

1138

2011-2012 Regular Sessions

I N S E N A T E

January 5, 2011

Introduced by Sen. PARKER -- 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

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 LAW,
4 RULE OR REGULATION TO THE CONTRARY, THE COMMISSIONER SHALL ADJUST INPA-
5 TIENT MEDICAL ASSISTANCE RATES OF PAYMENT TO PROVIDE REIMBURSEMENT FOR
6 THE COSTS ASSOCIATED WITH THE PROVISION OF INTERPRETATION SERVICES FOR
7 PATIENTS IN RECEIPT OF MEDICAL ASSISTANCE WHO HAVE LIMITED ENGLISH
8 PROFICIENCY. REIMBURSEMENT SHALL BE AVAILABLE FOR THE COSTS ASSOCIATED
9 WITH THE PROVISION OF INTERPRETATION SERVICES AT ALL LOCATIONS DURING
10 ALL TIMES THAT PATIENT CARE IS AVAILABLE, INCLUDING BUT NOT LIMITED TO
11 HEALTH CARE, BILLING AND MAKING APPOINTMENTS. TO BE ELIGIBLE FOR
12 REIMBURSEMENT, THE PROVISION OF INTERPRETATION SERVICES MUST BE DOCU-
13 MENTED IN SUCH A MANNER AS TO ENABLE REPORTING TO AND AUDIT BY THE
14 COMMISSIONER.

15 (B) SUCH ADJUSTMENT SHALL BE MADE FOR DISCHARGES ON AND AFTER THE
16 FIRST OF APRIL, TWO THOUSAND TWELVE.

17 (C) FOR PURPOSES OF THIS SUBDIVISION, "PATIENTS WITH LIMITED ENGLISH
18 PROFICIENCY" MEANS PATIENTS WHOSE PRIMARY LANGUAGE IS NOT ENGLISH AND
19 WHO CANNOT SPEAK, READ, WRITE OR UNDERSTAND THE ENGLISH LANGUAGE AT A
20 LEVEL SUFFICIENT TO PERMIT SUCH PATIENTS TO INTERACT EFFECTIVELY WITH
21 HEALTH CARE PROVIDERS AND THEIR STAFF.

22 (D) FOR THE PURPOSES OF THIS SUBDIVISION, "INTERPRETATION SERVICES"
23 REFERS TO LANGUAGE ASSISTANCE SERVICES PROVIDED BY INDIVIDUALS WITH
24 PROVEN BILINGUAL SKILLS IN BOTH ENGLISH AND THE RELEVANT LANGUAGE TO

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

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1 COMMUNICATE INFORMATION NECESSARY FOR THE PATIENT TO ACCESS SERVICES
2 AND, IN THE CASE OF INTERPRETATION SERVICES PROVIDED DURING THE COURSE
3 OF A CLINICAL ENCOUNTER, SERVICES PROVIDED BY INDIVIDUALS TRAINED AND
4 SKILLED IN MEDICAL INTERPRETING TECHNIQUES, ETHICS AND TERMINOLOGY.

