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I N S E N A T E

January 8, 2016

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

AN ACT to amend the insurance law, the social services law and the workers' compensation law, in relation to reimbursement for surgical first assistant services

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

1 Section 1. Paragraph 32 of subsection (i) of section 3216 of the
2 insurance law, as added by chapter 536 of the laws of 2015, is amended
3 to read as follows:
4 (32) [Every] NO policy DELIVERED OR issued [pursuant to this section
5 which] FOR DELIVERY IN THIS STATE THAT provides reimbursement for non-
6 physician surgical first assistant services when [such] THE services are
7 provided by a non-physician surgical first assistant [who is employed by
8 a physician and the physician bills for the services] shall [not deny]
9 EXCLUDE such coverage [exclusively] on the basis that the non-physician
10 surgical first assistant services were performed by a registered nurse
11 first assistant [who is certified in operating room nursing] provided
12 that: (A) [such] THE REGISTERED NURSE FIRST ASSISTANT IS CERTIFIED IN
13 OPERATING ROOM NURSING; (B) THE services are within the scope of prac-
14 tice of a non-physician surgical first assistant; and [(B)] (C) the
15 terms and conditions of the [member contract] POLICY otherwise provide
16 for the coverage of [such] THE services. Nothing in this paragraph shall
17 be construed to[:] prevent the medical management or utilization review
18 of [such] THE services[;] OR prevent a policy from requiring THAT
19 services ARE TO BE PROVIDED through a network of participating providers
20 who [shall] meet certain requirements for participation, including
21 provider credentialing[; or prohibit an insurer from, in its sole
22 discretion, providing a global or capitated payment or electing to
23 directly reimburse a non-physician surgical first assistant for such
24 services].
25 S 2. Paragraph 20 of subsection (k) of section 3221 of the insurance
26 law, as added by chapter 536 of the laws of 2015, is amended to read as
27 follows:

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

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1 (20) [Every] NO GROUP OR BLANKET policy [issued pursuant to this
2 section which] DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE THAT
3 provides reimbursement for non-physician surgical first assistant
4 services when [such] THE services are provided by a non-physician surgi-
5 cal first assistant [who is employed by a physician and the physician
6 bills for the services] shall [not deny] EXCLUDE such coverage [exclu-
7 sively] on the basis that the non-physician surgical first assistant
8 services were performed by a registered nurse first assistant [who is
9 certified in operating room nursing] provided that: (A) [such] THE
10 REGISTERED NURSE FIRST ASSISTANT IS CERTIFIED IN OPERATING ROOM NURSING;
11 (B) THE services are within the scope of practice of a non-physician
12 surgical first assistant; and [(B)] (C) the terms and conditions of the
13 [member contract] POLICY otherwise provide for the coverage of [such]
14 THE services. Nothing in this paragraph shall be construed to[:] prevent
15 the medical management or utilization review of [such] THE services[;]
16 OR prevent a policy from requiring THAT services ARE TO BE PROVIDED
17 through a network of participating providers who [shall] meet certain
18 requirements for participation, including provider credentialing[; or
19 prohibit an insurer from, in its sole discretion, providing a global or
20 capitated payment or electing to directly reimburse a non-physician
21 surgical first assistant for such services].

22 S 3. Subsection (pp) of section 4303 of the insurance law, as added by
23 chapter 536 of the laws of 2015, is amended to read as follows:

24 (pp) [Every] NO contract issued by a MEDICAL EXPENSE INDEMNITY CORPO-
25 RATION, HOSPITAL SERVICE CORPORATION, OR health service corporation [or
26 a medical expense indemnity corporation which] THAT provides [for]
27 reimbursement for NON-PHYSICIAN surgical first assistant services WHEN
28 THE SERVICES ARE PROVIDED BY A NON-PHYSICIAN SURGICAL FIRST ASSISTANT
29 shall [provide] EXCLUDE SUCH coverage [for such services when provided]
30 ON THE BASIS THAT THE NON-PHYSICIAN SURGICAL FIRST ASSISTANT SERVICES
31 WERE PERFORMED by a registered nurse first assistant [who is certified
32 in operating room nursing] provided that: (1) [such] THE REGISTERED
33 NURSE FIRST ASSISTANT IS CERTIFIED IN OPERATING ROOM NURSING; (2) THE
34 services are within the scope of practice of a non-physician surgical
35 first assistant; and [(2)] (3) the terms and conditions of the [member]
36 contract otherwise provide for the coverage of [such] THE services.
37 Nothing in this subsection shall be construed to[:] prevent the medical
38 management or utilization review of [such] THE services[;] OR prevent a
39 policy from requiring THAT services ARE TO BE PROVIDED through a network
40 of participating providers who [shall] meet certain requirements for
41 participation, including provider credentialing[; or prohibit an insurer
42 from, in its sole discretion, providing a global or capitated payment or
43 electing to directly reimburse a non-physician surgical first assistant
44 for such services].

