

3974--A

2015-2016 Regular Sessions

I N S E N A T E

February 25, 2015

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 EIGHTEEN.
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.

LBD06841-02-6

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

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

(III) NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, THE COMMISSIONER SHALL ADJUST RATES OF PAYMENT FOR GENERAL HOSPITAL OUTPATIENT AND EMERGENCY SERVICES TO PROVIDE REIMBURSEMENT FOR THE COSTS ASSOCIATED WITH THE PROVISION OF INTERPRETATION SERVICES FOR PATIENTS IN RECEIPT OF MEDICAL ASSISTANCE WHO HAVE LIMITED ENGLISH PROFICIENCY. SUCH ADJUSTMENT SHALL BE MADE FOR OUTPATIENT AND EMERGENCY SERVICES PROVIDED ON AND AFTER APRIL FIRST, TWO THOUSAND EIGHTEEN. REIMBURSEMENT SHALL BE AVAILABLE FOR THE COSTS ASSOCIATED WITH THE PROVISION OF INTERPRETATION SERVICES AT ALL LOCATIONS DURING ALL TIMES THAT PATIENT CARE IS AVAILABLE, INCLUDING BUT NOT LIMITED TO HEALTH CARE, BILLING AND MAKING APPOINTMENTS. TO BE ELIGIBLE FOR REIMBURSEMENT, THE PROVISION OF INTERPRETATION SERVICES MUST BE DOCUMENTED IN SUCH A MANNER AS TO ENABLE REPORTING TO AND AUDIT BY THE COMMISSIONER. FOR THE PURPOSES OF THIS SUBPARAGRAPH, "PATIENTS WITH LIMITED ENGLISH PROFICIENCY" MEANS PATIENTS WHOSE PRIMARY LANGUAGE IS NOT ENGLISH AND WHO CANNOT SPEAK, READ, WRITE OR UNDERSTAND THE ENGLISH LANGUAGE AT A LEVEL SUFFICIENT TO PERMIT SUCH PATIENTS TO INTERACT EFFECTIVELY WITH HEALTH CARE PROVIDERS AND THEIR STAFF. FOR PURPOSES OF THIS SUBDIVISION, "INTERPRETATION SERVICES" REFERS TO LANGUAGE ASSISTANCE SERVICES PROVIDED BY INDIVIDUALS WITH SUFFICIENT FLUENCY IN BOTH ENGLISH AND THE RELEVANT LANGUAGE TO COMMUNICATE INFORMATION NECESSARY FOR THE PATIENT TO ACCESS SERVICES AND, IN THE CASE OF INTERPRETATION PROVIDED DURING THE COURSE OF A CLINICAL ENCOUNTER, SERVICES PROVIDED BY INDIVIDUALS TRAINED AND SKILLED IN MEDICAL INTERPRETING TECHNIQUES, SKILLS, ETHICS AND TERMINOLOGY. HOSPITALS MUST USE A SKILLED INTERPRETER OR TRANSLATION SERVICE UNTIL SUCH TIME AS RULES AND REGULATIONS ARE PROMULGATED BY THE COMMISSIONER. AFTER SUCH RULES AND REGULATIONS ARE PROMULGATED, HOSPITALS SHALL USE INDIVIDUALS WHO MEET SUCH CRITERIA IN ORDER TO RECEIVE REIMBURSEMENT. NO REIMBURSEMENT SHALL BE PROVIDED WHEN A PATIENT WHO HAS BEEN INFORMED IN HIS OR HER PRIMARY LANGUAGE OF THE AVAILABILITY OF FREE INTERPRETATION AND TRANSLATION SERVICES REQUESTS THE USE OF FAMILY, FRIENDS OR OTHERS WHO ARE NOT FORMALLY TRAINED IN TRANSLATION OR INTERPRETATION.

S 3. Section 2807 of the public health law is amended by adding a new subdivision 23 to read as follows:

23. NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, THE COMMISSIONER SHALL ADJUST RATES OF PAYMENT FOR DIAGNOSTIC AND TREATMENT CENTERS LICENSED PURSUANT TO THIS ARTICLE TO PROVIDE REIMBURSEMENT FOR THE COSTS ASSOCIATED WITH THE PROVISION OF INTERPRETATION SERVICES FOR PATIENTS IN RECEIPT OF MEDICAL ASSISTANCE WHO HAVE LIMITED ENGLISH PROFICIENCY. SUCH ADJUSTMENTS SHALL BE MADE FOR SERVICES PROVIDED AT DIAGNOSTIC AND TREATMENT CENTERS LICENSED PURSUANT TO THIS ARTICLE ON AND AFTER APRIL FIRST, TWO THOUSAND EIGHTEEN. REIMBURSEMENT SHALL BE AVAILABLE FOR THE COSTS ASSOCIATED WITH THE PROVISION OF INTERPRETATION SERVICES AT ALL LOCATIONS DURING ALL TIMES 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-THREE 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, 2018 for such rates
40 effective for the period April 1, 2018 through March 31, 2019.

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.