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I N   S E N A T E

March 29, 2010

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

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

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

1     Section 1. Section 2807-c of the public health law is amended by  
2     adding a new subdivision 34 to read as follows:  
3     34. INTERPRETATION SERVICES. (A) NOTWITHSTANDING ANY PROVISION OF LAW,  
4     RULE OR REGULATION TO THE CONTRARY, THE COMMISSIONER SHALL ADJUST INPA-  
5     TIENT MEDICAL ASSISTANCE RATES OF PAYMENT TO PROVIDE REIMBURSEMENT FOR  
6     THE COSTS ASSOCIATED WITH THE PROVISION OF INTERPRETATION SERVICES FOR  
7     PATIENTS IN RECEIPT OF MEDICAL ASSISTANCE WHO HAVE LIMITED ENGLISH  
8     PROFICIENCY. REIMBURSEMENT SHALL BE AVAILABLE FOR THE COSTS ASSOCIATED  
9     WITH THE PROVISION OF INTERPRETATION SERVICES AT ALL LOCATIONS DURING  
10    ALL TIMES THAT PATIENT CARE IS AVAILABLE, INCLUDING BUT NOT LIMITED TO  
11    HEALTH CARE, BILLING AND MAKING APPOINTMENTS. TO BE ELIGIBLE FOR  
12    REIMBURSEMENT, THE PROVISION OF INTERPRETATION SERVICES MUST BE DOCU-  
13    MENTED IN SUCH A MANNER AS TO ENABLE REPORTING TO AND AUDIT BY THE  
14    COMMISSIONER.  
15    (B) SUCH ADJUSTMENT SHALL BE MADE FOR DISCHARGES ON AND AFTER THE  
16    FIRST OF APRIL, TWO THOUSAND ELEVEN.  
17    (C) FOR PURPOSES OF THIS SUBDIVISION, "PATIENTS WITH LIMITED ENGLISH  
18    PROFICIENCY" MEANS PATIENTS WHOSE PRIMARY LANGUAGE IS NOT ENGLISH AND  
19    WHO CANNOT SPEAK, READ, WRITE OR UNDERSTAND THE ENGLISH LANGUAGE AT A  
20    LEVEL SUFFICIENT TO PERMIT SUCH PATIENTS TO INTERACT EFFECTIVELY WITH  
21    HEALTH CARE PROVIDERS AND THEIR STAFF.  
22    (D) FOR THE PURPOSES OF THIS SUBDIVISION, "INTERPRETATION SERVICES"  
23    REFERS TO LANGUAGE ASSISTANCE SERVICES PROVIDED BY INDIVIDUALS WITH  
24    PROVEN BILINGUAL SKILLS IN BOTH ENGLISH AND THE RELEVANT LANGUAGE TO  
25    COMMUNICATE INFORMATION NECESSARY FOR THE PATIENT TO ACCESS SERVICES  
26    AND, IN THE CASE OF INTERPRETATION SERVICES PROVIDED DURING THE COURSE

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

LBD02579-07-0

1 OF A CLINICAL ENCOUNTER, SERVICES PROVIDED BY INDIVIDUALS TRAINED AND  
2 SKILLED IN MEDICAL INTERPRETING TECHNIQUES, ETHICS AND TERMINOLOGY.