45 S 4. Paragraph (cc) of subdivision 2 of section 365-a of the social
46 services law, as added by chapter 536 of the laws of 2015, is amended to
47 read as follows:

48 (cc) care and services for surgical first assistant services provided
49 by a registered nurse first assistant [who is certified in operating
50 room nursing] provided that: (i) [such] THE REGISTERED NURSE FIRST
51 ASSISTANT IS CERTIFIED IN OPERATING ROOM NURSING; (II) THE services are
52 within the scope of practice of a non-physician surgical first assist-
53 ant; and [(ii)] (III) the terms and conditions of the [member] POLICY OR
54 contract otherwise provide for the coverage of [such] THE services.
55 Nothing in this paragraph shall be construed to[:] prevent the medical
56 management or utilization review of [such] THE services; prevent a poli-

cy OR CONTRACT from requiring THAT services ARE TO BE PROVIDED through a network of participating providers who [shall] meet certain requirements for participation, including provider credentialing; or prohibit an insurer from[, in its sole discretion,] providing a global or capitated payment or electing to directly reimburse a non-physician surgical first assistant for [such] THE services, AS OTHERWISE PERMITTED BY LAW.

S 5. The opening paragraph of subdivision (a) of section 13 of the workers' compensation law, as amended by chapter 536 of the laws of 2015, is amended to read as follows:

The employer shall promptly provide for an injured employee such medical, dental, surgical, optometric or other attendance or treatment, nurse and hospital service, medicine, optometric services, crutches, eye-glasses, false teeth, artificial eyes, orthotics, prosthetic devices, functional assistive and adaptive devices and apparatus for such period as the nature of the injury or the process of recovery may require. The employer shall be liable for the payment of the expenses of medical, dental, surgical, optometric or other attendance or treatment, nurse and hospital service, medicine, optometric services, crutches, eye-glasses, false teeth, artificial eyes, orthotics, prosthetic devices, functional assistive and adaptive devices and apparatus, as well as artificial members of the body or other devices or appliances necessary in the first instance to replace, support or relieve a portion or part of the body resulting from and necessitated by the injury of an employee, for such period as the nature of the injury or the process of recovery may require, and the employer shall also be liable for replacements or repairs of such artificial members of the body or such other devices, eye-glasses, false teeth, artificial eyes, orthotics, prosthetic devices, functional assistive and adaptive devices or appliances necessitated by ordinary wear or loss or damage to a prosthesis, with or without bodily injury to the employee. Damage to or loss of a prosthetic device shall be deemed an injury except that no disability benefits shall be payable with respect to such injury under section fifteen of this article. Such a replacement or repair of artificial members of the body or such other devices, eye-glasses, false teeth, artificial eyes, orthotics, prosthetic devices, functional assistive and adaptive devices or appliances or the providing of medical treatment and care as defined herein shall not constitute the payment of compensation under section twenty-five-a of this article. [All surgical services covered by this article, including coverage for surgical first assistant services, shall include care and services furnished in all covered settings provided by a registered nurse first assistant who is certified in operating room nursing provided that: (A) such services are within the scope of practice of a non-physician surgical first assistant; and (B) the terms and conditions of the member contract otherwise provide for the coverage of such services. Nothing in this paragraph shall be construed to: prevent the medical management or utilization review of such services; prevent a policy from requiring services through a network of participating providers who shall meet certain requirements for participation, including provider credentialing; or prohibit an insurer from, in its sole discretion, providing a global or capitated payment or electing to directly reimburse a non-physician surgical first assistant for such services.] All fees and other charges for such treatment and services shall be limited to such charges as prevail in the same community for similar treatment of injured persons of a like standard of living.

S 6. This act shall take effect on the same date and in the same manner as chapter 536 of the laws of 2015 takes effect.