S T A T E O F N E W Y O R K

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2013-2014 Regular Sessions

I N A S S E M B L Y

May 23, 2013

Introduced by M. of A. McDONALD, LAVINE, MAISEL, MONTESANO -- Multi-Sponsored by -- M. of A. DUPREY, GABRYSZAK, ROSA, SIMANOWITZ -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to requiring specific Medicaid insurance codes related to complex needs patients' therapy and treatment; and to amend the insurance law, in relation to requiring managed care contracts to comply with certain reimbursement rates related to complex needs patients' therapy and treatment

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

Section 1. Short title. This act shall be known and may be cited as the "complex needs patient act".

S 2. Legislative intent. It is the intent of the Legislature to:

a. protect access for complex needs patients to important technology and supporting services;

b. establish and improve safeguards relating to the delivery and provision of medically necessary complex rehabilitation technology;

c. provide supports for complex needs patients to stay in the home or community setting, prevent institutionalization, and prevent hospitalizations and other costly secondary complications; and

d. establish adequate pricing for complex rehabilitation technology for the purpose of allowing continued access to appropriate products and services.

S 3. The public health law is amended by adding a new section 23 to read as follows:

S 23. COMPLEX NEEDS PATIENT BENEFITS. 1. DEFINITIONS. AS USED IN THIS SECTION: (A) "COMPLEX NEEDS PATIENT" MEANS AN INDIVIDUAL WITH A DIAGNOSIS OR MEDICAL CONDITION THAT RESULTS IN SIGNIFICANT PHYSICAL OR FUNCTIONAL NEEDS AND CAPACITIES. SUCH TERM SHALL INCLUDE INDIVIDUALS WITH PROGRESSIVE OR DEGENERATIVE NEUROMUSCULAR DISEASES OR INJURIES OR TRAUMA WHICH RESULTED IN SIGNIFICANT PHYSICAL OR FUNCTIONAL NEEDS AND CAPACITIES, INCLUDING, BUT NOT LIMITED TO, INDIVIDUALS WITH SPINAL CORD INJURY, TRAUMATIC BRAIN INJURY, CEREBRAL PALSY, MUSCULAR DYSTROPHY, SPINA BIFIDA, OSTEOGENESIS IMPERFECTA, ARTHROGRYPOSIS, AMYOTROPHIC LATERAL

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

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SCLEROSIS, MULTIPLE SCLEROSIS, DEMYELINATING DISEASE, MYELOPATHY, MYOPATHY, PROGRESSIVE MUSCULAR ATROPHY, ANTERIOR HORN CELL DISEASE, POST-POLIO SYNDROME, CEREBELLAR DEGENERATION, DYSTONIA, HUNTINGTON'S DISEASE, SPINOCEREBELLAR DISEASE, AND CERTAIN TYPES OF AMPUTATION, PARALYSIS, OR PARESIS THAT RESULT IN SIGNIFICANT PHYSICAL OR FUNCTIONAL NEEDS AND CAPACITIES.

(B) "COMPLEX REHABILITATION TECHNOLOGY" MEANS ITEMS CURRENTLY CLASSIFIED BY THE CENTERS FOR MEDICARE AND MEDICAID SERVICES AS OF JANUARY FIRST, TWO THOUSAND THIRTEEN AS DURABLE MEDICAL EQUIPMENT THAT ARE INDIVIDUALLY CONFIGURED FOR INDIVIDUALS TO MEET THEIR SPECIFIC AND UNIQUE MEDICAL, PHYSICAL, AND FUNCTIONAL NEEDS AND CAPACITIES FOR BASIC ACTIVITIES OF DAILY LIVING AND INSTRUMENTAL ACTIVITIES OF DAILY LIVING IDENTIFIED AS MEDICALLY NECESSARY TO PREVENT HOSPITALIZATION OR INSTITUTIONALIZATION OF A COMPLEX NEEDS PATIENT. SUCH ITEMS SHALL INCLUDE, BUT NOT BE LIMITED TO, COMPLEX REHABILITATION POWER WHEELCHAIRS, HIGHLY CONFIGURABLE MANUAL WHEELCHAIRS, ADAPTIVE SEATING AND POSITIONING SYSTEMS, AND OTHER SPECIALIZED EQUIPMENT SUCH AS STANDING FRAMES AND GAIT TRAINERS. THE RELATED HEALTHCARE COMMON PROCEDURE CODE SYSTEM (HCPCS) BILLING CODES INCLUDE, BUT ARE NOT LIMITED TO:

