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I N   A S S E M B L Y

April 14, 2010

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Introduced by M. of A. BARRA -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to allowing reimbursements for certain services provided by licensed mental health counselors

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

1     Section 1. Paragraph 4 of subsection (i) of section 3216 of the insurance law is amended to read as follows:

2     (4) If a policy provides for reimbursement for psychiatric or psychological services or for diagnosis and treatment of mental, nervous, or emotional disorders or ailments, however defined in the policy, the insured shall be entitled to reimbursement for such services, diagnosis or treatment whether performed by a physician, psychiatrist [or], a certified and registered psychologist, OR A LICENSED MENTAL HEALTH COUNSELOR when the services rendered are within the lawful scope of their practice.

3     S 2. Paragraph 4 of subsection (l) of section 3221 of the insurance law, subparagraphs (A) and (D) as amended by chapter 230 of the laws of 2004 and subparagraph (B) as amended by chapter 420 of the laws of 2002, is amended to read as follows:

4     (4) (A) Every insurer delivering a group policy or issuing a group policy for delivery, in this state, which provides reimbursement for psychiatric or psychological services or for the diagnosis and treatment of mental, nervous or emotional disorders and ailments, however defined in such policy, by physicians, psychiatrists or psychologists, must make available and if requested by the policyholder provide the same coverage to insureds for such services when performed by a licensed clinical social worker, within the lawful scope of his or her practice, who is licensed pursuant to article one hundred fifty-four of the education law OR A LICENSED MENTAL HEALTH COUNSELOR, WITHIN THE LAWFUL SCOPE OF HIS OR HER PRACTICE, WHO IS LICENSED PURSUANT TO ARTICLE ONE HUNDRED SIXTY-THREE OF THE EDUCATION LAW. Written notice of the availability of such coverage shall be delivered to the policyholder prior to inception

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

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1 of such group policy and annually thereafter, except that this notice  
2 shall not be required where a policy covers two hundred or more employ-  
3 ees or where the benefit structure was the subject of collective  
4 bargaining affecting persons who are employed in more than one state.

5 (B) The state board for social work shall maintain a list of all  
6 licensed clinical social workers qualified for reimbursement under this  
7 paragraph. THE STATE BOARD OF MENTAL HEALTH PRACTITIONERS SHALL MAINTAIN  
8 A LIST OF ALL LICENSED MENTAL HEALTH COUNSELORS QUALIFIED FOR REIMBURSE-  
9 MENT UNDER THIS PARAGRAPH.

10 (C) Such coverage shall be made available at the inception of all new  
11 policies and, with respect to all other policies at any subsequent annu-  
12 al anniversary date of the policy subject to evidence of insurability.

13 (D) In addition to the requirements of subparagraph (A) of this para-  
14 graph, every insurer issuing a group policy for delivery in this state  
15 which policy provides reimbursement to insureds for psychiatric or  
16 psychological services or for the diagnosis and treatment of mental,  
17 nervous or emotional disorders and ailments, however defined in such  
18 policy, by physicians, psychiatrists or psychologists, must provide the  
19 same coverage to insureds for such services when performed by a licensed  
20 clinical social worker, within the lawful scope of his or her practice,  
21 who is licensed pursuant to subdivision two of section seven thousand  
22 seven hundred four of the education law OR A LICENSED MENTAL HEALTH  
23 COUNSELOR, WITHIN THE LAWFUL SCOPE OF HIS OR HER PRACTICE, WHO IS  
24 LICENSED PURSUANT TO SUBDIVISION THREE OF SECTION EIGHT THOUSAND FOUR  
25 HUNDRED TWO OF THE EDUCATION LAW and in addition shall have either (i)  
26 three or more additional years experience in psychotherapy, which for  
27 the purposes of this subparagraph shall mean the use of verbal methods  
28 in interpersonal relationships with the intent of assisting a person or  
29 persons to modify attitudes and behavior which are intellectually,  
30 socially or emotionally maladaptive, under supervision, satisfactory to  
31 the state board for social work OR THE STATE BOARD OF MENTAL HEALTH  
32 PRACTITIONERS, in a facility, licensed or incorporated by an appropriate  
33 governmental department, providing services for diagnosis or treatment  
34 of mental, nervous or emotional disorders or ailments, or (ii) three or  
35 more additional years experience in psychotherapy under the supervision,  
36 satisfactory to the state board for social work OR THE STATE BOARD OF  
37 MENTAL HEALTH PRACTITIONERS, of a psychiatrist, a licensed and regis-  
38 tered psychologist [or], a licensed clinical social worker OR A LICENSED  
39 MENTAL HEALTH COUNSELOR qualified for reimbursement pursuant to  
40 subsection (h) of this section, or (iii) a combination of the experience  
41 specified in items (i) and (ii) OF THIS SUBPARAGRAPH totaling three  
42 years, satisfactory to the state board for social work OR THE STATE  
43 BOARD OF MENTAL HEALTH PRACTITIONERS. The state board for social work  
44 shall maintain a list of all licensed clinical social workers qualified  
45 for reimbursement under this subparagraph. THE STATE BOARD OF MENTAL  
46 HEALTH PRACTITIONERS SHALL MAINTAIN A LIST OF ALL LICENSED MENTAL HEALTH  
47 COUNSELORS QUALIFIED FOR REIMBURSEMENT UNDER THIS SUBPARAGRAPH.

