

4337--A

2013-2014 Regular Sessions

I N S E N A T E

March 21, 2013

Introduced by Sens. YOUNG, O'MARA, RITCHIE, ROBACH, VALESKY -- (at request of the Legislative Commission on Rural Resources) -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, the insurance law and the social services law, in relation to the provision of telehealth services

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

1 Section 1. Subdivision 1 of section 2 of the public health law is
2 amended by adding five new paragraphs (o), (p), (q), (r) and (s) to read
3 as follows:

4 (O) DISTANT SITE. THE TERM "DISTANT SITE" MEANS A SITE AT WHICH A
5 HEALTH CARE PROVIDER IS LOCATED WHILE PROVIDING HEALTH CARE SERVICES BY
6 MEANS OF A FEDERAL FOOD AND DRUG ADMINISTRATION APPROVED AND INTEROPERA-
7 BLE TELECOMMUNICATIONS SYSTEM.

8 (P) HEALTH CARE PROVIDER. THE TERM "HEALTH CARE PROVIDER" MEANS A
9 PERSON LICENSED PURSUANT TO ARTICLE ONE HUNDRED THIRTY-ONE, ONE HUNDRED
10 THIRTY-ONE-B, ONE HUNDRED THIRTY-THREE, ONE HUNDRED THIRTY-NINE, ONE
11 HUNDRED FORTY, ONE HUNDRED FORTY-ONE, ONE HUNDRED FORTY-THREE, ONE
12 HUNDRED FORTY-FOUR, ONE HUNDRED FIFTY-THREE, ONE HUNDRED FIFTY-FOUR OR
13 ONE HUNDRED FIFTY-NINE OF THE EDUCATION LAW; A PHYSICIANS PRACTICE
14 GROUP; A HOSPITAL; A CERTIFIED HOME HEALTH AGENCY; A LONG TERM HOME
15 HEALTH CARE PROGRAM; A FEDERALLY QUALIFIED HEALTH CENTER AS DEFINED IN
16 42 U.S.C. 1395X (AA)(4); AND A LICENSED HOME CARE SERVICE AGENCY.

17 (Q) ORIGINATING SITE. THE TERM "ORIGINATING SITE" MEANS A SITE AT
18 WHICH A PATIENT IS LOCATED AT THE TIME HEALTH CARE SERVICES ARE PROVIDED
19 TO HIM OR HER BY MEANS OF A FEDERAL FOOD AND DRUG ADMINISTRATION
20 APPROVED AND INTEROPERABLE TELECOMMUNICATIONS SYSTEM.

21 (R) TELEHEALTH. THE TERM "TELEHEALTH" MEANS THE MODE OF DELIVERING
22 HEALTH CARE SERVICES BY MEANS OF INFORMATION AND COMMUNICATIONS TECHNOL-

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

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OGIES CONSISTING OF TELEPHONES, REMOTE PATIENT MONITORING DEVICES OR OTHER ELECTRONIC MEANS WHICH FACILITATE THE ASSESSMENT, DIAGNOSIS, CONSULTATION, TREATMENT, EDUCATION, CARE MANAGEMENT AND SELF MANAGEMENT OF A PATIENT'S HEALTH CARE WHILE SUCH PATIENT IS AT THE ORIGINATING SITE AND THE HEALTH CARE PROVIDER IS AT A DISTANT SITE. SUCH TERM SHALL INCLUDE TELEMEDICINE.

(S) TELEMEDICINE. THE TERM "TELEMEDICINE" MEANS THE DELIVERY OF CLINICAL HEALTH CARE SERVICES BY MEANS OF REAL TIME TWO-WAY ELECTRONIC AUDIO VISUAL COMMUNICATIONS WHICH FACILITATE THE ASSESSMENT, DIAGNOSIS, CONSULTATION, TREATMENT, EDUCATION, CARE MANAGEMENT AND SELF MANAGEMENT OF A PATIENT'S HEALTH CARE WHILE SUCH PATIENT IS AT THE ORIGINATING SITE AND THE HEALTH CARE PROVIDER IS AT A DISTANT SITE.

