

7115

I N S E N A T E

April 30, 2012

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

AN ACT to amend the public health law, in relation to the inclusion of weight control in the health care and wellness education and outreach program, including certain respiratory diseases and obesity within disease management demonstration programs, the reduction of emphysema, chronic bronchitis and other chronic respiratory diseases in children, directing the health research science board to study respiratory diseases and obesity and the adolescent pregnancy nutrition counseling program; and to amend the insurance law, in relation to wellness programs

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

1 Section 1. The opening paragraph of subdivision 1, and subdivisions
2 3, 4 and 6 of section 207 of the public health law, as amended by
3 section 16 of part A of chapter 109 of the laws of 2010, are amended to
4 read as follows:
5 There is hereby created within the department the health care and
6 wellness education and outreach program. The department may conduct
7 education and outreach programs for consumers, patients, ELEMENTARY AND
8 SECONDARY SCHOOL EDUCATORS, and health care providers relating to any
9 health care matters the commissioner deems appropriate and:
10 3. The department may produce, make available to others for reprod-
11 uction, or contract with others to develop such materials mentioned in
12 this section as the commissioner deems appropriate. These materials
13 shall be made available to the public AND TO ELEMENTARY AND SECONDARY
14 SCHOOL EDUCATORS free of charge as appropriate or for a fee under
15 certain circumstances. The commissioner may require where appropriate
16 any health care provider to make these materials available to patients.
17 4. In exercising any of his or her powers under this section, the
18 commissioner may consult with appropriate health care professionals,
19 providers, consumers, EDUCATORS and patients or organizations represent-
20 ing them.

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

LBD13426-13-2

6. The commissioner may appoint as appropriate advisory councils relating to various matters that are or are proposed to be the subjects of programs under this section. All such councils shall include representation of health care professionals, providers, EDUCATORS, consumers, patients and other appropriate interests. The members of the councils shall receive no compensation for their services, but shall be allowed their actual and necessary expenses incurred in performance of their duties.

S 2. Subdivision 1 of section 207 of the public health law is amended by adding a new paragraph (i) to read as follows:

(I) ABOUT THE SHORT TERM AND LONG TERM ADVERSE HEALTH RISKS TO ADULTS AND CHILDREN WHO BECOME OVERWEIGHT, OBESE OR UNDERWEIGHT. THE INFORMATION SHALL INCLUDE, BUT NEED NOT BE LIMITED TO PROVIDING CITATIONS TO THE DEPARTMENT'S WEBSITE, AS WELL AS ANY OTHER WEBSITES PROVIDING INFORMATION ON THE SUBJECT.

S 3. Subdivisions 2 and 4 of section 2111 of the public health law, as added by section 21 of part C of chapter 58 of the laws of 2004, are amended to read as follows:

2. The department shall establish the criteria by which individuals will be identified as eligible for enrollment in the demonstration programs. Persons eligible for enrollment in the disease management demonstration program shall be limited to individuals who: receive medical assistance pursuant to title eleven of article five of the social services law and may be eligible for benefits pursuant to title 18 of the social security act (Medicare); are not enrolled in a Medicaid managed care plan, including individuals who are not required or not eligible to participate in Medicaid managed care programs pursuant to section three hundred sixty-four-j of the social services law; are diagnosed with chronic health problems as may be specified by the entity undertaking the demonstration program, including, but not limited to one or more of the following: congestive heart failure, chronic obstructive pulmonary disease, asthma, CHRONIC BRONCHITIS, OTHER CHRONIC RESPIRATORY DISEASES, diabetes, ADULT AND CHILDHOOD OBESITY, or other chronic health conditions as may be specified by the department; or have experienced or are likely to experience one or more hospitalizations or are otherwise expected to incur excessive costs and high utilization of health care services.