48 S 3. Item (ii) of subparagraph (A) of paragraph 5 of subsection (l) of  
49 section 3221 of the insurance law, as amended by chapter 502 of the laws  
50 of 2007, is amended to read as follows:

51 (ii) where the policy provides coverage for physician services, it  
52 shall include benefits for outpatient care provided by a psychiatrist or  
53 psychologist licensed to practice in this state, a licensed clinical  
54 social worker OR A LICENSED MENTAL HEALTH COUNSELOR who meets the  
55 requirements of subparagraph (D) of paragraph four of this subsection,  
56 or a professional corporation or university faculty practice corporation

1 thereof. Such benefits may be limited to not less than twenty visits in  
2 any contract year, plan year, or calendar year.

3 S 4. Subparagraph (G) of paragraph 4 of subsection (f) of section 4235  
4 of the insurance law, as relettered by chapter 456 of the laws of 1993,  
5 is amended to read as follows:

6 (G) psychiatric or psychological services or for the diagnosis and  
7 treatment of mental, nervous, or emotional disorders or ailments, howev-  
8 er defined in such policy, a subscriber to such policy shall be entitled  
9 to reimbursement for such psychiatric or psychological services or diag-  
10 nosis or treatment whether performed by a physician, psychiatrist [or],  
11 a certified and registered psychologist OR A LICENSED MENTAL HEALTH  
12 COUNSELOR when the services rendered are within the lawful scope of  
13 their practice, and when such policy or any certificate issued there-  
14 under is delivered or issued for delivery without this state by an  
15 authorized insurer, covered persons residing in this state shall be  
16 entitled to reimbursement for such diagnosis and treatment by a physi-  
17 cian, psychiatrist or a certified and registered psychologist as herein-  
18 above provided; and

19 S 5. Paragraph 1 of subsection (h) and subsections (i) and (n) of  
20 section 4303 of the insurance law, paragraph 1 of subsection (h) as  
21 amended by chapter 502 of the laws of 2007 and subsections (i) and (n)  
22 as amended by chapter 230 of the laws of 2004, are amended to read as  
23 follows:

24 (1) A medical expense indemnity corporation or a health service corpo-  
25 ration, which provides group, group remittance or school blanket cover-  
26 age for physician services, shall provide as part of its contract broad-  
27 based coverage for the diagnosis and treatment of mental, nervous or  
28 emotional disorders or ailments, however defined in such contract, at  
29 least equal to the coverage provided for other health conditions and  
30 shall include: benefits for outpatient care provided by a psychiatrist  
31 or psychologist licensed to practice in this state, a licensed clinical  
32 social worker OR A LICENSED MENTAL HEALTH COUNSELOR who meets the  
33 requirements of subsection (n) of this section, or a professional corpo-  
34 ration or university faculty practice corporation thereof, which bene-  
35 fits may be limited to not less than twenty visits in any contract year,  
36 plan year or calendar year. Such coverage may be provided on a contract  
37 year, plan year or calendar year basis and shall be consistent with the  
38 provision of other benefits under the contract. Such coverage may be  
39 subject to annual deductibles, co-pays and coinsurance as may be deemed  
40 appropriate by the superintendent and shall be consistent with those  
41 imposed on other benefits under the contract. In the event the group  
42 remittance group or contract holder is provided coverage provided under  
43 this paragraph and under subparagraph (B) of paragraph one of subsection  
44 (g) of this section from the same health service corporation, or under a  
45 contract which is jointly underwritten by two health service corpo-  
46 rations or by a health service corporation and a medical expense indem-  
47 nity corporation, the aggregate of the benefits for out-patient care  
48 obtained under subparagraph (B) of paragraph one of subsection (g) of  
49 this section and this paragraph may be limited to not less than twenty  
50 visits in any contract year, plan year or calendar year.

