

3200--A

2011-2012 Regular Sessions

I N   S E N A T E

February 11, 2011

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Introduced by Sens. HANNON, JOHNSON, KRUEGER, MONTGOMERY, OPPENHEIMER, PARKER, SAVINO, SERRANO -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law and the executive law, in relation to financial assistance from the office of victim services 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

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

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1 FOLLOW-UP CARE. THE HOSPITALS, CLINICS, AND RURAL COUNTY HEALTH DEPART-  
2 MENTS AS REFERENCED ABOVE ARE THE BILLING ENTITIES.

3 S 2. Subdivision 13 of section 631 of the executive law, as amended by  
4 section 22 of part A-1 of chapter 56 of the laws of 2010, is amended and  
5 a new subdivision 13-a is added to read as follows:

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

49 13-A. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW, RULE, OR REGULATION  
50 TO THE CONTRARY, WHEN ANY BILLING ENTITY PROVIDES PROPHYLACTIC TREATMENT  
51 FOR SIGNIFICANT POSSIBLE EXPOSURE TO HIV TO A VICTIM OF SEXUAL ASSAULT  
52 AS PRESCRIBED BY A LICENSED HEALTHCARE PROVIDER, SUCH TREATMENT SHALL BE  
53 PROVIDED TO THE PERSON WITHOUT CHARGE AND THE PHARMACY SHALL BILL THE  
54 OFFICE DIRECTLY. THE OFFICE, IN CONSULTATION WITH THE DEPARTMENT OF  
55 HEALTH, SHALL GENERATE THE NECESSARY REGULATIONS AND FORMS FOR THE  
56 DIRECT REIMBURSEMENT PROCEDURE. THE RATE FOR REIMBURSEMENT SHALL BE

1 ESTABLISHED AND REVIEWED AND ADJUSTED AT LEAST ANNUALLY BY THE OFFICE IN  
2 CONSULTATION WITH THE DEPARTMENT OF HEALTH. THE BILLING ENTITY MUST  
3 ACCEPT THIS FEE AS PAYMENT IN FULL FOR THE SPECIFIED POST-EXPOSURE  
4 PROPHYLACTIC TREATMENT THERAPIES. NO ADDITIONAL BILLING OF THE SURVIVOR  
5 FOR SAID MEDICATIONS IS PERMISSIBLE. A SEXUAL ASSAULT SURVIVOR MAY  
6 VOLUNTARILY ASSIGN ANY PRIVATE INSURANCE BENEFITS TO WHICH SHE OR HE IS  
7 ENTITLED FOR THE PROPHYLACTIC MEDICATIONS, IN WHICH CASE THE BILLING  
8 ENTITY MAY NOT CHARGE THE OFFICE. A BILLING ENTITY SHALL, AT THE TIME  
9 OF THE INITIAL VISIT, REQUEST ASSIGNMENT OF ANY PRIVATE HEALTH INSURANCE  
10 BENEFITS TO WHICH THE SEXUAL ASSAULT SURVIVOR IS ENTITLED ON A FORM  
11 PRESCRIBED BY THE OFFICE; PROVIDED, HOWEVER, SUCH SEXUAL ASSAULT SURVI-  
12 VOR SHALL BE ADVISED ORALLY AND IN WRITING THAT HE OR SHE MAY DECLINE TO  
13 PROVIDE SUCH INFORMATION REGARDING PRIVATE HEALTH INSURANCE BENEFITS IF  
14 HE OR SHE BELIEVES THAT THE PROVISION OF SUCH INFORMATION WOULD SUBSTAN-  
15 Tially INTERFERE WITH HIS OR HER PERSONAL PRIVACY OR SAFETY AND, IN SUCH  
16 EVENT, THE PROPHYLACTIC TREATMENT FEE SHALL BE PAID BY THE OFFICE. IF  
17 HE OR SHE DECLINES TO PROVIDE SUCH HEALTH INSURANCE INFORMATION, HE OR  
18 SHE SHALL INDICATE SUCH DECISION ON THE FORM PROVIDED BY THE BILLING  
19 ENTITY, WHICH FORM SHALL BE PRESCRIBED BY THE OFFICE. THE NINE DAY  
20 STARTER PACK PROVIDED TO THE VICTIM PURSUANT TO PARAGRAPH (C) OF SUBDI-  
21 VISION ONE OF SECTION TWENTY-EIGHT HUNDRED FIVE-I OF THE PUBLIC HEALTH  
22 LAW SHALL BE CONSIDERED PART OF THE FORENSIC RAPE EXAMINATION AND BILLED  
23 ACCORDINGLY. FOR THE REMAINING TWENTY-ONE DAYS OF TREATMENT, THE APPRO-  
24 PRIATE CLINIC OR IN A RURAL AREA, THE COUNTY DEPARTMENT OF HEALTH, SHALL  
25 BILL THE OFFICE OF VICTIM SERVICES AND BE REIMBURSED BY SUCH OFFICE. IF  
26 THE VICTIM IS NOT SEEKING REIMBURSEMENT FROM THE OFFICE, SUCH VICTIM CAN  
27 CHOOSE FOLLOW-UP CARE BY ATTENDING THE APPROPRIATE CLINIC OR SEEKING A  
28 PROVIDER OF HIS OR HER CHOICE.

29 S 3. Paragraph (b) of subdivision 2 of section 631-a of the executive  
30 law, as amended by section 27 of part A-1 of chapter 56 of the laws of  
31 2010, is amended to read as follows:

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

34 (i) assistance to claimants seeking crime victims compensation bene-  
35 fits;

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

37 (iii) services to elderly victims and to child victims and their fami-  
38 lies;

39 (iv) transportation and household assistance; and

40 (v) outreach to the community and education and training of law  
41 enforcement and other criminal justice officials to the needs of crime  
42 victims;

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

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

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