

5852

2015-2016 Regular Sessions

I N   S E N A T E

June 8, 2015

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

AN ACT to amend the public health law and the insurance 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 4 of section 2999-cc of the public health law,  
2     as added by chapter 6 of the laws of 2015, is amended to read as  
3     follows:  
4     4. "Telehealth" means the use of electronic information and communi-  
5     cation technologies by telehealth providers to deliver health care  
6     services, which shall include the assessment, diagnosis, consultation,  
7     treatment, education, care management and/or self-management of a  
8     patient. Telehealth shall not include delivery of health care services  
9     by means of audio-only telephone communication, facsimile machines, or  
10    electronic messaging alone, though use of these technologies is not  
11    precluded if used in conjunction with telemedicine, store and forward  
12    technology, or remote patient monitoring. For purposes of this section,  
13    telehealth shall be limited to telemedicine, store and forward technolo-  
14    gy, and remote patient monitoring. This subdivision shall not preclude  
15    OR IN ANY WAY LIMIT the delivery of health care services by means of  
16    "home telehealth" as used in section thirty-six hundred fourteen of this  
17    chapter. HEALTH SERVICES, DEFINED AS "HOME CARE SERVICES" REQUIRING  
18    LICENSURE OR CERTIFICATION UNDER ARTICLE THIRTY-SIX OF THIS CHAPTER,  
19    DELIVERED VIA TELEHEALTH AS SET FORTH IN THIS SUBDIVISION OR IN SECTION  
20    THIRTY-SIX HUNDRED FOURTEEN OF THIS CHAPTER SHALL BE DELIVERED SOLELY BY  
21    A PROVIDER LICENSED, CERTIFIED OR EXEMPT UNDER SUCH ARTICLE.  
22    S 2. Paragraph 3 of subsection (b) of section 1117 of the insurance  
23    law, as amended by chapter 572 of the laws of 2008, is amended to read  
24    as follows:

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

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(3) the plan's benefit structure provides options for use of long term care services, INCLUDING TELEHEALTH AS PROVIDED FOR IN SUBPARAGRAPHS (A) AND (B) OF THIS PARAGRAPH.

(A) A PLAN SHALL NOT EXCLUDE FROM COVERAGE A SERVICE THAT IS OTHERWISE COVERED UNDER THE PLAN BECAUSE THE SERVICE IS DELIVERED VIA TELEHEALTH, AS THAT TERM IS DEFINED IN SUBPARAGRAPH (B) OF THIS PARAGRAPH; PROVIDED, HOWEVER, THAT AN INSURER MAY EXCLUDE FROM COVERAGE A SERVICE BY A HEALTH CARE PROVIDER WHERE THE PROVIDER IS NOT OTHERWISE COVERED UNDER THE ENROLLEE CONTRACT. AN INSURER MAY SUBJECT THE COVERAGE OF A SERVICE DELIVERED VIA TELEHEALTH TO CO-PAYMENTS, COINSURANCE OR DEDUCTIBLES PROVIDED THAT THEY ARE AT LEAST AS FAVORABLE TO THE ENROLLEE AS THOSE ESTABLISHED FOR THE SAME SERVICE WHEN NOT DELIVERED VIA TELEHEALTH. AN INSURER MAY SUBJECT THE COVERAGE OF A SERVICE DELIVERED VIA TELEHEALTH TO REASONABLE UTILIZATION MANAGEMENT AND QUALITY ASSURANCE REQUIREMENTS THAT ARE CONSISTENT WITH THOSE ESTABLISHED FOR THE SAME SERVICE WHEN NOT DELIVERED VIA TELEHEALTH;

(B) FOR PURPOSES OF THIS PARAGRAPH, "TELEHEALTH" MEANS THE USE OF ELECTRONIC INFORMATION AND COMMUNICATION TECHNOLOGIES BY A HEALTH CARE PROVIDER TO DELIVER HEALTH CARE SERVICES TO AN INSURED INDIVIDUAL WHILE SUCH INDIVIDUAL IS LOCATED AT A SITE THAT IS DIFFERENT FROM THE SITE WHERE THE HEALTH CARE PROVIDER IS LOCATED;

S 3. Subsection (a) of section 3217-h of the insurance law, as added by chapter 6 of the laws of 2015, is amended to read as follows:

(a) An insurer shall not exclude from coverage a service that is otherwise covered under a policy that provides comprehensive coverage for hospital, medical or surgical care because the service is delivered via telehealth, as that term is defined in subsection (b) of this section; provided, however, that an insurer may exclude from coverage a service by a health care provider where the provider is not otherwise covered under the policy. An insurer may subject the coverage of a service delivered via telehealth to co-payments, coinsurance or deductibles provided that they are at least as favorable to the insured as those established for the same service when not delivered via telehealth. An insurer may subject the coverage of a service delivered via telehealth to reasonable utilization management and quality assurance requirements that are consistent with those established for the same service when not delivered via telehealth. REMOTE PATIENT MONITORING VIA TELEHEALTH DELIVERED BY A HOME CARE AGENCY CERTIFIED OR LICENSED UNDER ARTICLE THIRTY-SIX OF THE PUBLIC HEALTH LAW SHALL NOT BE CONSTRUED AS A "VISIT" UNDER ANY VISIT NUMBER LIMITATION THAT A POLICY MAY CONTAIN FOR HOME CARE VISITS BY A HOME CARE SERVICES AGENCY.

