

6635

2011-2012 Regular Sessions

I N A S S E M B L Y

March 23, 2011

Introduced by M. of A. CURRAN -- read once and referred to the Committee
on Insurance

AN ACT to amend the insurance law, in relation to allowing reimburse-
ments for certain services provided by licensed mental health counse-
lors

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

1 Section 1. Paragraph 4 of subsection (i) of section 3216 of the insur-
2 ance law is amended to read as follows:
3 (4) If a policy provides for reimbursement for psychiatric or psycho-
4 logical services or for diagnosis and treatment of mental, nervous, or
5 emotional disorders or ailments, however defined in the policy, the
6 insured shall be entitled to reimbursement for such services, diagnosis
7 or treatment whether performed by a physician, psychiatrist [or], a
8 certified and registered psychologist, OR A LICENSED MENTAL HEALTH COUN-
9 SELOR when the services rendered are within the lawful scope of their
10 practice.
11 S 2. Paragraph 4 of subsection (l) of section 3221 of the insurance
12 law, subparagraphs (A) and (D) as amended by chapter 230 of the laws of
13 2004 and subparagraph (B) as amended by chapter 420 of the laws of 2002,
14 is amended to read as follows:
15 (4) (A) Every insurer delivering a group policy or issuing a group
16 policy for delivery, in this state, which provides reimbursement for
17 psychiatric or psychological services or for the diagnosis and treatment
18 of mental, nervous or emotional disorders and ailments, however defined
19 in such policy, by physicians, psychiatrists or psychologists, must make
20 available and if requested by the policyholder provide the same coverage
21 to insureds for such services when performed by a licensed clinical
22 social worker, within the lawful scope of his or her practice, who is
23 licensed pursuant to article one hundred fifty-four of the education law
24 OR A LICENSED MENTAL HEALTH COUNSELOR, WITHIN THE LAWFUL SCOPE OF HIS OR

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

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1 HER PRACTICE, WHO IS LICENSED PURSUANT TO ARTICLE ONE HUNDRED
2 SIXTY-THREE OF THE EDUCATION LAW. Written notice of the availability of
3 such coverage shall be delivered to the policyholder prior to inception
4 of such group policy and annually thereafter, except that this notice
5 shall not be required where a policy covers two hundred or more employ-
6 ees or where the benefit structure was the subject of collective
7 bargaining affecting persons who are employed in more than one state.

8 (B) The state board for social work shall maintain a list of all
9 licensed clinical social workers qualified for reimbursement under this
10 paragraph. THE STATE BOARD OF MENTAL HEALTH PRACTITIONERS SHALL MAINTAIN
11 A LIST OF ALL LICENSED MENTAL HEALTH COUNSELORS QUALIFIED FOR REIMBURSE-
12 MENT UNDER THIS PARAGRAPH.

13 (C) Such coverage shall be made available at the inception of all new
14 policies and, with respect to all other policies at any subsequent annu-
15 al anniversary date of the policy subject to evidence of insurability.

16 (D) In addition to the requirements of subparagraph (A) of this para-
17 graph, every insurer issuing a group policy for delivery in this state
18 which policy provides reimbursement to insureds for psychiatric or
19 psychological services or for the diagnosis and treatment of mental,
20 nervous or emotional disorders and ailments, however defined in such
21 policy, by physicians, psychiatrists or psychologists, must provide the
22 same coverage to insureds for such services when performed by a licensed
23 clinical social worker, within the lawful scope of his or her practice,
24 who is licensed pursuant to subdivision two of section seven thousand
25 seven hundred four of the education law OR A LICENSED MENTAL HEALTH
26 COUNSELOR, WITHIN THE LAWFUL SCOPE OF HIS OR HER PRACTICE, WHO IS
27 LICENSED PURSUANT TO SUBDIVISION THREE OF SECTION EIGHT THOUSAND FOUR
28 HUNDRED TWO OF THE EDUCATION LAW and in addition shall have either (i)
29 three or more additional years experience in psychotherapy, which for
30 the purposes of this subparagraph shall mean the use of verbal methods
31 in interpersonal relationships with the intent of assisting a person or
32 persons to modify attitudes and behavior which are intellectually,
33 socially or emotionally maladaptive, under supervision, satisfactory to
34 the state board for social work OR THE STATE BOARD OF MENTAL HEALTH
35 PRACTITIONERS, in a facility, licensed or incorporated by an appropriate
36 governmental department, providing services for diagnosis or treatment
37 of mental, nervous or emotional disorders or ailments, or (ii) three or
38 more additional years experience in psychotherapy under the supervision,
39 satisfactory to the state board for social work OR THE STATE BOARD OF
40 MENTAL HEALTH PRACTITIONERS, of a psychiatrist, a licensed and regis-
41 tered psychologist [or], a licensed clinical social worker OR A LICENSED
42 MENTAL HEALTH COUNSELOR qualified for reimbursement pursuant to
43 subsection (h) of this section, or (iii) a combination of the experience
44 specified in items (i) and (ii) OF THIS SUBPARAGRAPH totaling three
45 years, satisfactory to the state board for social work OR THE STATE
46 BOARD OF MENTAL HEALTH PRACTITIONERS. The state board for social work
47 shall maintain a list of all licensed clinical social workers qualified
48 for reimbursement under this subparagraph. THE STATE BOARD OF MENTAL
49 HEALTH PRACTITIONERS SHALL MAINTAIN A LIST OF ALL LICENSED MENTAL HEALTH
50 COUNSELORS QUALIFIED FOR REIMBURSEMENT UNDER THIS SUBPARAGRAPH.

