

9129--A

I N A S S E M B L Y

March 19, 2014

Introduced by M. of A. RUSSELL, SANTABARBARA, STIRPE, ROBERTS, BARRETT, LIFTON, BRINDISI, GUNTHER, LUPARDO -- Multi-Sponsored by -- M. of A. DUPREY, P. LOPEZ -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

1 Section 1. Subdivision 1 of section 2 of the public health law is
2 amended by adding five new paragraphs (o), (p), (q), (r) and (s) to read
3 as follows:

4 (O) DISTANT SITE. THE TERM "DISTANT SITE" MEANS A SITE AT WHICH A
5 HEALTH CARE PROVIDER IS LOCATED WHILE PROVIDING HEALTH CARE SERVICES BY
6 MEANS OF TELEMEDICINE OR TELEHEALTH; UNLESS THE TERM IS OTHERWISE
7 DEFINED WITH RESPECT TO THE PROVISION IN WHICH IT IS USED.

8 (P) HEALTH CARE PROVIDER. THE TERM "HEALTH CARE PROVIDER" MEANS A
9 PERSON LICENSED PURSUANT TO ARTICLE ONE HUNDRED THIRTY-ONE, ONE HUNDRED
10 THIRTY-ONE-B, ONE HUNDRED THIRTY-THREE, ONE HUNDRED THIRTY-NINE, ONE
11 HUNDRED FORTY, ONE HUNDRED FORTY-ONE, ONE HUNDRED FORTY-THREE, ONE
12 HUNDRED FORTY-FOUR, ONE HUNDRED FIFTY-THREE, ONE HUNDRED FIFTY-FOUR OR
13 ONE HUNDRED FIFTY-NINE OF THE EDUCATION LAW, ACTING WITHIN HIS OR HER
14 SCOPE OF PRACTICE, INCLUDING ANY LAWFUL PRACTICE ENTITY OF SUCH HEALTH
15 CARE PRACTITIONERS; A HOSPITAL AS DEFINED IN ARTICLE TWENTY-EIGHT OF
16 THIS CHAPTER; HOME CARE SERVICES AGENCY AS DEFINED IN ARTICLE THIRTY-SIX
17 OF THIS CHAPTER; OR A HOSPICE AS DEFINED IN ARTICLE FORTY OF THIS CHAP-
18 TER; UNLESS THE TERM IS OTHERWISE DEFINED BY LAW WITH RESPECT TO THE
19 PROVISION IN WHICH IT IS USED.

20 (Q) ORIGINATING SITE. THE TERM "ORIGINATING SITE" MEANS A SITE AT
21 WHICH A PATIENT IS LOCATED AT THE TIME HEALTH CARE SERVICES ARE PROVIDED
22 TO HIM OR HER BY MEANS OF TELEMEDICINE OR TELEHEALTH, UNLESS THE TERM IS
23 OTHERWISE DEFINED WITH RESPECT TO THE PROVISION IN WHICH IT IS USED.
24 PROVIDED, HOWEVER, NOTWITHSTANDING ANY OTHER PROVISION OF LAW, INSURERS
25 AND PROVIDERS MAY AGREE TO ALTERNATIVE SITING ARRANGEMENTS DEEMED APPRO-
26 PRIATED BY THE PARTIES.

27 (R) TELEHEALTH. THE TERM "TELEHEALTH" MEANS DELIVERING HEALTH CARE
28 SERVICES BY MEANS OF INFORMATION AND COMMUNICATIONS TECHNOLOGIES

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

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1 CONSISTING OF TELEPHONES, REMOTE PATIENT MONITORING DEVICES OR OTHER
2 ELECTRONIC MEANS WHICH FACILITATE THE ASSESSMENT, DIAGNOSIS, CONSULTA-
3 TION, TREATMENT, EDUCATION, CARE MANAGEMENT AND SELF MANAGEMENT OF A
4 PATIENT'S HEALTH CARE WHILE SUCH PATIENT IS AT THE ORIGINATING SITE AND
5 THE HEALTH CARE PROVIDER IS AT A DISTANT SITE; CONSISTENT WITH APPLICA-
6 BLE FEDERAL LAW AND REGULATIONS; UNLESS THE TERM IS OTHERWISE DEFINED BY
7 LAW WITH RESPECT TO THE PROVISION IN WHICH IT IS USED.

