

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

2355--A

2009-2010 Regular Sessions

I N A S S E M B L Y

January 15, 2009

Introduced by M. of A. JAFFEE, SCHIMEL, KOLB, BENEDETTO, SPANO, CALHOUN, DelMONTE, CAHILL, ZEBROWSKI, ALFANO, JOHN, GUNTHER, CHRISTENSEN, JEFFRIES, PAULIN, SWEENEY, FIELDS, GOTTFRIED, MAISEL, FINCH, O'DONNELL, MARKEY, ESPAILLAT, N. RIVERA, ROSENTHAL -- Multi-Sponsored by -- M. of A. BALL, CLARK, COLTON, CROUCH, ERRIGO, GALEF, HOOPER, HYER-SPENCER, JACOBS, KELLNER, KOON, LATIMER, P. LOPEZ, LUPARDO, MAGNARELLI, McDONOUGH, MCENENY, PHEFFER, ROBINSON, SCARBOROUGH, SCOZ-ZAFAVA, WEISENBERG -- read once and referred to the Committee on Health -- recommitted to the Committee on Health in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law and the executive law, in relation to financial assistance from the crime victims board for post-exposure prophylaxis treatment for victims of sexual assault

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

1 Section 1. Paragraph (c) of subdivision 1 of section 2805-i of the
2 public health law, as added by chapter 571 of the laws of 2007, is
3 amended to read as follows:
4 (c) offering and making available appropriate HIV post-exposure treat-
5 ment therapies in cases where it has been determined, in accordance with
6 guidelines issued by the commissioner, that a significant exposure to
7 HIV has occurred, and informing the victim that payment assistance for
8 such therapies [may be] IS available from the crime victims board pursu-
9 ant to the provisions of article twenty-two of the executive law;
10 PROVIDED, HOWEVER, THAT A FORENSIC RAPE EXAMINATION SHALL INCLUDE A NINE
11 DAY STARTER PACK TO BE PROVIDED BY THE HOSPITAL EMERGENCY ROOM AT THE
12 TIME OF THE FORENSIC RAPE EXAMINATION. THE HOSPITAL EMERGENCY ROOM SHALL
13 DETERMINE WHICH CLINIC WITHIN THE HOSPITAL OR IF MORE CONVENIENT FOR THE
14 VICTIM, ANOTHER HOSPITAL OR CLINIC, WHERE FOLLOW-UP CARE SHALL BE
15 PROVIDED. IN RURAL COUNTIES PURSUANT TO SUBDIVISION TWELVE OF SECTION

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

LBD03647-06-0

TWO HUNDRED THIRTY-EIGHT OF THIS CHAPTER, WHERE HOSPITALS DO NOT HAVE THE APPROPRIATE FACILITY TO ACCOMMODATE FOLLOW-UP CARE, THE HOSPITAL EMERGENCY ROOM DEPARTMENT SHALL REFER THE VICTIM TO THE COUNTY DEPARTMENT OF HEALTH, WHICH, IN TURN SHALL PROVIDE REFERRAL SERVICES FOR SUCH FOLLOW-UP CARE. THE HOSPITALS, CLINICS, AND RURAL COUNTY HEALTH DEPARTMENTS AS REFERENCED ABOVE ARE THE BILLING ENTITIES.

S 2. Subdivision 13 of section 631 of the executive law, as amended by section 1 of part E of chapter 56 of the laws of 2009, is amended and a new subdivision 13-a is added to read as follows:

13. Notwithstanding any other provision of law, rule, or regulation to the contrary, when any New York state accredited hospital, accredited sexual assault examiner program, or licensed health care provider furnishes services to any sexual assault survivor, including but not limited to a health care forensic examination in accordance with the sex offense evidence collection protocol and standards established by the department of health, such hospital, sexual assault examiner program, or licensed healthcare provider shall provide such services to the person without charge and shall bill the board directly. The board, in consultation with the department of health, shall define the specific services to be covered by the sexual assault forensic exam reimbursement fee, which must include at a minimum forensic examiner services, hospital or healthcare facility services related to the exam, and related laboratory tests and pharmaceuticals. [Follow-up HIV post-exposure prophylaxis costs shall continue to be reimbursed according to established board procedure.] The board, in consultation with the department of health, shall also generate the necessary regulations and forms for the direct reimbursement procedure. The rate for reimbursement shall be the amount of itemized charges not exceeding eight hundred dollars, to be reviewed and adjusted annually by the board in consultation with the department of health. The hospital, sexual assault examiner program, or licensed health care provider must accept this fee as payment in full for these specified services. No additional billing of the survivor for said services is permissible. A sexual assault survivor may voluntarily assign any private insurance benefits to which she or he is entitled for the healthcare forensic examination, in which case the hospital or healthcare provider may not charge the board. A hospital, sexual assault examiner program or licensed health care provider shall, at the time of the initial visit, request assignment of any private health insurance benefits to which the sexual assault survivor is entitled on a form prescribed by the board; provided, however, such sexual assault survivor shall be advised orally and in writing that he or she may decline to provide such information regarding private health insurance benefits if he or she believes that the provision of such information would substantially interfere with his or her personal privacy or safety and in such event, the sexual assault forensic exam fee shall be paid by the board. [Such sexual assault survivor shall also be advised that providing such information may provide additional resources to pay for services to other sexual assault victims.] If he or she declines to provide such health insurance information, he or she shall indicate such decision on the form provided by the hospital, sexual assault examiner program or licensed health care provider, which form shall be prescribed by the board.

