

3200

2011-2012 Regular Sessions

I N S E N A T E

February 11, 2011

Introduced by Sen. HANNON -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law and the executive law, in relation to financial assistance from the crime victims board for post-exposure prophylaxis treatment for victims of sexual assault

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

1 Section 1. Paragraph (c) of subdivision 1 of section 2805-i of the
2 public health law, as amended by section 39 of part A-1 of chapter 56 of
3 the laws of 2010, is amended to read as follows:
4 (c) offering and making available appropriate HIV post-exposure treat-
5 ment therapies in cases where it has been determined, in accordance with
6 guidelines issued by the commissioner, that a significant exposure to
7 HIV has occurred, and informing the victim that payment assistance for
8 such therapies [may be] IS available from the office of victim services
9 pursuant to the provisions of article twenty-two of the executive law;
10 PROVIDED, HOWEVER, THAT A FORENSIC RAPE EXAMINATION SHALL INCLUDE A NINE
11 DAY STARTER PACK TO BE PROVIDED BY THE HOSPITAL EMERGENCY ROOM AT THE
12 TIME OF THE FORENSIC RAPE EXAMINATION. THE HOSPITAL EMERGENCY ROOM SHALL
13 DETERMINE WHICH CLINIC WITHIN THE HOSPITAL OR IF MORE CONVENIENT FOR THE
14 VICTIM, ANOTHER HOSPITAL OR CLINIC, WHERE FOLLOW-UP CARE SHALL BE
15 PROVIDED. IN RURAL COUNTIES PURSUANT TO SUBDIVISION TWELVE OF SECTION
16 TWO HUNDRED THIRTY-EIGHT OF THIS CHAPTER, WHERE HOSPITALS DO NOT HAVE
17 THE APPROPRIATE FACILITY TO ACCOMMODATE FOLLOW-UP CARE, THE HOSPITAL
18 EMERGENCY ROOM DEPARTMENT SHALL REFER THE VICTIM TO THE COUNTY DEPART-
19 MENT OF HEALTH, WHICH, IN TURN SHALL PROVIDE REFERRAL SERVICES FOR SUCH
20 FOLLOW-UP CARE. THE HOSPITALS, CLINICS, AND RURAL COUNTY HEALTH DEPART-
21 MENTS AS REFERENCED ABOVE ARE THE BILLING ENTITIES.
22 S 2. Subdivision 13 of section 631 of the executive law, as amended by
23 section 22 of part A-1 of chapter 56 of the laws of 2010, is amended and
24 a new subdivision 13-a is added to read as follows:

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

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1 13. Notwithstanding any other provision of law, rule, or regulation to
2 the contrary, when any New York state accredited hospital, accredited
3 sexual assault examiner program, or licensed health care provider
4 furnishes services to any sexual assault survivor, including but not
5 limited to a health care forensic examination in accordance with the sex
6 offense evidence collection protocol and standards established by the
7 department of health, such hospital, sexual assault examiner program, or
8 licensed healthcare provider shall provide such services to the person
9 without charge and shall bill the office directly. The office, in
10 consultation with the department of health, shall define the specific
11 services to be covered by the sexual assault forensic exam reimbursement
12 fee, which must include at a minimum forensic examiner services, hospi-
13 tal or healthcare facility services related to the exam, and related
14 laboratory tests and pharmaceuticals. [Follow-up HIV post-exposure
15 prophylaxis costs shall continue to be reimbursed according to estab-
16 lished office procedure. The office, in consultation with the department
17 of health, shall also generate the necessary regulations and forms for
18 the direct reimbursement procedure.] The rate for reimbursement shall be
19 the amount of itemized charges not exceeding eight hundred dollars, to
20 be reviewed and adjusted annually by the office in consultation with the
21 department of health. The hospital, sexual assault examiner program, or
22 licensed health care provider must accept this fee as payment in full
23 for these specified services. No additional billing of the survivor for
24 said services is permissible. A sexual assault survivor may voluntarily
25 assign any private insurance benefits to which she or he is entitled for
26 the healthcare forensic examination, in which case the hospital or
27 healthcare provider may not charge the office. A hospital, sexual
28 assault examiner program or licensed health care provider shall, at the
29 time of the initial visit, request assignment of any private health
30 insurance benefits to which the sexual assault survivor is entitled on a
31 form prescribed by the office; provided, however, such sexual assault
32 survivor shall be advised orally and in writing that he or she may
33 decline to provide such information regarding private health insurance
34 benefits if he or she believes that the provision of such information
35 would substantially interfere with his or her personal privacy or safety
36 and in such event, the sexual assault forensic exam fee shall be paid by
37 the office. [Such sexual assault survivor shall also be advised that
38 providing such information may provide additional resources to pay for
39 services to other sexual assault victims.] If he or she declines to
40 provide such health insurance information, he or she shall indicate such
41 decision on the form provided by the hospital, sexual assault examiner
42 program or licensed health care provider, which form shall be prescribed
43 by the office.