4. The demonstration program shall offer evidence-based services and interventions designed to ensure that the enrollees receive high quality, preventative and cost-effective care, aimed at reducing the necessity for hospitalization or emergency room care or at reducing lengths of stay when hospitalization is necessary. The demonstration program may include screening of eligible enrollees, developing an individualized care management plan for each enrollee and implementing that plan. Disease management demonstration programs that utilize information technology systems that allow for continuous application of evidence-based guidelines to medical assistance claims data and other available data to identify specific instances in which clinical interventions are justified and communicate indicated interventions to physicians, health care providers and/or patients, and monitor physician and health care provider response to such interventions, shall have the enrollees, or groups of enrollees, approved by the department for participation. The services provided by the demonstration program as part of the care management plan may include, but are not limited to, case management, social work, individualized health counselors, multi-behavioral goals plans, claims data management, health and self-care education, drug therapy management

1 and oversight, personal emergency response systems and other monitoring
2 technologies, SYSTEMATIC CHRONIC HEALTH CONDITIONS IDENTIFIED FOR MONI-
3 TORING, telehealth services and similar services designed to improve the
4 quality and cost-effectiveness of health care services.

5 S 4. Section 2599-b of the public health law, as amended by section 88
6 of part B of chapter 58 of the laws of 2005, is amended to read as
7 follows:

8 S 2599-b. Program development. 1. The program shall be designed to
9 prevent and reduce the incidence and prevalence of obesity in children
10 and adolescents, especially among populations with high rates of obesity
11 and obesity-related health complications including, but not limited to,
12 diabetes, heart disease, cancer, osteoarthritis, asthma, CHRONIC BRON-
13 CHITIS, OTHER CHRONIC RESPIRATORY DISEASES and other conditions. The
14 program shall use recommendations and goals of the United States depart-
15 ments of agriculture and health and human services, the surgeon general
16 and centers for disease control AND PREVENTION in developing and imple-
17 menting guidelines for nutrition education and physical activity
18 projects as part of obesity prevention efforts. The content and imple-
19 mentation of the program shall stress the benefits of choosing a
20 balanced, healthful diet from the many options available to consumers,
21 without specifically targeting the elimination of any particular food
22 group, food product or food-related industry.

23 2. The childhood obesity prevention program shall include, but not be
24 limited to:

25 (a) developing media health promotion campaigns targeted to children
26 and adolescents and their parents and caregivers that emphasize increas-
27 ing consumption of low-calorie, high-nutrient foods, decreasing consump-
28 tion of high-calorie, low-nutrient foods and increasing physical activ-
29 ity designed to prevent or reduce obesity;

30 (b) establishing school-based childhood obesity prevention nutrition
31 education and physical activity programs including programs described in
32 section twenty-five hundred ninety-nine-c of this article, as well as
33 other programs with linkages to physical and health education courses,
34 and which utilize the school health index of the National Center for
35 Chronic Disease Prevention and Health Promotion or other recognized
36 school health assessment PURSUANT TO ARTICLE NINETEEN OF THE EDUCATION
37 LAW;

38 (c) establishing community-based childhood obesity prevention nutri-
39 tion education and physical activity programs including programs which
40 involve parents and caregivers, and which encourage communities, fami-
41 lies, child care and other settings to provide safe and adequate space
42 and time for physical activity and encourage a healthy diet, AND CAN BE
43 IN COORDINATION WITH COUNTY COOPERATIVE EXTENSION PROGRAMS ESTABLISHED
44 PURSUANT TO SECTION TWO HUNDRED TWENTY-FOUR-B OF THE COUNTY LAW;

45 (d) coordinating with the state education department, department of
46 agriculture and markets, office of parks, recreation and historic pres-
47 ervation, office of temporary and disability assistance, office of chil-
48 dren and family services and other federal, state and local agencies to
49 incorporate strategies to prevent and reduce childhood obesity into
50 government food assistance, health, education and recreation programs;

51 (e) sponsoring periodic conferences or meetings to bring together
52 experts in nutrition, exercise, public health, mental health, education,
53 parenting, media, food marketing, food security, agriculture, community
54 planning and other disciplines to examine societal-based solutions to
55 the problem of childhood obesity and issue guidelines and recommenda-
56 tions for New York state policy and programs;

1 (f) developing training programs for medical and other health profes-
2 sionals to teach practical skills in nutrition and exercise education to
3 children and their parents and caregivers; [and]

