

2465

2009-2010 Regular Sessions

I N   A S S E M B L Y

January 16, 2009

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

AN ACT to amend the insurance law, in relation to reimbursement for nutrition and dietetic services

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

1     Section 1. Subparagraphs (F), (G) and (H) of paragraph 4 of subsection  
2     (f) of section 4235 of the insurance law, subparagraph (F) as added and  
3     subparagraphs (G) and (H) as relettered by chapter 456 of the laws of  
4     1993, are amended and a new subparagraph (I) is added to read as  
5     follows:  
6     (F) any speech-language pathology or audiology service which is within  
7     the lawful scope of practice of a duly licensed speech-language patholo-  
8     gist or audiologist, a subscriber to such policy shall be entitled to  
9     reimbursement for such service whether the said service is performed by  
10    a physician or duly licensed speech-language pathologist or audiologist,  
11    provided however, that nothing contained herein shall be construed to  
12    impair any terms of such policy which may require said service to be  
13    performed pursuant to a medical order, or a similar or related service  
14    of a physician, in which case coverage need not be provided for any  
15    tests, evaluations or diagnoses if such tests, evaluations or diagnoses  
16    have already been provided by or through a physician within twelve  
17    months of the referral or order from the physician. However, nothing  
18    herein shall be construed as preventing an insurer from covering more  
19    than one test or evaluation provided by a speech-language pathologist or  
20    audiologist within a twelve-month period where such test or evaluation  
21    is ordered by a physician as medically necessary. Nor shall anything  
22    herein be construed as prohibiting the limitation of such services,  
23    where covered, to specified settings other than offices, such as hospi-  
24    tals or to services provided by such professionals as part of a home  
25    care agency's services; and when such policy or any certificate issued

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

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1 thereunder is delivered or issued for delivery without the state by an  
2 authorized insurer, covered persons residing in this state shall be  
3 entitled to reimbursement for speech-language pathology or audiology  
4 service as herein provided[.];

5 (G) psychiatric or psychological services or for the diagnosis and  
6 treatment of mental, nervous, or emotional disorders or ailments, howev-  
7 er defined in such policy, a subscriber to such policy shall be entitled  
8 to reimbursement for such psychiatric or psychological services or diag-  
9 nosis or treatment whether performed by a physician, psychiatrist or a  
10 certified and registered psychologist when the services rendered are  
11 within the lawful scope of their practice, and when such policy or any  
12 certificate issued thereunder is delivered or issued for delivery with-  
13 out this state by an authorized insurer, covered persons residing in  
14 this state shall be entitled to reimbursement for such diagnosis and  
15 treatment by a physician, psychiatrist or a certified and registered  
16 psychologist as hereinabove provided; [and]

17 (H) any service which is within the lawful scope of practice of a  
18 licensed chiropractor, a subscriber to such policy shall be entitled to  
19 reimbursement for such service when such service is performed by a  
20 licensed chiropractor[.]; AND

21 (I) ANY NUTRITION OR DIETETIC SERVICE WHICH IS WITHIN THE LAWFUL SCOPE  
22 OF PRACTICE OF A DULY CERTIFIED NUTRITIONIST, CERTIFIED DIETITIAN, OR  
23 REGISTERED DIETITIAN, A SUBSCRIBER TO SUCH POLICY SHALL BE ENTITLED TO  
24 REIMBURSEMENT FOR SUCH SERVICE WHETHER SUCH SERVICE IS PERFORMED BY A  
25 PHYSICIAN OR DULY CERTIFIED NUTRITIONIST, CERTIFIED DIETITIAN, OR REGIS-  
26 TERED DIETITIAN, PROVIDED HOWEVER, THAT SUCH SERVICE, WHEN RENDERED BY A  
27 CERTIFIED NUTRITIONIST, CERTIFIED DIETITIAN, OR REGISTERED DIETITIAN,  
28 SHALL BE PERFORMED PURSUANT TO A MEDICAL ORDER OR REFERRAL OF A PHYSI-  
29 CIAN, AND WHEN SUCH POLICY OR ANY CERTIFICATE ISSUED THEREUNDER IS  
30 DELIVERED OR ISSUED FOR DELIVERY WITHOUT THE STATE BY AN AUTHORIZED  
31 INSURER, COVERED PERSONS RESIDING IN THIS STATE SHALL BE ENTITLED TO  
32 REIMBURSEMENT FOR NUTRITION OR DIETETIC SERVICE AS PROVIDED IN THIS  
33 SUBPARAGRAPH.

34 S 2. Subparagraphs (J) and (K) of paragraph 1 of subsection (b) of  
35 section 4301 of the insurance law, as relettered by chapter 456 of the  
36 laws of 1993, are relettered subparagraphs (K) and (L) and a new subpar-  
37 agraph (J) is added to read as follows:

38 (J) NUTRITION OR DIETETIC SERVICES PROVIDED THROUGH CERTIFIED NUTRI-  
39 TIONISTS, CERTIFIED DIETITIANS OR REGISTERED DIETITIANS, PROVIDED HOWEV-  
40 ER, THAT SAID SERVICE, WHEN RENDERED BY A CERTIFIED NUTRITIONIST, CERTI-  
41 FIED DIETITIAN, OR REGISTERED DIETITIAN, SHALL BE PERFORMED PURSUANT TO  
42 A MEDICAL ORDER OR REFERRAL OF A PHYSICIAN,

43 S 3. Paragraph 3 of subsection (b) of section 4301 of the insurance  
44 law, as amended by chapter 593 of the laws of 2000, is amended to read  
45 as follows:

46 (3) Every medical expense indemnity corporation shall be open to the  
47 participation of licensed physicians, podiatrists, chiropractors, opto-  
48 metrists, physical and occupational therapists, CERTIFIED NUTRITIONISTS,  
49 CERTIFIED DIETITIANS, REGISTERED DIETITIANS, speech-language patholo-  
50 gists, audiologists, and dentists, certified and registered psychol-  
51 ogists without discrimination against schools of medical practice,  
52 podiatry practice, chiropractic practice, optometric practice, physical  
53 and occupational therapy practice, dental practice, speech-language  
54 pathology practice (subject to the permitted limitations of paragraph  
55 one of this subsection), audiology practice (subject to the permitted

1 limitations of paragraph one of this subsection), and psychological  
2 training as defined in the education law.  
3 S 4. This act shall take effect on the first of September next  
4 succeeding the date on which it shall have become a law and shall apply  
5 to all policies and contracts issued, renewed, modified, altered or  
6 amended on or after such date.