

2340--A

2011-2012 Regular Sessions

I N   A S S E M B L Y

January 18, 2011

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Introduced by M. of A. SCHIMMINGER, GABRYSZAK -- Multi-Sponsored by --  
M. of A. GIGLIO, HAWLEY, HOOPER, MAGEE, J. RIVERA -- 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 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 ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. Paragraph (a) of subdivision 2 of section 365-a of the  
2     social services law, as amended by chapter 47 of the laws of 1996, is  
3     amended to read as follows:  
4     (a) services of qualified physicians, [dentists, nurses, and private  
5     duty nursing services shall be further subject to the provisions of  
6     section three hundred sixty-seven-o of this chapter,] optometrists,  
7     NURSE MIDWIVES, NURSE PRACTITIONERS, and other related professional  
8     personnel;  
9     S 2. Paragraph (f) of subdivision 2 of section 365-a of the social  
10    services law, as added by chapter 184 of the laws of 1969 and as relet-  
11    tered by chapter 478 of the laws of 1980, is amended to read as follows:  
12    (f) preventive, prophylactic and other routine dental care, services  
13    and supplies ONLY WHEN PROVIDED IN A HOSPITAL OUTPATIENT OR CLINIC  
14    FACILITY REFERRED TO IN PARAGRAPH (C) OF THIS SUBDIVISION;  
15    S 3. Paragraph (g) of subdivision 2 of section 365-a of the social  
16    services law, as amended by section 23 of part H of chapter 59 of the  
17    laws of 2011, is amended to read as follows:  
18    (g) sickroom supplies, eyeglasses, AND prosthetic appliances [and  
19    dental prosthetic appliances] furnished in accordance with the regu-

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

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1 lations of the department; provided further that: (i) the commissioner  
2 of health is authorized to implement a preferred diabetic supply program  
3 wherein the department of health will receive enhanced rebates from  
4 preferred manufacturers of glucometers and test strips, and may subject  
5 non-preferred manufacturers' glucometers and test strips to prior  
6 authorization under section two hundred seventy-three of the public  
7 health law; (ii) enteral formula therapy and nutritional supplements are  
8 limited to coverage only for nasogastric, jejunostomy, or gastrostomy  
9 tube feeding or for treatment of an inborn metabolic disorder, or to  
10 address growth and development problems in children; (iii) prescription  
11 footwear and inserts are limited to coverage only when used as an inte-  
12 gral part of a lower limb orthotic appliance, as part of a diabetic  
13 treatment plan, or to address growth and development problems in chil-  
14 dren; [and] (iv) compression and support stockings are limited to cover-  
15 age only for pregnancy or treatment of venous stasis ulcers; AND (V) THE  
16 COMMISSIONER OF HEALTH IS AUTHORIZED TO REQUIRE PRIOR APPROVAL OF ANY  
17 PRESCRIPTION DRUG THAT IS PRESCRIBED FOR A RESIDENT OF A NURSING HOME  
18 AND THAT IS NOT REIMBURSED AS PART OF THE NURSING HOME'S MEDICAID RATE;

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

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

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

39 S 6. The commissioner of health is authorized to promulgate or adopt  
40 any rules or regulations necessary to implement the provisions of this  
41 act and any procedures, forms, or instructions necessary for such imple-  
42 mentation may be adopted and issued on or after the effective date of  
43 this act. Notwithstanding any inconsistent provision of the state admin-  
44 istrative procedure act or any other provision of law, rule or regu-  
45 lation, the commissioner of health and the superintendent of insurance  
46 and any appropriate council is authorized to adopt or amend or promul-  
47 gate on an emergency basis any regulation he or she or such council  
48 determines necessary to implement any provision of this act on its  
49 effective date.

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