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

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2015-2016 Regular Sessions

I N A S S E M B L Y

June 11, 2015

Introduced by M. of A. RUSSELL -- read once and referred to the Committee on Health

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:

Section 1. Subdivision 4 of section 2999-cc of the public health law, as added by chapter 6 of the laws of 2015, is amended to read as follows:

4. "Telehealth" means the use of electronic information and communication technologies by telehealth providers to deliver health care services, which shall include the assessment, diagnosis, consultation, treatment, education, care management and/or self-management of a patient. Telehealth shall not include delivery of health care services by means of audio-only telephone communication, facsimile machines, or electronic messaging alone, though use of these technologies is not precluded if used in conjunction with telemedicine, store and forward technology, or remote patient monitoring. For purposes of this section, telehealth shall be limited to telemedicine, store and forward technology, and remote patient monitoring. This subdivision shall not preclude OR IN ANY WAY LIMIT the delivery of health care services by means of "home telehealth" as used in section thirty-six hundred fourteen of this chapter. HEALTH SERVICES, DEFINED AS "HOME CARE SERVICES" REQUIRING LICENSURE OR CERTIFICATION UNDER ARTICLE THIRTY-SIX OF THIS CHAPTER, DELIVERED VIA TELEHEALTH AS SET FORTH IN THIS SUBDIVISION OR IN SECTION THIRTY-SIX HUNDRED FOURTEEN OF THIS CHAPTER SHALL BE DELIVERED SOLELY BY A PROVIDER LICENSED, CERTIFIED OR EXEMPT UNDER SUCH ARTICLE.

S 2. Paragraph 3 of subsection (b) of section 1117 of the insurance law, as amended by chapter 572 of the laws of 2008, is amended to read 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-

ERED 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;

(2-A) FOR PURPOSES OF PARAGRAPH TWO OF THIS SUBSECTION, "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 5. Subsection (a) of section 4306-g of the insurance law, as added by chapter 6 of the laws of 2015, is amended to read as follows:

(a) A corporation shall not exclude from coverage a service that is otherwise covered under a contract 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 a corporation may exclude from coverage a service by a health care provider where the provider is not otherwise covered under the contract. A corporation 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. A corporation 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 6. Subdivision 1 of section 4406-g of the public health law, as added by chapter 6 of the laws of 2015, is amended to read as follows:

1. A health maintenance organization shall not exclude from coverage a service that is otherwise covered under an enrollee contract of a health maintenance organization because the service is delivered via telehealth, as that term is defined in subdivision two of this section; provided, however, that a health maintenance organization may exclude from coverage a service by a health care provider where the provider is not otherwise covered under the enrollee contract. A health maintenance organization 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. A health maintenance organization 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 THIS CHAPTER 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 7. This act shall take effect on the same date and in the same manner as chapter 550 of the laws of 2014, as amended, takes effect.