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

5241

2009-2010 Regular Sessions

I N A S S E M B L Y

February 11, 2009

Introduced by M. of A. P. RIVERA, ESPAILLAT, COOK -- Multi-Sponsored by -- M. of A. ALFANO, BARRA, CALHOUN, CLARK, GALEF, MILLMAN, ORTIZ, SEMINERIO, WRIGHT -- read once and referred to the Committee on Social Services

AN ACT to amend the social services law, in relation to provision of podiatric custom orthotics under the medical assistance for needy persons program

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

Section 1. Section 365-a of the social services law is amended by adding a new subdivision 8 to read as follows:

8. (A) MEDICAL ASSISTANCE FOR THE PROVISION OF PODIATRIC CUSTOM ORTHOTICS SHALL BE SUBJECT TO THE FOLLOWING:

(I) THE PODIATRIST SHALL MAINTAIN COMPLETE, LEGIBLE RECORDS ON EACH ELIGIBLE PATIENT RECEIVING A PODIATRIC CUSTOM ORTHOTIC. SUCH RECORDS SHALL PROVIDE VERIFICATION OF THE QUALITY AND NECESSITY OF THE PODIATRIC ORTHOTIC PRESCRIBED;

(II) WHEN X-RAYS ARE DEEMED MEDICALLY NECESSARY TO ENSURE PROPER DIAGNOSIS AND TREATMENT, THE PODIATRIST SHALL MAINTAIN X-RAYS OF ELIGIBLE PATIENTS RECEIVING A PODIATRIC CUSTOM ORTHOTIC. SUCH X-RAYS SHALL IDENTIFY THE PODIATRIST, ELIGIBLE PATIENT, DATE TAKEN AND WHETHER TAKEN OF THE LEFT OR RIGHT FOOT;

(III) PODIATRIC CUSTOM ORTHOTICS SHALL NOT BE PRESCRIBED FOR THOSE ELIGIBLE PATIENTS WHO:

(A) HAVE NO OBJECTIVE PATHOLOGY,

(B) WILL NOT COOPERATE IN THE USE OF THE ORTHOTIC OR THE SHOE ACCEPTABLE TO THE ORTHOTIC, OR

(C) IS A POOR RISK FOR FOLLOW UP ADJUSTMENTS; AND

(IV) FOR THE PURPOSES OF CREATING A PODIATRIC CUSTOM ORTHOTIC, A FOOT MOULD, BALANCE AND INLAY SUPPORT SHALL BE CAST IN PLASTER, CASTEFOAM, IMPRESSION PAPER OR PAPER TRACINGS. SUCH IMPRESSIONS SHALL BE DELIVERED

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

LBD06644-01-9

TO A LABORATORY FOR THE MANUFACTURE OF THE ORTHOTIC. WHEN COMPLETED, THE ORTHOTIC SHALL CONFORM AND BE ADJUSTED TO THE DIAGNOSED CONDITION OF THE ELIGIBLE PATIENT AND BE FITTED AND ADJUSTED TO SUCH PATIENT.

(B) THE COMMISSIONER OF HEALTH SHALL PROMULGATE ANY RULES AND REGULATIONS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SUBDIVISION.

S 2. This act shall take effect on the sixtieth day after it shall have become a law; provided that application of this act shall be and serve to clarify and cure ambiguity of the New York state social services podiatry provider manual from 1982 until the effective date of this act. No cause of action based upon a change of status or the vacating of a criminal conviction arising out of the provisions of this act shall result in any liability for the state, its political subdivisions or prosecutorial agencies.