

Amend Senate S1507, Assembly A2007, AN ACT to amend the public health law, in relation to ...

Page	Line	Amendment
page 4,	Unnumbered line 14 (AN ACT CLAUSE),	After "(Part AA);" strike out "and"
Page 4,	Unnumbered line 26 (AN ACT CLAUSE),	After "(Part BB)" insert ";" to amend the public health law, in relation to prescriber assistance in allowing unlicensed certified pharmacy technicians to assist in dispensing of drugs (Part CC); and to authorize a uniform across the board reduction to the Department of Health Medicaid claims (Part DD)"
Page 4,	Line 4,	After "through" strike out "BB" and insert "DD"
Page 32,	Line 29,	After "Paragraphs" strike out "(b),"
Page 32,	Line 30,	After "4-a and" strike out "subdivisions 4-b and" and insert "subdivision"
Page 32,	Line 32,	After "paragraph", strike out "(b)" and insert "(c)"
Pages 32 Through 36,	Lines 33 Through 25,	Strike out §3 in its entirety
Page 36,	Between lines 25 and 26,	<p>Insert "§3. Subdivision 4-a of section 365-f of the social services law is redesignated as subdivision 5, and subparagraph (i) of paragraph (a) of such subdivision is amended as follows:</p> <p>[4-a]5. Fiscal intermediary services.</p> <p>(a) For the purposes of this section:</p> <p>(i) "Fiscal intermediary" means an entity that provides fiscal intermediary services and has a contract for providing such services with:</p> <p>(A) a local department of social services;</p> <p>(B) an organization licensed under article forty-four of the public health law; or</p> <p>(C) an accountable care organization certified under article twenty-nine-E of the public health law or an integrated delivery system composed primarily of health care providers recognized by the department as a performing provider system under the delivery system reform incentive payment program] <u>the department of health and is selected through the procurement process described in paragraph (b) of this subdivision, or by authorization upon application in accordance with such criteria as the department may develop together with such other forms and information prescribed by, or acceptable to, the commissioner. Eligible applicants for authorization under this paragraph are limited to entities that:</u></p>

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		<p><u>(A) are a service center for independent living under section one thousand one hundred twenty-one of the education law; or</u> <u>(B) have a history of providing fiscal intermediary services for persons with disabilities, as demonstrated by having a continuous history of arrangements with local departments of social services beginning no later than January first, two thousand twelve.</u></p> <p>§4. Paragraph (b) of subdivision 4-a, redesignated as subdivision 5 pursuant to section 3 of this Part, of section 365-f of the social services law is amended as follows:</p> <p>(b) [No entity shall provide, directly or through contract, fiscal intermediary services without an authorization as a fiscal intermediary issued by the commissioner in accordance with this subdivision] <u>Notwithstanding any inconsistent provision of sections one hundred twelve and one hundred sixty-three of the state finance law, or section one hundred forty-two of the economic development law, or any other law, the commissioner is authorized to enter into a contract or contracts under this subdivision with an entity or entities without a competitive bid or request for proposal process, provided, however, that:</u> <u>(i) the department shall post on its website, for a period of no less than thirty days:</u> <u>(A) a description of the proposed services to be provided pursuant to the contract or contracts;</u> <u>(B) the criteria for selection of a contractor or contractors;</u> <u>(C) the period of time during which a prospective contractor may seek selection, which shall be no less than thirty days after such information is first posted on the website; and</u> <u>(D) the manner by which a prospective contractor may seek such selection, which may include submission by electronic means;</u> <u>(ii) all reasonable and responsive submissions that are received from prospective contractors in timely fashion shall be reviewed by the commissioner; and</u> <u>(iii) the commissioner shall select such contractor or contractors that, in the commissioner's discretion, are best suited to serve the purposes of this section.</u></p> <p>§5. Subdivision 4-b of section 365-f of the social services law is REPEALED and current subdivisions 5, 6, 7, 8, and 9 are redesignated as subdivisions 6, 7, 8, 9, and 10.</p>
Page 36,	Line 26	After "\$" strike out "4." and insert " <u>6.</u> "
Page 36,	Line 28	After "that" strike out "section three" and insert "sections three, four, and five"

