

3188--A

2013-2014 Regular Sessions

I N S E N A T E

January 31, 2013

Introduced by Sen. PARKER -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law and the social services law, in relation to providing Medicaid reimbursement for interpretation services provided by hospital inpatient and outpatient departments

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

1 Section 1. Section 2807-c of the public health law is amended by
2 adding a new subdivision 34 to read as follows:
3 34. INTERPRETATION SERVICES. (A) NOTWITHSTANDING ANY PROVISION OF LAW,
4 RULE OR REGULATION TO THE CONTRARY, THE COMMISSIONER SHALL ADJUST INPA-
5 TIENT MEDICAL ASSISTANCE RATES OF PAYMENT TO PROVIDE REIMBURSEMENT FOR
6 THE COSTS ASSOCIATED WITH THE PROVISION OF INTERPRETATION SERVICES FOR
7 PATIENTS IN RECEIPT OF MEDICAL ASSISTANCE WHO HAVE LIMITED ENGLISH
8 PROFICIENCY. REIMBURSEMENT SHALL BE AVAILABLE FOR THE COSTS ASSOCIATED
9 WITH THE PROVISION OF INTERPRETATION SERVICES AT ALL LOCATIONS DURING
10 ALL TIMES THAT PATIENT CARE IS AVAILABLE, INCLUDING BUT NOT LIMITED TO
11 HEALTH CARE, BILLING AND MAKING APPOINTMENTS. TO BE ELIGIBLE FOR
12 REIMBURSEMENT, THE PROVISION OF INTERPRETATION SERVICES MUST BE DOCU-
13 MENTED IN SUCH A MANNER AS TO ENABLE REPORTING TO AND AUDIT BY THE
14 COMMISSIONER.
15 (B) SUCH ADJUSTMENT SHALL BE MADE FOR DISCHARGES ON AND AFTER THE
16 FIRST OF APRIL, TWO THOUSAND FIFTEEN.
17 (C) FOR PURPOSES OF THIS SUBDIVISION, "PATIENTS WITH LIMITED ENGLISH
18 PROFICIENCY" MEANS PATIENTS WHOSE PRIMARY LANGUAGE IS NOT ENGLISH AND
19 WHO CANNOT SPEAK, READ, WRITE OR UNDERSTAND THE ENGLISH LANGUAGE AT A
20 LEVEL SUFFICIENT TO PERMIT SUCH PATIENTS TO INTERACT EFFECTIVELY WITH
21 HEALTH CARE PROVIDERS AND THEIR STAFF.

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

LBD06815-02-4

1 (D) FOR THE PURPOSES OF THIS SUBDIVISION, "INTERPRETATION SERVICES"
2 REFERS TO LANGUAGE ASSISTANCE SERVICES PROVIDED BY INDIVIDUALS WITH
3 PROVEN BILINGUAL SKILLS IN BOTH ENGLISH AND THE RELEVANT LANGUAGE TO
4 COMMUNICATE INFORMATION NECESSARY FOR THE PATIENT TO ACCESS SERVICES
5 AND, IN THE CASE OF INTERPRETATION SERVICES PROVIDED DURING THE COURSE
6 OF A CLINICAL ENCOUNTER, SERVICES PROVIDED BY INDIVIDUALS TRAINED AND
7 SKILLED IN MEDICAL INTERPRETING TECHNIQUES, ETHICS AND TERMINOLOGY.

8 S 2. Paragraph (g) of subdivision 2 of section 2807 of the public
9 health law is amended by adding a new subparagraph (iii) to read as
10 follows:

