

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

2098

2011-2012 Regular Sessions

I N S E N A T E

January 18, 2011

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

AN ACT to amend the public health law, the insurance law and the social services law, in relation to the provision of homemaker services

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

1 Section 1. Subdivision 4 of section 3602 of the public health law, as
2 amended by chapter 600 of the laws of 2002, is amended to read as
3 follows:
4 4. "Home health aide services" means simple health care tasks,
5 personal hygiene services, housekeeping tasks essential to the patient's
6 health and other related supportive services. Such services shall be
7 prescribed by a physician in accordance with a plan of treatment for the
8 patient and: (A) shall be under the supervision of a registered profes-
9 sional nurse from a certified home health agency or, when appropriate,
10 from a provider of a long term home health care program and of the
11 appropriate professional therapist from such agency or provider when the
12 aide carries out simple procedures as an extension of physical, speech
13 or occupational therapy, OR (B) *HOMEMAKER SERVICES WHICH CAN BE ENGAGED*
14 *THROUGH A PRIVATE HOME AIDE, PROVIDED HOWEVER THAT SUCH AIDE HAS (1) MET*
15 *THE STANDARDS ESTABLISHED BY THE DEPARTMENT OF FAMILY ASSISTANCE, AND*
16 *(2) SUCH SERVICES ARE REIMBURSABLE THROUGH THE NEW YORK STATE PARTNER-*
17 *SHIP FOR LONG TERM CARE PROGRAM PURSUANT TO SECTION THREE HUNDRED*
18 *SIXTY-SEVEN-F OF THE SOCIAL SERVICES LAW.* Such services may also be
19 prescribed or ordered by a nurse practitioner to the extent authorized
20 by law and consistent with the written practice agreement pursuant to
21 subdivision three of section six thousand nine hundred two of the educa-
22 tion law and not prohibited by federal law or regulation.
23 S 2. Subparagraph (A) of paragraph 6 of subsection (i) of section 3216
24 of the insurance law, as amended by chapter 557 of the laws of 2000, is
25 amended to read as follows:

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

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1 (A) Home care means the care and treatment of a covered person who is
2 under the care of a physician but only if hospitalization or confinement
3 in a nursing facility as defined in subchapter XVIII of the federal
4 Social Security Act, 42 U.S.C. SS 1395 et seq, would otherwise have been
5 required if home care was not provided, and the plan covering the home
6 health service is established and approved in writing by such physician.
7 Home care shall be provided by an agency [possessing] OR THROUGH A
8 PRIVATE HOME AIDE SERVICE PURSUANT TO THIS SUBPARAGRAPH. WHERE HOME CARE
9 IS PROVIDED BY AN AGENCY SUCH AGENCY SHALL POSSESS a valid certificate
10 of approval or license issued pursuant to article thirty-six of the
11 public health law and shall consist of one or more of the following:

12 (i) Part-time or intermittent home nursing care by or under the super-
13 vision of a registered professional nurse (R.N.).

14 (ii) Part-time or intermittent home health aide services which consist
15 primarily of caring for the patient.

16 (iii) Physical, occupational or speech therapy if provided by the home
17 health service or agency.

18 (iv) Medical supplies, drugs and medications prescribed by a physi-
19 cian, and laboratory services by or on behalf of a certified home health
20 agency or licensed home care services agency to the extent such items
21 would have been covered under the contract if the covered person had
22 been hospitalized or confined in a skilled nursing facility as defined
23 in [title] subchapter XVIII of the federal Social Security Act, 42
24 U.S.C. SS 1395 et seq.

25 WHERE HOMEMAKER SERVICES ARE PROVIDED THROUGH PRIVATE HOME AIDE
26 SERVICES SUCH CARE SHALL CONSIST OF ONE OR MORE OF THE FOLLOWING:

27 (I) SUCH AIDE SHALL HAVE MET THE STANDARDS ESTABLISHED BY THE DEPART-
28 MENT OF FAMILY ASSISTANCE.

29 (II) SUCH SERVICES ARE REIMBURSABLE THROUGH THE NEW YORK STATE PART-
30 NERSHIP FOR LONG TERM CARE PROGRAM PURSUANT TO SECTION THREE HUNDRED
31 SIXTY-SEVEN-F OF THE SOCIAL SERVICES LAW.

32 (III) PART-TIME OR INTERMITTENT HOMEMAKER SERVICES WHICH CONSIST
33 PRIMARILY OF CARING FOR THE PATIENT.

34 S 3. Subparagraph (D) of paragraph 1 of subsection (k) of section 3221
35 of the insurance law, as amended by chapter 557 of the laws of 2000, is
36 amended to read as follows:

37 (D) Home care shall be provided by an agency [possessing] OR THROUGH A
38 PRIVATE HOME AIDE SERVICE PURSUANT TO THIS SUBPARAGRAPH. WHERE HOME CARE
39 IS PROVIDED BY AN AGENCY SUCH AGENCY SHALL POSSESS a valid certificate
40 of approval or license issued pursuant to article thirty-six of the
41 public health law and shall consist of one or more of the following:

42 (i) Part-time or intermittent home nursing care by or under the super-
43 vision of a registered professional nurse (R.N.).