(1) PURE COMPLEX REHAB TECHNOLOGY (CRT) CODES: THESE HCPCS CODES CONTAIN 100% CRT PRODUCTS: E0637, E0638, E0641, E0642, E0986, E1002, E1003, E1004, E1005, E1006, E1007, E1008, E1009, E1010, E1011, E1014, E1037, E1161, E1220, E1228, E1229, E1231, E1232, E1233, E1234, E1235, E1236, E1237, E1238, E1239, E2209, E2291, E2292, E2293, E2294, E2295, E2300, E2301, E2310, E2311, E2312, E2313, E2321, E2322, E2323, E2324, E2325, E2326, E2327, E2328, E2329, E2330, E2331, E2351, E2373, E2374, E2376, E2377, E2609, E2610, E2617, E8000, E8001, E8002, K0005, K0835, K0836, K0837, K0838, K0839, K0840, K0841, K0842, K0843, K0848, K0849, K0850, K0851, K0852, K0853, K0854, K0855, K0856, K0857, K0858, K0859, K0860, K0861, K0862, K0863, K0864, K0868, K0869, K0870, K0871, K0877, K0878, K0879, K0880, K0884, K0885, K0886, K0890, K0891, AND K0898.

(2) MIXED CRT CODES: THESE HCPCS CODES CONTAIN A MIX OF CRT PRODUCTS AND STANDARD MOBILITY AND ACCESSORY PRODUCTS: E0950, E0951, E0952, E0955, E0956, E0957, E0958, E0960, E0967, E0978, E0990, E1015, E1016, E1028, E1029, E1030, E2205, E2208, E2231, E2368, E2369, E2370, E2605, E2606, E2607, E2608, E2613, E2614, E2615, E2616, E2620, E2621, E2624, E2625, K0004, K0009, K0040, K0108, AND K0669.

(3) FUTURE CODES CREATED TO EXPAND ON OR REPLACE THOSE INDICATED IN SUBPARAGRAPHS ONE AND TWO OF THIS PARAGRAPH.

(C) "INDIVIDUALLY CONFIGURED" MEANS A COMBINATION OF FEATURES, ADJUSTMENTS, OR MODIFICATIONS A SUPPLIER MAKES TO A DEVICE THAT ARE SPECIFIC TO AN INDIVIDUAL AND THAT THE SUPPLIER PROVIDES BY MEASURING, FITTING, PROGRAMMING, ADJUSTING, OR ADAPTING THE DEVICE AS APPROPRIATE SO THAT THE DEVICE IS CONSISTENT WITH AN ASSESSMENT OR EVALUATION OF THE INDIVIDUAL BY A HEALTH CARE PROFESSIONAL AND CONSISTENT WITH THE INDIVIDUAL'S MEDICAL CONDITION, PHYSICAL AND FUNCTIONAL NEEDS, CAPACITIES, BODY SIZE, PERIOD OF NEED, AND INTENDED USE.

(D) "QUALIFIED COMPLEX REHABILITATION TECHNOLOGY SUPPLIER" MEANS A COMPANY OR ENTITY THAT:

(1) IS ACCREDITED BY A RECOGNIZED ACCREDITING ORGANIZATION AS A SUPPLIER OF COMPLEX REHABILITATION TECHNOLOGY;

(2) IS ENROLLED IN THE MEDICARE PROGRAM AND MEETS THE SUPPLIER AND QUALITY STANDARDS ESTABLISHED FOR DURABLE MEDICAL EQUIPMENT SUPPLIERS UNDER THE MEDICARE PROGRAM;

(3) EMPLOYS AT LEAST ONE COMPLEX REHABILITATION TECHNOLOGY PROFESSIONAL FOR EACH LOCATION TO (I) ANALYZE THE NEEDS AND CAPACITIES OF

QUALIFIED INDIVIDUALS WITH COMPLEX MEDICAL NEEDS, (II) ASSIST IN SELECTING APPROPRIATE COVERED COMPLEX REHABILITATION TECHNOLOGY ITEMS FOR SUCH NEEDS AND CAPACITIES, AND (III) PROVIDE TRAINING IN THE USE OF THE SELECTED COVERED COMPLEX REHABILITATION TECHNOLOGY ITEMS; THE COMPLEX REHABILITATION TECHNOLOGY PROFESSIONAL SHALL BE CERTIFIED BY THE REHABILITATION ENGINEERING AND ASSISTIVE TECHNOLOGY SOCIETY OF NORTH AMERICA AS AN ASSISTIVE TECHNOLOGY PROFESSIONAL (ATP);

