

STATE OF NEW YORK

2770--A

2019-2020 Regular Sessions

IN ASSEMBLY

January 25, 2019

Introduced by M. of A. BICHOTTE, SOLAGES, JEAN-PIERRE, BARRON, WALKER, THIELE -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommended to said committee

AN ACT to amend the public health law, in relation to enacting the Jonah Bichotte Cowan law relating to pre-term labor care and directing the commissioner of health to require hospitals to provide pre-term labor patients with information regarding the potential health effects of pre-term labor and pre-term delivery on an expectant mother and on her fetus; and to amend the insurance law, in relation to requiring insurance policies to provide coverage for pre-term labor hospitalizations, home visits to monitor pre-term labor patients and counseling

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Short title. This act shall be known and may be cited as
2 the "Jonah Bichotte Cowan law".

3 § 2. The public health law is amended by adding a new section 2509 to
4 read as follows:

5 § 2509. Pre-term labor care. 1. When an expectant mother presents
6 herself at a hospital with concerns about being in pre-term labor, the
7 hospital shall:

8 (a) determine whether the expectant mother is in pre-term labor;

9 (b) upon making a diagnosis of pre-term labor, admit the expectant
10 mother to the hospital or treat her in the emergency room for close
11 observation and continuous monitoring until it is deemed medically safe
12 to release her from the hospital; and

13 (c) provide the expectant mother with information concerning pre-term
14 labor and the potential health effects of pre-term labor and premature
15 birth delivery on the mother and on her fetus as required by section
16 twenty-eight hundred three-w of this chapter.

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

LBD00398-03-9

2. (a) If the expectant mother opts not to remain at the hospital, hospital personnel shall contact the expectant mother's health insurance company and ascertain whether her coverage offers:

(1) the option of having a visiting nurse visit the expectant mother at her home; and/or

(2) the option of visits with a therapist to assist with the expectant mother and her family with their emotional needs during the period of pre-term labor.

(b) If insurance coverage is available for treatment as specified in paragraph (a) of this subdivision, and if requested to do so by the expectant mother, the hospital shall make preliminary arrangements for such care.

3. As used in this section:

(a) "Hospital" means a general hospital as defined in section twenty-eight hundred one of this chapter.

(b) (i) "Pre-term labor" means the commencement of regular contractions of the uterus causing palpable changes in the cervix that start between twenty weeks and thirty-six weeks and six days of pregnancy. Such changes in the cervix include, but are not limited to, effacement and dilation.

(ii) "Pre-term labor" does not include labor resulting in a miscarriage which occurs prior to twenty weeks of pregnancy.

(c) "Therapist" means a physician, psychiatrist or psychologist or a licensed clinical social worker within the lawful scope of his or her practice who provides psychiatric or psychological services or for the diagnosis and treatment of mental, nervous or emotional disorders and ailments as described in subparagraph (D) of paragraph four of subsection (1) of section thirty-two hundred twenty-one of the insurance law or subsection (i) of section forty-three hundred three of the insurance law.

§ 3. The public health law is amended by adding a new section 2803-w to read as follows:

§ 2803-w. Information for pre-term labor patients. 1. (a) The commissioner shall prepare and produce informational materials for distribution by hospitals to expectant mothers who present themselves at the hospital with concerns of suspected pre-term labor. The commissioner shall also make such information available on the department's website.

(b) Such materials shall contain the following information:

(1) brief definitions or descriptions of pre-term labor and premature birth;

(2) information regarding the risks that pre-term labor and premature birth pose to the expectant mother and her fetus;

(3) a clearly communicated statement that insurance companies doing business in this state are required to provide coverage for medically indicated pre-term labor and premature delivery;

(4) a clearly communicated statement that Medicaid benefits providing coverage for medically indicated pre-term labor and premature delivery is available for all pregnant women and children residing in New York state who meet income requirements regardless of immigration status;

(5) a statement urging expectant mothers to contact their insurance company regarding their benefits; and

(6) such other materials as deemed appropriate by the commissioner.