13-A. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW, RULE, OR REGULATION TO THE CONTRARY, WHEN ANY BILLING ENTITY PROVIDES PROPHYLACTIC TREATMENT FOR SIGNIFICANT POSSIBLE EXPOSURE TO HIV TO A VICTIM OF SEXUAL ASSAULT AS PRESCRIBED BY A LICENSED HEALTHCARE PROVIDER, SUCH TREATMENT SHALL BE

1 PROVIDED TO THE PERSON WITHOUT CHARGE AND THE PHARMACY SHALL BILL THE
2 BOARD DIRECTLY. THE BOARD, IN CONSULTATION WITH THE DEPARTMENT OF
3 HEALTH, SHALL GENERATE THE NECESSARY REGULATIONS AND FORMS FOR THE
4 DIRECT REIMBURSEMENT PROCEDURE. THE RATE FOR REIMBURSEMENT SHALL BE
5 ESTABLISHED AND REVIEWED AND ADJUSTED AT LEAST ANNUALLY BY THE BOARD IN
6 CONSULTATION WITH THE DEPARTMENT OF HEALTH. THE BILLING ENTITY MUST
7 ACCEPT THIS FEE AS PAYMENT IN FULL FOR THE SPECIFIED POST-EXPOSURE
8 PROPHYLACTIC TREATMENT THERAPIES. NO ADDITIONAL BILLING OF THE SURVIVOR
9 FOR SAID MEDICATIONS IS PERMISSIBLE. A SEXUAL ASSAULT SURVIVOR MAY
10 VOLUNTARILY ASSIGN ANY PRIVATE INSURANCE BENEFITS TO WHICH SHE OR HE IS
11 ENTITLED FOR THE PROPHYLACTIC MEDICATIONS, IN WHICH CASE THE BILLING
12 ENTITY MAY NOT CHARGE THE BOARD. A BILLING ENTITY SHALL, AT THE TIME OF
13 THE INITIAL VISIT, REQUEST ASSIGNMENT OF ANY PRIVATE HEALTH INSURANCE
14 BENEFITS TO WHICH THE SEXUAL ASSAULT SURVIVOR IS ENTITLED ON A FORM
15 PRESCRIBED BY THE BOARD; PROVIDED, HOWEVER, SUCH SEXUAL ASSAULT SURVIVOR
16 SHALL BE ADVISED ORALLY AND IN WRITING THAT HE OR SHE MAY DECLINE TO
17 PROVIDE SUCH INFORMATION REGARDING PRIVATE HEALTH INSURANCE BENEFITS IF
18 HE OR SHE BELIEVES THAT THE PROVISION OF SUCH INFORMATION WOULD SUBSTAN-
19 Tially INTERFERE WITH HIS OR HER PERSONAL PRIVACY OR SAFETY AND, IN SUCH
20 EVENT, THE PROPHYLACTIC TREATMENT FEE SHALL BE PAID BY THE BOARD. IF HE
21 OR SHE DECLINES TO PROVIDE SUCH HEALTH INSURANCE INFORMATION, HE OR SHE
22 SHALL INDICATE SUCH DECISION ON THE FORM PROVIDED BY THE BILLING ENTITY,
23 WHICH FORM SHALL BE PRESCRIBED BY THE BOARD. THE NINE DAY STARTER PACK
24 PROVIDED TO THE VICTIM PURSUANT TO PARAGRAPH (C) OF SUBDIVISION ONE OF
25 SECTION TWENTY-EIGHT HUNDRED FIVE-I OF THE PUBLIC HEALTH LAW SHALL BE
26 CONSIDERED PART OF THE FORENSIC RAPE EXAMINATION AND BILLED ACCORDINGLY.
27 FOR THE REMAINING TWENTY-ONE DAYS OF TREATMENT, THE APPROPRIATE CLINIC
28 OR IN A RURAL AREA, THE COUNTY DEPARTMENT OF HEALTH, SHALL BILL THE
29 CRIME VICTIMS BOARD AND BE REIMBURSED BY SUCH BOARD. IF THE VICTIM IS
30 NOT SEEKING REIMBURSEMENT FROM THE BOARD, SUCH VICTIM CAN CHOOSE
31 FOLLOW-UP CARE BY ATTENDING THE APPROPRIATE CLINIC OR SEEKING A PROVIDER
32 OF HIS OR HER CHOICE.

33 S 3. Paragraph (b) of subdivision 2 of section 631-a of the executive
34 law, as amended by chapter 263 of the laws of 1986, is amended to read
35 as follows:

36 (b) These regulations shall also provide for services including, but
37 not limited to:

38 (i) assistance to claimants seeking crime victims compensation bene-
39 fits;

40 (ii) referrals, crisis intervention and other counseling services;

41 (iii) services to elderly victims and to child victims and their fami-
42 lies;

43 (iv) transportation and household assistance; [and]

44 (v) outreach to the community and education and training of law
45 enforcement and other criminal justice officials to the needs of crime
46 victims;

47 (VI) PROPHYLACTIC TREATMENT THERAPIES IN CASES WHERE IT HAS BEEN
48 DETERMINED THAT A SIGNIFICANT EXPOSURE TO HIV HAS OCCURRED; AND

49 (VII) IDENTIFYING HEALTH CARE PROVIDERS ACROSS THE STATE WHO CAN
50 PROVIDE FOLLOW-UP CARE FOR VICTIMS INCLUDING BUT NOT LIMITED TO HOW AND
51 WHERE TO ACCESS HIV POST-EXPOSURE PROPHYLAXIS.

52 S 4. This act shall take effect on the one hundred eightieth day after
53 it shall have become a law.