8 (S) TELEMEDICINE. THE TERM "TELEMEDICINE" MEANS THE DELIVERY OF CLIN-
9 ICAL HEALTH CARE SERVICES BY MEANS OF REAL TIME TWO-WAY ELECTRONIC AUDIO
10 VISUAL COMMUNICATIONS, INCLUDING THE APPLICATION OF SECURE VIDEO CONFER-
11 ENCING OR STORE AND FORWARD TECHNOLOGY TO PROVIDE OR SUPPORT HEALTHCARE
12 DELIVERY, WHICH FACILITATE THE ASSESSMENT, DIAGNOSIS, CONSULTATION,
13 TREATMENT, EDUCATION, CARE MANAGEMENT AND SELF MANAGEMENT OF A PATIENT'S
14 HEALTH CARE WHILE SUCH PATIENT IS AT THE ORIGINATING SITE AND THE HEALTH
15 CARE PROVIDER IS AT A DISTANT SITE; CONSISTENT WITH APPLICABLE FEDERAL
16 LAW AND REGULATIONS; UNLESS THE TERM IS OTHERWISE DEFINED BY LAW WITH
17 RESPECT TO THE PROVISION IN WHICH IT IS USED.

18 S 2. Subsection (i) of section 3216 of the insurance law is amended by
19 adding a new paragraph 30 to read as follows:

20 (30) EVERY POLICY DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE WHICH
21 PROVIDES COMPREHENSIVE COVERAGE FOR HOSPITAL, MEDICAL OR SURGICAL CARE
22 SHALL MAKE AVAILABLE AND, IF REQUESTED BY A POLICY HOLDER, PROVIDE
23 COVERAGE FOR SERVICES WHICH ARE OTHERWISE COVERED UNDER THE POLICY THAT
24 ARE PROVIDED (A) VIA TELEMEDICINE, AS DEFINED IN SECTION TWO OF THE
25 PUBLIC HEALTH LAW, PROVIDED THAT SUCH SERVICES MEET THE REQUIREMENTS OF
26 FEDERAL LAW, RULES AND REGULATIONS FOR MEDICARE (OTHER THAN ANY ORIGI-
27 NATING SITE RESTRICTION REQUIREMENTS); OR (B) TELEHEALTH SERVICES, AS
28 DEFINED IN SECTION TWO OF THE PUBLIC HEALTH LAW, PROVIDED THAT SUCH
29 SERVICES ARE CONSISTENT WITH SUBDIVISION THREE-C OF SECTION THIRTY-SIX
30 HUNDRED FOURTEEN OF THE PUBLIC HEALTH LAW. THE PROVIDER OF SUCH SERVICES
31 SHALL MEET THE TERMS AND CONDITIONS (TO THE EXTENT NOT INCONSISTENT WITH
32 THIS PARAGRAPH) OF HIS OR HER CONTRACT WITH THE INSURER. SUCH COVERAGE
33 REQUIRED BY THIS PARAGRAPH MAY BE SUBJECT TO ANNUAL DEDUCTIBLES AND
34 COINSURANCE, AND OTHER TERMS AND CONDITIONS OF COVERAGE, INCLUDING, BUT
35 NOT LIMITED TO, UTILIZATION MANAGEMENT AND OTHER MANAGED CARE TOOLS, AS
36 ARE CONSISTENT WITH THOSE ESTABLISHED FOR THE SAME SERVICES WHEN NOT
37 PROVIDED VIA TELEMEDICINE OR TELEHEALTH.

