

# STATE OF NEW YORK

10385

## IN ASSEMBLY

May 4, 2020

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

AN ACT in relation to determining whether the state can claim federal  
financial participation for coverage of and payment for certain  
prescription digital therapeutics

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. Legislative finding and declaration. New Yorkers in recov-  
2 ery for substance and opioid use disorders and in treatment for mental  
3 health conditions are losing access to in-person treatment under the  
4 state's "stay at home" and social distancing orders as part of coronavi-  
5 rus pandemic mitigation efforts. In recent news reports, experts warn  
6 that the coronavirus pandemic may be "a national relapse trigger" for  
7 individuals in treatment for alcohol, cocaine, methamphetamine, marijua-  
8 na, and heroin addiction. Prescription Digital Therapeutics (PDTs) are  
9 new, software-based disease treatments designed to directly treat  
10 disease, tested for safety and efficacy in randomized clinical trials,  
11 evaluated by the FDA, and prescribed by healthcare providers. These  
12 therapies are designed and tested much like traditional prescription  
13 drugs with one distinction: rather than swallowing a pill or taking an  
14 injection, patients are treated with software. Certain PDTs provide  
15 clinicians and patients with evidence-based remote treatment modalities  
16 to treat substance and opioid use disorders, mental health, and other  
17 diseases and conditions. However, there is no clear statutory benefit  
18 category to allow Medicaid coverage for PDTs. In light of the promise of  
19 PDTs for the treatment of patients with substance use and opioid use  
20 disorders during the coronavirus pandemic, this legislation would  
21 require that the New York state department of health seek guidance from  
22 the Centers for Medicare and Medicaid Services relative to a coverage  
23 and reimbursement pathway for PDTs, in order to accelerate access to  
24 such therapies for enrollees.

25 § 2. No later than 30 days from the effective date of this section,  
26 the New York state department of health shall request guidance from the  
27 Centers for Medicare and Medicaid Services to determine whether the

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

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1 state can claim federal financial participation for coverage of and  
2 payment for certain prescription digital therapeutics approved by the  
3 food and drug administration to treat substance use and opioid use  
4 disorders.

5 § 3. This act shall take effect immediately.