

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

5076--A

2015-2016 Regular Sessions

I N S E N A T E

April 30, 2015

Introduced by Sen. SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- recommitted to the Committee on Insurance 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 insurance law, in relation to including certain out of home services such as transition from a hospital, nursing facility or other institutional setting to the home within home care insurance coverage

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

1 Section 1. Subparagraphs (C), (D) and (E) of paragraph 1 of subsection
2 (k) of section 3221 of the insurance law, subparagraphs (C) and (D) as
3 amended by chapter 557 of the laws of 2000, are amended to read as
4 follows:
5 (C) Home care means the care and treatment of a covered person who is
6 under the care of a physician [but only if] AND WHO REQUIRES THE
7 SERVICES OF AN AGENCY DESCRIBED IN SUBPARAGRAPH (D) OF THIS PARAGRAPH
8 FOR: TRANSITION OF THE COVERED PERSON FROM HOSPITAL, NURSING FACILITY OR
9 OTHER INSTITUTIONAL SETTING TO HOME; REHABILITATION, RECOVERY OR MEDICAL
10 MANAGEMENT OF THE COVERED PERSON AT HOME FOLLOWING HOSPITALIZATION OR
11 FOLLOWING CARE IN A NURSING FACILITY OR OTHER INSTITUTIONAL SETTING; OR
12 MEDICAL MANAGEMENT OF A CONDITION PREDISPOSING THE COVERED INDIVIDUAL TO
13 hospitalization [or], confinement in a nursing facility [as defined in
14 subchapter XVIII of the federal Social Security Act, 42 U.S.C. SS 1395
15 et seq, would otherwise have been required] OR THE NEED FOR OTHER
16 OUT-OF-HOME SERVICES OTHERWISE COVERED UNDER THE CONTRACT if home care
17 [was] IS not provided, and the plan covering the home health service is
18 established and approved in writing by such physician.
19 (D) Home care shall be provided by an agency possessing a valid
20 certificate of approval or license issued pursuant to article thirty-six

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

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1 of the public health law and shall consist of one or more of the follow-
2 ing:

3 (i) Part-time or intermittent home nursing care by or under the super-
4 vision of a registered professional nurse (R.N.).

5 (ii) Part-time or intermittent home health aide services which consist
6 primarily of caring for the patient.

7 (iii) Physical, occupational or speech therapy, SOCIAL WORK, RESPIR-
8 ATORY THERAPY AND NUTRITIONAL COUNSELING, if provided by the home health
9 service or agency.

10 (iv) Medical supplies, drugs and medications prescribed by a physi-
11 cian, and laboratory services by or on behalf of a certified home health
12 agency or licensed home care services agency to the extent such items
13 would have been covered under the contract if the covered person had
14 been hospitalized or confined in a skilled nursing facility as defined
15 in subchapter XVIII of the federal Social Security Act, 42 U.S.C. SS
16 1395 et seq.

17 (E) For the purpose of determining the benefits for home care avail-
18 able to a covered person, [each visit by a member of a home care team
19 shall be considered as one home care visit; the contract may contain a
20 limitation on the number of home care visits, but not less than forty
21 such visits in any calendar year or in any continuous period of twelve
22 months, for each person covered under the contract; four hours of home
23 health aide service shall be considered as one home care visit] NOTHING
24 IN THIS PARAGRAPH SHALL BE CONSTRUED TO PREVENT THE MANAGEMENT OR UTILI-
25 ZATION REVIEW OF HOME CARE BENEFITS, INCLUDING THE USE OF PREAUTHORI-
26 ZATION AND APPROPRIATENESS CRITERIA AS TO THE LEVEL AND INTENSITY OF
27 TREATMENT APPLICABLE TO HOME CARE, PROVIDED HOWEVER THAT ANY SUCH DETER-
28 MINATIONS MAY BE SUBJECT TO APPEAL UNDER ARTICLE FORTY-NINE OF THIS
29 CHAPTER.

30 S 2. Paragraph 3 of subsection (a) of section 4303 of the insurance
31 law, subparagraphs (A), (B) and (C) as amended by chapter 557 of the
32 laws of 2000 and subparagraph (D) as amended by chapter 21 of the laws
33 of 1990, is amended to read as follows:

34 (3) For home care to residents in this state. Such home care coverage
35 shall be included at the inception of all new contracts and, with
36 respect to all other contracts, added at any anniversary date of the
37 contract subject to evidence of insurability. Such coverage may be
38 subject to an annual deductible of not more than fifty dollars for each
39 covered person and may be subject to a coinsurance provision which
40 provides for coverage of not less than seventy-five percent of the
41 reasonable cost of services for which payment may be made. No such
42 corporation need provide such coverage to persons eligible for medicare.