51 (i) A medical expense indemnity corporation or health service corpo-  
52 ration which provides coverage for physicians, psychiatrists or psychol-  
53 ogists for psychiatric or psychological services or for the diagnosis  
54 and treatment of mental, nervous or emotional disorders and ailments,  
55 however defined in such contract, must make available and if requested  
56 by all persons holding individual contracts in a group whose premiums

1 are paid by a remitting agent or by the contract holder in the case of a  
2 group contract issued pursuant to section four thousand three hundred  
3 five of this article, provide the same coverage for such services when  
4 performed by a licensed clinical social worker, within the lawful scope  
5 of his or her practice, who is licensed pursuant to article one hundred  
6 fifty-four of the education law OR A LICENSED MENTAL HEALTH COUNSELOR,  
7 WITHIN THE LAWFUL SCOPE OF HIS OR HER PRACTICE, WHO IS LICENSED PURSUANT  
8 TO ARTICLE ONE HUNDRED SIXTY-THREE OF THE EDUCATION LAW. The state board  
9 for social work shall maintain a list of all licensed clinical social  
10 workers qualified for reimbursement under this subsection. THE STATE  
11 BOARD OF MENTAL HEALTH PRACTITIONERS SHALL MAINTAIN A LIST OF ALL  
12 LICENSED CLINICAL SOCIAL WORKERS QUALIFIED FOR REIMBURSEMENT UNDER THIS  
13 SUBSECTION. Such coverage shall be made available at the inception of  
14 all new contracts and, with respect to all other contracts, at any anni-  
15 versary date subject to evidence of insurability. Written notice of the  
16 availability of such coverage shall be delivered to the group remitting  
17 agent or group contract holder prior to inception of such contract and  
18 annually thereafter, except that this notice shall not be required where  
19 a policy covers two hundred or more employees or where the benefit  
20 structure was the subject of collective bargaining affecting persons who  
21 are employed in more than one state.

22 (n) In addition to the requirements of subsection (i) of this section,  
23 every health service or medical expense indemnity corporation issuing a  
24 group contract pursuant to this section or a group remittance contract  
25 for delivery in this state which contract provides reimbursement to  
26 subscribers or physicians, psychiatrists or psychologists for psychiat-  
27 ric or psychological services or for the diagnosis and treatment of  
28 mental, nervous or emotional disorders and ailments, however defined in  
29 such contract, must provide the same coverage to persons covered under  
30 the group contract for such services when performed by a licensed clin-  
31 ical social worker, within the lawful scope of his or her practice, who  
32 is licensed pursuant to subdivision two of section seven thousand seven  
33 hundred four of the education law OR A LICENSED MENTAL HEALTH COUNSELOR,  
34 WITHIN THE LAWFUL SCOPE OF HIS OR HER PRACTICE, WHO IS LICENSED PURSUANT  
35 TO SUBDIVISION THREE OF SECTION EIGHT THOUSAND FOUR HUNDRED TWO OF THE  
36 EDUCATION LAW and in addition shall have either (i) three or more addi-  
37 tional years experience in psychotherapy, which for the purposes of this  
38 subsection shall mean the use of verbal methods in interpersonal  
39 relationships with the intent of assisting a person or persons to modify  
40 attitudes and behavior which are intellectually, socially or emotionally  
41 maladaptive, under supervision, satisfactory to the state board for  
42 social work OR THE STATE BOARD OF MENTAL HEALTH PRACTITIONERS, in a  
43 facility, licensed or incorporated by an appropriate governmental  
44 department, providing services for diagnosis or treatment of mental,  
45 nervous or emotional disorders or ailments, or (ii) three or more addi-  
46 tional years experience in psychotherapy under the supervision, satis-  
47 factory to the state board for social work OR THE STATE BOARD OF MENTAL  
48 HEALTH PRACTITIONERS, of a psychiatrist, a licensed and registered  
49 psychologist or a licensed clinical social worker OR LICENSED MENTAL  
50 HEALTH PRACTITIONER qualified for reimbursement pursuant to subsection  
51 (i) of this section, or (iii) a combination of the experience specified  
52 in [paragraphs] ITEMS (i) and (ii) OF THIS SUBPARAGRAPH totaling three  
53 years, satisfactory to the state board for social work OR THE STATE  
54 BOARD OF MENTAL HEALTH PRACTITIONERS. The state board for social work  
55 shall maintain a list of all licensed clinical social workers qualified  
56 for reimbursement under this subsection. THE STATE BOARD OF MENTAL

1 HEALTH PRACTITIONERS SHALL MAINTAIN A LIST OF ALL LICENSED MENTAL HEALTH  
2 COUNSELORS QUALIFIED FOR REIMBURSEMENT UNDER THIS SUBSECTION.  
3 S 6. This act shall take effect on the ninetieth day after it shall  
4 have become a law.