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I N   S E N A T E

June 13, 2014

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

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 TELEMEDICINE OR TELEHEALTH; UNLESS THE TERM IS OTHERWISE  
7 DEFINED WITH RESPECT TO THE PROVISION IN WHICH IT IS USED.  
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, ACTING WITHIN HIS OR HER  
14 SCOPE OF PRACTICE, INCLUDING ANY LAWFUL PRACTICE ENTITY OF SUCH HEALTH  
15 CARE PRACTITIONERS; A HOSPITAL AS DEFINED IN ARTICLE TWENTY-EIGHT OF  
16 THIS CHAPTER; HOME CARE SERVICES AGENCY AS DEFINED IN ARTICLE THIRTY-SIX  
17 OF THIS CHAPTER; OR A HOSPICE AS DEFINED IN ARTICLE FORTY OF THIS CHAP-  
18 TER; UNLESS THE TERM IS OTHERWISE DEFINED BY LAW WITH RESPECT TO THE  
19 PROVISION IN WHICH IT IS USED.  
20     (Q) ORIGINATING SITE. THE TERM "ORIGINATING SITE" MEANS A SITE AT  
21 WHICH A PATIENT IS LOCATED AT THE TIME HEALTH CARE SERVICES ARE PROVIDED  
22 TO HIM OR HER BY MEANS OF TELEMEDICINE OR TELEHEALTH, UNLESS THE TERM IS  
23 OTHERWISE DEFINED WITH RESPECT TO THE PROVISION IN WHICH IT IS USED.  
24 PROVIDED, HOWEVER, NOTWITHSTANDING ANY OTHER PROVISION OF LAW, INSURERS  
25 AND PROVIDERS MAY AGREE TO ALTERNATIVE SITING ARRANGEMENTS DEEMED APPRO-  
26 PRIATED BY THE PARTIES.  
27     (R) TELEHEALTH. THE TERM "TELEHEALTH" MEANS DELIVERING HEALTH CARE  
28 SERVICES BY MEANS OF INFORMATION AND COMMUNICATIONS TECHNOLOGIES

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

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1 CONSISTING OF TELEPHONES, REMOTE PATIENT MONITORING DEVICES OR OTHER  
2 ELECTRONIC MEANS WHICH FACILITATE THE ASSESSMENT, DIAGNOSIS, CONSULTA-  
3 TION, TREATMENT, EDUCATION, CARE MANAGEMENT AND SELF MANAGEMENT OF A  
4 PATIENT'S HEALTH CARE WHILE SUCH PATIENT IS AT THE ORIGINATING SITE AND  
5 THE HEALTH CARE PROVIDER IS AT A DISTANT SITE; CONSISTENT WITH APPLICA-  
6 BLE FEDERAL LAW AND REGULATIONS; UNLESS THE TERM IS OTHERWISE DEFINED BY  
7 LAW WITH RESPECT TO THE PROVISION IN WHICH IT IS USED.

8 (S) TELEMEDICINE. THE TERM "TELEMEDICINE" MEANS THE DELIVERY OF CLIN-  
9 ICAL HEALTH CARE SERVICES BY MEANS OF REAL TIME TWO-WAY ELECTRONIC AUDIO  
10 VISUAL COMMUNICATIONS, INCLUDING THE APPLICATION OF SECURE VIDEO CONFER-  
11 ENCING OR STORE AND FORWARD TECHNOLOGY TO PROVIDE OR SUPPORT HEALTHCARE  
12 DELIVERY, WHICH FACILITATE THE ASSESSMENT, DIAGNOSIS, CONSULTATION,  
13 TREATMENT, EDUCATION, CARE MANAGEMENT AND SELF MANAGEMENT OF A PATIENT'S  
14 HEALTH CARE WHILE SUCH PATIENT IS AT THE ORIGINATING SITE AND THE HEALTH  
15 CARE PROVIDER IS AT A DISTANT SITE; CONSISTENT WITH APPLICABLE FEDERAL  
16 LAW AND REGULATIONS; UNLESS THE TERM IS OTHERWISE DEFINED BY LAW WITH  
17 RESPECT TO THE PROVISION IN WHICH IT IS USED.

