

733--A

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. GOTTFRIED, ESPAILLAT, RAMOS, PAULIN, LANCMAN, KELLNER, WEISENBERG, PHEFFER, NOLAN, PERRY, J. RIVERA, P. RIVERA, MAISEL, TITUS, KAVANAGH, GANTT, CASTRO, MENG, COOK -- Multi-Sponsored by -- M. of A. ABBATE, BRENNAN, CAHILL, COLTON, DESTITO, DINOWITZ, FARRELL, GLICK, HEASTIE, HOOPER, JACOBS, JAFFEE, KOON, MARKEY, MCENE-
NY, PERALTA, REILLY, SCARBOROUGH, SWEENEY, TITONE, TOWNS, WRIGHT --
read once and referred to the Committee on Health -- recommitted to
the Committee on Health in accordance with Assembly Rule 3, sec. 2 --
reported and referred to the Committee on Ways and Means -- 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 ASSEM-
BLY, 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 THIS
4 SECTION, THE COMMISSIONER SHALL ADJUST INPATIENT MEDICAL ASSISTANCE
5 RATES OF PAYMENT TO PROVIDE REIMBURSEMENT FOR THE COSTS ASSOCIATED WITH
6 THE PROVISION OF INTERPRETATION SERVICES FOR PATIENTS IN RECEIPT OF
7 MEDICAL ASSISTANCE WHO HAVE LIMITED ENGLISH PROFICIENCY, INCLUDING BUT
8 NOT LIMITED TO HEALTH CARE, BILLING AND MAKING APPOINTMENTS. TO BE
9 ELIGIBLE FOR REIMBURSEMENT, THE PROVISION OF INTERPRETATION SERVICES
10 MUST BE DOCUMENTED IN SUCH A MANNER AS TO ENABLE REPORTING TO AND AUDIT
11 BY THE COMMISSIONER.
12 (B) FOR PURPOSES OF THIS SUBDIVISION: (I) "PATIENTS WITH LIMITED
13 ENGLISH PROFICIENCY" MEANS PATIENTS WHOSE PRIMARY LANGUAGE IS NOT

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

LBD02579-06-0

1 ENGLISH AND WHO CANNOT SPEAK, READ, WRITE OR UNDERSTAND THE ENGLISH
2 LANGUAGE AT A LEVEL SUFFICIENT TO PERMIT SUCH PATIENTS TO INTERACT
3 EFFECTIVELY WITH HEALTH CARE PROVIDERS AND THEIR STAFF; AND (II) "INTER-
4 PRETATION SERVICES" MEANS LANGUAGE ASSISTANCE SERVICES PROVIDED BY INDIV-
5 VIDUALS WITH SUFFICIENT BILINGUAL SKILLS IN BOTH ENGLISH AND THE RELE-
6 VANT LANGUAGE TO COMMUNICATE INFORMATION NECESSARY FOR THE PATIENT TO
7 ACCESS SERVICES AND, IN THE CASE OF INTERPRETATION SERVICES PROVIDED
8 DURING THE COURSE OF A CLINICAL ENCOUNTER, SERVICES PROVIDED BY INDIVID-
9 UALS WITH DEMONSTRATED COMPETENCY AND SKILLS IN MEDICAL INTERPRETATION
10 TECHNIQUES, ETHICS AND TERMINOLOGY, AND IN ACCORDANCE WITH APPLICABLE
11 REGULATIONS OF THE DEPARTMENT RELATING TO INTERPRETATION SERVICES.

