Minimizing Adverse Impacts:

The regulation does not increase the total amount assessed to regulated entities by the Department. It simply codifies the methodology which the Superintendent has chosen for determining the just and reasonable proportion of the Department's costs to be charged to and paid by each regulated institution.

Rural Area Participation:

This rule simply codifies the methodology which the Department currently uses for determining the just and reasonable proportion of the Department's costs to be charged to and paid by each regulated institution, including regulated institutions located in rural areas. The overall methodology was adopted in 2005 after extensive discussion with regulated entities and industry associations representing groups of regulated institutions, including those located in rural areas. It followed the loss of several major banking institutions that had paid significant portions of the former Banking Department's assessments.

Thereafter, the Department applied assessments against all entities subject to its regulation. In addition, for fiscal 2010, the Department changed this overall methodology slightly with respect to assessments against the mortgage banking industry to include income derived from secondary market income and servicing income. This latter change was challenged by a mortgage banker, and in early May, the Appellate Division determined that the latter change should have been made in conformity with the State Administrative Procedures Act. The challenged part of the methodology had the effect of increasing the proportion of assessments against the mortgage banking industry paid by its larger members, while reducing the assessments paid by smaller participants.

Job Impact Statement

The regulation is not expected to have an adverse effect on employment.

All institutions regulated by the Banking Division (the "Banking Division") of the Department of Financial Services are currently subject to assessment by the Department. The regulation simply formalizes the assessment methodology used by the Banking Division. It makes only one change from the allocation methodology used by the former Banking Department in the previous state fiscal years.

That change affects only one of the industry groups regulated by the Banking Division. It somewhat alters the way in which the Banking Division's costs of regulating mortgage banking industry are allocated among entities within that industry. In any case, the total amount assessed against regulated entities within that industry will remain the same.

New York State Gaming Commission

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

To Allow Harness Tracks to Run Races Solely for New York-Bred Horses and Provide That Conditions May be Written for Such Races

I.D. No. SGC-40-15-00003-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of section 4108.8 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1), (19) and 307-a

Subject: To allow harness tracks to run races solely for New York-bred horses and provide that conditions may be written for such races.

Purpose: To conform current rules to new legislation allowing harness tracks in New York to run races limited to New York bred horses.

Text of proposed rule: Section 4108.8 of 9 NYCRR is amended to read as follows and to add a new subdivision (c):

(a) In presenting a program of racing, the racing secretary shall use the following types of races only:

(1) stakes and futurities;

(2) early closing events;

(3) overnight events:

(i) conditioned races;

(ii) claiming races;

(iii) preferred races limited to the fastest horses at the meeting. These may be open races, free-for-all races, invitational races, conditioned races. Horses to be eligible in such races shall be posted in the declaration room, and listed with the presiding judge. Horses so listed shall not be eligible to conditioned races unless such conditions specifically include horses on the preferred list. Not more than 12 such preferred races may be conducted during a racing week. Purses offered for such preferred races shall be at least 25 percent higher than the highest purse offered for other conditioned races or letter class races scheduled the same racing week. A two or three year old horse may not be used in such races, without the consent of the owner, unless such horse has won three races at the track during the year or has lifetime earnings of $15,000;

(iv) classified races[,] but only with the express written permission of the commission and only if the track offers and schedules sufficient claiming races to give those horses authorized for claiming races and intended to be so raced an equal opportunity to race; and

(v) invitational races for two- or three-year-olds.

(b) Notwithstanding any preference requirements set forth in section 4108.9 of this Part and section 4111.9(a) of this [Title] *Subchapter*, the racing secretary may offer condition races or claiming races that limit entries only to horses that have competed at licensed New York State tracks for the majority of their most recent starts. The racing secretary may establish the limitation for each race. The limitation shall not exceed 75 percent of the most recent starts for an individual race. At least one race must be carded in the same class without the New York limitation on the same or the next race date for each race that is carded with the New York limitation.

(c) Notwithstanding any preference date requirements set forth in section 4108.9 of this Part and section 4111.9(a) of this Subchapter, the racing secretary may offer condition races or claiming races that limit entries only to New York-bred horses, pursuant to Section 307-a of the Racing, Pari-Mutuel Wagering and Breeding Law.