4 (g) developing screening programs in coordination with health care
5 providers and institutions including but not limited to day care centers
6 and schools for overweight and obesity for children aged two through
7 eighteen years, using body mass index (BMI) appropriate for age and
8 gender, and notification, in a manner protecting the confidentiality of
9 such children and their families, of parents of BMI status, and explana-
10 tion of the consequences of such status, including recommended actions
11 parents may need to take and information about resources and referrals
12 available to families to enhance nutrition and physical activity to
13 reduce and prevent obesity[.]; AND

14 (H) COORDINATING WITH THE EDUCATION DEPARTMENT, OFFICE OF TEMPORARY
15 AND DISABILITY ASSISTANCE, OFFICE OF CHILDREN AND FAMILY SERVICES AND
16 OTHER FEDERAL, STATE AND LOCAL AGENCIES TO INCORPORATE STRATEGIES TO
17 CURTAIL THE INCIDENCE OF ASTHMA, CHRONIC BRONCHITIS AND OTHER CHRONIC
18 RESPIRATORY DISEASES TO ENABLE ADULTS AND CHILDREN TO SAFELY INCREASE
19 PHYSICAL ACTIVITY TO HELP CURB THE INCIDENCE OF OBESITY.

20 3. The department, IN COOPERATION WITH THE EDUCATION DEPARTMENT, shall
21 periodically collect and analyze information from schools, health and
22 nutrition programs and other sources to determine the prevalence of
23 childhood obesity in New York state, and to evaluate, to the extent
24 possible, the effectiveness of the childhood obesity prevention program.

25 S 5. The opening paragraph of section 2599-c of the public health law,
26 as amended by section 88 of part B of chapter 58 of the laws of 2005, is
27 amended to read as follows:

28 The commissioner, IN COOPERATION WITH THE COMMISSIONERS OF EDUCATION
29 AND AGRICULTURE AND MARKETS, AND COUNTY BOARDS OF COOPERATIVE EXTENSION,
30 shall encourage the establishment of school-based childhood obesity
31 prevention and physical activity programs that promote:

32 S 6. Paragraphs (a), (b) and (c) of subdivision 1 of section 2411 of
33 the public health law, as amended by chapter 219 of the laws of 1997,
34 are amended to read as follows:

35 (a) Survey state agencies, boards, programs and other state govern-
36 mental entities to assess what, if any, relevant data has been or is
37 being collected which may be of use to researchers engaged in breast,
38 prostate or testicular cancer research, OR ADULT AND CHILDHOOD OBESITY,
39 ASTHMA, CHRONIC BRONCHITIS OR OTHER CHRONIC RESPIRATORY DISEASE
40 RESEARCH;

41 (b) Consistent with the survey conducted pursuant to paragraph (a) of
42 this subdivision, compile a list of data collected by state agencies
43 which may be of assistance to researchers engaged in breast, prostate or
44 testicular cancer research as established in section twenty-four hundred
45 twelve of this title, AND ADULT AND CHILDHOOD OBESITY, ASTHMA, CHRONIC
46 BRONCHITIS OR OTHER CHRONIC RESPIRATORY DISEASE RESEARCH;

47 (c) Consult with the Centers for Disease Control and Prevention, the
48 National Institutes of Health, the Federal Agency For Health Care Policy
49 and Research, the National Academy of Sciences and other organizations
50 or entities which may be involved in cancer research to solicit both
51 information regarding breast, prostate and testicular cancer research
52 projects, AND ADULT AND CHILDHOOD OBESITY, ASTHMA, CHRONIC BRONCHITIS OR
53 OTHER CHRONIC RESPIRATORY DISEASE RESEARCH PROJECTS that are currently
54 being conducted and recommendations for future research projects;

1 S 7. Subdivision 1 of section 2500 of the public health law, as
2 amended by chapter 822 of the laws of 1987, is amended to read as
3 follows:

4 1. The commissioner shall act in an advisory and supervisory capacity,
5 in matters pertaining to the safeguarding of motherhood, the prevention
6 of maternal, perinatal, infant and child mortality, the prevention of
7 diseases, low birth weight, CHILDHOOD OBESITY, and defects of childhood
8 and the promotion of maternal, prenatal and child health, including care
9 in hospitals, and shall administer such services bearing on the health
10 of mothers and children for which funds are or shall hereafter be made
11 available.