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

6 (III) NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO THE  
7 CONTRARY, THE COMMISSIONER SHALL ADJUST RATES OF PAYMENT FOR GENERAL  
8 HOSPITAL OUTPATIENT AND EMERGENCY SERVICES TO PROVIDE REIMBURSEMENT FOR  
9 THE COSTS ASSOCIATED WITH THE PROVISION OF INTERPRETATION SERVICES FOR  
10 PATIENTS IN RECEIPT OF MEDICAL ASSISTANCE WHO HAVE LIMITED ENGLISH  
11 PROFICIENCY. SUCH ADJUSTMENT SHALL BE MADE FOR OUTPATIENT AND EMERGENCY  
12 SERVICES PROVIDED ON AND AFTER APRIL FIRST, TWO THOUSAND ELEVEN.  
13 REIMBURSEMENT SHALL BE AVAILABLE FOR THE COSTS ASSOCIATED WITH THE  
14 PROVISION OF INTERPRETATION SERVICES AT ALL LOCATIONS DURING ALL TIMES  
15 THAT PATIENT CARE IS AVAILABLE, INCLUDING BUT NOT LIMITED TO HEALTH  
16 CARE, BILLING AND MAKING APPOINTMENTS. TO BE ELIGIBLE FOR REIMBURSEMENT,  
17 THE PROVISION OF INTERPRETATION SERVICES MUST BE DOCUMENTED IN SUCH A  
18 MANNER AS TO ENABLE REPORTING TO AND AUDIT BY THE COMMISSIONER. FOR THE  
19 PURPOSES OF THIS SUBPARAGRAPH, "PATIENTS WITH LIMITED ENGLISH PROFICIEN-  
20 CY" MEANS PATIENTS WHOSE PRIMARY LANGUAGE IS NOT ENGLISH AND WHO CANNOT  
21 SPEAK, READ, WRITE OR UNDERSTAND THE ENGLISH LANGUAGE AT A LEVEL SUFFI-  
22 CIENT TO PERMIT SUCH PATIENTS TO INTERACT EFFECTIVELY WITH HEALTH CARE  
23 PROVIDERS AND THEIR STAFF. FOR PURPOSES OF THIS SUBDIVISION, "INTERPRE-  
24 TATION SERVICES" REFERS TO LANGUAGE ASSISTANCE SERVICES PROVIDED BY  
25 INDIVIDUALS WITH SUFFICIENT FLUENCY IN BOTH ENGLISH AND THE RELEVANT  
26 LANGUAGE TO COMMUNICATE INFORMATION NECESSARY FOR THE PATIENT TO ACCESS  
27 SERVICES AND, IN THE CASE OF INTERPRETATION PROVIDED DURING THE COURSE  
28 OF A CLINICAL ENCOUNTER, SERVICES PROVIDED BY INDIVIDUALS TRAINED AND  
29 SKILLED IN MEDICAL INTERPRETING TECHNIQUES, SKILLS, ETHICS AND TERMINOL-  
30 OGY. HOSPITALS MUST USE A SKILLED INTERPRETER OR TRANSLATION SERVICE  
31 UNTIL SUCH TIME AS RULES AND REGULATIONS ARE PROMULGATED BY THE COMMIS-  
32 SIONER. AFTER SUCH RULES AND REGULATIONS ARE PROMULGATED, HOSPITALS  
33 SHALL USE INDIVIDUALS WHO MEET SUCH CRITERIA IN ORDER TO RECEIVE  
34 REIMBURSEMENT. NO REIMBURSEMENT SHALL BE PROVIDED WHEN A PATIENT WHO  
35 HAS BEEN INFORMED IN HIS OR HER PRIMARY LANGUAGE OF THE AVAILABILITY OF  
36 FREE INTERPRETATION AND TRANSLATION SERVICES REQUESTS THE USE OF FAMILY,  
37 FRIENDS OR OTHERS WHO ARE NOT FORMALLY TRAINED IN TRANSLATION OR INTER-  
38 PRETATION.

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

41 20. NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO THE  
42 CONTRARY, THE COMMISSIONER SHALL ADJUST RATES OF PAYMENT FOR DIAGNOSTIC  
43 AND TREATMENT CENTERS LICENSED PURSUANT TO THIS ARTICLE TO PROVIDE  
44 REIMBURSEMENT FOR THE COSTS ASSOCIATED WITH THE PROVISION OF INTERPRETA-  
45 TION SERVICES FOR PATIENTS IN RECEIPT OF MEDICAL ASSISTANCE WHO HAVE  
46 LIMITED ENGLISH PROFICIENCY. SUCH ADJUSTMENTS SHALL BE MADE FOR  
47 SERVICES PROVIDED AT DIAGNOSTIC AND TREATMENT CENTERS LICENSED PURSUANT  
48 TO THIS ARTICLE ON AND AFTER APRIL FIRST, TWO THOUSAND ELEVEN.  
49 REIMBURSEMENT SHALL BE AVAILABLE FOR THE COSTS ASSOCIATED WITH THE  
50 PROVISION OF INTERPRETATION SERVICES AT ALL LOCATIONS DURING ALL TIMES  
51 THAT PATIENT CARE IS AVAILABLE, INCLUDING BUT NOT LIMITED TO HEALTH  
52 CARE, BILLING AND MAKING APPOINTMENTS. TO BE ELIGIBLE FOR REIMBURSE-  
53 MENT, THE PROVISION OF INTERPRETATION SERVICES MUST BE DOCUMENTED IN  
54 SUCH A MANNER AS TO ENABLE REPORTING TO AND AUDIT BY THE COMMISSIONER.  
55 FOR THE PURPOSES OF THIS SUBDIVISION, "PATIENTS WITH LIMITED ENGLISH  
56 PROFICIENCY" MEANS PATIENTS WHOSE PRIMARY LANGUAGE IS NOT ENGLISH AND