Text of proposed rule and any required statements and analyses may be obtained from: Kristen M. Buckley, New York State Gaming Commission, 1 Broadway Center, PO Box 7500, Schenectady, New York 12301, (518) 388-3407, email: gamingrules@gaming.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Regulatory Impact Statement

1. Statutory authority: The New York State Gaming Commission ("Commission") is authorized to promulgate this rule by Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") Sections 103(2), 104(1, 19), 301, and 307-a.

Racing Law Section 103(2) provides that the Commission is responsible for the supervision, regulation and administration of all horse racing and pari-mutuel wagering activities. Racing Law Section 104(1) provides the Commission with general jurisdiction over all gaming activities within the State and over any person, corporation or association engaged in such activities. Section 104(19) of such law authorizes the Commission to promulgate any rules it deems necessary to carry out its responsibilities. Racing Law Section 301 provides the Commission with the power to supervise generally all harness race meetings in this state at which pari-mutuel betting is conducted and to adopt rules and regulations related to those activities. Racing Law Section 307-a authorized the Commission to promulgate regulations regarding the conduct of harness races where races may be run which are limited to New York-bred horses.

2. Legislative objectives: To maintain the public confidence and trust in the credibility and integrity of legalized gaming activities and ensure that gaming is to be conducted in the most efficient, transparent and effective manner possible. To ensure all gaming activity conducted in this state will be of the highest integrity, credibility and quality and that the best interests of the public, both gaming and non-gaming, will be served.

3. Needs and benefits: This rulemaking is necessary to amend the Commission's harness racing regulations to conform with Section 307-a of the Racing Law, which was amended on August 11, 2014 to allow harness race track operators to conduct races with New York-bred horses. Section 307-a directs that the Commission "shall be authorized to promulgate regulations to effectuate the intent of this section."

The rulemaking will add subdivision (c) to 9 NYCRR 4108.8. Preference races are already included in subdivision (b) of 9 NYCRR 4108.8, which was adopted in September 2010 and authorizes preference races that limit entries to horses that have competed at New York State licensed harness tracks for a majority of their most recent starts.

This rulemaking will also make minor, non-substantive revisions to 4108.8(a)(3)(v) by adding hyphens to the phrase "two- or three-year-olds."

4. Costs:

a. Costs to regulated parties for the implementation and continuing compliance with the rule: There are no costs to the regulated parties. Preference races will be offered as part of a harness race track's regular meet schedule.

b. Costs to the agency, the State, and local governments for the implementation and continuation of the rule: No additional operating costs are anticipated.

c. Sources of cost evaluations: The Commission evaluated the impact of the new rule.

5. Local government mandates: The proposed amendment does not impose any new programs, services, duties or responsibilities upon any country, city, town, village school district, fire district or other special district.

6. Paperwork: There are no changes in paperwork requirements.

7. Duplication: There are no relevant State programs or regulations that duplicate, overlap or conflict with the proposed amendment.

8. Alternatives: No other alternative was considered because this rulemaking is intended to amend the Commission rules to comply with statutory amendments.

9. Federal standards: The proposed amendment does not exceed any minimum standards imposed by the federal government.

10. Compliance schedule: New York-bred preference races may be conducted right now under Section 307-a of the Racing Law. This rule simply conforms to the statute and therefore can be effective on the date that it is published as an adopted rule.

Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

A regulatory flexibility analysis for small business and local governments, a rural area flexibility analysis, and a job impact statement are not required for this rulemaking proposal because it will not adversely affect small businesses, local governments, rural areas or jobs.

This proposal allows harness tracks to run races solely for New York-bred horses and further provides that conditions may be written for such races "notwithstanding any preference date requirements." This rule is necessary due to the passage of Chapter 258 of the laws of 2014, which amended Section 307-a of the Racing, Pari-Mutuel Wagering and Breeding Law, to allow harness tracks to run races solely for New York-bred horses and further provides that conditions may be written for such races "notwithstanding any preference date requirements." This rule will have a positive impact on New York State jobs and businesses in that it will promote opportunities for New York bred race horses. This rule will not have an adverse economic impact or reporting, recordkeeping or other compliance requirements on small businesses in rural or urban areas or on employment opportunities.