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

20 (30) EVERY POLICY DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE WHICH  
21 PROVIDES COMPREHENSIVE COVERAGE FOR HOSPITAL, MEDICAL OR SURGICAL CARE  
22 SHALL MAKE AVAILABLE AND, IF REQUESTED BY A POLICY HOLDER, PROVIDE  
23 COVERAGE FOR SERVICES WHICH ARE OTHERWISE COVERED UNDER THE POLICY THAT  
24 ARE PROVIDED (A) VIA TELEMEDICINE, AS DEFINED IN SECTION TWO OF THE  
25 PUBLIC HEALTH LAW, PROVIDED THAT SUCH SERVICES MEET THE REQUIREMENTS OF  
26 FEDERAL LAW, RULES AND REGULATIONS FOR MEDICARE (OTHER THAN ANY ORIGI-  
27 NATING SITE RESTRICTION REQUIREMENTS); OR (B) TELEHEALTH SERVICES, AS  
28 DEFINED IN SECTION TWO OF THE PUBLIC HEALTH LAW, PROVIDED THAT SUCH  
29 SERVICES ARE CONSISTENT WITH SUBDIVISION THREE-C OF SECTION THIRTY-SIX  
30 HUNDRED FOURTEEN OF THE PUBLIC HEALTH LAW. THE PROVIDER OF SUCH SERVICES  
31 SHALL MEET THE TERMS AND CONDITIONS (TO THE EXTENT NOT INCONSISTENT WITH  
32 THIS PARAGRAPH) OF HIS OR HER CONTRACT WITH THE INSURER. SUCH COVERAGE  
33 REQUIRED BY THIS PARAGRAPH MAY BE SUBJECT TO ANNUAL DEDUCTIBLES AND  
34 COINSURANCE, AND OTHER TERMS AND CONDITIONS OF COVERAGE, INCLUDING, BUT  
35 NOT LIMITED TO, UTILIZATION MANAGEMENT AND OTHER MANAGED CARE TOOLS, AS  
36 ARE CONSISTENT WITH THOSE ESTABLISHED FOR THE SAME SERVICES WHEN NOT  
37 PROVIDED VIA TELEMEDICINE OR TELEHEALTH.

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

40 (19) EVERY GROUP OR BLANKET POLICY DELIVERED OR ISSUED FOR DELIVERY IN  
41 THIS STATE WHICH PROVIDES COMPREHENSIVE COVERAGE FOR HOSPITAL, MEDICAL  
42 OR SURGICAL CARE SHALL MAKE AVAILABLE AND, IF REQUESTED BY THE GROUP  
43 POLICYHOLDER, PROVIDE COVERAGE FOR SERVICES WHICH ARE OTHERWISE COVERED  
44 UNDER THE POLICY THAT ARE PROVIDED (A) VIA TELEMEDICINE, AS DEFINED IN  
45 SECTION TWO OF THE PUBLIC HEALTH LAW, PROVIDED THAT SUCH SERVICES MEET  
46 THE REQUIREMENTS OF FEDERAL LAW, RULES AND REGULATIONS FOR MEDICARE  
47 (OTHER THAN ANY ORIGINATING SITE RESTRICTION REQUIREMENTS); OR (B) TELE-  
48 HEALTH SERVICES, AS DEFINED IN SECTION TWO OF THE PUBLIC HEALTH LAW,  
49 PROVIDED THAT SUCH SERVICES ARE CONSISTENT WITH SUBDIVISION THREE-C OF  
50 SECTION THIRTY-SIX HUNDRED FOURTEEN OF THE PUBLIC HEALTH LAW. THE  
51 PROVIDER OF SUCH SERVICES SHALL MEET THE TERMS AND CONDITIONS (TO THE  
52 EXTENT NOT INCONSISTENT WITH THIS PARAGRAPH) OF HIS OR HER CONTRACT WITH  
53 THE INSURER. SUCH COVERAGE REQUIRED BY THIS PARAGRAPH MAY BE SUBJECT TO  
54 ANNUAL DEDUCTIBLES AND COINSURANCE, AND OTHER TERMS AND CONDITIONS OF  
55 COVERAGE, INCLUDING, BUT NOT LIMITED TO, UTILIZATION MANAGEMENT AND

1 OTHER MANAGED CARE TOOLS, AS ARE CONSISTENT WITH THOSE ESTABLISHED FOR  
2 THE SAME SERVICES WHEN NOT PROVIDED VIA TELEMEDICINE OR TELEHEALTH.