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

8 (III) NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO THE
9 CONTRARY, THE COMMISSIONER SHALL ADJUST RATES OF PAYMENT FOR GENERAL
10 HOSPITAL OUTPATIENT AND EMERGENCY SERVICES TO PROVIDE REIMBURSEMENT FOR
11 THE COSTS ASSOCIATED WITH THE PROVISION OF INTERPRETATION SERVICES FOR
12 PATIENTS IN RECEIPT OF MEDICAL ASSISTANCE WHO HAVE LIMITED ENGLISH
13 PROFICIENCY. SUCH ADJUSTMENT SHALL BE MADE FOR OUTPATIENT AND EMERGENCY
14 SERVICES PROVIDED ON AND AFTER APRIL FIRST, TWO THOUSAND TWELVE.
15 REIMBURSEMENT SHALL BE AVAILABLE FOR THE COSTS ASSOCIATED WITH THE
16 PROVISION OF INTERPRETATION SERVICES AT ALL LOCATIONS DURING ALL TIMES
17 THAT PATIENT CARE IS AVAILABLE, INCLUDING BUT NOT LIMITED TO HEALTH
18 CARE, BILLING AND MAKING APPOINTMENTS. TO BE ELIGIBLE FOR REIMBURSEMENT,
19 THE PROVISION OF INTERPRETATION SERVICES MUST BE DOCUMENTED IN SUCH A
20 MANNER AS TO ENABLE REPORTING TO AND AUDIT BY THE COMMISSIONER. FOR THE
21 PURPOSES OF THIS SUBPARAGRAPH, "PATIENTS WITH LIMITED ENGLISH PROFICIEN-
22 CY" MEANS PATIENTS WHOSE PRIMARY LANGUAGE IS NOT ENGLISH AND WHO CANNOT
23 SPEAK, READ, WRITE OR UNDERSTAND THE ENGLISH LANGUAGE AT A LEVEL SUFFI-
24 CIENT TO PERMIT SUCH PATIENTS TO INTERACT EFFECTIVELY WITH HEALTH CARE
25 PROVIDERS AND THEIR STAFF. FOR PURPOSES OF THIS SUBDIVISION, "INTERPRE-
26 TATION SERVICES" REFERS TO LANGUAGE ASSISTANCE SERVICES PROVIDED BY
27 INDIVIDUALS WITH SUFFICIENT FLUENCY IN BOTH ENGLISH AND THE RELEVANT
28 LANGUAGE TO COMMUNICATE INFORMATION NECESSARY FOR THE PATIENT TO ACCESS
29 SERVICES AND, IN THE CASE OF INTERPRETATION PROVIDED DURING THE COURSE
30 OF A CLINICAL ENCOUNTER, SERVICES PROVIDED BY INDIVIDUALS TRAINED AND
31 SKILLED IN MEDICAL INTERPRETING TECHNIQUES, SKILLS, ETHICS AND TERMINOL-
32 OGY. HOSPITALS MUST USE A SKILLED INTERPRETER OR TRANSLATION SERVICE
33 UNTIL SUCH TIME AS RULES AND REGULATIONS ARE PROMULGATED BY THE COMMIS-
34 SIONER. AFTER SUCH RULES AND REGULATIONS ARE PROMULGATED, HOSPITALS
35 SHALL USE INDIVIDUALS WHO MEET SUCH CRITERIA IN ORDER TO RECEIVE
36 REIMBURSEMENT. NO REIMBURSEMENT SHALL BE PROVIDED WHEN A PATIENT WHO
37 HAS BEEN INFORMED IN HIS OR HER PRIMARY LANGUAGE OF THE AVAILABILITY OF
38 FREE INTERPRETATION AND TRANSLATION SERVICES REQUESTS THE USE OF FAMILY,
39 FRIENDS OR OTHERS WHO ARE NOT FORMALLY TRAINED IN TRANSLATION OR INTER-
40 PRETATION.

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

43 20. NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO THE
44 CONTRARY, THE COMMISSIONER SHALL ADJUST RATES OF PAYMENT FOR DIAGNOSTIC
45 AND TREATMENT CENTERS LICENSED PURSUANT TO THIS ARTICLE TO PROVIDE
46 REIMBURSEMENT FOR THE COSTS ASSOCIATED WITH THE PROVISION OF INTERPRETA-
47 TION SERVICES FOR PATIENTS IN RECEIPT OF MEDICAL ASSISTANCE WHO HAVE
48 LIMITED ENGLISH PROFICIENCY. SUCH ADJUSTMENTS SHALL BE MADE FOR
49 SERVICES PROVIDED AT DIAGNOSTIC AND TREATMENT CENTERS LICENSED PURSUANT
50 TO THIS ARTICLE ON AND AFTER APRIL FIRST, TWO THOUSAND TWELVE.
51 REIMBURSEMENT SHALL BE AVAILABLE FOR THE COSTS ASSOCIATED WITH THE
52 PROVISION OF INTERPRETATION SERVICES AT ALL LOCATIONS DURING ALL TIMES
53 THAT PATIENT CARE IS AVAILABLE, INCLUDING BUT NOT LIMITED TO HEALTH
54 CARE, BILLING AND MAKING APPOINTMENTS. TO BE ELIGIBLE FOR REIMBURSE-
55 MENT, THE PROVISION OF INTERPRETATION SERVICES MUST BE DOCUMENTED IN
56 SUCH A MANNER AS TO ENABLE REPORTING TO AND AUDIT BY THE COMMISSIONER.