43 (A) Home care shall mean the care and treatment of a covered person
44 who is under the care of a physician [but only if:

45 (i)] AND WHO REQUIRES THE SERVICES OF AN AGENCY DESCRIBED IN SUBPARA-
46 GRAPH (B) OF THIS PARAGRAPH FOR: TRANSITION OF THE COVERED PERSON FROM
47 HOSPITAL, NURSING FACILITY OR OTHER INSTITUTIONAL SETTING TO HOME; FOR
48 REHABILITATION, RECOVERY OR MEDICAL MANAGEMENT OF THE COVERED PERSON AT
49 HOME FOLLOWING HOSPITALIZATION OR FOLLOWING CARE IN A NURSING FACILITY
50 OR OTHER INSTITUTIONAL SETTING; OR MEDICAL MANAGEMENT OF A CONDITION
51 PREDISPOSING THE COVERED INDIVIDUAL TO hospitalization [or], confinement
52 in a nursing facility [as defined in subchapter XVIII of the Social
53 Security Act, 42 U.S.C. S 1395 et seq, would otherwise have been
54 required] OR THE NEED FOR OTHER OUT-OF-HOME SERVICES OTHERWISE COVERED
55 UNDER THE POLICY, if home care [was] IS not provided, and

1 [(ii)] the plan covering the home health service is established and
2 approved in writing by such physician.

3 (B) Home care shall be provided by an agency possessing a valid
4 certificate of approval or license issued pursuant to article thirty-six
5 of the public health law.

6 (C) Home care shall consist of one or more of the following:

7 (i) part-time or intermittent home nursing care by or under the super-
8 vision of a registered professional nurse (R.N.),

9 (ii) part-time or intermittent home health aide services which consist
10 primarily of caring for the patient,

11 (iii) physical, occupational or speech therapy, SOCIAL WORK, RESPIR-
12 ATORY THERAPY AND NUTRITIONAL COUNSELING, if provided by the home health
13 service or agency, and

14 (iv) medical supplies, drugs and medications prescribed by a physi-
15 cian, and laboratory services by or on behalf of a certified home health
16 agency or licensed home care services agency to the extent such items
17 would have been covered or provided under the contract if the covered
18 person had been hospitalized or confined in a skilled nursing facility
19 as defined in subchapter XVIII of the Social Security Act, 42 U.S.C. S
20 1395 et seq.

21 (D) For the purpose of determining the benefits for home care avail-
22 able to a covered person, [each visit by a member of a home care team
23 shall be considered as one home care visit. The contract may contain a
24 limitation on the number of home care visits, but not less than forty
25 such visits in any calendar year or in any continuous period of twelve
26 months, for each covered person. Four hours of home health aide service
27 shall be considered as one home care visit. Every contract issued by a
28 hospital service corporation or health service corporation which
29 provides coverage supplementing part A and part B of subchapter XVIII of
30 the Social Security Act, 42 U.S.C. S 1395 et seq, must make available
31 and, if requested by a subscriber holding a direct payment contract or
32 by all subscribers in a group remittance group or by the contract holder
33 in the case of group contracts issued pursuant to section four thousand
34 three hundred five of this article, provide coverage of supplemental
35 home care visits beyond those provided by part A and part B, sufficient
36 to produce an aggregate coverage of three hundred sixty-five home care
37 visits per contract year. Such coverage shall be provided pursuant to
38 regulations prescribed by the superintendent. Written notice of the
39 availability of such coverage shall be delivered to the group remitting
40 agent or group contract holder prior to inception of such contract and
41 annually thereafter, except that this notice shall not be required where
42 a policy covers two hundred or more employees or where the benefit
43 structure was the subject of collective bargaining affecting persons who
44 are employed in more than one state] NOTHING IN THIS PARAGRAPH SHALL BE
45 CONSTRUED TO PREVENT THE MANAGEMENT OR UTILIZATION REVIEW OF HOME CARE
46 BENEFITS, INCLUDING THE USE OF PREAUTHORIZATION AND APPROPRIATENESS
47 CRITERIA AS TO THE LEVEL AND INTENSITY OF TREATMENT APPLICABLE TO HOME
48 CARE, PROVIDED HOWEVER THAT ANY SUCH DETERMINATIONS MAY BE SUBJECT TO
49 APPEAL UNDER ARTICLE FORTY-NINE OF THIS CHAPTER.

50 S 3. This act shall take effect January 1, 2017 and shall apply to all
51 policies and contracts issued, renewed, modified, altered or amended on
52 or after such date.