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

3681

2013-2014 Regular Sessions

I N S E N A T E

February 11, 2013

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

AN ACT to amend the workers' compensation law, in relation to chiropractic care

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

Section 1. Legislative intent. The legislature recognizes that multiple health professionals are trained and licensed to diagnose and treat the same or similar conditions through the use of modalities, therapies, treatments, services and philosophies that vary from profession to profession. It is the specific intent of this legislature to assure that workers' compensation policies, plans and contracts that provide coverage for the diagnosis and treatment of conditions, complaints, ailments, disorders or injuries, that may be diagnosed and treated by a doctor of chiropractic, must provide equivalent access, coverage and fees for the diagnosis and treatment of those conditions, complaints or injuries by a duly licensed doctor of chiropractic, within the lawful scope of chiropractic practice even if different terminology, philosophy, services, treatments or modalities are used by the various health professions; and such equivalent coverage shall not be abridged by any regulation.

S 2. Subdivision 2 of section 13-l of the workers' compensation law, as amended by chapter 473 of the laws of 2000, is amended to read as follows:

2. (A) An employee injured under circumstances which make such injury compensable under this article, when care is required for an injury which consists solely of a condition which may lawfully be treated by a chiropractor as defined in section sixty-five hundred fifty-one of the education law may select to treat him or her, any duly registered and licensed chiropractor of the state of New York, authorized by the chair to render chiropractic care as hereinafter provided. If the injury or condition is one which is outside the limits prescribed by the education

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

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law for chiropractic care and treatment, the said chiropractor must so advise the said injured employee and instruct him or her to consult a physician of said employee's choice for appropriate care and treatment. Such physician shall thenceforth have supervision of the treatment of said condition including the future treatment to be administered to the patient by the chiropractor. A chiropractor licensed and registered to practice chiropractic in the state of New York, who is desirous of being authorized to render chiropractic care under this section and/or to conduct independent medical examinations in accordance with paragraph (b) of subdivision three of this section shall file an application for authorization under this section with the chiropractic practice committee. In such application he or she shall agree to refrain from subsequently treating for remuneration, as a private patient, any person seeking chiropractic treatment, or submitting to an independent medical examination, in connection with, or as a result of, any injury compensable under this chapter, if he or she has been removed from the list of chiropractors authorized to render chiropractic care or to conduct independent medical examinations under this chapter, or if the person seeking such treatment has been transferred from his or her care in accordance with the provisions of this section. This agreement shall run to the benefit of the injured person so treated, or examined, and shall be available to him or her as a defense in any action by such chiropractor for payment rendered by a chiropractor after he or she has been removed from the list of chiropractors authorized to render chiropractic care or to conduct independent medical examinations under this section, or after the injured person was transferred from his or her care in accordance with the provisions of this section. The chiropractic practice committee if it deems such licensed chiropractor duly qualified shall recommend to the chair that such be authorized to render chiropractic care and/or to conduct independent medical examinations under this section. Such recommendations shall be advisory to the chair only and shall not be binding or conclusive upon him or her. The chair shall prepare and establish a schedule for the state, or schedules limited to defined localities of charges and fees for chiropractic treatment and care, to be determined in accordance with and to be subject to change pursuant to rules promulgated by the chair. THE CHIROPRACTIC FEE SCHEDULE PREPARED AND ESTABLISHED BY THE CHAIR SHALL PROVIDE FOR THE PAYMENT OF REMUNERATION WHICH IS EQUIVALENT TO THAT APPLICABLE TO CARE OR TREATMENT PROVIDED BY PHYSICIANS IN THE DIAGNOSIS, TREATMENT AND MANAGEMENT OF THE SAME OR SIMILAR CONDITIONS, INJURIES, COMPLAINTS, DISORDERS OR AILMENTS, EVEN IF DIFFERING NOMENCLATURE IS USED TO DESCRIBE THE CONDITION, INJURY, TREATMENT OR SERVICE. Before preparing such schedule for the state or schedules for limited localities the chair shall request the chiropractic practice committee to submit to him or her a report on the amount of remuneration deemed by such committee to be fair and adequate for the types of chiropractic care to be rendered under this chapter, but consideration shall be given to the view of other interested parties, the amounts payable by the employer for such treatment and services shall be the fees and charges established by such schedule. CHIROPRACTIC CARE AND TREATMENT MAY BE SUBJECT TO REASONABLE UTILIZATION REVIEW, PROVIDED THAT ANY SUCH REVIEW: (I) SHALL NOT DISCRIMINATE AGAINST CHIROPRACTIC CARE, AND (II) SHALL BE NO MORE RESTRICTIVE THAN THAT APPLICABLE TO CARE OR TREATMENT PROVIDED BY PHYSICIANS IN THE DIAGNOSIS, TREATMENT AND MANAGEMENT OF THE SAME OR SIMILAR CONDITIONS, INJURIES, COMPLAINTS, DISORDERS OR AILMENTS, EVEN IF DIFFERING NOMENCLATURE IS USED TO DESCRIBE THE CONDITION, INJURY, TREATMENT OR SERVICE. NOTHING IN THIS SUBDIVISION

