

3865--A

2011-2012 Regular Sessions

I N S E N A T E

March 8, 2011

Introduced by Sens. ROBACH, KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, the social services law and the insurance law, in relation to providing that persons with hemophilia and other clotting protein deficiencies who are otherwise eligible for the Child Health Plus or Family Health Plus programs shall have access to reimbursement for outpatient blood clotting factor concentrates and other necessary treatments and services

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

1 Section 1. Legislative findings. Hemophilia is a rare hereditary
2 bleeding disorder resulting from a deficiency in blood proteins known as
3 clotting factors. Without an adequate supply of clotting factors, indi-
4 viduals can experience prolonged bleeding following routine medical and
5 dental procedures, trauma, and a range of physical activities. Addi-
6 tionally, individuals with hemophilia often experience spontaneous
7 internal bleeding that can cause severe joint damage, chronic pain, and
8 even death.

9 Prior to the 1970s, individuals with hemophilia seldom lived beyond
10 the age of 30 years. Early treatment consisted of whole blood and plasma
11 transfusions at hospitals. These treatments were difficult, time consum-
12 ing and only minimally effective. The advent of commercially prepared
13 blood clotting factors in the 1980s represented a major advance in
14 treatment, both in terms of efficacy and convenience. Most importantly,
15 these advances allowed for home infusion.

16 In addition to hemophilia, there are several other disorders resulting
17 from blood protein deficiencies. These include Von Willebrand Disease
18 (VWD), the most common bleeding disorder, affecting approximately two

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

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1 million Americans. Individuals with the severest form of VWD rely on
2 clotting factor treatments similar to those used by individuals with
3 hemophilia.

4 Clotting factor products produced today (derived from plasma or recom-
5 binant technology) are very safe and highly effective medications.
6 Access to therapies has vastly improved both the health outcomes and
7 quality of life for the majority of patients and their families. Many
8 patients today are on a prophylactic regimen to prevent bleeding
9 episodes. This preventative regimen together with the coordinated care
10 provided by hemophilia treatment centers have significantly reduced
11 visits to emergency rooms, hospitalizations and joint damage. Further,
12 the ability to manage hemophilia and other bleeding disorders outside of
13 the hospital setting have helped improve attendance for school-aged
14 children, decreased absenteeism from work for adult patients and care-
15 givers, vastly improved the ability of affected persons to join the work
16 force, and minimized life disruptions for the entire family.

17 Presently, New York state is the only state in the U.S. preventing
18 access to lifesaving outpatient clotting factor products for individuals
19 that qualify for the State Children's Health Insurance Program.

20 The legislature finds that having a policy that prohibits otherwise
21 eligible individuals from accessing lifesaving medications not only
22 violates the spirit of these very important programs, it discriminates
23 against a vulnerable group of individuals whose health care costs are
24 deemed to be high and fundamentally undermines the programs' overall
25 goal of ensuring that low-income children and families have access to
26 quality health care. The legislature further finds that costs to the
27 state for allowing individuals who qualify for Child Health Plus or
28 Family Health Plus to access the outpatient clotting products at home,
29 the recommended model of care, will be much less than the long-term
30 costs the state will very likely end up paying through the Medicaid
31 program for individuals who later develop debilitating complications and
32 are deemed unable to work.

33 This legislation is intended to modify existing state law by allowing
34 for the coverage of lifesaving clotting factor products prescribed for
35 use at home by persons with hemophilia and other clotting protein defi-
36 ciencies who are eligible for the Child Health Plus or Family Health
37 Plus program.

38 S 2. Subdivision 7 of section 2510 of the public health law, as
39 amended by section 21 of part B of chapter 109 of the laws of 2010, is
40 amended to read as follows:

41 7. "Covered health care services" means: the services of physicians,
42 optometrists, nurses, nurse practitioners, midwives and other related
43 professional personnel which are provided on an outpatient basis,
44 including routine well-child visits; diagnosis and treatment of illness
45 and injury; inpatient health care services; laboratory tests; diagnostic
46 x-rays; prescription and non-prescription drugs and durable medical
47 equipment; radiation therapy; chemotherapy; hemodialysis; OUTPATIENT
48 BLOOD CLOTTING FACTOR PRODUCTS AND OTHER TREATMENTS AND SERVICES
49 FURNISHED IN CONNECTION WITH THE CARE OF HEMOPHILIA AND OTHER BLOOD
50 CLOTTING PROTEIN DEFICIENCIES; emergency room services; hospice
51 services; emergency, preventive and routine dental care, including
52 medically necessary orthodontia but excluding cosmetic surgery; emergen-
53 cy, preventive and routine vision care, including eyeglasses; speech and
54 hearing services; and, inpatient and outpatient mental health, alcohol
55 and substance abuse services as defined by the commissioner in consulta-
56 tion with the superintendent. "Covered health care services" shall not

1 include drugs, procedures and supplies for the treatment of erectile
2 dysfunction when provided to, or prescribed for use by, a person who is
3 required to register as a sex offender pursuant to article six-C of the
4 correction law, provided that any denial of coverage of such drugs,
5 procedures or supplies shall provide the patient with the means of
6 obtaining additional information concerning both the denial and the
7 means of challenging such denial.

8 S 3. Paragraph a of subdivision 7 of section 2510 of the public health
9 law, as amended by chapter 526 of the laws of 2002, is amended to read
10 as follows:

11 a. "Primary and preventive health care services" means: the services
12 of physicians, optometrists, nurses, nurse practitioners, midwives and
13 other related professional personnel which are provided on an outpatient
14 basis, including routine well-child visits; diagnosis and treatment of
15 illness and injury; laboratory tests; diagnostic x-rays; prescription
16 drugs; radiation therapy; chemotherapy; hemodialysis; OUTPATIENT BLOOD
17 CLOTTING FACTOR PRODUCTS AND OTHER TREATMENTS AND SERVICES FURNISHED IN
18 CONNECTION WITH THE CARE OF HEMOPHILIA AND OTHER BLOOD CLOTTING PROTEIN
19 DEFICIENCIES; emergency room services; hospice services; and, outpatient
20 alcohol and substance abuse services as defined by the commissioner in
21 consultation with the superintendent.

22 S 4. Subparagraphs (xv) and (xvi) of paragraph (e) of subdivision 1 of
23 section 369-ee of the social services law, subparagraph (xv) as amended
24 and subparagraph (xvi) as added by chapter 526 of the laws of 2002, are
25 amended and a new paragraph (xvii) is added to read as follows:

26 (xv) services provided to meet the requirements of 42 U.S.C. 1396d(r);
27 [and]

28 (xvi) hospice services[.]; AND

29 (XVII) OUTPATIENT BLOOD CLOTTING FACTOR PRODUCTS AND OTHER TREATMENTS
30 AND SERVICES FURNISHED IN CONNECTION WITH THE CARE OF HEMOPHILIA AND
31 OTHER BLOOD CLOTTING PROTEIN DEFICIENCIES AS DEFINED BY THE COMMISSIONER
32 OF HEALTH IN CONSULTATION WITH THE SUPERINTENDENT.

33 S 5. This act shall take effect on the first of April next succeeding
34 the date upon which it shall have become a law, provided that the amend-
35 ments to subdivision 7 of section 2510 of the public health law made by
36 section two of this act shall be subject to the expiration and reversion
37 of such subdivision pursuant to subdivision 4 of section 47 of chapter 2
38 of the laws of 1998, as amended, when upon such date the provisions of
39 section three of this act shall take effect.