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Page 37,	Line 17 through 29,	<p>After "§4." strike out "Paragraph (b) of subdivision 35 of section 2807-c of the public health law is amended by adding a new subparagraph (xiv) to read as follows: (xiv)Such rates and payment methodologies may incorporate methodologies to reduce payments to facilities with a higher percentage of potentially avoidable inpatient services by instituting lower inpatient payment rates for both fee-for-service and managed care to incentivize the provision of preventative care to reduce preventable events and overall inpatient costs. A portion of such savings derived from the implementation of such payment methodologies shall be reinvested in initiatives to incentivize the provision of preventative care, maternity services, and other ambulatory care services to reduce preventable health care costs." And insert "Subdivision 35 of section 2807-c of the public health law is amended by adding a new paragraph (k) to read as follows: (k) Notwithstanding any contrary provision of law, the commissioner may make such adjustments to general hospital inpatient rates and to the methodology for computing such rates as is necessary to reduce payments to facilities with a higher percentage of potentially avoidable inpatient services by instituting lower inpatient payment rates for both fee-for-service and managed care to incentivize the provision of preventative care to reduce preventable events and overall inpatient costs. A portion of such savings derived from the implementation of such payment methodologies shall be reinvested in initiatives to incentivize the provision of preventative care, maternity services, and other ambulatory care services to reduce preventable health care costs."</p>
Page 37,	Line 30,	<p>After "§5." insert new §5: "§ 5. Social Services Law section 367-u, as amended by chapter 6 of the laws of 2015, is amended to read as follows: § 367-u. Payment for home telehealth services. 1. Subject to the approval of the state director of the budget, the commissioner may authorize the payment of medical assistance funds for demonstration rates or fees established for home telehealth services provided pursuant to subdivision three-c of section thirty-six hundred fourteen of the public health law. 2. Subject to federal financial participation and the approval of the director of the budget, the commissioner shall not exclude from the payment of medical assistance funds the delivery of health care services through telehealth, as defined in subdivision four of section two thousand nine hundred ninety-nine-cc of the public health law; provided, however, for</p>

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		<p>telehealth services provided to individuals dually enrolled in Medicaid and Medicare, the commissioner is authorized to promulgate regulations governing Medicaid coverage and reimbursement of such services, including development of a covered services list which may be limited to higher priority services and procedures. Such services shall meet the requirements of federal law, rules and regulations for the provision of medical assistance pursuant to this title.</p> <p>§6. Subdivision 5-d of section 2807-k of the public health law, as amended by chapter 57 of the laws of 28, is amended to read as follows.</p> <p>5-d.</p> <p>(a) Notwithstanding any inconsistent provision of this section, section twenty-eight hundred seven-w of this article or any other contrary provision of law, and subject to the availability of federal financial participation, for periods on and after January first, two thousand thirteen, through March thirty-first, two thousand [twenty] <u>twenty-one</u>, all funds available for distribution pursuant to this section, except for funds distributed pursuant to subparagraph (v) of paragraph (b) of subdivision five-b of this section, and all funds available for distribution pursuant to section twenty-eight hundred seven-w of this article, shall be reserved and set aside and distributed in accordance with the provisions of this subdivision.</p> <p>(b) The commissioner shall promulgate regulations, and may promulgate emergency regulations, establishing methodologies for the distribution of funds as described in paragraph (a) of this subdivision and such regulations shall include, but not be limited to, the following:</p> <p>(i) Such regulations shall establish methodologies for determining each facility's relative uncompensated care need amount based on uninsured inpatient and outpatient units of service from the cost reporting year two years prior to the distribution year, multiplied by the applicable medicaid rates in effect January first of the distribution year, as summed and adjusted by a statewide cost adjustment factor and reduced by the sum of all payment amounts collected from such uninsured patients, and as further adjusted by application of a nominal need computation that shall take into account each facility's medicaid inpatient share.</p> <p>(ii) Annual distributions pursuant to such regulations for the two thousand thirteen through two thousand [nineteen] <u>twenty</u> calendar years shall be in accord with the following:</p> <p>(A) one hundred thirty-nine million four hundred thousand dollars shall be distributed as</p>