SHALL BE CONSTRUED AS IMPEDING OR PREVENTING EITHER THE PROVISION OR COVERAGE OF CHIROPRACTIC CARE AND TREATMENT BY DULY LICENSED DOCTORS OF CHIROPRACTIC, WITHIN THE LAWFUL SCOPE OF CHIROPRACTIC PRACTICE, IN HOSPITAL FACILITIES ON STAFF OR EMPLOYEE BASIS.

(B) EVERY POLICY WHICH INCLUDES COVERAGE FOR PHYSICIAN SERVICES IN A PHYSICIAN'S OFFICE, OTHER THAN A POLICY THAT PROVIDES MANAGED CARE COVERAGE, SHALL PROVIDE COVERAGE FOR CARE PROVIDED IN THE PRACTICE OF CHIROPRACTIC, AS DEFINED IN SECTION SIXTY-FIVE HUNDRED FIFTY-ONE OF THE EDUCATION LAW, PROVIDED BY A DOCTOR OF CHIROPRACTIC LICENSED PURSUANT TO ARTICLE ONE HUNDRED THIRTY-TWO OF THE EDUCATION LAW, IN CONNECTION WITH THE DETECTION OR CORRECTION BY MANUAL OR MECHANICAL MEANS OF STRUCTURAL IMBALANCE, DISTORTION OR SUBLUXATION IN THE HUMAN BODY FOR THE PURPOSE OF REMOVING NERVE INTERFERENCE, AND THE EFFECTS THEREOF, WHERE SUCH INTERFERENCE IS THE RESULT OF OR RELATED TO DISTORTION, MISALIGNMENT OR SUBLUXATION OF OR IN THE VERTEBRAL COLUMN. CHIROPRACTIC CARE AND SERVICES MAY BE SUBJECT TO REASONABLE FEE SCHEDULES AND REASONABLE UTILIZATION REVIEW, PROVIDED THAT ANY SUCH SCHEDULES AND REVIEW: (I) SHALL NOT DISCRIMINATE AGAINST CHIROPRACTIC CARE, AND (II) INDIVIDUALLY AND COLLECTIVELY SHALL BE NO MORE RESTRICTIVE THAN THOSE APPLICABLE UNDER THE SAME POLICY TO CARE OR SERVICES PROVIDED BY PHYSICIANS IN THE DIAGNOSIS, TREATMENT AND MANAGEMENT OF THE SAME OR SIMILAR CONDITIONS, INJURIES, COMPLAINTS, DISORDERS OR AILMENTS, EVEN IF DIFFERING NOMENCLATURE IS USED TO DESCRIBE THE CONDITION, INJURY, COMPLAINT, TREATMENT OR SERVICE. NOTHING IN THIS SUBDIVISION SHALL BE CONSTRUED AS IMPEDING OR PREVENTING EITHER THE PROVISION OR COVERAGE OF CHIROPRACTIC CARE AND SERVICES BY DULY LICENSED DOCTORS OF CHIROPRACTIC, WITHIN THE LAWFUL SCOPE OF CHIROPRACTIC PRACTICE, IN HOSPITAL FACILITIES ON A STAFF OR EMPLOYEE BASIS.

(C) THE COVERAGE REQUIRED BY THIS SUBDIVISION SHALL NOT BE ABRIDGED BY ANY REGULATION PROMULGATED BY THE CHAIR, THE BOARD OR THE SUPERINTENDENT OF FINANCIAL SERVICES.

