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

3740--B

2009-2010 Regular Sessions

I N S E N A T E

March 30, 2009

Introduced by Sens. DUANE, ESPADA, BRESLIN, DILAN, HASSELL-THOMPSON, C. JOHNSON, MONSERRATE, ONORATO, OPPENHEIMER, PARKER, PERKINS, SCHNEIDERMAN, SERRANO, SQUADRON, STAVISKY, THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law and the social services law, in relation to providing Medicaid reimbursement for interpretation services provided by hospital inpatient and outpatient departments and diagnostic and treatment centers

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

Section 1. Section 2807-c of the public health law is amended by adding a new subdivision 34 to read as follows:

34. INTERPRETATION SERVICES. (A) NOTWITHSTANDING ANY PROVISION OF THIS SECTION, THE COMMISSIONER SHALL ADJUST INPATIENT MEDICAL ASSISTANCE RATES OF PAYMENT TO PROVIDE REIMBURSEMENT FOR THE COSTS ASSOCIATED WITH THE PROVISION OF INTERPRETATION SERVICES FOR PATIENTS IN RECEIPT OF MEDICAL ASSISTANCE WHO HAVE LIMITED ENGLISH PROFICIENCY, INCLUDING BUT NOT LIMITED TO HEALTH CARE, BILLING AND MAKING APPOINTMENTS. TO BE ELIGIBLE FOR REIMBURSEMENT, THE PROVISION OF INTERPRETATION SERVICES MUST BE DOCUMENTED IN SUCH A MANNER AS TO ENABLE REPORTING TO AND AUDIT BY THE COMMISSIONER.

(B) FOR PURPOSES OF THIS SUBDIVISION: (I) "PATIENTS WITH LIMITED ENGLISH PROFICIENCY" MEANS PATIENTS WHOSE PRIMARY LANGUAGE IS NOT ENGLISH AND WHO CANNOT SPEAK, READ, WRITE OR UNDERSTAND THE ENGLISH LANGUAGE AT A LEVEL SUFFICIENT TO PERMIT SUCH PATIENTS TO INTERACT EFFECTIVELY WITH HEALTH CARE PROVIDERS AND THEIR STAFF; AND (II) "INTER-

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

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PRETATION SERVICES" MEANS LANGUAGE ASSISTANCE SERVICES PROVIDED BY INDIVIDUALS WITH SUFFICIENT BILINGUAL SKILLS IN BOTH ENGLISH AND THE RELEVANT LANGUAGE TO COMMUNICATE INFORMATION NECESSARY FOR THE PATIENT TO ACCESS SERVICES AND, IN THE CASE OF INTERPRETATION SERVICES PROVIDED DURING THE COURSE OF A CLINICAL ENCOUNTER, SERVICES PROVIDED BY INDIVIDUALS WITH DEMONSTRATED COMPETENCY AND SKILLS IN MEDICAL INTERPRETATION TECHNIQUES, ETHICS AND TERMINOLOGY, AND IN ACCORDANCE WITH APPLICABLE REGULATIONS OF THE DEPARTMENT RELATING TO INTERPRETATION SERVICES.

S 2. Paragraph (g) of subdivision 2 of section 2807 of the public health law is amended by adding a new subparagraph (iii) to read as follows:

(III) NOTWITHSTANDING ANY PROVISION OF SUBPARAGRAPHS (I) AND (II) OF THIS PARAGRAPH, (A) THE COMMISSIONER SHALL FURTHER ADJUST RATES OF PAYMENT FOR GENERAL HOSPITAL OUTPATIENT AND EMERGENCY SERVICES TO PROVIDE REIMBURSEMENT FOR THE COSTS ASSOCIATED WITH THE PROVISION OF INTERPRETATION SERVICES FOR PATIENTS IN RECEIPT OF MEDICAL ASSISTANCE WHO HAVE LIMITED ENGLISH PROFICIENCY, INCLUDING BUT NOT LIMITED TO HEALTH CARE, BILLING AND MAKING APPOINTMENTS. TO BE ELIGIBLE FOR REIMBURSEMENT, THE PROVISION OF INTERPRETATION SERVICES MUST BE DOCUMENTED IN SUCH A MANNER AS TO ENABLE REPORTING TO AND AUDIT BY THE COMMISSIONER. (B) FOR THE PURPOSES OF THIS SUBPARAGRAPH: (1) "PATIENTS WITH LIMITED ENGLISH PROFICIENCY" MEANS PATIENTS WHOSE PRIMARY LANGUAGE IS NOT ENGLISH AND WHO CANNOT SPEAK, READ, WRITE OR UNDERSTAND THE ENGLISH LANGUAGE AT A LEVEL SUFFICIENT TO PERMIT SUCH PATIENTS TO INTERACT EFFECTIVELY WITH HEALTH CARE PROVIDERS AND THEIR STAFF; AND (2) "INTERPRETATION SERVICES" MEANS LANGUAGE ASSISTANCE SERVICES PROVIDED BY INDIVIDUALS WITH SUFFICIENT BILINGUAL SKILLS IN BOTH ENGLISH AND THE RELEVANT LANGUAGE TO COMMUNICATE INFORMATION NECESSARY FOR THE PATIENT TO ACCESS SERVICES AND, IN THE CASE OF INTERPRETATION SERVICES PROVIDED DURING THE COURSE OF A CLINICAL ENCOUNTER, SERVICES PROVIDED BY INDIVIDUALS WITH DEMONSTRATED COMPETENCY AND SKILLS IN MEDICAL INTERPRETATION TECHNIQUES, ETHICS AND TERMINOLOGY, AND IN ACCORDANCE WITH APPLICABLE REGULATIONS OF THE DEPARTMENT RELATING TO INTERPRETATION SERVICES.