S 2. Subsection (i) of section 3216 of the insurance law is amended by adding a new paragraph 30 to read as follows:

(30) EVERY POLICY DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE WHICH PROVIDES COVERAGE FOR HOSPITAL, MEDICAL OR SURGICAL CARE SHALL MAKE AVAILABLE, AND IF REQUESTED BY A POLICY HOLDER, PROVIDE COVERAGE FOR SERVICES WHICH ARE OTHERWISE COVERED UNDER THE POLICY THAT ARE PROVIDED VIA TELEMEDICINE, AS DEFINED IN SECTION TWO OF THE PUBLIC HEALTH LAW, PROVIDED THAT SUCH SERVICES MEET THE REQUIREMENTS OF FEDERAL LAW, RULES AND REGULATIONS FOR MEDICARE, AND FOR THOSE TELEHEALTH SERVICES THAT ARE REQUIRED TO BE PROVIDED PURSUANT TO SUBDIVISION THREE-C OF SECTION THIRTY-SIX HUNDRED FOURTEEN OF THE PUBLIC HEALTH LAW. SUCH COVERAGE REQUIRED BY THIS PARAGRAPH MAY BE SUBJECT TO ANNUAL DEDUCTIBLES AND COINSURANCE, AND OTHER TERMS AND CONDITIONS OF COVERAGE, INCLUDING, BUT NOT LIMITED TO, UTILIZATION MANAGEMENT AND OTHER MANAGED CARE TOOLS, AS ARE CONSISTENT WITH THOSE ESTABLISHED FOR THE SAME SERVICES WHEN NOT PROVIDED VIA TELEMEDICINE OR TELEHEALTH.

S 3. Subsection (k) of section 3221 of the insurance law is amended by adding a new paragraph 19 to read as follows:

(19) EVERY GROUP OR BLANKET POLICY DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE WHICH PROVIDES COVERAGE FOR HOSPITAL, MEDICAL OR SURGICAL CARE SHALL MAKE AVAILABLE, AND IF REQUESTED BY THE GROUP POLICYHOLDER, PROVIDE COVERAGE FOR SERVICES WHICH ARE OTHERWISE COVERED UNDER THE POLICY THAT ARE PROVIDED VIA TELEMEDICINE, AS DEFINED IN SECTION TWO OF THE PUBLIC HEALTH LAW, PROVIDED THAT SUCH SERVICES MEET THE REQUIREMENTS OF FEDERAL LAW, RULES AND REGULATIONS FOR MEDICARE, AND FOR TELEHEALTH SERVICES THAT ARE, AT A MINIMUM, THOSE REQUIRED TO BE PROVIDED PURSUANT TO SUBDIVISION THREE-C OF SECTION THIRTY-SIX HUNDRED FOURTEEN OF THE PUBLIC HEALTH LAW. SUCH COVERAGE REQUIRED BY THIS PARAGRAPH MAY BE SUBJECT TO ANNUAL DEDUCTIBLES AND COINSURANCE, AND OTHER TERMS AND CONDITIONS OF COVERAGE, INCLUDING, BUT NOT LIMITED TO, UTILIZATION MANAGEMENT AND OTHER MANAGED CARE TOOLS, AS ARE CONSISTENT WITH THOSE ESTABLISHED FOR THE SAME SERVICES WHEN NOT PROVIDED VIA TELEMEDICINE OR TELEHEALTH.