38 S 3. Subsection (k) of section 3221 of the insurance law is amended by
39 adding a new paragraph 19 to read as follows:

40 (19) EVERY GROUP OR BLANKET POLICY DELIVERED OR ISSUED FOR DELIVERY IN
41 THIS STATE WHICH PROVIDES COMPREHENSIVE COVERAGE FOR HOSPITAL, MEDICAL
42 OR SURGICAL CARE SHALL MAKE AVAILABLE AND, IF REQUESTED BY THE GROUP
43 POLICYHOLDER, PROVIDE COVERAGE FOR SERVICES WHICH ARE OTHERWISE COVERED
44 UNDER THE POLICY THAT ARE PROVIDED (A) VIA TELEMEDICINE, AS DEFINED IN
45 SECTION TWO OF THE PUBLIC HEALTH LAW, PROVIDED THAT SUCH SERVICES MEET
46 THE REQUIREMENTS OF FEDERAL LAW, RULES AND REGULATIONS FOR MEDICARE
47 (OTHER THAN ANY ORIGINATING SITE RESTRICTION REQUIREMENTS); OR (B) TELE-
48 HEALTH SERVICES, AS DEFINED IN SECTION TWO OF THE PUBLIC HEALTH LAW,
49 PROVIDED THAT SUCH SERVICES ARE CONSISTENT WITH SUBDIVISION THREE-C OF
50 SECTION THIRTY-SIX HUNDRED FOURTEEN OF THE PUBLIC HEALTH LAW. THE
51 PROVIDER OF SUCH SERVICES SHALL MEET THE TERMS AND CONDITIONS (TO THE
52 EXTENT NOT INCONSISTENT WITH THIS PARAGRAPH) OF HIS OR HER CONTRACT WITH
53 THE INSURER. SUCH COVERAGE REQUIRED BY THIS PARAGRAPH MAY BE SUBJECT TO
54 ANNUAL DEDUCTIBLES AND COINSURANCE, AND OTHER TERMS AND CONDITIONS OF
55 COVERAGE, INCLUDING, BUT NOT LIMITED TO, UTILIZATION MANAGEMENT AND

1 OTHER MANAGED CARE TOOLS, AS ARE CONSISTENT WITH THOSE ESTABLISHED FOR
2 THE SAME SERVICES WHEN NOT PROVIDED VIA TELEMEDICINE OR TELEHEALTH.

3 S 4. Paragraph 2 of subsection (a) of section 3229 of the insurance
4 law, as amended by chapter 659 of the laws of 1997, is amended to read
5 as follows:

6 (2) a home care benefit with personal care, nursing care, adult day
7 health care [and], respite care services, TELEMEDICINE SERVICES, AS
8 DEFINED IN SECTION TWO OF THE PUBLIC HEALTH LAW, PROVIDED THAT SUCH
9 TELEMEDICINE SERVICES ARE PURSUANT TO AN AGREEMENT BETWEEN A PROVIDER
10 PARTICIPATING IN THE INSURER'S NETWORK AND THE INSURER, AND MEET THE
11 REQUIREMENTS OF FEDERAL LAW, RULES AND REGULATIONS FOR MEDICARE, OR
12 TELEHEALTH SERVICES, AS DEFINED BY SECTION TWO OF THE PUBLIC HEALTH LAW,
13 PROVIDED THAT SUCH SERVICES ARE CONSISTENT WITH SUBDIVISION THREE-C OF
14 SECTION THIRTY-SIX HUNDRED FOURTEEN OF THE PUBLIC HEALTH LAW. THE
15 PROVIDER OF SUCH SERVICES SHALL MEET THE TERMS AND CONDITIONS (TO THE
16 EXTENT NOT INCONSISTENT WITH THIS PARAGRAPH) OF HIS OR HER CONTRACT WITH
17 THE INSURER, which shall provide total benefits in an amount determined
18 by regulations of the superintendent;