11 (III) NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO THE
12 CONTRARY, THE COMMISSIONER SHALL ADJUST RATES OF PAYMENT FOR GENERAL
13 HOSPITAL OUTPATIENT AND EMERGENCY SERVICES TO PROVIDE REIMBURSEMENT FOR
14 THE COSTS ASSOCIATED WITH THE PROVISION OF INTERPRETATION SERVICES FOR
15 PATIENTS IN RECEIPT OF MEDICAL ASSISTANCE WHO HAVE LIMITED ENGLISH
16 PROFICIENCY. SUCH ADJUSTMENT SHALL BE MADE FOR OUTPATIENT AND EMERGENCY
17 SERVICES PROVIDED ON AND AFTER APRIL FIRST, TWO THOUSAND FIFTEEN.
18 REIMBURSEMENT SHALL BE AVAILABLE FOR THE COSTS ASSOCIATED WITH THE
19 PROVISION OF INTERPRETATION SERVICES AT ALL LOCATIONS DURING ALL TIMES
20 THAT PATIENT CARE IS AVAILABLE, INCLUDING BUT NOT LIMITED TO HEALTH
21 CARE, BILLING AND MAKING APPOINTMENTS. TO BE ELIGIBLE FOR REIMBURSEMENT,
22 THE PROVISION OF INTERPRETATION SERVICES MUST BE DOCUMENTED IN SUCH A
23 MANNER AS TO ENABLE REPORTING TO AND AUDIT BY THE COMMISSIONER. FOR THE
24 PURPOSES OF THIS SUBPARAGRAPH, "PATIENTS WITH LIMITED ENGLISH PROFICIEN-
25 CY" MEANS PATIENTS WHOSE PRIMARY LANGUAGE IS NOT ENGLISH AND WHO CANNOT
26 SPEAK, READ, WRITE OR UNDERSTAND THE ENGLISH LANGUAGE AT A LEVEL SUFFI-
27 CIENT TO PERMIT SUCH PATIENTS TO INTERACT EFFECTIVELY WITH HEALTH CARE
28 PROVIDERS AND THEIR STAFF. FOR PURPOSES OF THIS SUBDIVISION, "INTERPRE-
29 TATION SERVICES" REFERS TO LANGUAGE ASSISTANCE SERVICES PROVIDED BY
30 INDIVIDUALS WITH SUFFICIENT FLUENCY IN BOTH ENGLISH AND THE RELEVANT
31 LANGUAGE TO COMMUNICATE INFORMATION NECESSARY FOR THE PATIENT TO ACCESS
32 SERVICES AND, IN THE CASE OF INTERPRETATION PROVIDED DURING THE COURSE
33 OF A CLINICAL ENCOUNTER, SERVICES PROVIDED BY INDIVIDUALS TRAINED AND
34 SKILLED IN MEDICAL INTERPRETING TECHNIQUES, SKILLS, ETHICS AND TERMINOL-
35 OGY. HOSPITALS MUST USE A SKILLED INTERPRETER OR TRANSLATION SERVICE
36 UNTIL SUCH TIME AS RULES AND REGULATIONS ARE PROMULGATED BY THE COMMIS-
37 SIONER. AFTER SUCH RULES AND REGULATIONS ARE PROMULGATED, HOSPITALS
38 SHALL USE INDIVIDUALS WHO MEET SUCH CRITERIA IN ORDER TO RECEIVE
39 REIMBURSEMENT. NO REIMBURSEMENT SHALL BE PROVIDED WHEN A PATIENT WHO
40 HAS BEEN INFORMED IN HIS OR HER PRIMARY LANGUAGE OF THE AVAILABILITY OF
41 FREE INTERPRETATION AND TRANSLATION SERVICES REQUESTS THE USE OF FAMILY,
42 FRIENDS OR OTHERS WHO ARE NOT FORMALLY TRAINED IN TRANSLATION OR INTER-
43 PRETATION.

44 S 3. Section 2807 of the public health law is amended by adding a new
45 subdivision 22 to read as follows:

46 22. NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO THE
47 CONTRARY, THE COMMISSIONER SHALL ADJUST RATES OF PAYMENT FOR DIAGNOSTIC
48 AND TREATMENT CENTERS LICENSED PURSUANT TO THIS ARTICLE TO PROVIDE
49 REIMBURSEMENT FOR THE COSTS ASSOCIATED WITH THE PROVISION OF INTERPRETA-
50 TION SERVICES FOR PATIENTS IN RECEIPT OF MEDICAL ASSISTANCE WHO HAVE
51 LIMITED ENGLISH PROFICIENCY. SUCH ADJUSTMENTS SHALL BE MADE FOR
52 SERVICES PROVIDED AT DIAGNOSTIC AND TREATMENT CENTERS LICENSED PURSUANT
53 TO THIS ARTICLE ON AND AFTER APRIL FIRST, TWO THOUSAND FIFTEEN.
54 REIMBURSEMENT SHALL BE AVAILABLE FOR THE COSTS ASSOCIATED WITH THE
55 PROVISION OF INTERPRETATION SERVICES AT ALL LOCATIONS DURING ALL TIMES
56 THAT PATIENT CARE IS AVAILABLE, INCLUDING BUT NOT LIMITED TO HEALTH