Department of Health

NOTICE OF ADOPTION

Inpatient Rate for Language Assistance Services

I.D. No. HLT-40-14-00016-A

Filing No. 821

Filing Date: 2015-09-22

Effective Date: 2015-10-07

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Addition of section 86-1.45 to Title 10 NYCRR.

Statutory authority: Public Health Law, section 2807-c(35)

Subject: Inpatient Rate for Language Assistance Services.

Purpose: To establish hospital inpatient payment rate to reimburse hospitals for the costs of providing language interpretation services.

Text or summary was published in the October 8, 2014 issue of the Register, I.D. No. HLT-40-14-00016-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Katherine Ceroalo, DOH, Bureau of House Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqna@health.ny.gov

Assessment of Public Comment

The Department proposed an amendment to Section 86-1.45 for reimbursement for language assistance in hospital inpatient settings. A comment was received from LanguageLine Solutions concerning the number of billable units and the payment by Managed Care Organizations.

LanguageLine Solutions requests the following:

- The proposed legislation provides for reimbursement for two billable units, per day, per patient. They are recommending that the maximum billable units be increased to five billable units, per day, per patient.
- The regulation only applies to Medicaid patients that are not included in a Medicaid Managed Care Organization (MCO). Since the payment by an MCO to a hospital is determined based on negotiated contracts, this could potentially mean that a hospital may be reimbursed differently between Managed Care and non-Managed Care [fee-for-service] Medicaid patients. They are recommending that a discrete level of reimbursement for the provision of language services be paid to MCOs in addition to their per capita rate.
- In addition, they are also proposing that a discrete payment be made to the hospitals by the MCO for language services based on a limited English proficient patient metric.

RESPONSE:

In reviewing the proposals made by LanguageLine Solutions, the two billable units was determined based on information received from NYS private sector (commercial) providers and NYS MCOs since fee-for-service data is not available. Based on this review, the proposed regulations were determined to be fair and appropriate compensation to hospitals for the costs of providing medical language interpretation services to patients in inpatient hospital settings.

In addition, Managed Care is a health care delivery system organized to manage cost, utilization and quality. Medicaid Managed Care provides for the delivery of Medicaid health benefits and additional services through contracted arrangements. Therefore, hospitals and MCOs negotiate payments which may or may not be identical to the fee-for-service payments for similar services. Since MCOs do reimburse for interpreter services within the contract provisions, the system is working as designed.

Based on the information above, a regulatory change will not be made based on LanguageLine Solutions proposals.

Higher Education Services Corporation

EMERGENCY RULE MAKING

New York State Science, Technology, Engineering and Mathematics Incentive Program

I.D. No. ESC-40-15-00006-E

Filing No. 802

Filing Date: 2015-09-18

Effective Date: 2015-09-18

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Addition of section 2201.13 to Title 8 NYCRR.

Statutory authority: Education Law, sections 653, 655 and 669-e

Finding of necessity for emergency rule: Preservation of general welfare.

Specific reasons underlying the finding of necessity: This statement is being submitted pursuant to subdivision (6) of section 202 of the State Administrative Procedure Act and in support of the New York State Higher Education Services Corporation's ("HESC") Emergency Rule Making seeking to add a new section 2201.13 to Title 8 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

This regulation implements a statutory student financial aid program providing for awards to be made to students beginning with the fall 2014 term. Emergency adoption is necessary to avoid an adverse impact on the processing of awards to eligible scholarship applicants. The statute provides for tuition benefits to college-going students who, beginning August 2014, pursue an undergraduate program of study in science, technology, engineering, or mathematics at a New York State public institution of higher education. High school students entering college in August must inform the institution of their intent to enroll no later than May 1. Therefore, it is critical that the terms of the program as provided in the regulation be available immediately in order for HESC to process scholarship applications so that students can make informed choices. To accomplish this mandate, the statute further provides for HESC to promulgate emergency regulations to implement the program. For these reasons, compliance with section 202(1) of the State Administrative Procedure Act would be contrary to the public interest.

Subject: New York State Science, Technology, Engineering and Mathematics Incentive Program.