S 3. Section 2807 of the public health law is amended by adding a new subdivision 20 to read as follows:

20. NOTWITHSTANDING ANY PROVISION OF THIS SECTION, (A) THE COMMISSIONER SHALL ADJUST RATES OF PAYMENT FOR DIAGNOSTIC AND TREATMENT CENTERS LICENSED PURSUANT TO THIS ARTICLE TO PROVIDE REIMBURSEMENT FOR THE COSTS ASSOCIATED WITH THE PROVISION OF INTERPRETATION SERVICES FOR PATIENTS IN RECEIPT OF MEDICAL ASSISTANCE WHO HAVE LIMITED ENGLISH PROFICIENCY, INCLUDING BUT NOT LIMITED TO HEALTH CARE, BILLING AND MAKING APPOINTMENTS. TO BE ELIGIBLE FOR REIMBURSEMENT, THE PROVISION OF INTERPRETATION SERVICES MUST BE DOCUMENTED IN SUCH A MANNER AS TO ENABLE REPORTING TO AND AUDIT BY THE COMMISSIONER.

(B) FOR THE PURPOSES OF THIS SUBDIVISION: (I) "PATIENTS WITH LIMITED ENGLISH PROFICIENCY" MEANS PATIENTS WHOSE PRIMARY LANGUAGE IS NOT ENGLISH AND WHO CANNOT SPEAK, READ, WRITE OR UNDERSTAND THE ENGLISH LANGUAGE AT A LEVEL SUFFICIENT TO PERMIT SUCH PATIENTS TO INTERACT EFFECTIVELY WITH HEALTH CARE PROVIDERS AND THEIR STAFF; AND (II) "INTERPRETATION SERVICES" MEANS LANGUAGE ASSISTANCE SERVICES PROVIDED BY INDIVIDUALS WITH SUFFICIENT BILINGUAL SKILLS IN BOTH ENGLISH AND THE RELEVANT LANGUAGE TO COMMUNICATE INFORMATION NECESSARY FOR THE PATIENT TO ACCESS SERVICES AND, IN THE CASE OF INTERPRETATION SERVICES PROVIDED DURING THE COURSE OF A CLINICAL ENCOUNTER, SERVICES PROVIDED BY INDIVIDUALS WITH DEMONSTRATED COMPETENCY AND SKILLS IN MEDICAL INTERPRETATION

TECHNIQUES, ETHICS AND TERMINOLOGY, AND IN ACCORDANCE WITH APPLICABLE REGULATIONS OF THE DEPARTMENT RELATING TO INTERPRETATION SERVICES.

S 4. Subdivision 8 of section 2807 of the public health law is amended by adding a new paragraph (g) to read as follows:

(G) SUBJECT TO RECEIPT OF ALL NECESSARY FEDERAL APPROVALS, RATES OF PAYMENT COMPUTED IN ACCORDANCE WITH THIS SUBDIVISION MAY BE FURTHER ADJUSTED IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION TWENTY OF THIS SECTION, PROVIDED, HOWEVER, THAT SUCH ADJUSTMENTS SHALL NOT BE SUBJECT TO TREND ADJUSTMENTS AS PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION.

S 5. Subdivision 1 of section 368-a of the social services law is amended by adding a new paragraph (z-1) to read as follows:

(Z-1) THE FULL AMOUNT EXPENDED FOR INTERPRETATION SERVICES PROVIDED PURSUANT TO SUBDIVISION THIRTY-FOUR OF SECTION TWENTY-EIGHT HUNDRED SEVEN-C OF THE PUBLIC HEALTH LAW, OR SUBPARAGRAPH (III) OF PARAGRAPH (G) OF SUBDIVISION TWO OF SECTION TWENTY-EIGHT HUNDRED SEVEN OF THE PUBLIC HEALTH LAW, OR SUBDIVISION TWENTY OF SECTION TWENTY-EIGHT HUNDRED SEVEN OF THE PUBLIC HEALTH LAW, AFTER FIRST DEDUCTING THEREFROM FEDERAL FUNDS PROPERLY RECEIVED OR TO BE RECEIVED ON ACCOUNT OF SUCH EXPENDITURES.

S 6. Notwithstanding any provision of law, rule or regulation to the contrary, the effectiveness of subdivisions 4, 7, 7-a, and 7-b of section 2807 of the public health law, and section 18 of chapter 2 of the laws of 1988, as they relate to time frames for notice, approval or certification of rates of payment, and to the requirement of prior notice of rates of payment, are hereby suspended and shall for purposes of implementing the provisions of this act be deemed to have been without any force and effect from and after the first of February for such rates effective for the period April 1 through March 31 in the initial year of implementation.

S 7. This act shall take effect immediately and shall apply to: (a) hospital inpatient discharges on or after the first of April after it shall have become a law; and (b) other services provided on or after the first of April after it shall have become a law.