal social security  
18 act, changes in provider revenues, reductions to local social services  
19 district medical assistance administration, minimum wage increases,  
20 increases to the mandatory base wage for home care workers pursuant to  
21 article 36 of the public health law, and beginning April 1, 2012 the  
22 operational costs of the New York state medical indemnity fund and state  
23 costs or savings from the basic health plan. Such projections may be  
24 adjusted by the director of the budget to account for increased or expe-  
25 ditioned department of health state funds medicaid expenditures as a result  
26 of a natural or other type of disaster, including a governmental decla-  
27 ration of emergency.

28 § 4. Paragraph (a) of subdivision 3 of section 3614-c of the public  
29 health law is amended by adding a new subparagraph (v) to read as  
30 follows:

31 (v) for all periods on or after January first, two thousand twenty-  
32 three, the cash portion of the minimum rate of home care aide total  
33 compensation shall be the minimum wage for home care aides in the appli-  
34 cable region, as defined in section thirty-six hundred fourteen-f of  
35 this article. The benefit portion of the minimum rate of home care aide  
36 total compensation shall be four dollars and eighty-four cents.

37 § 5. Subparagraph (iv) of paragraph (b) of subdivision 3 of section  
38 3614-c of the public health law, as amended by section 1 of part 00 of  
39 chapter 56 of the laws of 2020, is amended and a new subparagraph (v) is  
40 added to read as follows:

41 (iv) for all periods on or after March first, two thousand sixteen,  
42 the cash portion of the minimum rate of home care aide total compen-  
43 sation shall be ten dollars or the minimum wage as laid out in paragraph  
44 (b) of subdivision one of section six hundred fifty-two of the labor  
45 law, whichever is higher. The benefit portion of the minimum rate of  
46 home care aide total compensation shall be three dollars and twenty-two  
47 cents[.];

48 (v) for all periods on or after January first, two thousand twenty-  
49 three, the cash portion of the minimum rate of home care aide total  
50 compensation shall be the minimum wage for the applicable region, as  
51 defined in section thirty-six hundred fourteen-f of this chapter. The  
52 benefit portion of the minimum rate of home care aide total compensation  
53 shall be three dollars and eighty-nine cents.

54 § 6. Severability. If any provision of this act, or any application of  
55 any provision of this act, is held to be invalid, or to violate or be  
56 inconsistent with any federal law or regulation, that shall not affect

1 the validity or effectiveness of any other provision of this act, or of  
2 any other application of any provision of this act which can be given  
3 effect without that provision or application; and to that end, the  
4 provisions and applications of this act are severable.

5 § 7. This act shall take effect immediately.

6

PART UU

7 Section 1. Paragraph 7 of subdivision (c) of section 1261 of the tax  
8 law is REPEALED.

9 § 2. Subparagraph (ii) of paragraph 5 of subdivision (c) of section  
10 1261 of the tax law, as amended by section 2 of part ZZ of chapter 56 of  
11 the laws of 2020, is amended to read as follows:

12 (ii) After withholding the taxes, penalties and interest imposed by  
13 the city of New York on and after August first, two thousand eight as  
14 provided in subparagraph (i) of this paragraph, the comptroller shall  
15 withhold a portion of such taxes, penalties and interest sufficient to  
16 deposit annually into the central business district tolling capital  
17 lockbox established pursuant to section five hundred fifty-three-j of  
18 the public authorities law: (A) in state fiscal year two thousand nine-  
19 teen - two thousand twenty, one hundred twenty-seven million five  
20 hundred thousand dollars; (B) in state fiscal year two thousand twenty -  
21 two thousand twenty-one, one hundred seventy million dollars; (C) in  
22 state fiscal year two thousand twenty-one - two thousand twenty-two and  
23 every succeeding state fiscal year, an amount equal to one hundred one  
24 percent of the amount deposited in the immediately preceding state  
25 fiscal year. The funds shall be deposited monthly in equal installments.  
26 During the period that the comptroller is required to withhold amounts  
27 and make payments described in this paragraph, the city of New York has  
28 no right, title or interest in or to those taxes, penalties and interest  
29 required to be paid into the above referenced central business district  
30 tolling capital lockbox. In addition, the comptroller shall withhold a  
31 portion of such taxes, penalties and interest in the amount of [two] one  
32 hundred fifty million dollars, to be withheld in four quarterly install-  
33 ments on January fifteenth, April fifteenth, July fifteenth and October  
34 fifteenth of each year, and shall deposit such amounts into the New York  
35 State Agency Trust Fund, Distressed Provider Assistance Account.

36 § 3. Section 5 of part ZZ of chapter 56 of the laws of 2020 amending  
37 the tax law and the social services law relating to certain Medicaid  
38 management, is amended to read as follows:

39 § 5. This act shall take effect immediately and shall be deemed  
40 repealed [two] three years after such effective date.

41 § 4. This act shall take effect immediately; provided that the amend-  
42 ments to subparagraph (ii) of paragraph 5 of subdivision (c) of section  
43 1261 of the tax law made by section two of this act shall not affect the  
44 expiration of such subparagraph and shall be deemed expired therewith.

45 § 2. Severability clause. If any clause, sentence, paragraph, subdivi-  
46 sion, section or part of this act shall be adjudged by any court of  
47 competent jurisdiction to be invalid, such judgment shall not affect,  
48 impair, or invalidate the remainder thereof, but shall be confined in  
49 its operation to the clause, sentence, paragraph, subdivision, section  
50 or part thereof directly involved in the controversy in which such judg-  
51 ment shall have been rendered. It is hereby declared to be the intent of  
52 the legislature that this act would have been enacted even if such  
53 invalid provisions had not been included herein.

1 § 3. This act shall take effect immediately provided, however, that  
2 the applicable effective date of Parts A through UU of this act shall be  
3 as specifically set forth in the last section of such Parts.