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

6189

I N S E N A T E

January 11, 2012

Introduced by Sen. CARLUCCI -- 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 insurance law, in relation to requiring hospitals to inform emergency care patients whether the attending physician participates with the patient's insurance policy and requiring insurance companies to cover the cost of out-of-network care for patients who are unconscious or otherwise unable to provide informed consent

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

Section 1. Section 2805-b of the public health law is amended by adding a new subdivision 1-a to read as follows:

1-A. EVERY GENERAL HOSPITAL IN WHICH INSURED PATIENTS ARE ADMITTED FOR EMERGENCY CARE SHALL ADOPT REGULATIONS REQUIRING ITS STAFF TO INFORM SUCH PATIENTS WHETHER THE ATTENDING PHYSICIAN PARTICIPATES WITH THE PATIENT'S INSURANCE POLICY. IN THE EVENT SUCH ATTENDING PHYSICIAN DOES NOT PARTICIPATE WITH THE PATIENT'S INSURANCE POLICY, THE PATIENT SHALL BE PERMITTED TO DECIDE WHETHER TO BE TREATED BY THE OUT-OF-NETWORK ATTENDING PHYSICIAN OR TO REQUEST TREATMENT BY AN IN-NETWORK PHYSICIAN, WHO MUST TREAT SUCH PATIENT WITH ALL CONVENIENT SPEED.

S 2. Subsection (i) of section 3216 of the insurance law is amended by adding a new paragraph 9-a to read as follows:

(9-A)(A) EVERY POLICY THAT PROVIDES COVERAGE FOR SERVICES TO TREAT AN EMERGENCY CONDITION IN HOSPITAL FACILITIES:

(I) WITHOUT THE NEED FOR ANY PRIOR AUTHORIZATION DETERMINATION;

(II) IN THE CASE OF PATIENTS WHO ARE UNCONSCIOUS OR OTHERWISE UNABLE TO PROVIDE INFORMED CONSENT, REGARDLESS OF WHETHER THE HEALTH CARE PROVIDER FURNISHING SUCH SERVICES IS A PARTICIPATING PROVIDER WITH RESPECT TO SUCH SERVICES;

(III) IF THE EMERGENCY SERVICES ARE PROVIDED BY A NON-PARTICIPATING PROVIDER, WITHOUT IMPOSING ANY ADMINISTRATIVE REQUIREMENT OR LIMITATION ON COVERAGE THAT IS MORE RESTRICTIVE THAN THE REQUIREMENTS OR LIMITATIONS THAT APPLY TO EMERGENCY SERVICES RECEIVED FROM PARTICIPATING PROVIDERS; AND

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

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(IV) IF THE EMERGENCY SERVICES ARE PROVIDED BY A NON-PARTICIPATING PROVIDER, THE COST-SHARING REQUIREMENT (EXPRESSED AS A COPAYMENT OR COINSURANCE) SHALL BE THE SAME REQUIREMENT THAT WOULD APPLY IF SUCH SERVICES WERE PROVIDED BY A PARTICIPATING PROVIDER.

(B) ANY REQUIREMENTS OF SECTION 2719A(B) OF THE PUBLIC HEALTH SERVICE ACT, 42 U.S.C. S 300GG19A(B) AND REGULATIONS THEREUNDER THAT EXCEED THE REQUIREMENTS OF THIS PARAGRAPH WITH RESPECT TO COVERAGE OF EMERGENCY SERVICES SHALL BE APPLICABLE TO EVERY POLICY SUBJECT TO THIS PARAGRAPH.

(C) FOR PURPOSES OF THIS PARAGRAPH, AN "EMERGENCY CONDITION" MEANS A MEDICAL OR BEHAVIORAL CONDITION THAT MANIFESTS ITSELF BY ACUTE SYMPTOMS OF SUFFICIENT SEVERITY, INCLUDING SEVERE PAIN, SUCH THAT A PRUDENT LAYPERSON, POSSESSING AN AVERAGE KNOWLEDGE OF MEDICINE AND HEALTH, COULD REASONABLY EXPECT THE ABSENCE OF IMMEDIATE MEDICAL ATTENTION TO RESULT IN (I) PLACING THE HEALTH OF THE PERSON AFFLICTED WITH SUCH CONDITION IN SERIOUS JEOPARDY, OR IN THE CASE OF A BEHAVIORAL CONDITION PLACING THE HEALTH OF SUCH PERSON OR OTHERS IN SERIOUS JEOPARDY; (II) SERIOUS IMPAIRMENT TO SUCH PERSON'S BODILY FUNCTIONS; (III) SERIOUS DYSFUNCTION OF ANY BODILY ORGAN OR PART OF SUCH PERSON; (IV) SERIOUS DISFIGUREMENT OF SUCH PERSON; OR (V) A CONDITION DESCRIBED IN CLAUSE (I), (II) OR (III) OF SECTION 1867(E)(1)(A) OF THE SOCIAL SECURITY ACT.

(D) FOR PURPOSES OF THIS PARAGRAPH, "EMERGENCY SERVICES" MEANS, WITH RESPECT TO AN EMERGENCY CONDITION: (I) A MEDICAL SCREENING EXAMINATION AS REQUIRED UNDER SECTION 1867 OF THE SOCIAL SECURITY ACT, 42 U.S.C. S 1395DD, WHICH IS WITHIN THE CAPABILITY OF THE EMERGENCY DEPARTMENT OF A HOSPITAL, INCLUDING ANCILLARY SERVICES ROUTINELY AVAILABLE TO THE EMERGENCY DEPARTMENT TO EVALUATE SUCH EMERGENCY MEDICAL CONDITION; AND (II) WITHIN THE CAPABILITIES OF THE STAFF AND FACILITIES AVAILABLE AT THE HOSPITAL, SUCH FURTHER MEDICAL EXAMINATION AND TREATMENT AS ARE REQUIRED UNDER SECTION 1867 OF THE SOCIAL SECURITY ACT, 42 U.S.C. S 1395DD, TO STABILIZE THE PATIENT.

(E) FOR PURPOSES OF THIS PARAGRAPH, "TO STABILIZE" MEANS, WITH RESPECT TO AN EMERGENCY CONDITION, TO PROVIDE SUCH MEDICAL TREATMENT OF THE CONDITION AS MAY BE NECESSARY TO ASSURE, WITHIN REASONABLE MEDICAL PROBABILITY, THAT NO MATERIAL DETERIORATION OF THE CONDITION IS LIKELY TO RESULT FROM OR OCCUR DURING THE TRANSFER OF THE INSURED FROM A FACILITY OR TO DELIVER A NEWBORN CHILD (INCLUDING THE PLACENTA).

S 3. This act shall take effect on the one hundred twentieth day after it shall have become a law.