51 S 3. Item (ii) of subparagraph (A) of paragraph 5 of subsection (1) of
52 section 3221 of the insurance law, as amended by chapter 502 of the laws
53 of 2007, is amended to read as follows:

54 (ii) where the policy provides coverage for physician services, it
55 shall include benefits for outpatient care provided by a psychiatrist or
56 psychologist licensed to practice in this state, a licensed clinical

1 social worker OR A LICENSED MENTAL HEALTH COUNSELOR who meets the
2 requirements of subparagraph (D) of paragraph four of this subsection,
3 or a professional corporation or university faculty practice corporation
4 thereof. Such benefits may be limited to not less than twenty visits in
5 any contract year, plan year, or calendar year.

6 S 4. Subparagraph (G) of paragraph 4 of subsection (f) of section 4235
7 of the insurance law, as relettered by chapter 456 of the laws of 1993,
8 is amended to read as follows:

9 (G) psychiatric or psychological services or for the diagnosis and
10 treatment of mental, nervous, or emotional disorders or ailments, howev-
11 er defined in such policy, a subscriber to such policy shall be entitled
12 to reimbursement for such psychiatric or psychological services or diag-
13 nosis or treatment whether performed by a physician, psychiatrist [or],
14 a certified and registered psychologist OR A LICENSED MENTAL HEALTH
15 COUNSELOR when the services rendered are within the lawful scope of
16 their practice, and when such policy or any certificate issued there-
17 under is delivered or issued for delivery without this state by an
18 authorized insurer, covered persons residing in this state shall be
19 entitled to reimbursement for such diagnosis and treatment by a physi-
20 cian, psychiatrist or a certified and registered psychologist as herein-
21 above provided; and

22 S 5. Paragraph 1 of subsection (h) and subsections (i) and (n) of
23 section 4303 of the insurance law, paragraph 1 of subsection (h) as
24 amended by chapter 502 of the laws of 2007 and subsections (i) and (n)
25 as amended by chapter 230 of the laws of 2004, are amended to read as
26 follows:

27 (1) A medical expense indemnity corporation or a health service corpo-
28 ration, which provides group, group remittance or school blanket cover-
29 age for physician services, shall provide as part of its contract broad-
30 based coverage for the diagnosis and treatment of mental, nervous or
31 emotional disorders or ailments, however defined in such contract, at
32 least equal to the coverage provided for other health conditions and
33 shall include: benefits for outpatient care provided by a psychiatrist
34 or psychologist licensed to practice in this state, a licensed clinical
35 social worker OR A LICENSED MENTAL HEALTH COUNSELOR who meets the
36 requirements of subsection (n) of this section, or a professional corpo-
37 ration or university faculty practice corporation thereof, which bene-
38 fits may be limited to not less than twenty visits in any contract year,
39 plan year or calendar year. Such coverage may be provided on a contract
40 year, plan year or calendar year basis and shall be consistent with the
41 provision of other benefits under the contract. Such coverage may be
42 subject to annual deductibles, co-pays and coinsurance as may be deemed
43 appropriate by the superintendent and shall be consistent with those
44 imposed on other benefits under the contract. In the event the group
45 remittance group or contract holder is provided coverage provided under
46 this paragraph and under subparagraph (B) of paragraph one of subsection
47 (g) of this section from the same health service corporation, or under a
48 contract which is jointly underwritten by two health service corpo-
49 rations or by a health service corporation and a medical expense indem-
50 nity corporation, the aggregate of the benefits for out-patient care
51 obtained under subparagraph (B) of paragraph one of subsection (g) of
52 this section and this paragraph may be limited to not less than twenty
53 visits in any contract year, plan year or calendar year.

