

STATE OF NEW YORK

7161

IN SENATE

January 10, 2020

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

AN ACT to amend the public health law and the executive law, in relation to HIV post-exposure prophylaxis and other health care services for sexual assault victims; and to amend a chapter of the laws of 2019, amending the public health law and the executive law relating to HIV post-exposure prophylaxis and other health care services for sexual assault victims, as proposed in legislative bills numbers S. 2279-A and A. 1204-A in relation to the effectiveness thereof

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

Section 1. Subdivision 1 of section 2805-i of the public health law, as amended by section 1 of part HH of chapter 57 of the laws of 2018, paragraph (c) as amended by a chapter of the laws of 2019, amending the public health law and the executive law relating to HIV post-exposure prophylaxis and other health care services for sexual assault victims, as proposed in legislative bills numbers S. 2279-A and A. 1204-A, is amended to read as follows:

1. Every hospital providing treatment to alleged victims of a sexual offense shall be responsible for:

(a) maintaining sexual offense evidence and the chain of custody as provided in subdivision two of this section;

(b) informing sexual offense victims of the availability of rape crisis and local victim assistance organizations, if any, in the geographic area served by the hospital, and contacting a rape crisis or local victim assistance organization~~[, if any, providing victim assistance to the geographic area served by that hospital]~~ to establish the coordination of non-medical services to sexual offense victims who request such coordination and services;

(c) offering and making available appropriate HIV post-exposure treatment therapies; including a ~~[full regimen]~~ seven day starter pack of HIV post-exposure prophylaxis for a person eighteen years of age or older, or the full regimen of HIV post-exposure prophylaxis for a person less than eighteen years of age, in cases where it has been determined, in

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

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1 accordance with guidelines issued by the commissioner, that a signif-
2 icant exposure to HIV has occurred, and informing the victim that
3 payment assistance for such therapies and other crime related expenses
4 may be available from the office of victim services pursuant to the
5 provisions of article twenty-two of the executive law. With the consent
6 of the victim of a sexual assault, the hospital emergency room depart-
7 ment shall provide or arrange for an appointment for medical follow-up
8 related to HIV post-exposure prophylaxis and other care as appropriate[
9 ~~and inform the victim that payment assistance for such care may be~~
10 ~~available from the office of victim services pursuant to the provisions~~
11 ~~of article twenty two of the executive law~~]; and

12 (d) ensuring sexual assault survivors are not billed for sexual
13 assault forensic exams and are notified orally and in writing of the
14 option to decline to provide private health insurance information and
15 have the office of victim services reimburse the hospital for the exam
16 pursuant to subdivision thirteen of section six hundred thirty-one of
17 the executive law.

18 § 2. Subdivision 1 of section 201 of the public health law is amended
19 by adding a new paragraph (x) to read as follows:

20 (x) produce an annual report analyzing the costs related to the sexual
21 assault examination direct reimbursement program as created under subdi-
22 vision thirteen of section six hundred thirty-one of the executive law
23 and provide such report to the office of victim services on or before
24 September first of each year. Such report shall be provided to the
25 governor, temporary president of the senate and the speaker of the
26 assembly.

27 § 3. Subdivision 13 of section 631 of the executive law, as amended by
28 a chapter of the laws of 2019, amending the public health law and the
29 executive law relating to HIV post-exposure prophylaxis and other health
30 care services for sexual assault victims, as proposed in legislative
31 bills numbers S. 2279-A and A. 1204-A, is amended to read as follows:

32 13. (a) Notwithstanding any other provision of law, rule, or regu-
33 lation to the contrary, when any New York state accredited hospital,
34 accredited sexual assault examiner program, or licensed health care
35 provider furnishes services to any sexual assault survivor, including
36 but not limited to a health care forensic examination in accordance with
37 the sex offense evidence collection protocol and standards established
38 by the department of health, such hospital, sexual assault examiner
39 program, or licensed healthcare provider shall provide such services to
40 the person without charge and shall bill the office directly. The
41 office, in consultation with the department of health, shall define the
42 specific services to be covered by the sexual assault forensic exam
43 reimbursement fee, which must include at a minimum forensic examiner
44 services, hospital or healthcare facility services related to the exam,
45 and any necessary related laboratory tests [~~and necessary~~] or pharmaceu-
46 ticals; including but not limited to HIV post-exposure prophylaxis
47 provided by a hospital emergency room at the time of the forensic rape
48 examination pursuant to paragraph (c) of subdivision one of section
49 twenty-eight hundred five-i of the public health law. [~~Follow-up~~] For a
50 person eighteen years of age or older, follow-up HIV post-exposure
51 prophylaxis costs shall continue to be [~~billed by the health care~~
52 ~~provider to the office directly and~~] reimbursed [~~by the~~] according to
53 established office [~~directly~~] procedure. The office, in consultation
54 with the department of health, shall also generate the necessary regu-
55 lations and forms for the direct reimbursement procedure.