44 13-A. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW, RULE, OR REGULATION
45 TO THE CONTRARY, WHEN ANY BILLING ENTITY PROVIDES PROPHYLACTIC TREATMENT
46 FOR SIGNIFICANT POSSIBLE EXPOSURE TO HIV TO A VICTIM OF SEXUAL ASSAULT
47 AS PRESCRIBED BY A LICENSED HEALTHCARE PROVIDER, SUCH TREATMENT SHALL BE
48 PROVIDED TO THE PERSON WITHOUT CHARGE AND THE PHARMACY SHALL BILL THE
49 BOARD DIRECTLY. THE BOARD, IN CONSULTATION WITH THE DEPARTMENT OF
50 HEALTH, SHALL GENERATE THE NECESSARY REGULATIONS AND FORMS FOR THE
51 DIRECT REIMBURSEMENT PROCEDURE. THE RATE FOR REIMBURSEMENT SHALL BE
52 ESTABLISHED AND REVIEWED AND ADJUSTED AT LEAST ANNUALLY BY THE BOARD IN
53 CONSULTATION WITH THE DEPARTMENT OF HEALTH. THE BILLING ENTITY MUST
54 ACCEPT THIS FEE AS PAYMENT IN FULL FOR THE SPECIFIED POST-EXPOSURE
55 PROPHYLACTIC TREATMENT THERAPIES. NO ADDITIONAL BILLING OF THE SURVIVOR
56 FOR SAID MEDICATIONS IS PERMISSIBLE. A SEXUAL ASSAULT SURVIVOR MAY

1 VOLUNTARILY ASSIGN ANY PRIVATE INSURANCE BENEFITS TO WHICH SHE OR HE IS
2 ENTITLED FOR THE PROPHYLACTIC MEDICATIONS, IN WHICH CASE THE BILLING
3 ENTITY MAY NOT CHARGE THE BOARD. A BILLING ENTITY SHALL, AT THE TIME OF
4 THE INITIAL VISIT, REQUEST ASSIGNMENT OF ANY PRIVATE HEALTH INSURANCE
5 BENEFITS TO WHICH THE SEXUAL ASSAULT SURVIVOR IS ENTITLED ON A FORM
6 PRESCRIBED BY THE BOARD; PROVIDED, HOWEVER, SUCH SEXUAL ASSAULT SURVIVOR
7 SHALL BE ADVISED ORALLY AND IN WRITING THAT HE OR SHE MAY DECLINE TO
8 PROVIDE SUCH INFORMATION REGARDING PRIVATE HEALTH INSURANCE BENEFITS IF
9 HE OR SHE BELIEVES THAT THE PROVISION OF SUCH INFORMATION WOULD SUBSTAN-
10 Tially INTERFERE WITH HIS OR HER PERSONAL PRIVACY OR SAFETY AND, IN SUCH
11 EVENT, THE PROPHYLACTIC TREATMENT FEE SHALL BE PAID BY THE BOARD. IF HE
12 OR SHE DECLINES TO PROVIDE SUCH HEALTH INSURANCE INFORMATION, HE OR SHE
13 SHALL INDICATE SUCH DECISION ON THE FORM PROVIDED BY THE BILLING ENTITY,
14 WHICH FORM SHALL BE PRESCRIBED BY THE BOARD. THE NINE DAY STARTER PACK
15 PROVIDED TO THE VICTIM PURSUANT TO PARAGRAPH (C) OF SUBDIVISION ONE OF
16 SECTION TWENTY-EIGHT HUNDRED FIVE-I OF THE PUBLIC HEALTH LAW SHALL BE
17 CONSIDERED PART OF THE FORENSIC RAPE EXAMINATION AND BILLED ACCORDINGLY.
18 FOR THE REMAINING TWENTY-ONE DAYS OF TREATMENT, THE APPROPRIATE CLINIC
19 OR IN A RURAL AREA, THE COUNTY DEPARTMENT OF HEALTH, SHALL BILL THE
20 CRIME VICTIMS BOARD AND BE REIMBURSED BY SUCH BOARD. IF THE VICTIM IS
21 NOT SEEKING REIMBURSEMENT FROM THE BOARD, SUCH VICTIM CAN CHOOSE
22 FOLLOW-UP CARE BY ATTENDING THE APPROPRIATE CLINIC OR SEEKING A PROVIDER
23 OF HIS OR HER CHOICE.

24 S 3. Paragraph (b) of subdivision 2 of section 631-a of the executive
25 law, as amended by section 27 of part A-1 of chapter 56 of the laws of
26 2010, is amended to read as follows:

27 (b) These regulations shall also provide for services including, but
28 not limited to:

29 (i) assistance to claimants seeking crime victims compensation bene-
30 fits;

31 (ii) referrals, crisis intervention and other counseling services;

32 (iii) services to elderly victims and to child victims and their fami-
33 lies;

34 (iv) transportation and household assistance; and

35 (v) outreach to the community and education and training of law
36 enforcement and other criminal justice officials to the needs of crime
37 victims;

38 (VI) PROPHYLACTIC TREATMENT THERAPIES IN CASES WHERE IT HAS BEEN
39 DETERMINED THAT A SIGNIFICANT EXPOSURE TO HIV HAS OCCURRED; AND

40 (VII) IDENTIFYING HEALTH CARE PROVIDERS ACROSS THE STATE WHO CAN
41 PROVIDE FOLLOW-UP CARE FOR VICTIMS INCLUDING BUT NOT LIMITED TO HOW AND
42 WHERE TO ACCESS HIV POST-EXPOSURE PROPHYLAXIS.

43 S 4. This act shall take effect on the one hundred eightieth day after
44 it shall have become a law.