(4) HAS THE COMPLEX REHABILITATION TECHNOLOGY PROFESSIONAL PHYSICALLY PRESENT FOR THE EVALUATION AND DETERMINATION OF THE APPROPRIATE INDIVIDUALLY CONFIGURED COMPLEX REHABILITATION TECHNOLOGIES FOR THE QUALIFIED INDIVIDUAL WITH COMPLEX MEDICAL NEEDS;

(5) PROVIDES SERVICE AND REPAIR BY QUALIFIED TECHNICIANS FOR ALL COMPLEX REHABILITATION TECHNOLOGY PRODUCTS IT SELLS; AND

(6) PROVIDES WRITTEN INFORMATION TO THE COMPLEX NEEDS PATIENT AT THE TIME OF DELIVERY ABOUT HOW THE INDIVIDUAL MAY RECEIVE SERVICE AND REPAIRS.

(E) "QUALIFIED COMPLEX REHABILITATION TECHNOLOGY PROFESSIONAL" MEANS AN INDIVIDUAL WHO IS CERTIFIED BY THE REHABILITATION ENGINEERING AND ASSISTIVE TECHNOLOGY SOCIETY OF NORTH AMERICA AS AN ASSISTIVE TECHNOLOGY PROFESSIONAL (ATP).

2. CREATION OF A SEPARATE RECOGNITION FOR COMPLEX REHABILITATION TECHNOLOGY. (A) THE DEPARTMENT OF HEALTH SHALL PROVIDE A SEPARATE RECOGNITION WITHIN THE STATE'S MEDICAID PROGRAM FOR COMPLEX REHABILITATION TECHNOLOGY AND SHALL MAKE OTHER REQUIRED CHANGES TO PROTECT ACCESS TO APPROPRIATE PRODUCTS AND SERVICES. THE DEPARTMENT SHALL PROVIDE SEPARATE RECOGNITION FOR INDIVIDUALLY CONFIGURED COMPLEX REHABILITATION TECHNOLOGY PRODUCTS AND SERVICES FOR COMPLEX NEEDS PATIENTS. SUCH SEPARATE RECOGNITION SHALL TAKE INTO CONSIDERATION THE CUSTOMIZED NATURE OF COMPLEX REHABILITATION TECHNOLOGY AND THE BROAD RANGE OF SERVICES NECESSARY TO MEET THE UNIQUE MEDICAL AND FUNCTIONAL NEEDS OF PEOPLE WITH COMPLEX MEDICAL NEEDS BY DOING ALL OF THE FOLLOWING:

(A) BY USING AS A REFERENCE THOSE BILLING CODES LISTED UNDER SUBPARAGRAPHS ONE AND TWO OF PARAGRAPH (B) OF SUBDIVISION ONE OF THIS SECTION, DESIGNATING APPROPRIATE CURRENT BILLING CODES AS COMPLEX REHABILITATION TECHNOLOGY AND, AS NEEDED, CREATING NEW BILLING CODES FOR SERVICES AND PRODUCTS COVERED FOR COMPLEX NEEDS PATIENTS.

(B) ESTABLISHING SPECIFIC SUPPLIER STANDARDS FOR COMPANIES OR ENTITIES THAT PROVIDE COMPLEX REHABILITATION TECHNOLOGY AND RESTRICTING THE PROVISION OF COMPLEX REHABILITATION TECHNOLOGY TO ONLY THOSE COMPANIES OR ENTITIES THAT MEET SUCH STANDARDS.

(C) THE DEPARTMENT SHALL REQUIRE COMPLEX NEEDS PATIENTS RECEIVING COMPLEX REHABILITATION TECHNOLOGY TO BE EVALUATED BY:

(1) A QUALIFIED HEALTH CARE PROFESSIONAL, INCLUDING, BUT NOT LIMITED TO, A PHYSICAL THERAPIST, OCCUPATIONAL THERAPIST, OR OTHER HEALTH CARE PROFESSIONAL WHO PERFORMS SPECIALTY EVALUATIONS WITHIN HIS OR HER SCOPE OF PRACTICE; AND

(2) A QUALIFIED COMPLEX REHABILITATION TECHNOLOGY PROFESSIONAL.

S 4. The insurance law is amended by adding a new section 4806 to read as follows:

S 4806. COVERAGE FOR COMPLEX REHABILITATION TECHNOLOGY PRODUCTS AND SERVICES FOR COMPLEX NEEDS PATIENTS. ANY MANAGED CARE PLAN AMENDED, DELIVERED, ISSUED, OR RENEWED IN THIS STATE SHALL ADOPT THE REGULATIONS AND POLICIES OUTLINED IN SECTION TWENTY-THREE OF THE PUBLIC HEALTH LAW.

S 5. This act shall take effect immediately.