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

5750

2011-2012 Regular Sessions

I N S E N A T E

June 14, 2011

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

AN ACT to amend the insurance law, the social services law and the public health law, in relation to including tobacco dependence treatments as covered services for certain insureds, policyholders or enrollees

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

Section 1. The insurance law is amended by adding a new section 3217-e to read as follows:

S 3217-E. TOBACCO DEPENDENCE TREATMENT; INSURANCE POLICIES. (A) AN INSURER SUBJECT TO THE PROVISIONS OF THIS CHAPTER OR ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW SHALL PROVIDE INSUREDS WITH COMPREHENSIVE COVERAGE FOR EFFECTIVE TOBACCO DEPENDENCE TREATMENTS, INCLUDING COUNSELING SERVICES AND MEDICATION. SUCH COVERAGE SHALL CARRY NO ADDITIONAL CO-PAYMENT FEES OR CHARGES.

(B) AN INSURED SHALL BE PERMITTED TO PARTICIPATE IN A TOBACCO DEPENDENCE TREATMENT PROGRAM AS OFTEN AS NECESSARY FOR RECOVERY.

(C) IT SHALL BE THE DUTY OF THE ADMINISTRATIVE OFFICER OR OTHER PERSON IN CHARGE OF EACH INSURER SUBJECT TO THIS ARTICLE TO ADVISE EACH INSURED, IN WRITING, OF THE PROVISIONS OF THIS SECTION.

S 2. The insurance law is amended by adding a new section 342 to read as follows:

S 342. TOBACCO DEPENDENCE TREATMENT; NOTIFICATION. THE SUPERINTENDENT SHALL REQUIRE THAT ALL INSURERS SUBJECT TO THE PROVISIONS OF THIS CHAPTER OR ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW, NOTIFY INSUREDS AND HEALTHCARE PROVIDERS, CONCERNING THE AVAILABILITY OF TOBACCO DEPENDENCE TREATMENT COVERAGE, INCLUDING BOTH COUNSELING SERVICES AND MEDICATION, AND SHALL ENCOURAGE THE USE OF SUCH SERVICES.

S 3. The social services law is amended by adding a new section 366-j to read as follows:

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

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S 366-J. TOBACCO DEPENDENCE TREATMENT PROGRAMS. 1. THE DEPARTMENT IS AUTHORIZED TO ENTER INTO CONTRACTUAL AGREEMENTS WITH PUBLIC AND/OR PRIVATE ORGANIZATIONS TO DEVELOP AND IMPLEMENT TOBACCO DEPENDENCE TREATMENT PROGRAMS.

2. A TOBACCO DEPENDENCE TREATMENT PROGRAM SHALL INCLUDE BOTH COUNSELING SERVICES AND MEDICATION.

3. SUCH TREATMENT PROGRAMS SHALL BE MADE AVAILABLE TO MEDICAL ASSISTANCE RECIPIENTS, MEDICARE RECIPIENTS AND POLICYHOLDERS OF INSURANCE POLICIES SUBJECT TO THE PROVISIONS OF THE INSURANCE LAW OR ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW.

4. THE DEPARTMENT IS AUTHORIZED TO PROVIDE TECHNICAL ASSISTANCE TO PUBLIC AND/OR PRIVATE ORGANIZATIONS SUBMITTING PLANS FOR AND/OR CONDUCTING TOBACCO DEPENDENCE TREATMENT PROGRAMS, IN ORDER TO HELP ASSURE EFFECTIVE IMPLEMENTATION OF SUCH PROGRAMS.

5. THE DEPARTMENT IS AUTHORIZED TO PROMULGATE RULES AND REGULATIONS AND TO TAKE ANY OTHER MEASURES IT DEEMS NECESSARY FOR THE EFFECTIVE IMPLEMENTATION OF THE TOBACCO DEPENDENCE TREATMENT PROGRAMS.

S 4. Section 365 of the social services law is amended by adding a new subdivision 13 to read as follows:

13. ANY INCONSISTENT PROVISIONS OF THIS CHAPTER OR OTHER LAW NOTWITHSTANDING, THE DEPARTMENT SHALL BE RESPONSIBLE FOR FURNISHING MEDICAL ASSISTANCE TO ELIGIBLE PERSONS SEEKING TO PARTICIPATE IN A TOBACCO DEPENDENCE TREATMENT PROGRAM, AS DESCRIBED IN SECTION THREE HUNDRED SIXTY-SIX-J OF THIS TITLE.

S 5. Subparagraphs (xv) and (xvi) of paragraph (e) of subdivision 1 of section 369-ee of the social services law, subparagraph (xv) as amended and subparagraph (xvi) as added by chapter 526 of the laws of 2002, are amended and a new subparagraph (xvii) is added to read as follows:

(xv) services provided to meet the requirements of 42 U.S.C. 1396d(r); [and]

(xvi) hospice services[.]; AND

(XVII) TOBACCO DEPENDENCE TREATMENT PROGRAM, AS DESCRIBED IN SECTION THREE HUNDRED SIXTY-SIX-J OF THIS ARTICLE.

S 5. Subdivision 10 of section 4405 of the public health law, as amended by chapter 549 of the laws of 1981 and as renumbered by chapter 538 of the laws of 1993, is amended to read as follows:

10. notwithstanding any other provision of law, to advertise the comprehensive health services which it renders, INCLUDING TOBACCO DEPENDENCE TREATMENT, and the plan relating to the rendition of such services, provided, however, that all information disseminated to the public shall be strictly factual in nature and accurate in all respects and shall not in any way be misleading to the public.

S 6. The public health law is amended by adding a new section 4406-f to read as follows:

S 4406-F. TOBACCO DEPENDENCE TREATMENT COVERAGE. 1. ANY HEALTH CARE PLAN SUBJECT TO THE PROVISIONS OF THIS ARTICLE, SHALL PROVIDE ENROLLEES WITH COMPREHENSIVE COVERAGE FOR TOBACCO DEPENDENCE TREATMENT, INCLUDING COUNSELING SERVICES AND MEDICATION. SUCH COVERAGE SHALL CARRY NO ADDITIONAL CO-PAYMENT FEES OR CHARGES.

2. AN ENROLLEE SHALL BE PERMITTED TO PARTICIPATE IN A TOBACCO DEPENDENCE TREATMENT PROGRAM AS OFTEN AS NECESSARY FOR RECOVERY.

3. IT SHALL BE THE DUTY OF THE ADMINISTRATIVE OFFICER OR OTHER PERSON IN CHARGE OF THE HEALTH MAINTENANCE ORGANIZATION PROVIDING THE HEALTH CARE PLAN TO ADVISE EACH ENROLLEE, IN WRITING, OF THE PROVISIONS OF THIS SECTION.

S 7. This act shall take effect on the sixtieth day after it shall have become a law.