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		<p>Medicaid Disproportionate Share Hospital ("DSH") payments to major public general hospitals; and (B) <u>[nine hundred ninety-four] seven hundred nineteen million [nine] four hundred thousand dollars as Medicaid DSH payments to eligible general hospitals, other than major public general hospitals; and</u></p> <p><u>(C) provided, however, that notwithstanding any inconsistent provision of this section, for all calendar years beginning on January first, two thousand twenty, general hospitals located in a city with a population of more than one million persons and/or in the counties of Westchester, Suffolk and Nassau, that have, or that that are part of a system of co-established general hospitals that collectively has, an average operating margin greater than 2.98 where average operating margin is calculated by subtracting total operating expenses from total operating revenue and dividing the result by the total operating revenue, and that also have, or that that are part of a system of co-established general hospitals that collectively has, a net operating income of more than sixty-eight million dollars, both as determined by the department pursuant to the hospital institutional cost reports for year two thousand seventeen, shall only be eligible for indigent care pool payments of a maximum of ten thousand dollars.</u></p> <p>(iii)</p> <p>(A) Such regulations shall establish transition adjustments to the distributions made pursuant to clauses (A) and (B) of subparagraph (ii) of this paragraph such that no facility experiences a reduction in indigent care pool payments pursuant to this subdivision that is greater than the percentages, as specified in clause (C) of this subparagraph as compared to the average distribution that each such facility received for the three calendar years prior to two thousand thirteen pursuant to this section and section twenty-eight hundred seven-w of this article.</p> <p>(B) Such regulations shall also establish adjustments limiting the increases in indigent care pool payments experienced by facilities pursuant to this subdivision by an amount that will be, as determined by the commissioner and in conjunction with such other funding as may be available for this purpose, sufficient to ensure full funding for the transition adjustment payments authorized by clause (A) of this subparagraph.</p> <p>(C) No facility shall experience a reduction in indigent care pool payments pursuant to this subdivision that: for the calendar year beginning January first, two thousand thirteen, is greater than two and one-half percent; for the calendar year beginning January first, two</p>

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		<p>thousand fourteen, is greater than five percent; and, for the calendar year beginning on January first, two thousand fifteen; is greater than seven and one-half percent, and for the calendar year beginning on January first, two thousand sixteen, is greater than ten percent; and for the calendar year beginning on January first, two thousand seventeen, is greater than twelve and one-half percent; and for the calendar year beginning on January first, two thousand eighteen, is greater than fifteen percent; and for the calendar year beginning on January first, two thousand nineteen, is greater than seventeen and one-half percent.</p> <p>(iv) Such regulations shall reserve one percent of the funds available for distribution in the two thousand fourteen and two thousand fifteen calendar years, and for calendar years thereafter, pursuant to this subdivision, subdivision fourteen-f of section twenty-eight hundred seven-c of this article, and sections two hundred eleven and two hundred twelve of chapter four hundred seventy-four of the laws of nineteen hundred ninety-six, in a "financial assistance compliance pool" and shall establish methodologies for the distribution of such pool funds to facilities based on their level of compliance, as determined by the commissioner, with the provisions of subdivision nine-a of this section.</p> <p>(c) The commissioner shall annually report to the governor and the legislature on the distribution of funds under this subdivision including, but not limited to:</p> <p>(i) the impact on safety net providers, including community providers, rural general hospitals and major public general hospitals;</p> <p>(ii) the provision of indigent care by units of services and funds distributed by general hospitals; and</p> <p>(iii) the extent to which access to care has been enhanced.</p> <p>§7."</p>
Page 38,	Line 18,	After " <u>pharmacies</u> ," insert " <u>negotiation of rebates</u> ,"
Page 93,	Line 26,	<p>After "§3." insert "Subdivision one of section three hundred eighty-three of the executive law, as added by chapter 707 of the laws of 1984, paragraph c as amended by chapter 772 of the laws of 1986, is amended by adding a new paragraph d, to read as follows:</p> <p><u>d. The regulations promulgated by the commissioner of health pursuant to subdivision two of section thirteen hundred seventy-f of the public health law</u></p> <p><u>(i) shall not be superseded by the provisions of this article, by the provisions of the uniform fire prevention and building code, or by the</u></p>

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		<p><u>provisions of the building and fire prevention codes in effect in a city with a population of over one million;</u> <u>(ii) shall be applicable in addition to, and not in substitution for or limitation of, the provisions of the uniform fire prevention and building code and the provisions of building and fire prevention codes in effect in cities with a population of over one million; and</u> <u>(iii) shall be administered and enforced by commissioner of health, the local health officer of a county, the commissioner of the New York City department of health and mental hygiene, or a municipal government entering into an agreement or contract authorized by subdivision five of section thirteen hundred seventy-f of the public health law, in the manner provided in said subdivision.</u> <u>§4. "</u></p>
Page 94,	Line 30,	After " <u>maternal</u> " strike out " <u>morality</u> " insert " <u>mortality</u> "
Page 95,	Line 20,	After " <u>not subject to</u> " strike out " <u>the open meetings law</u> " and insert " <u>Article 7 of the public officers law</u> "
Page 95,	Line 40,	After " <u>the commissioner,</u> " strike out " <u>, or the city commissioner,</u> "
Page 135,	Line 34,	After " <u>to</u> " strike out " <u>outpatient substance use</u> " and insert " <u>autism spectrum</u> ".
page 152,	Between lines 25 and 26,	Insert Part CC (LBD #71039-02-9) Part DD (LBD #71040-02-9)
page 152,	line 36,	After "through" strike out "BB" and insert "DD"