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

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I N S E N A T E

May 26, 2010

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

AN ACT to amend the social services law, in relation to the character and adequacy of Medicaid assistance and to repeal paragraph (n) of subdivision 2 of section 365-a of the social services law relating to the care and services of audiologists

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

Section 1. Paragraph (a) of subdivision 2 of section 365-a of the social services law, as amended by chapter 47 of the laws of 1996, is amended to read as follows:

(a) services of qualified physicians, [dentists, nurses, and private duty nursing services shall be further subject to the provisions of section three hundred sixty-seven-o of this chapter,] optometrists, NURSE MIDWIVES, NURSE PRACTITIONERS, and other related professional personnel;

S 2. Paragraph (f) of subdivision 2 of section 365-a of the social services law, as added by chapter 184 of the laws of 1969 and as relettered by chapter 478 of the laws of 1980, is amended to read as follows:

(f) preventive, prophylactic and other routine dental care, services and supplies ONLY WHEN PROVIDED IN A HOSPITAL OUTPATIENT OR CLINIC FACILITY REFERRED TO IN PARAGRAPH (C) OF THIS SUBDIVISION;

S 3. Paragraph (g) of subdivision 2 of section 365-a of the social services law, as amended by section 1 of part F of chapter 497 of the laws of 2008, is amended to read as follows:

(g) sickroom supplies, eyeglasses, AND prosthetic appliances [and dental prosthetic appliances] furnished in accordance with the regulations of the department, provided that the commissioner of health is authorized to implement a preferred diabetic supply program wherein the department of health will receive enhanced rebates from preferred manufacturers of glucometers and test strips, and may subject non-preferred manufacturers' glucometers and test strips to prior authorization under section two hundred seventy-three of the public health law; drugs provided on an in-patient basis, those drugs contained on the list

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

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established by regulation of the commissioner of health pursuant to subdivision four of this section, and those drugs which may not be dispensed without a prescription as required by section sixty-eight hundred ten of the education law and which the commissioner of health shall determine to be reimbursable based upon such factors as the availability of such drugs or alternatives at low cost if purchased by a medicaid recipient, or the essential nature of such drugs as described by such commissioner in regulations, provided, however, that such drugs, exclusive of long-term maintenance drugs, shall be dispensed in quantities no greater than a thirty day supply or one hundred doses, whichever is greater; provided further that the commissioner of health is authorized to require prior authorization for any refill of a prescription when less than seventy-five percent of the previously dispensed amount per fill should have been used were the product used as normally indicated, AND PROVIDED FURTHER THAT SUCH COMMISSIONER IS AUTHORIZED TO REQUIRE PRIOR APPROVAL OF ANY PRESCRIPTION DRUG THAT IS PRESCRIBED FOR A RESIDENT OF A NURSING HOME AND THAT IS NOT REIMBURSED AS PART OF THE NURSING HOME'S MEDICAID RATE; medical assistance shall not include any drug provided on other than an in-patient basis for which a recipient is charged or a claim is made in the case of a prescription drug, in excess of the maximum reimbursable amounts to be established by department regulations in accordance with standards established by the secretary of the United States department of health and human services, or, in the case of a drug not requiring a prescription, in excess of the maximum reimbursable amount established by the commissioner of health pursuant to paragraph (a) of subdivision four of this section;

S 4. Paragraph (l) of subdivision 2 of section 365-a of the social services law, as amended by chapter 81 of the laws of 1995, is amended to read as follows:

(l) care and services of podiatrists, CLINICAL PSYCHOLOGISTS, NURSES AND AUDIOLOGISTS, INCLUDING SUCH CARE AND SERVICES PROVIDED IN A HOSPITAL OUT-PATIENT OR CLINIC FACILITY REFERRED TO IN PARAGRAPH (C) OF THIS SUBDIVISION, AND DENTISTS, which care and services shall only be provided upon referral by a physician, nurse practitioner or certified nurse midwife in accordance with the program of early and periodic screening and diagnosis established pursuant to subdivision three of this section or to persons eligible for benefits under title XVIII of the federal social security act as qualified medicare beneficiaries in accordance with federal requirements therefor [and private duty nurses which care and services shall only be provided in accordance with regulations of the department of health; provided, however, that private duty nursing services shall not be restricted when such services are more appropriate and cost-effective than nursing services provided by a home health agency pursuant to section three hundred sixty-seven-l];

S 5. Paragraph (n) of subdivision 2 of section 365-a of the social services law, as added by chapter 556 of the laws of 1986, is REPEALED.

S 6. The commissioner of health is authorized to promulgate or adopt any rules or regulations necessary to implement the provisions of this act and any procedures, forms, or instructions necessary for such implementation may be adopted and issued on or after the effective date of this act. Notwithstanding any inconsistent provision of the state administrative procedure act or any other provision of law, rule or regulation, the commissioner of health and the superintendent of insurance and any appropriate council is authorized to adopt or amend or promulgate on an emergency basis any regulation he or she or such council

determines necessary to implement any provision of this act on its effective date.

S 7. This act shall take effect on the one hundred eightieth day after it shall have become a law.