(b) The rate for reimbursement shall be the amount of itemized charges, to be reimbursed at the Medicaid rate and which shall cumulatively not [exceeding] exceed (1) eight hundred dollars[, provided, however, the office shall, in consultation] for an exam of a sexual assault survivor where no sexual offense evidence collection kit is used; (2) one thousand two hundred dollars for an exam of a sexual assault survivor where a sexual offense evidence collection kit is used; (3) one thousand five hundred dollars for an exam of a sexual assault survivor who is eighteen years of age or older, with or without the use of a sexual offense evidence collection kit, and with the provision of a necessary HIV post-exposure prophylaxis seven day starter pack; and (4) two thousand five hundred dollars for an exam of a sexual assault survivor who is less than eighteen years of age, with or without the use of a sexual offense evidence collection kit, and with the provision of the full regimen of necessary HIV post-exposure prophylaxis [with the department of health, annually review and determine if a higher rate for reimbursement for itemized charges exceeding eight hundred dollars is feasible and appropriate based on the actual cost of reimbursable expenses, and adjust such rate for reimbursement accordingly]. The hospital, sexual assault examiner program, or licensed health care provider must accept this fee as payment in full for these specified services. No additional billing of the survivor for said services is permissible. A sexual assault survivor may voluntarily assign any private insurance benefits to which she or he is entitled for the healthcare forensic examination, in which case the hospital or health-care provider may not charge the office; provided, however, in the event the sexual assault survivor assigns any private health insurance benefit, such coverage shall not be subject to annual deductibles or coinsurance or balance billing by the hospital, sexual assault examiner program or licensed health care provider. A hospital, sexual assault examiner program or licensed health care provider shall, at the time of the initial visit, request assignment of any private health insurance benefits to which the sexual assault survivor is entitled on a form prescribed by the office; provided, however, such sexual assault survivor shall be advised orally and in writing that he or she may decline to provide such information regarding private health insurance benefits if he or she believes that the provision of such information would substantially interfere with his or her personal privacy or safety and in such event, the sexual assault forensic exam fee shall be paid by the office. Such sexual assault survivor shall also be advised that providing such information may provide additional resources to pay for services to other sexual assault victims. Such sexual assault survivor shall also be advised that the direct reimbursement program established by this subdivision does not automatically make them eligible for any other compensation benefits available from the office including, but not limited to, reimbursement for mental health counseling expenses, relocation expenses, and loss of earnings, and that such compensation benefits may only be made available to them should the sexual assault survivor or other person eligible to file pursuant to section six hundred twenty-four of this article, file a compensation application with the office. If he or she declines to provide such health insurance information, he or she shall indicate such decision on the form provided by the hospital, sexual assault examiner program or licensed health care provider, which form shall be prescribed by the office.

§ 4. Section 3 of a chapter of the laws of 2019, amending the public health law and the executive law relating to HIV post-exposure prophylaxis,

1 laxis and other health care services for sexual assault victims, as
2 proposed in legislative bills numbers S. 2279-A and A. 1204-A, is
3 amended to read as follows:

4 § 3. This act shall take effect on the one hundred eightieth day after
5 it shall have become a law and apply to all claims filed on or after
6 such date; provided that effective immediately, the commissioner of
7 health and the director of the office of victim services shall make
8 regulations and take other action necessary to implement this act on
9 such date.

10 § 5. This act shall take effect immediately, provided, however, that
11 sections one, two and three of this act take effect on the same date and
12 in the same manner as a chapter of the laws of 2019, amending the public
13 health law and the executive law relating to HIV post-exposure prophylaxis
14 and other health care services for sexual assault victims, as
15 proposed in legislative bills numbers S. 2279-A and A. 1204-A, takes
16 effect.