12 S 8. Subdivision 2 of section 2515 of the public health law, as added
13 by section 20 of part A of chapter 58 of the laws of 2008, is amended to
14 read as follows:

15 2. "Services for eligible adolescents" means those services, including
16 but not limited to: vocational and educational counseling, job skills
17 training, family life and parenting education, life skills development,
18 coordination, case management, primary preventive health care, PREGNANCY
19 AND CHILD NUTRITION COUNSELING FOR EXPECTANT MOTHERS TO CURB THE INCI-
20 DENCE OF CHILDHOOD OBESITY, family planning, social and recreational
21 programs, child care, outreach and advocacy, follow-up on service utili-
22 zation, crisis intervention, and efforts to stimulate community interest
23 and involvement.

24 S 9. Paragraph (c) of subdivision 2 of section 2515-a of the public
25 health law, as added by section 20 of part A of chapter 58 of the laws
26 of 2008, is amended to read as follows:

27 (c) serve a geographic area where the incidence of infant mortality,
28 LOW BIRTH WEIGHT INFANTS, CHILDHOOD OBESITY and the prevalence of low-
29 income families are high and where the availability or accessibility of
30 services for eligible adolescents is low;

31 S 10. Subdivision (b) of section 2522 of the public health law, as
32 amended by chapter 484 of the laws of 2009, is amended and a new subdi-
33 vision (e-1) is added to read as follows:

34 (b) promotion of community awareness of the benefits TO THE MOTHER AND
35 CHILD of preconception health and early and continuous prenatal care;

36 (E-1) HEALTH AND NUTRITIONAL EDUCATION AND SERVICES FOR BOTH PARENTS,
37 REGARDING CHILDHOOD AND ADULT OBESITY AND ASTHMA, AND THE PREVENTION OR
38 MITIGATION THEREOF;

39 S 11. Paragraphs 6 and 7 of subsection (b) of section 3239 of the
40 insurance law, as added by chapter 592 of the laws of 2008, are amended
41 and a new paragraph 8 is added to read as follows:

42 (6) a nutrition education program; [and]

43 (7) health or fitness incentive programs[.]; AND

44 (8) A COORDINATED WEIGHT MANAGEMENT, NUTRITION, STRESS MANAGEMENT AND
45 PHYSICAL FITNESS PROGRAM TO COMBAT THE HIGH INCIDENCE OF ADULT AND
46 CHILDHOOD OBESITY, ASTHMA AND OTHER CHRONIC RESPIRATORY CONDITIONS.

47 S 12. Subparagraphs (C) and (D) of paragraph 2 of subsection (c) of
48 section 3239 of the insurance law, as added by chapter 592 of the laws
49 of 2008, are amended and two new subparagraphs (E) and (F) are added to
50 read as follows:

51 (C) the waiver or reduction of copayments, coinsurance and deductibles
52 for preventive services covered under the group policy or subscriber
53 contract; [and]

54 (D) monetary rewards in the form of gift cards or gift certificates,
55 so long as the recipient of the reward is encouraged to use the reward

1 for a product or a service that promotes good health, such as healthy
2 cook books, over the counter vitamins or exercise equipment[.];
3 (E) FULL OR PARTIAL REIMBURSEMENT OF THE COST OF PARTICIPATING IN A
4 STRESS MANAGEMENT PROGRAM OR ACTIVITY; AND
5 (F) FULL OR PARTIAL REIMBURSEMENT OF THE COST OF PARTICIPATING IN A
6 HEALTH OR FITNESS PROGRAM.
7 S 13. This act shall take effect immediately, except that sections one
8 and two of this act shall take effect one year after this act shall have
9 become a law; provided that, effective immediately, any rules and regu-
10 lations necessary to implement the provisions of this act on its effec-
11 tive date are authorized and directed to be completed on or before such
12 date.