S 4. Paragraph 2 of subsection (a) of section 3229 of the insurance law, as amended by chapter 6 of the laws of 2015, is amended and a new paragraph 2-a is added to read as follows:

(2) a home care benefit with personal care, nursing care, adult day health care and respite care services, which shall provide total benefits in an amount determined by regulations of the superintendent; PROVIDED HOWEVER THAT AN INSURER SHALL NOT EXCLUDE FROM COVERAGE A SERVICE THAT IS OTHERWISE COVERED UNDER THE POLICY BECAUSE THE SERVICE IS DELIVERED VIA TELEHEALTH AS THAT TERM IS DEFINED IN PARAGRAPH TWO-A OF THIS SUBSECTION, PROVIDED, FURTHER, THAT AN INSURER MAY EXCLUDE FROM COVERAGE A SERVICE BY A HEALTH CARE PROVIDER WHERE THE PROVIDER IS NOT OTHERWISE COVERED UNDER THE ENROLLEE CONTRACT. AN INSURER MAY SUBJECT THE COVERAGE OF A SERVICE DELIVERED VIA TELEHEALTH TO CO-PAYMENTS, COINSURANCE, OR DEDUCTIBLES PROVIDED THAT THEY ARE AT LEAST AS FAVORABLE TO THE ENROLLEE AS THOSE ESTABLISHED FOR THE SAME SERVICE WHEN NOT DELIV-

1 ERED VIA TELEHEALTH. AN INSURER MAY SUBJECT THE COVERAGE OF A SERVICE  
2 DELIVERED VIA TELEHEALTH TO REASONABLE UTILIZATION MANAGEMENT AND QUALI-  
3 TY ASSURANCE REQUIREMENTS THAT ARE CONSISTENT WITH THOSE ESTABLISHED FOR  
4 THE SAME SERVICE WHEN NOT DELIVERED VIA TELEHEALTH;

5 (2-A) FOR PURPOSES OF PARAGRAPH TWO OF THIS SUBSECTION, "TELEHEALTH"  
6 MEANS THE USE OF ELECTRONIC INFORMATION AND COMMUNICATION TECHNOLOGIES  
7 BY A HEALTH CARE PROVIDER TO DELIVER HEALTH CARE SERVICES TO AN INSURED  
8 INDIVIDUAL WHILE SUCH INDIVIDUAL IS LOCATED AT A SITE THAT IS DIFFERENT  
9 FROM THE SITE WHERE THE HEALTH CARE PROVIDER IS LOCATED;

10 S 5. Subsection (a) of section 4306-g of the insurance law, as added  
11 by chapter 6 of the laws of 2015, is amended to read as follows:

12 (a) A corporation shall not exclude from coverage a service that is  
13 otherwise covered under a contract that provides comprehensive coverage  
14 for hospital, medical or surgical care because the service is delivered  
15 via telehealth, as that term is defined in subsection (b) of this  
16 section; provided, however, that a corporation may exclude from coverage  
17 a service by a health care provider where the provider is not otherwise  
18 covered under the contract. A corporation may subject the coverage of a  
19 service delivered via telehealth to co-payments, coinsurance or deduct-  
20 ibles provided that they are at least as favorable to the insured as  
21 those established for the same service when not delivered via tele-  
22 health. A corporation may subject the coverage of a service delivered  
23 via telehealth to reasonable utilization management and quality assur-  
24 ance requirements that are consistent with those established for the  
25 same service when not delivered via telehealth. REMOTE PATIENT MONITOR-  
26 ING VIA TELEHEALTH DELIVERED BY A HOME CARE AGENCY CERTIFIED OR LICENSED  
27 UNDER ARTICLE THIRTY-SIX OF THE PUBLIC HEALTH LAW SHALL NOT BE CONSTRUED  
28 AS A "VISIT" UNDER ANY VISIT NUMBER LIMITATION THAT A POLICY MAY CONTAIN  
29 FOR HOME CARE VISITS BY A HOME CARE SERVICES AGENCY.

30 S 6. Subdivision 1 of section 4406-g of the public health law, as  
31 added by chapter 6 of the laws of 2015, is amended to read as follows:

32 1. A health maintenance organization shall not exclude from coverage a  
33 service that is otherwise covered under an enrollee contract of a health  
34 maintenance organization because the service is delivered via tele-  
35 health, as that term is defined in subdivision two of this section;  
36 provided, however, that a health maintenance organization may exclude  
37 from coverage a service by a health care provider where the provider is  
38 not otherwise covered under the enrollee contract. A health maintenance  
39 organization may subject the coverage of a service delivered via tele-  
40 health to co-payments, coinsurance or deductibles provided that they are  
41 at least as favorable to the enrollee as those established for the same  
42 service when not delivered via telehealth. A health maintenance organ-  
43 ization may subject the coverage of a service delivered via telehealth  
44 to reasonable utilization management and quality assurance requirements  
45 that are consistent with those established for the same service when not  
46 delivered via telehealth. REMOTE PATIENT MONITORING VIA TELEHEALTH  
47 DELIVERED BY A HOME CARE AGENCY CERTIFIED OR LICENSED UNDER ARTICLE  
48 THIRTY-SIX OF THIS CHAPTER SHALL NOT BE CONSTRUED AS A "VISIT" UNDER ANY  
49 VISIT NUMBER LIMITATION THAT A POLICY MAY CONTAIN FOR HOME CARE VISITS  
50 BY A HOME CARE SERVICES AGENCY.

51 S 7. This act shall take effect on the same date and in the same  
52 manner as chapter 550 of the laws of 2014, as amended, takes effect.