1 CARE, BILLING AND MAKING APPOINTMENTS. TO BE ELIGIBLE FOR REIMBURSE-
2 MENT, THE PROVISION OF INTERPRETATION SERVICES MUST BE DOCUMENTED IN
3 SUCH A MANNER AS TO ENABLE REPORTING TO AND AUDIT BY THE COMMISSIONER.
4 FOR THE PURPOSES OF THIS SUBDIVISION, "PATIENTS WITH LIMITED ENGLISH
5 PROFICIENCY" MEANS PATIENTS WHOSE PRIMARY LANGUAGE IS NOT ENGLISH AND
6 WHO CANNOT SPEAK, READ, WRITE OR UNDERSTAND THE ENGLISH LANGUAGE AT A
7 LEVEL SUFFICIENT TO PERMIT SUCH PATIENTS TO INTERACT EFFECTIVELY WITH
8 HEALTH CARE PROVIDERS AND THEIR STAFF. FOR THE PURPOSES OF THIS SUBDIVI-
9 SION, "INTERPRETATION SERVICES" REFERS TO LANGUAGE ASSISTANCE SERVICES
10 PROVIDED BY INDIVIDUALS WITH SUFFICIENT FLUENCY IN BOTH ENGLISH AND THE
11 RELEVANT LANGUAGE TO COMMUNICATE INFORMATION NECESSARY FOR THE PATIENT
12 TO ACCESS SERVICES AND, IN THE CASE OF INTERPRETATION PROVIDED DURING
13 THE COURSE OF A CLINICAL ENCOUNTER, SERVICES PROVIDED BY INDIVIDUALS
14 TRAINED AND SKILLED IN MEDICAL INTERPRETING TECHNIQUES, SKILLS, ETHICS
15 AND TERMINOLOGY.

16 S 4. Subdivision 8 of section 2807 of the public health law is amended
17 by adding a new paragraph (g) to read as follows:

18 (G) SUBJECT TO RECEIPT OF ALL NECESSARY FEDERAL APPROVALS, RATES OF
19 PAYMENT COMPUTED IN ACCORDANCE WITH THIS SUBDIVISION SHALL BE FURTHER
20 ADJUSTED IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION TWENTY OF THIS
21 SECTION.

22 S 5. Subdivision 1 of section 368-a of the social services law is
23 amended by adding a new paragraph (aa) to read as follows:

24 (AA) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE FULL
25 AMOUNT EXPENDED FOR INTERPRETATION SERVICES PROVIDED PURSUANT TO SUBDI-
26 VISION THIRTY-FOUR OF SECTION TWENTY-EIGHT HUNDRED SEVEN-C OF THE PUBLIC
27 HEALTH LAW, OR SUBPARAGRAPH (III) OF PARAGRAPH (G) OF SUBDIVISION TWO OF
28 SECTION TWENTY-EIGHT HUNDRED SEVEN OF THE PUBLIC HEALTH LAW, OR SUBDIVI-
29 SION TWENTY-TWO OF SECTION TWENTY-EIGHT HUNDRED SEVEN OF THE PUBLIC
30 HEALTH LAW, AFTER FIRST DEDUCTING THEREFROM FEDERAL FUNDS PROPERLY
31 RECEIVED OR TO BE RECEIVED ON ACCOUNT OF SUCH EXPENDITURES.

32 S 6. Notwithstanding any provision of law, rule or regulation to the
33 contrary, the effectiveness of subdivisions 4, 7, 7-a, and 7-b of
34 section 2807 of the public health law, and section 18 of chapter 2 of
35 the laws of 1988, as they relate to time frames for notice, approval or
36 certification of rates of payment, and to the requirement of prior
37 notice of rates of payment, are hereby suspended and shall for purposes
38 of implementing the provisions of this act be deemed to have been with-
39 out any force and effect from and after February 1, 2015 for such rates
40 effective for the period April 1, 2015 through March 31, 2016.

41 S 7. This act shall take effect on the one hundred twentieth day
42 after it shall have become a law, provided that the commissioner of
43 health is immediately authorized and directed to promulgate, amend
44 and/or repeal any rules and regulations necessary to implement the
45 provisions of this act on its effective date.