1 FOR THE PURPOSES OF THIS SUBDIVISION, "PATIENTS WITH LIMITED ENGLISH
2 PROFICIENCY" MEANS PATIENTS WHOSE PRIMARY LANGUAGE IS NOT ENGLISH AND
3 WHO CANNOT SPEAK, READ, WRITE OR UNDERSTAND THE ENGLISH LANGUAGE AT A
4 LEVEL SUFFICIENT TO PERMIT SUCH PATIENTS TO INTERACT EFFECTIVELY WITH
5 HEALTH CARE PROVIDERS AND THEIR STAFF. FOR THE PURPOSES OF THIS SUBDIVI-
6 SION, "INTERPRETATION SERVICES" REFERS TO LANGUAGE ASSISTANCE SERVICES
7 PROVIDED BY INDIVIDUALS WITH SUFFICIENT FLUENCY IN BOTH ENGLISH AND THE
8 RELEVANT LANGUAGE TO COMMUNICATE INFORMATION NECESSARY FOR THE PATIENT
9 TO ACCESS SERVICES AND, IN THE CASE OF INTERPRETATION PROVIDED DURING
10 THE COURSE OF A CLINICAL ENCOUNTER, SERVICES PROVIDED BY INDIVIDUALS
11 TRAINED AND SKILLED IN MEDICAL INTERPRETING TECHNIQUES, SKILLS, ETHICS
12 AND TERMINOLOGY.

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

15 (G) SUBJECT TO RECEIPT OF ALL NECESSARY FEDERAL APPROVALS, RATES OF
16 PAYMENT COMPUTED IN ACCORDANCE WITH THIS SUBDIVISION SHALL BE FURTHER
17 ADJUSTED IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION TWENTY OF THIS
18 SECTION.

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

21 (AA) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE FULL
22 AMOUNT EXPENDED FOR INTERPRETATION SERVICES PROVIDED PURSUANT TO SUBDI-
23 VISION THIRTY-FOUR OF SECTION TWENTY-EIGHT HUNDRED SEVEN-C OF THE PUBLIC
24 HEALTH LAW, OR SUBPARAGRAPH (III) OF PARAGRAPH (G) OF SUBDIVISION TWO OF
25 SECTION TWENTY-EIGHT HUNDRED SEVEN OF THE PUBLIC HEALTH LAW, OR SUBDIVI-
26 SION TWENTY OF SECTION TWENTY-EIGHT HUNDRED SEVEN OF THE PUBLIC HEALTH
27 LAW, AFTER FIRST DEDUCTING THEREFROM FEDERAL FUNDS PROPERLY RECEIVED OR
28 TO BE RECEIVED ON ACCOUNT OF SUCH EXPENDITURES.

29 S 6. Notwithstanding any provision of law, rule or regulation to the
30 contrary, the effectiveness of subdivisions 4, 7, 7-a, and 7-b of
31 section 2807 of the public health law, and section 18 of chapter 2 of
32 the laws of 1988, as they relate to time frames for notice, approval or
33 certification of rates of payment, and to the requirement of prior
34 notice of rates of payment, are hereby suspended and shall for purposes
35 of implementing the provisions of this act be deemed to have been with-
36 out any force and effect from and after February 1, 2012 for such rates
37 effective for the period April 1, 2012 through March 31, 2013.

38 S 7. This act shall take effect on the one hundred twentieth day
39 after it shall have become a law, provided that the commissioner of
40 health is immediately authorized and directed to promulgate, amend
41 and/or repeal any rules and regulations necessary to implement the
42 provisions of this act on its effective date.