19 S 5. Section 4303 of the insurance law is amended by adding a new
20 subsection (oo) to read as follows:

21 (OO) EVERY CONTRACT ISSUED BY A MEDICAL EXPENSE INDEMNITY CORPORATION,
22 A HOSPITAL SERVICE CORPORATION OR A HEALTH SERVICE CORPORATION WHICH
23 PROVIDES COMPREHENSIVE COVERAGE FOR HOSPITAL, MEDICAL OR SURGICAL CARE
24 SHALL MAKE AVAILABLE AND, IF REQUESTED BY A CONTRACT HOLDER, PROVIDE
25 COVERAGE FOR SERVICES WHICH ARE OTHERWISE COVERED UNDER THE POLICY THAT
26 ARE PROVIDED (1) VIA TELEMEDICINE, AS DEFINED IN SECTION TWO OF THE
27 PUBLIC HEALTH LAW, PROVIDED THAT SUCH SERVICES MEET THE REQUIREMENTS OF
28 FEDERAL LAW, RULES AND REGULATIONS FOR MEDICARE (OTHER THAN ANY ORIGI-
29 NATING SITE RESTRICTION REQUIREMENTS); OR (2) TELEHEALTH SERVICES, AS
30 DEFINED IN SECTION TWO OF THE PUBLIC HEALTH LAW, PROVIDED THAT SUCH
31 SERVICES ARE CONSISTENT WITH SUBDIVISION THREE-C OF SECTION THIRTY-SIX
32 HUNDRED FOURTEEN OF THE PUBLIC HEALTH LAW. THE PROVIDER OF SUCH SERVICES
33 SHALL MEET THE TERMS AND CONDITIONS (TO THE EXTENT NOT INCONSISTENT WITH
34 THIS SUBSECTION) OF HIS OR HER CONTRACT WITH THE INSURER. SUCH COVERAGE
35 REQUIRED BY THIS SUBSECTION MAY BE SUBJECT TO ANNUAL DEDUCTIBLES AND
36 COINSURANCE, AND OTHER TERMS AND CONDITIONS OF COVERAGE, INCLUDING, BUT
37 NOT LIMITED TO, UTILIZATION MANAGEMENT AND OTHER MANAGED CARE TOOLS, AS
38 ARE CONSISTENT WITH THOSE ESTABLISHED FOR THE SAME SERVICES WHEN NOT
39 PROVIDED VIA TELEMEDICINE OR TELEHEALTH.

40 S 6. The opening paragraph of section 367-u of the social services
41 law is designated subdivision 1 and a new subdivision 2 is added to read
42 as follows:

43 2. SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE BUDGET, THE COMMIS-
44 SIONER SHALL NOT EXCLUDE FROM THE PAYMENT OF MEDICAL ASSISTANCE FUNDS
45 THE PROVISION OF MEDICAL CARE THROUGH TELEMEDICINE SERVICES, AS DEFINED
46 IN SECTION TWO OF THE PUBLIC HEALTH LAW, PROVIDED THAT SUCH SERVICES
47 MEET THE REQUIREMENTS OF FEDERAL LAW, RULES AND REGULATIONS FOR THE
48 PROVISION OF MEDICAL ASSISTANCE PURSUANT TO THIS TITLE, AND FOR TELE-
49 HEALTH SERVICES, AS DEFINED BY SECTION TWO OF THE PUBLIC HEALTH LAW,
50 THAT ARE, AT A MINIMUM, THOSE REQUIRED TO BE PROVIDED PURSUANT TO SUBDI-
51 VISION THREE-C OF SECTION THIRTY-SIX HUNDRED FOURTEEN OF THE PUBLIC
52 HEALTH LAW.

53 S 7. This act shall take effect January 1, 2015 and shall apply to
54 all policies and contracts issued, renewed, modified, altered or amended
55 on or after such date.