

# STATE OF NEW YORK

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5113

2023-2024 Regular Sessions

## IN ASSEMBLY

March 2, 2023

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Introduced by M. of A. GUNTHER, SIMON, SAYEGH -- read once and referred to the Committee on Health

AN ACT directing the commissioner of health to conduct a study on the rates of reimbursement made through the New York state Medicaid durable medical equipment, orthotics, prosthetics and supplies program for rate adequacy and patient access; and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. The commissioner of health shall conduct a study to review  
2 the rates of reimbursement made through the New York state Medicaid  
3 durable medical equipment, orthotics, prosthetics and supplies program  
4 for rate adequacy and patient access, including those made under all  
5 capitated and contract coverage models. Such review shall include:  
6 (a) an analysis of rules, regulations and policies for orthotics and  
7 prosthetics service/device provisions under the New York Medicaid  
8 program, including all contracted and capitated models;  
9 (b) a comprehensive assessment of the existing methodology used to  
10 determine payment or nonpayment for prosthetic and orthotic care includ-  
11 ing but not limited to:  
12 (i) all orthotic and prosthetic codes on the current Medicaid fee  
13 schedule, including but not limited to a comparison of prevailing Medi-  
14 care fee schedule amounts and New York Medicaid amounts;  
15 (ii) codes on the Medicare fee schedule but not included on the New  
16 York state Medicaid durable medical equipment, orthotics, prosthetics  
17 and supplies program fee schedule;  
18 (iii) recommendations for changing reimbursement methodologies.  
19 Recommendations under this subparagraph shall be consistent with federal  
20 law and shall include recommendations for appropriate changes in state  
21 law and regulations. Such recommendations shall consider appropriate

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

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1 payment methodologies for codes not included on the Medicaid fee sched-  
2 ule;

3 (c) assessment of barriers to timely service provision as well as  
4 racial and socioeconomic disparities in access including, but not limit-  
5 ed to, travel time required, geographic variability, access to and cost  
6 of technology;

7 (d) the workforce needed to provide orthotic and prosthetic services  
8 in the next five years to eligible children and adults, disaggregated by  
9 county;

10 (e) opportunities for stakeholder input on current rate methodologies;  
11 and

12 (f) assessment of cost savings associated with percentage of Medicaid  
13 population returning to work after orthotic and/or prosthetic provision.

14 § 2. Within one year after the effective date of this act, the commis-  
15 sioner of health shall submit a report of the findings and recommenda-  
16 tions pursuant to this act to the governor, the temporary president of  
17 the senate, the minority leader of the senate, the speaker of the assem-  
18 bly, the minority leader of the assembly, and the chairs and ranking  
19 members of the senate and assembly committees on health and shall post  
20 such report on the department of health's website.

21 § 3. The commissioner of health shall be authorized to promulgate  
22 rules and regulations to provide for the orderly effectuation of the  
23 provisions of this act.

24 § 4. This act shall take effect immediately and shall expire and be  
25 deemed repealed upon the submission of the report required pursuant to  
26 section two of this act.