

2340

2011-2012 Regular Sessions

I N A S S E M B L Y

January 18, 2011

Introduced by M. of A. SCHIMMINGER, GABRYSZAK -- Multi-Sponsored by --
M. of A. GIGLIO, HAWLEY, HOOPER, MAGEE, J. RIVERA, TOWNS -- read once
and referred 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 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 1 of part F of chapter 497 of the
17 laws of 2008, 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-
20 lations of the department, provided that the commissioner of health is
21 authorized to implement a preferred diabetic supply program wherein the
22 department of health will receive enhanced rebates from preferred

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

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1 manufacturers of glucometers and test strips, and may subject non-pre-
2 ferred manufacturers' glucometers and test strips to prior authorization
3 under section two hundred seventy-three of the public health law; drugs
4 provided on an in-patient basis, those drugs contained on the list
5 established by regulation of the commissioner of health pursuant to
6 subdivision four of this section, and those drugs which may not be
7 dispensed without a prescription as required by section sixty-eight
8 hundred ten of the education law and which the commissioner of health
9 shall determine to be reimbursable based upon such factors as the avail-
10 ability of such drugs or alternatives at low cost if purchased by a
11 medicaid recipient, or the essential nature of such drugs as described
12 by such commissioner in regulations, provided, however, that such drugs,
13 exclusive of long-term maintenance drugs, shall be dispensed in quanti-
14 ties no greater than a thirty day supply or one hundred doses, whichever
15 is greater; provided further that the commissioner of health is author-
16 ized to require prior authorization for any refill of a prescription
17 when less than seventy-five percent of the previously dispensed amount
18 per fill should have been used were the product used as normally indi-
19 cated, AND PROVIDED FURTHER THAT SUCH COMMISSIONER IS AUTHORIZED TO
20 REQUIRE PRIOR APPROVAL OF ANY PRESCRIPTION DRUG THAT IS PRESCRIBED FOR A
21 RESIDENT OF A NURSING HOME AND THAT IS NOT REIMBURSED AS PART OF THE
22 NURSING HOME'S MEDICAID RATE; medical assistance shall not include any
23 drug provided on other than an in-patient basis for which a recipient is
24 charged or a claim is made in the case of a prescription drug, in excess
25 of the maximum reimbursable amounts to be established by department
26 regulations in accordance with standards established by the secretary of
27 the United States department of health and human services, or, in the
28 case of a drug not requiring a prescription, in excess of the maximum
29 reimbursable amount established by the commissioner of health pursuant
30 to paragraph (a) of subdivision four of this section;

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

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

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

51 S 6. The commissioner of health is authorized to promulgate or adopt
52 any rules or regulations necessary to implement the provisions of this
53 act and any procedures, forms, or instructions necessary for such imple-
54 mentation may be adopted and issued on or after the effective date of
55 this act. Notwithstanding any inconsistent provision of the state admin-
56 istrative procedure act or any other provision of law, rule or regu-

1 lation, the commissioner of health and the superintendent of insurance
2 and any appropriate council is authorized to adopt or amend or promul-
3 gate on an emergency basis any regulation he or she or such council
4 determines necessary to implement any provision of this act on its
5 effective date.

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