S T A T E O F N E W Y O R K

277

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

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

AN ACT to amend the insurance law, the social services law and the workers' compensation law, in relation to reimbursement for surgical first assistant services

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

Section 1. Subsection (i) of section 3216 of the insurance law is amended by adding a new paragraph 26 to read as follows:

(26) EVERY POLICY ISSUED PURSUANT TO THIS SECTION WHICH PROVIDES FOR REIMBURSEMENT FOR SURGICAL FIRST ASSISTANT SERVICES SHALL PROVIDE SUCH COVERAGE FOR A LICENSED PERSON QUALIFIED BY EXPERIENCE AND TRAINING WHO PERFORMS SURGICAL FIRST ASSISTANT SERVICES WITHIN HIS OR HER SCOPE OF PRACTICE.

S 2. Subsection (k) of section 3221 of the insurance law is amended by adding a new paragraph 15 to read as follows:

(15) EVERY POLICY ISSUED PURSUANT TO THIS SECTION WHICH PROVIDES FOR REIMBURSEMENT FOR SURGICAL FIRST ASSISTANT SERVICES SHALL PROVIDE SUCH COVERAGE FOR A LICENSED PERSON QUALIFIED BY EXPERIENCE AND TRAINING WHO PERFORMS SURGICAL FIRST ASSISTANT SERVICES WITHIN HIS OR HER SCOPE OF PRACTICE.

S 3. Subparagraphs (G) and (H) of paragraph 4 of subsection (f) of section 4235 of the insurance law, as relettered by chapter 456 of the laws of 1993, are amended and a new subparagraph (I) is added to read as follows:

(G) psychiatric or psychological services or for the diagnosis and treatment of mental, nervous, or emotional disorders or ailments, however defined in such policy, a subscriber to such policy shall be entitled to reimbursement for such psychiatric or psychological services or diagnosis or treatment whether performed by a physician, psychiatrist or a

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

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certified and registered psychologist when the services rendered are within the lawful scope of their practice, and when such policy or any certificate issued thereunder is delivered or issued for delivery without this state by an authorized insurer, covered persons residing in this state shall be entitled to reimbursement for such diagnosis and treatment by a physician, psychiatrist or a certified and registered psychologist as hereinabove provided; [and]

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

(I) ANY SURGICAL FIRST ASSISTANT SERVICES PROVIDED BY A LICENSED PERSON QUALIFIED BY EXPERIENCE AND TRAINING WHO PERFORMS SURGICAL FIRST ASSISTANT SERVICES WITHIN HIS OR HER SCOPE OF PRACTICE.

S 4. Section 4303 of the insurance law is amended by adding a new subsection (ff) to read as follows:

(FF) EVERY CONTRACT ISSUED BY A HEALTH SERVICE CORPORATION OR A MEDICAL EXPENSE INDEMNITY CORPORATION WHICH PROVIDES FOR REIMBURSEMENT FOR SURGICAL FIRST ASSISTANT SERVICES SHALL PROVIDE SUCH COVERAGE FOR A LICENSED PERSON QUALIFIED BY EXPERIENCE AND TRAINING WHO PERFORMS SURGICAL FIRST ASSISTANT SERVICES WITHIN HIS OR HER SCOPE OF PRACTICE.

S 5. Subdivision 2 of section 365-a of the social services law is amended by adding a new paragraph (s) to read as follows:

(S) CARE AND SERVICES FOR SURGICAL FIRST ASSISTANT SERVICES FOR A LICENSED PERSON QUALIFIED BY EXPERIENCE AND TRAINING WHO PERFORMS SURGICAL FIRST ASSISTANT SERVICES WITHIN HIS OR HER SCOPE OF PRACTICE.

S 6. Subparagraphs (xv) and (xvi) of paragraph (e) of subdivision 1 of section 369-ee of the social services law, subparagraph (xv) as amended and subparagraph (xvi) as added by chapter 526 of the laws of 2002, are amended and a new subparagraph (xvii) is added to read as follows:

(xv) services provided to meet the requirements of 42 U.S.C. 1396d(r); [and]

(xvi) hospice services[.]; AND

(XVII) SURGICAL FIRST ASSISTANT SERVICES PERFORMED BY A LICENSED PERSON QUALIFIED BY EXPERIENCE AND TRAINING WHO PERFORMS SURGICAL FIRST ASSISTANT SERVICES WITHIN HIS OR HER SCOPE OF PRACTICE.

S 7. The opening paragraph of subdivision (a) of section 13 of the workers' compensation law, as amended by chapter 6 of the laws of 2007, is amended to read as follows:

The employer shall promptly provide for an injured employee such medical, dental, surgical, optometric or other attendance or treatment, nurse and hospital service, medicine, optometric services, crutches, eye-glasses, false teeth, artificial eyes, orthotics, prosthetic devices, functional assistive and adaptive devices and apparatus for such period as the nature of the injury or the process of recovery may require. The employer shall be liable for the payment of the expenses of medical, dental, surgical, optometric or other attendance or treatment, nurse and hospital service, medicine, optometric services, crutches, eye-glasses, false teeth, artificial eyes, orthotics, prosthetic devices, functional assistive and adaptive devices and apparatus, as well as artificial members of the body or other devices or appliances necessary in the first instance to replace, support or relieve a portion or part of the body resulting from and necessitated by the injury of an employee, for such period as the nature of the injury or the process of recovery may require, and the employer shall also be liable for replacements or repairs of such artificial members of the body or such other

devices, eye-glasses, false teeth, artificial eyes, orthotics, prosthetic devices, functional assistive and adaptive devices or appliances necessitated by ordinary wear or loss or damage to a prosthesis, with or without bodily injury to the employee. Damage to or loss of a prosthetic device shall be deemed an injury except that no disability benefits shall be payable with respect to such injury under section fifteen of this article. Such a replacement or repair of artificial members of the body or such other devices, eye-glasses, false teeth, artificial eyes, orthotics, prosthetic devices, functional assistive and adaptive devices or appliances or the providing of medical treatment and care as defined herein shall not constitute the payment of compensation under section twenty-five-a of this article. ALL SURGICAL SERVICES COVERED BY THIS ARTICLE, INCLUDING COVERAGE FOR SURGICAL FIRST ASSISTANT SERVICES, SHALL INCLUDE CARE AND SERVICES FURNISHED IN ALL COVERED SETTINGS PROVIDED BY A LICENSED PERSON QUALIFIED BY EXPERIENCE AND TRAINING WHO PERFORMS SURGICAL FIRST ASSISTANT SERVICES WITHIN HIS OR HER SCOPE OF PRACTICE. All fees and other charges for such treatment and services shall be limited to such charges as prevail in the same community for similar treatment of injured persons of a like standard of living.

S 8. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall apply to all policies and contracts issued, renewed, modified, altered or amended on or after such effective date.