(c) The commissioner shall consult with the department of health and mental hygiene and organizations with expertise in health and health care systems in development of the informational materials required by this section.

2. Hospitals shall provide the materials prepared by the commissioner pursuant to this section to any expectant mother who presents herself at the hospital. Hospitals may also elect to distribute additional explanatory material along with such materials.

§ 4. Item (i) of subparagraph (A) of paragraph 10 of subsection (i) of section 3216 of the insurance law, as amended by chapter 238 of the laws of 2010, is amended and two new subparagraphs (C) and (D) are added to read as follows:

(i) Every policy which provides hospital, surgical or medical coverage shall provide coverage for maternity care, including hospital, surgical or medical care to the same extent that hospital, surgical or medical coverage is provided for illness or disease under the policy. Such maternity care coverage, other than coverage for perinatal complications, shall include inpatient hospital coverage for expectant mothers in pre-term labor, inpatient hospital coverage for mother and for newborn for at least forty-eight hours after childbirth for any delivery other than a caesarean section, and for at least ninety-six hours after a caesarean section. Such coverage for maternity care shall include the services of a midwife licensed pursuant to article one hundred forty of the education law, practicing consistent with section sixty-nine hundred fifty-one of the education law and affiliated or practicing in conjunction with a facility licensed pursuant to article twenty-eight of the public health law, but no insurer shall be required to pay for duplicative routine services actually provided by both a licensed midwife and a physician.

(C) Coverage provided under this subsection for care and treatment during pregnancy shall include provision for part-time or intermittent home nursing care by or under the supervision of a registered professional nurse to monitor expectant mothers who have been diagnosed by a physician as having experienced pre-term labor, and for the administration of Makena (17-alpha hydroxyprogesterone) by such nurse. As used in this subsection, "pre-term labor" means the commencement of regular contractions of the uterus causing palpable changes in the cervix that start between twenty weeks and thirty-six weeks and six days of pregnancy, including, but not limited to, effacement and dilation.

(D) Coverage provided under this subsection for care and treatment during pregnancy shall include provisions for visits with a physician, psychiatrist or psychologist or a licensed clinical social worker within the lawful scope of his or her practice who provides psychiatric or psychological services or for the diagnosis and treatment of mental, nervous or emotional disorders and ailments for assistance with emotional issues experienced by an expectant mother and the family of an expectant mother who has:

(i) lost a fetus through miscarriage or stillbirth;
(ii) lost a child within a month after the birth of the child; or
(iii) been diagnosed by a physician as having experienced pre-term labor.

§ 5. Item (i) of subparagraph (A) of paragraph 5 of subsection (k) of section 3221 of the insurance law, as amended by chapter 238 of the laws of 2010, is amended and two new subparagraphs (C) and (D) are added to read as follows:

(i) Every group or blanket policy delivered or issued for delivery in this state which provides hospital, surgical or medical coverage shall include coverage for maternity care, including hospital, surgical or medical care to the same extent that coverage is provided for illness or disease under the policy. Such maternity care coverage, other than

1 coverage for perinatal complications, shall include inpatient hospital
2 coverage for expectant mothers in pre-term labor, inpatient hospital
3 coverage for mother and newborn for at least forty-eight hours after
4 childbirth for any delivery other than a caesarean section, and for at
5 least ninety-six hours after a caesarean section. Such coverage for
6 maternity care shall include the services of a midwife licensed pursuant
7 to article one hundred forty of the education law, practicing consistent
8 with section sixty-nine hundred fifty-one of the education law and
9 affiliated or practicing in conjunction with a facility licensed pursu-
10 ant to article twenty-eight of the public health law, but no insurer
11 shall be required to pay for duplicative routine services actually
12 provided by both a licensed midwife and a physician.