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

6 (2) a home care benefit with personal care, nursing care, adult day  
7 health care [and], respite care services, TELEMEDICINE SERVICES, AS  
8 DEFINED IN SECTION TWO OF THE PUBLIC HEALTH LAW, PROVIDED THAT SUCH  
9 TELEMEDICINE SERVICES ARE PURSUANT TO AN AGREEMENT BETWEEN A PROVIDER  
10 PARTICIPATING IN THE INSURER'S NETWORK AND THE INSURER, AND MEET THE  
11 REQUIREMENTS OF FEDERAL LAW, RULES AND REGULATIONS FOR MEDICARE, OR  
12 TELEHEALTH SERVICES, AS DEFINED BY SECTION TWO OF THE PUBLIC HEALTH LAW,  
13 PROVIDED THAT SUCH SERVICES ARE CONSISTENT WITH SUBDIVISION THREE-C OF  
14 SECTION THIRTY-SIX HUNDRED FOURTEEN OF THE PUBLIC HEALTH LAW. THE  
15 PROVIDER OF SUCH SERVICES SHALL MEET THE TERMS AND CONDITIONS (TO THE  
16 EXTENT NOT INCONSISTENT WITH THIS PARAGRAPH) OF HIS OR HER CONTRACT WITH  
17 THE INSURER, which shall provide total benefits in an amount determined  
18 by regulations of the superintendent;

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

21 (OO) EVERY CONTRACT ISSUED BY A MEDICAL EXPENSE INDEMNITY CORPORATION,  
22 A HOSPITAL SERVICE CORPORATION OR A HEALTH SERVICE CORPORATION WHICH  
23 PROVIDES COMPREHENSIVE COVERAGE FOR HOSPITAL, MEDICAL OR SURGICAL CARE  
24 SHALL MAKE AVAILABLE AND, IF REQUESTED BY A CONTRACT HOLDER, PROVIDE  
25 COVERAGE FOR SERVICES WHICH ARE OTHERWISE COVERED UNDER THE POLICY THAT  
26 ARE PROVIDED (1) VIA TELEMEDICINE, AS DEFINED IN SECTION TWO OF THE  
27 PUBLIC HEALTH LAW, PROVIDED THAT SUCH SERVICES MEET THE REQUIREMENTS OF  
28 FEDERAL LAW, RULES AND REGULATIONS FOR MEDICARE (OTHER THAN ANY ORIGI-  
29 NATING SITE RESTRICTION REQUIREMENTS); OR (2) TELEHEALTH SERVICES, AS  
30 DEFINED IN SECTION TWO OF THE PUBLIC HEALTH LAW, PROVIDED THAT SUCH  
31 SERVICES ARE CONSISTENT WITH SUBDIVISION THREE-C OF SECTION THIRTY-SIX  
32 HUNDRED FOURTEEN OF THE PUBLIC HEALTH LAW. THE PROVIDER OF SUCH SERVICES  
33 SHALL MEET THE TERMS AND CONDITIONS (TO THE EXTENT NOT INCONSISTENT WITH  
34 THIS SUBSECTION) OF HIS OR HER CONTRACT WITH THE INSURER. SUCH COVERAGE  
35 REQUIRED BY THIS SUBSECTION MAY BE SUBJECT TO ANNUAL DEDUCTIBLES AND  
36 COINSURANCE, AND OTHER TERMS AND CONDITIONS OF COVERAGE, INCLUDING, BUT  
37 NOT LIMITED TO, UTILIZATION MANAGEMENT AND OTHER MANAGED CARE TOOLS, AS  
38 ARE CONSISTENT WITH THOSE ESTABLISHED FOR THE SAME SERVICES WHEN NOT  
39 PROVIDED VIA TELEMEDICINE OR TELEHEALTH.

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

43 2. SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE BUDGET, THE COMMIS-  
44 SIONER SHALL NOT EXCLUDE FROM THE PAYMENT OF MEDICAL ASSISTANCE FUNDS  
45 THE PROVISION OF MEDICAL CARE THROUGH TELEMEDICINE SERVICES, AS DEFINED  
46 IN SECTION TWO OF THE PUBLIC HEALTH LAW, PROVIDED THAT SUCH SERVICES  
47 MEET THE REQUIREMENTS OF FEDERAL LAW, RULES AND REGULATIONS FOR THE  
48 PROVISION OF MEDICAL ASSISTANCE PURSUANT TO THIS TITLE, AND FOR TELE-  
49 HEALTH SERVICES, AS DEFINED BY SECTION TWO OF THE PUBLIC HEALTH LAW,  
50 THAT ARE, AT A MINIMUM, THOSE REQUIRED TO BE PROVIDED PURSUANT TO SUBDI-  
51 VISION THREE-C OF SECTION THIRTY-SIX HUNDRED FOURTEEN OF THE PUBLIC  
52 HEALTH LAW.

53 S 7. This act shall take effect January 1, 2015 and shall apply to  
54 all policies and contracts issued, renewed, modified, altered or amended  
55 on or after such date.