44 (ii) Part-time or intermittent home health aide services which consist
45 primarily of caring for the patient.

46 (iii) Physical, occupational or speech therapy if provided by the home
47 health service or agency.

48 (iv) Medical supplies, drugs and medications prescribed by a physi-
49 cian, and laboratory services by or on behalf of a certified home health
50 agency or licensed home care services agency to the extent such items
51 would have been covered under the contract if the covered person had
52 been hospitalized or confined in a skilled nursing facility as defined
53 in subchapter XVIII of the federal Social Security Act, 42 U.S.C. SS
54 1395 et seq.

55 WHERE HOMEMAKER SERVICES ARE PROVIDED THROUGH PRIVATE HOME AIDE
56 SERVICES SUCH CARE SHALL CONSIST OF ONE OR MORE OF THE FOLLOWING:

(I) SUCH AIDE SHALL HAVE MET THE STANDARDS ESTABLISHED BY THE DEPARTMENT OF FAMILY ASSISTANCE.

(II) SUCH SERVICES ARE REIMBURSABLE THROUGH THE NEW YORK STATE PARTNERSHIP FOR LONG TERM CARE PROGRAM PURSUANT TO SECTION THREE HUNDRED SIXTY-SEVEN-F OF THE SOCIAL SERVICES LAW.

(III) PART-TIME OR INTERMITTENT HOMEMAKER SERVICES WHICH CONSIST PRIMARILY OF CARING FOR THE PATIENT.

S 4. Subparagraphs (B) and (C) of paragraph 3 of subsection (a) of section 4303 of the insurance law, as amended by chapter 557 of the laws of 2000, are amended and a new subparagraph (C-1) is added to read as follows:

(B) Home care shall be provided by an agency [possessing] OR THROUGH A PRIVATE HOME AIDE SERVICE PURSUANT TO THIS PARAGRAPH. WHERE HOME CARE IS PROVIDED BY AN AGENCY SUCH AGENCY SHALL POSSESS a valid certificate of approval or license issued pursuant to article thirty-six of the public health law.

(C) Home care PROVIDED BY AN AGENCY shall consist of one or more of the following:

(i) part-time or intermittent home nursing care by or under the supervision of a registered professional nurse (R.N.),

(ii) part-time or intermittent home health aide services which consist primarily of caring for the patient,

(iii) physical, occupational or speech therapy if provided by the home health service or agency, and

(iv) medical supplies, drugs and medications prescribed by a physician, and laboratory services by or on behalf of a certified home health agency or licensed home care services agency to the extent such items would have been covered or provided under the contract if the covered person had been hospitalized or confined in a skilled nursing facility as defined in subchapter XVIII of the Social Security Act, 42 U.S.C. S 1395 et seq.

(C-1) HOMEMAKER SERVICES PROVIDED THROUGH A PRIVATE HOME AIDE SERVICE SHALL CONSIST OF ONE OR MORE OF THE FOLLOWING:

(I) SUCH AIDE SHALL HAVE MET THE STANDARDS ESTABLISHED BY THE DEPARTMENT OF FAMILY ASSISTANCE.

(II) SUCH SERVICES ARE REIMBURSABLE THROUGH THE NEW YORK STATE PARTNERSHIP FOR LONG TERM CARE PROGRAM PURSUANT TO SECTION THREE HUNDRED SIXTY-SEVEN-F OF THE SOCIAL SERVICES LAW.

(III) PART-TIME OR INTERMITTENT HOMEMAKER SERVICES WHICH CONSIST PRIMARILY OF CARING FOR THE PATIENT.

S 5. Paragraph (b) of subdivision 1 of section 367-f of the social services law, as added by chapter 659 of the laws of 1997, is amended to read as follows:

(b) "Long term care services" shall include, but not be limited to care, treatment, maintenance, and services: provided in a nursing facility licensed under article twenty-eight of the public health law; provided by a home care services agency, certified home health agency or long term home health care program, as defined in section thirty-six hundred two of the public health law; provided by an adult day health care program in accordance with regulations of the department of health; [or] provided by a personal care provider licensed or regulated by any other state or local agency; OR HOMEMAKER SERVICES THROUGH PRIVATE HOME AIDES AS PROVIDED IN SUBDIVISION FOUR OF SECTION THIRTY-SIX HUNDRED TWO OF THE PUBLIC HEALTH LAW; and such other services for which medical assistance is otherwise available under this chapter which are desig-

1 nated as long term care services in law or regulations of the department
2 of health.

3 S 6. The department of insurance shall analyze and compare expendi-
4 tures, utilization rates, and utilization patterns for claims for home
5 care services covered by individual and group accident and health insur-
6 ance for the period commencing two years immediately preceding the
7 effective date of this act and ending two years immediately following
8 the effective date of this act. The department of insurance shall report
9 its findings to the governor, the temporary president of the senate, and
10 the speaker of the assembly on or before April 1, 2013.

11 S 7. This act shall take effect on the one hundred twentieth day after
12 it shall have become a law and shall apply to policies or contracts
13 issued, renewed, modified, altered, or amended on or after such date.