13 (C) Coverage provided under this subsection for care and treatment
14 during pregnancy shall include provision for part-time or intermittent
15 home nursing care by or under the supervision of a registered profes-
16 sional nurse to monitor expectant mothers who have been diagnosed by a
17 physician as having experienced pre-term labor, and for the adminis-
18 tration of Makena (17-alpha hydroxyprogesterone) by such nurse. As used
19 in this subsection, "pre-term labor" means the commencement of regular
20 contractions of the uterus causing palpable changes in the cervix that
21 start between twenty weeks and thirty-six weeks and six days of pregnan-
22 cy, including, but not limited to, effacement and dilation.

23 (D) Coverage provided under this subsection for care and treatment
24 during pregnancy shall include provisions for visits with a physician,
25 psychiatrist or psychologist or a licensed clinical social worker within
26 the lawful scope of his or her practice who provides psychiatric or
27 psychological services or for the diagnosis and treatment of mental,
28 nervous or emotional disorders and ailments for assistance with
29 emotional issues experienced by an expectant mother and the family of an
30 expectant mother who has:

31 (i) lost a fetus through miscarriage or stillbirth;
32 (ii) lost a child within a month after the birth of the child; or
33 (iii) been diagnosed by a physician as having experienced pre-term
34 labor.

35 § 6. Subparagraph (A) of paragraph 1 of subsection (c) of section 4303
36 of the insurance law, as amended by chapter 238 of the laws of 2010, is
37 amended and two new paragraphs 3 and 4 are added to read as follows:

38 (A) Every contract issued by a corporation subject to the provisions
39 of this article which provides hospital service, medical expense indem-
40 nity or both shall provide coverage for maternity care including hospi-
41 tal, surgical or medical care to the same extent that hospital service,
42 medical expense indemnity or both are provided for illness or disease
43 under the contract. Such maternity care coverage, other than coverage
44 for perinatal complications, shall include inpatient hospital coverage
45 for expectant mothers in pre-term labor, inpatient hospital coverage for
46 mother and for newborn for at least forty-eight hours after childbirth
47 for any delivery other than a caesarean section, and for at least nine-
48 ty-six hours following a caesarean section. Such coverage for maternity
49 care shall include the services of a midwife licensed pursuant to arti-
50 cle one hundred forty of the education law, practicing consistent with
51 section sixty-nine hundred fifty-one of the education law and affiliated
52 or practicing in conjunction with a facility licensed pursuant to arti-
53 cle twenty-eight of the public health law, but no insurer shall be
54 required to pay for duplicative routine services actually provided by
55 both a licensed midwife and a physician.

1 (3) Coverage provided under this subsection for care and treatment
2 during pregnancy shall include provision for part-time or intermittent
3 home nursing care by or under the supervision of a registered profes-
4 sional nurse to monitor expectant mothers who have been diagnosed by a
5 physician as having experienced pre-term labor, and for the adminis-
6 tration of Makena (17-alpha hydroxyprogesterone) by such nurse. As used
7 in this subsection, "pre-term labor" means the commencement of regular
8 contractions of the uterus causing palpable changes in the cervix that
9 start between twenty weeks and thirty-six weeks and six days of pregnan-
10 cy, including, but not limited to, effacement and dilation.

11 (4) Coverage provided under this subsection for care and treatment
12 during pregnancy shall include provisions for visits with a physician,
13 psychiatrist or psychologist or a licensed clinical social worker within
14 the lawful scope of his or her practice who provides psychiatric or
15 psychological services or for the diagnosis and treatment of mental,
16 nervous or emotional disorders and ailments for assistance with
17 emotional issues experienced by an expectant mother and the family of an
18 expectant mother who has:

19 (A) lost a fetus through miscarriage or stillbirth;

20 (B) lost a child within a month after the birth of the child; or

21 (C) been diagnosed by a physician as having experienced pre-term
22 labor.

23 § 7. This act shall take effect on the sixtieth day after it shall
24 have become a law. Effective immediately the addition, amendment and/or
25 repeal of any rule or regulation necessary for the implementation of
26 this act on its effective date are authorized to be made and completed
27 on or before such date.