S 3. The workers' compensation law is amended by adding a new section 356 to read as follows:

S 356. PREFERRED PROVIDER ORGANIZATIONS; CHIROPRACTIC TREATMENT. 1. EACH PREFERRED PROVIDER ORGANIZATION SHALL PROVIDE COVERAGE FOR CARE AND TREATMENT PROVIDED IN THE COURSE OF THE PRACTICE OF CHIROPRACTIC, AS DEFINED IN SECTION SIXTY-FIVE HUNDRED FIFTY-ONE OF THE EDUCATION LAW, PROVIDED BY A DOCTOR OF CHIROPRACTIC LICENSED PURSUANT TO ARTICLE ONE HUNDRED THIRTY-TWO OF THE EDUCATION LAW, IN CONNECTION WITH THE DETECTION OR CORRECTION BY MANUAL OR MECHANICAL MEANS OF STRUCTURAL IMBALANCE, DISTORTION OR SUBLUXATION IN THE HUMAN BODY FOR THE PURPOSE OF REMOVING NERVE INTERFERENCE, AND THE EFFECTS THEREOF, WHERE SUCH INTERFERENCE IS THE RESULT OF OR RELATED TO DISTORTION, MISALIGNMENT OR SUBLUXATION OF OR IN THE VERTEBRAL COLUMN. CHIROPRACTIC CARE AND TREATMENT MAY BE SUBJECT TO REASONABLE FEE SCHEDULES, AND REASONABLE UTILIZATION REVIEW, PROVIDED THAT ANY SUCH SCHEDULES AND REVIEW: (A) SHALL NOT DISCRIMINATE AGAINST CHIROPRACTIC CARE; AND (B) INDIVIDUALLY AND COLLECTIVELY SHALL BE NO MORE RESTRICTIVE THAN THOSE APPLICABLE WITHIN THE PREFERRED PROVIDER ORGANIZATION TO CARE OR TREATMENT PROVIDED BY PHYSICIANS IN THE DIAGNOSIS, TREATMENT AND MANAGEMENT OF THE SAME OR SIMILAR CONDITIONS, INJURIES OR COMPLAINTS, EVEN IF DIFFERING NOMENCLATURE IS USED TO DESCRIBE THE CONDITION, INJURY, COMPLAINT, TREATMENT OR SERVICE. NOTHING IN THIS SECTION SHALL BE CONSTRUED AS IMPEDING OR PREVENTING EITHER THE PROVISION OR COVERAGE OF CHIROPRACTIC CARE AND TREATMENT BY DULY LICENSED DOCTORS OF CHIROPRACTIC, WITHIN THE LAWFUL SCOPE OF

CHIROPRACTIC PRACTICE, IN HOSPITAL FACILITIES ON A STAFF OR EMPLOYEE BASIS.

2. EACH PREFERRED PROVIDER ORGANIZATION SHALL INCLUDE A SUFFICIENT NUMBER OF CHIROPRACTORS WITHIN EACH GEOGRAPHIC AREA TO ASSURE ACCESS TO CHIROPRACTIC TREATMENT THAT IS EQUAL TO THAT AVAILABLE TO MEDICAL TREATMENT WITHIN THE SAME PREFERRED PROVIDER ORGANIZATION.

3. AN EMPLOYEE MAY SEEK CHIROPRACTIC TREATMENT FROM OUTSIDE THE PREFERRED PROVIDER ORGANIZATION THIRTY DAYS AFTER HIS OR HER VISIT TO A PREFERRED PROVIDER ORGANIZATION PROVIDER. IN THE EVENT THAT SUCH EMPLOYEE SEEKS CHIROPRACTIC TREATMENT OUTSIDE THE PREFERRED PROVIDER ORGANIZATION, THE EMPLOYER MAY REQUIRE A SECOND OPINION FROM A PROVIDER WITHIN THE PREFERRED PROVIDER ORGANIZATION.

4. AN EMPLOYEE MAY SEEK A SECOND OPINION WITH RESPECT TO SUCH CHIROPRACTIC TREATMENT FROM ANOTHER PROVIDER WITHIN THE PREFERRED PROVIDER ORGANIZATION AT ANY TIME.

5. THE COVERAGE REQUIRED BY THIS SECTION SHALL NOT BE ABRIDGED BY ANY REGULATION PROMULGATED BY THE CHAIR OR THE BOARD.

S 4. This act shall take effect January 1, 2014 and shall apply to policies and contracts issued, renewed, modified, altered or amended on or after such effective date.