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

15 (III) NOTWITHSTANDING ANY PROVISION OF SUBPARAGRAPHS (I) AND (II) OF
16 THIS PARAGRAPH, (A) THE COMMISSIONER SHALL FURTHER ADJUST RATES OF
17 PAYMENT FOR GENERAL HOSPITAL OUTPATIENT AND EMERGENCY SERVICES TO
18 PROVIDE REIMBURSEMENT FOR THE COSTS ASSOCIATED WITH THE PROVISION OF
19 INTERPRETATION SERVICES FOR PATIENTS IN RECEIPT OF MEDICAL ASSISTANCE
20 WHO HAVE LIMITED ENGLISH PROFICIENCY, INCLUDING BUT NOT LIMITED TO
21 HEALTH CARE, BILLING AND MAKING APPOINTMENTS. TO BE ELIGIBLE FOR
22 REIMBURSEMENT, THE PROVISION OF INTERPRETATION SERVICES MUST BE DOCU-
23 MENTED IN SUCH A MANNER AS TO ENABLE REPORTING TO AND AUDIT BY THE
24 COMMISSIONER. (B) FOR THE PURPOSES OF THIS SUBPARAGRAPH: (1) "PATIENTS
25 WITH LIMITED ENGLISH PROFICIENCY" MEANS PATIENTS WHOSE PRIMARY LANGUAGE
26 IS NOT ENGLISH AND WHO CANNOT SPEAK, READ, WRITE OR UNDERSTAND THE
27 ENGLISH LANGUAGE AT A LEVEL SUFFICIENT TO PERMIT SUCH PATIENTS TO INTER-
28 ACT EFFECTIVELY WITH HEALTH CARE PROVIDERS AND THEIR STAFF; AND (2)
29 "INTERPRETATION SERVICES" MEANS LANGUAGE ASSISTANCE SERVICES PROVIDED BY
30 INDIVIDUALS WITH SUFFICIENT BILINGUAL SKILLS IN BOTH ENGLISH AND THE
31 RELEVANT LANGUAGE TO COMMUNICATE INFORMATION NECESSARY FOR THE PATIENT
32 TO ACCESS SERVICES AND, IN THE CASE OF INTERPRETATION SERVICES PROVIDED
33 DURING THE COURSE OF A CLINICAL ENCOUNTER, SERVICES PROVIDED BY INDIVID-
34 UALS WITH DEMONSTRATED COMPETENCY AND SKILLS IN MEDICAL INTERPRETATION
35 TECHNIQUES, ETHICS AND TERMINOLOGY, AND IN ACCORDANCE WITH APPLICABLE
36 REGULATIONS OF THE DEPARTMENT RELATING TO INTERPRETATION SERVICES.

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

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

48 (B) FOR THE PURPOSES OF THIS SUBDIVISION: (I) "PATIENTS WITH LIMITED
49 ENGLISH PROFICIENCY" MEANS PATIENTS WHOSE PRIMARY LANGUAGE IS NOT
50 ENGLISH AND WHO CANNOT SPEAK, READ, WRITE OR UNDERSTAND THE ENGLISH
51 LANGUAGE AT A LEVEL SUFFICIENT TO PERMIT SUCH PATIENTS TO INTERACT
52 EFFECTIVELY WITH HEALTH CARE PROVIDERS AND THEIR STAFF; AND (II) "INTER-
53 PRETATION SERVICES" MEANS LANGUAGE ASSISTANCE SERVICES PROVIDED BY INDIV-
54 VIDUALS WITH SUFFICIENT BILINGUAL SKILLS IN BOTH ENGLISH AND THE RELE-
55 VANT LANGUAGE TO COMMUNICATE INFORMATION NECESSARY FOR THE PATIENT TO
56 ACCESS SERVICES AND, IN THE CASE OF INTERPRETATION SERVICES PROVIDED

1 DURING THE COURSE OF A CLINICAL ENCOUNTER, SERVICES PROVIDED BY INDIVID-
2 UALS WITH DEMONSTRATED COMPETENCY AND SKILLS IN MEDICAL INTERPRETATION
3 TECHNIQUES, ETHICS AND TERMINOLOGY, AND IN ACCORDANCE WITH APPLICABLE
4 REGULATIONS OF THE DEPARTMENT RELATING TO INTERPRETATION SERVICES.

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

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

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

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

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

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