

5852

2015-2016 Regular Sessions

I N S E N A T E

June 8, 2015

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

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

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

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

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

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

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

1 ERD 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.