S 4. Paragraph 2 of subsection (a) of section 3229 of the insurance law, as amended by chapter 659 of the laws of 1997, is amended to read as follows:

(2) a home care benefit with personal care, nursing care, adult day health care [and], respite care services, TELEMEDICINE SERVICES, AS DEFINED IN SECTION TWO OF THE PUBLIC HEALTH LAW, PROVIDED THAT SUCH TELEMEDICINE SERVICES ARE PURSUANT TO AN AGREEMENT BETWEEN A PROVIDER PARTICIPATING IN THE INSURER'S NETWORK AND THE INSURER, AND MEET THE REQUIREMENTS OF FEDERAL LAW, RULES AND REGULATIONS FOR MEDICARE, AND THOSE TELEHEALTH SERVICES THAT ARE REQUIRED TO BE PROVIDED PURSUANT TO SUBDIVISION THREE-C OF SECTION THIRTY-SIX HUNDRED FOURTEEN OF THE PUBLIC

1 HEALTH LAW, which shall provide total benefits in an amount determined
2 by regulations of the superintendent;

3 S 5. Section 4303 of the insurance law is amended by adding a new
4 subsection (oo) to read as follows:

5 (OO) EVERY CONTRACT ISSUED BY A MEDICAL EXPENSE INDEMNITY CORPORATION,
6 A HOSPITAL SERVICE CORPORATION OR A HEALTH SERVICE CORPORATION WHICH
7 PROVIDES COVERAGE FOR HOSPITAL, MEDICAL OR SURGICAL CARE SHALL MAKE
8 AVAILABLE, IF REQUESTED BY A CONTRACT HOLDER, PROVIDE COVERAGE FOR
9 SERVICES WHICH ARE OTHERWISE COVERED UNDER THE POLICY THAT ARE PROVIDED
10 VIA TELEMEDICINE, AS DEFINED IN SECTION TWO OF THE PUBLIC HEALTH LAW,
11 PROVIDED THAT SUCH SERVICES MEET THE REQUIREMENTS OF FEDERAL LAW, RULES
12 AND REGULATIONS FOR MEDICARE, AND FOR THOSE TELEHEALTH SERVICES THAT ARE
13 REQUIRED TO BE PROVIDED PURSUANT TO SUBDIVISION THREE-C OF SECTION THIR-
14 TY-SIX HUNDRED FOURTEEN OF THE PUBLIC HEALTH LAW. SUCH COVERAGE
15 REQUIRED BY THIS SUBSECTION MAY BE SUBJECT TO ANNUAL DEDUCTIBLES AND
16 COINSURANCE, AND OTHER TERMS AND CONDITIONS OF COVERAGE, INCLUDING, BUT
17 NOT LIMITED TO, UTILIZATION MANAGEMENT AND OTHER MANAGED CARE TOOLS, AS
18 ARE CONSISTENT WITH THOSE ESTABLISHED FOR THE SAME SERVICES WHEN NOT
19 PROVIDED VIA TELEMEDICINE OR TELEHEALTH.

20 S 6. The opening paragraph of section 367-u of the social services
21 law is designated subdivision 1 and a new subdivision 2 is added to read
22 as follows:

23 2. SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE BUDGET, THE COMMIS-
24 SIONER SHALL NOT EXCLUDE FROM THE PAYMENT OF MEDICAL ASSISTANCE FUNDS
25 THE PROVISION OF MEDICAL CARE THROUGH TELEMEDICINE SERVICES, AS DEFINED
26 IN SECTION TWO OF THE PUBLIC HEALTH LAW, PROVIDED THAT SUCH SERVICES
27 MEET THE REQUIREMENTS OF FEDERAL LAW, RULES AND REGULATIONS FOR THE
28 PROVISION OF MEDICAL ASSISTANCE PURSUANT TO THIS TITLE, AND FOR TELE-
29 HEALTH SERVICES THAT ARE, AT A MINIMUM, THOSE REQUIRED TO BE PROVIDED
30 PURSUANT TO SUBDIVISION THREE-C OF SECTION THIRTY-SIX HUNDRED FOURTEEN
31 OF THE PUBLIC HEALTH LAW.

32 S 7. This act shall take effect January 1, 2014 and shall apply to
33 all policies and contracts issued, renewed, modified, altered or amended
34 on or after such date.