1 WHO CANNOT SPEAK, READ, WRITE OR UNDERSTAND THE ENGLISH LANGUAGE AT A  
2 LEVEL SUFFICIENT TO PERMIT SUCH PATIENTS TO INTERACT EFFECTIVELY WITH  
3 HEALTH CARE PROVIDERS AND THEIR STAFF. FOR THE PURPOSES OF THIS SUBDIVI-  
4 SION, "INTERPRETATION SERVICES" REFERS TO LANGUAGE ASSISTANCE SERVICES  
5 PROVIDED BY INDIVIDUALS WITH SUFFICIENT FLUENCY IN BOTH ENGLISH AND THE  
6 RELEVANT LANGUAGE TO COMMUNICATE INFORMATION NECESSARY FOR THE PATIENT  
7 TO ACCESS SERVICES AND, IN THE CASE OF INTERPRETATION PROVIDED DURING  
8 THE COURSE OF A CLINICAL ENCOUNTER, SERVICES PROVIDED BY INDIVIDUALS  
9 TRAINED AND SKILLED IN MEDICAL INTERPRETING TECHNIQUES, SKILLS, ETHICS  
10 AND TERMINOLOGY.

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

13 (G) SUBJECT TO RECEIPT OF ALL NECESSARY FEDERAL APPROVALS, RATES OF  
14 PAYMENT COMPUTED IN ACCORDANCE WITH THIS SUBDIVISION SHALL BE FURTHER  
15 ADJUSTED IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION TWENTY OF THIS  
16 SECTION.

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

19 (AA) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE FULL  
20 AMOUNT EXPENDED FOR INTERPRETATION SERVICES PROVIDED PURSUANT TO SUBDI-  
21 VISION THIRTY-FOUR OF SECTION TWENTY-EIGHT HUNDRED SEVEN-C OF THE PUBLIC  
22 HEALTH LAW, OR SUBPARAGRAPH (III) OF PARAGRAPH (G) OF SUBDIVISION TWO OF  
23 SECTION TWENTY-EIGHT HUNDRED SEVEN OF THE PUBLIC HEALTH LAW, OR SUBDIVI-  
24 SION TWENTY OF SECTION TWENTY-EIGHT HUNDRED SEVEN OF THE PUBLIC HEALTH  
25 LAW, AFTER FIRST DEDUCTING THEREFROM FEDERAL FUNDS PROPERLY RECEIVED OR  
26 TO BE RECEIVED ON ACCOUNT OF SUCH EXPENDITURES.

27 S 6. Notwithstanding any provision of law, rule or regulation to the  
28 contrary, the effectiveness of subdivisions 4, 7, 7-a, and 7-b of  
29 section 2807 of the public health law, and section 18 of chapter 2 of  
30 the laws of 1988, as they relate to time frames for notice, approval or  
31 certification of rates of payment, and to the requirement of prior  
32 notice of rates of payment, are hereby suspended and shall for purposes  
33 of implementing the provisions of this act be deemed to have been with-  
34 out any force and effect from and after February 1, 2011 for such rates  
35 effective for the period April 1, 2011 through March 31, 2012.

36 S 7. This act shall take effect on the one hundred twentieth day  
37 after it shall have become a law, provided that the commissioner of  
38 health is immediately authorized and directed to promulgate, amend  
39 and/or repeal any rules and regulations necessary to implement the  
40 provisions of this act on its effective date.