

2875

2009-2010 Regular Sessions

I N S E N A T E

March 5, 2009

Introduced by Sen. ESPADA -- 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 and diagnostic and treatment centers

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 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
14 ENGLISH AND WHO CANNOT SPEAK, READ, WRITE OR UNDERSTAND THE ENGLISH
15 LANGUAGE AT A LEVEL SUFFICIENT TO PERMIT SUCH PATIENTS TO INTERACT
16 EFFECTIVELY WITH HEALTH CARE PROVIDERS AND THEIR STAFF; AND (II) "INTER-
17 PRETATION SERVICES" MEANS LANGUAGE ASSISTANCE SERVICES PROVIDED BY INDI-
18 VIDUALS WITH SUFFICIENT BILINGUAL SKILLS IN BOTH ENGLISH AND THE RELE-
19 VANT LANGUAGE TO COMMUNICATE INFORMATION NECESSARY FOR THE PATIENT TO
20 ACCESS SERVICES AND, IN THE CASE OF INTERPRETATION SERVICES PROVIDED
21 DURING THE COURSE OF A CLINICAL ENCOUNTER, SERVICES PROVIDED BY INDIVID-
22 UALS WITH DEMONSTRATED COMPETENCY AND SKILLS IN MEDICAL INTERPRETATION

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

LBD02579-01-9

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

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

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

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

39 (B) FOR THE PURPOSES OF THIS SUBDIVISION: (I) "PATIENTS WITH LIMITED
40 ENGLISH PROFICIENCY" MEANS PATIENTS WHOSE PRIMARY LANGUAGE IS NOT
41 ENGLISH AND WHO CANNOT SPEAK, READ, WRITE OR UNDERSTAND THE ENGLISH
42 LANGUAGE AT A LEVEL SUFFICIENT TO PERMIT SUCH PATIENTS TO INTERACT
43 EFFECTIVELY WITH HEALTH CARE PROVIDERS AND THEIR STAFF; AND (II) "INTER-
44 PRETATION SERVICES" MEANS LANGUAGE ASSISTANCE SERVICES PROVIDED BY INDI-
45 VIDUALS WITH SUFFICIENT BILINGUAL SKILLS IN BOTH ENGLISH AND THE RELE-
46 VANT LANGUAGE TO COMMUNICATE INFORMATION NECESSARY FOR THE PATIENT TO
47 ACCESS SERVICES AND, IN THE CASE OF INTERPRETATION SERVICES PROVIDED
48 DURING THE COURSE OF A CLINICAL ENCOUNTER, SERVICES PROVIDED BY INDIVID-
49 UALS WITH DEMONSTRATED COMPETENCY AND SKILLS IN MEDICAL INTERPRETATION
50 TECHNIQUES, ETHICS AND TERMINOLOGY, AND IN ACCORDANCE WITH APPLICABLE
51 REGULATIONS OF THE DEPARTMENT RELATING TO INTERPRETATION SERVICES.

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

54 (G) SUBJECT TO RECEIPT OF ALL NECESSARY FEDERAL APPROVALS, RATES OF
55 PAYMENT COMPUTED IN ACCORDANCE WITH THIS SUBDIVISION MAY BE FURTHER
56 ADJUSTED IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION TWENTY OF THIS

1 SECTION, PROVIDED, HOWEVER, THAT SUCH ADJUSTMENTS SHALL NOT BE SUBJECT
2 TO TREND ADJUSTMENTS AS PROVIDED IN PARAGRAPH (B) OF THIS SUBDIVISION.

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

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

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

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