54 (i) A medical expense indemnity corporation or health service corpo-
55 ration which provides coverage for physicians, psychiatrists or psychol-
56 ogists for psychiatric or psychological services or for the diagnosis

1 and treatment of mental, nervous or emotional disorders and ailments,
2 however defined in such contract, must make available and if requested
3 by all persons holding individual contracts in a group whose premiums
4 are paid by a remitting agent or by the contract holder in the case of a
5 group contract issued pursuant to section four thousand three hundred
6 five of this article, provide the same coverage for such services when
7 performed by a licensed clinical social worker, within the lawful scope
8 of his or her practice, who is licensed pursuant to article one hundred
9 fifty-four of the education law OR A LICENSED MENTAL HEALTH COUNSELOR,
10 WITHIN THE LAWFUL SCOPE OF HIS OR HER PRACTICE, WHO IS LICENSED PURSUANT
11 TO ARTICLE ONE HUNDRED SIXTY-THREE OF THE EDUCATION LAW. The state board
12 for social work shall maintain a list of all licensed clinical social
13 workers qualified for reimbursement under this subsection. THE STATE
14 BOARD OF MENTAL HEALTH PRACTITIONERS SHALL MAINTAIN A LIST OF ALL
15 LICENSED CLINICAL SOCIAL WORKERS QUALIFIED FOR REIMBURSEMENT UNDER THIS
16 SUBSECTION. Such coverage shall be made available at the inception of
17 all new contracts and, with respect to all other contracts, at any anni-
18 versary date subject to evidence of insurability. Written notice of the
19 availability of such coverage shall be delivered to the group remitting
20 agent or group contract holder prior to inception of such contract and
21 annually thereafter, except that this notice shall not be required where
22 a policy covers two hundred or more employees or where the benefit
23 structure was the subject of collective bargaining affecting persons who
24 are employed in more than one state.

25 (n) In addition to the requirements of subsection (i) of this section,
26 every health service or medical expense indemnity corporation issuing a
27 group contract pursuant to this section or a group remittance contract
28 for delivery in this state which contract provides reimbursement to
29 subscribers or physicians, psychiatrists or psychologists for psychiat-
30 ric or psychological services or for the diagnosis and treatment of
31 mental, nervous or emotional disorders and ailments, however defined in
32 such contract, must provide the same coverage to persons covered under
33 the group contract for such services when performed by a licensed clin-
34 ical social worker, within the lawful scope of his or her practice, who
35 is licensed pursuant to subdivision two of section seven thousand seven
36 hundred four of the education law OR A LICENSED MENTAL HEALTH COUNSELOR,
37 WITHIN THE LAWFUL SCOPE OF HIS OR HER PRACTICE, WHO IS LICENSED PURSUANT
38 TO SUBDIVISION THREE OF SECTION EIGHT THOUSAND FOUR HUNDRED TWO OF THE
39 EDUCATION LAW and in addition shall have either (i) three or more addi-
40 tional years experience in psychotherapy, which for the purposes of this
41 subsection shall mean the use of verbal methods in interpersonal
42 relationships with the intent of assisting a person or persons to modify
43 attitudes and behavior which are intellectually, socially or emotionally
44 maladaptive, under supervision, satisfactory to the state board for
45 social work OR THE STATE BOARD OF MENTAL HEALTH PRACTITIONERS, in a
46 facility, licensed or incorporated by an appropriate governmental
47 department, providing services for diagnosis or treatment of mental,
48 nervous or emotional disorders or ailments, or (ii) three or more addi-
49 tional years experience in psychotherapy under the supervision, satis-
50 factory to the state board for social work OR THE STATE BOARD OF MENTAL
51 HEALTH PRACTITIONERS, of a psychiatrist, a licensed and registered
52 psychologist or a licensed clinical social worker OR LICENSED MENTAL
53 HEALTH PRACTITIONER qualified for reimbursement pursuant to subsection
54 (i) of this section, or (iii) a combination of the experience specified
55 in [paragraphs] ITEMS (i) and (ii) OF THIS SUBPARAGRAPH totaling three
56 years, satisfactory to the state board for social work OR THE STATE

1 BOARD OF MENTAL HEALTH PRACTITIONERS. The state board for social work
2 shall maintain a list of all licensed clinical social workers qualified
3 for reimbursement under this subsection. THE STATE BOARD OF MENTAL
4 HEALTH PRACTITIONERS SHALL MAINTAIN A LIST OF ALL LICENSED MENTAL HEALTH
5 COUNSELORS QUALIFIED FOR REIMBURSEMENT UNDER THIS SUBSECTION.
6 S 6. This act shall take effect on the ninetieth day after it shall
7 have become a law.