

# STATE OF NEW YORK

2784

2019-2020 Regular Sessions

## IN ASSEMBLY

January 25, 2019

Introduced by M. of A. SCHIMMINGER -- Multi-Sponsored by -- M. of A. RIVERA -- read once and referred to the Committee on Health

AN ACT to amend the social services law, in relation to the character and adequacy of Medicaid assistance and to repeal paragraph (n) of subdivision 2 of section 365-a of the social services law relating to the care and services of audiologists

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

1 Section 1. Paragraph (a) of subdivision 2 of section 365-a of the  
2 social services law, as amended by chapter 47 of the laws of 1996, is  
3 amended to read as follows:

4 (a) services of qualified physicians, [~~dentists, nurses, and private~~  
5 ~~duty nursing services shall be further subject to the provisions of~~  
6 ~~section three hundred sixty seven-o of this chapter,~~] optometrists,  
7 nurse midwives, nurse practitioners, and other related professional  
8 personnel;

9 § 2. Paragraph (f) of subdivision 2 of section 365-a of the social  
10 services law, as added by chapter 184 of the laws of 1969 and as relet-  
11 tered by chapter 478 of the laws of 1980, is amended to read as follows:

12 (f) preventive, prophylactic and other routine dental care, services  
13 and supplies only when provided in a hospital outpatient or clinic  
14 facility referred to in paragraph (c) of this subdivision;

15 § 3. Paragraph (g) of subdivision 2 of section 365-a of the social  
16 services law, as amended by section 21 of part A of chapter 56 of the  
17 laws of 2013, is amended to read as follows:

18 (g) sickroom supplies, eyeglasses, and prosthetic appliances [~~and~~  
19 ~~dental prosthetic appliances~~] furnished in accordance with the regu-  
20 lations of the department; provided further that: (i) the commissioner  
21 of health is authorized to implement a preferred diabetic supply program  
22 wherein the department of health will receive enhanced rebates from  
23 preferred manufacturers of glucometers and test strips, and may subject

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

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1 non-preferred manufacturers' glucometers and test strips to prior  
2 authorization under section two hundred seventy-three of the public  
3 health law; (ii) enteral formula therapy and nutritional supplements are  
4 limited to coverage only for nasogastric, jejunostomy, or gastrostomy  
5 tube feeding, for treatment of an inborn metabolic disorder, or to  
6 address growth and development problems in children, or, subject to  
7 standards established by the commissioner, for persons with a diagnosis  
8 of HIV infection, AIDS or HIV-related illness or other diseases and  
9 conditions; (iii) prescription footwear and inserts are limited to  
10 coverage only when used as an integral part of a lower limb orthotic  
11 appliance, as part of a diabetic treatment plan, or to address growth  
12 and development problems in children; (iv) compression and support  
13 stockings are limited to coverage only for pregnancy or treatment of  
14 venous stasis ulcers; ~~and~~ (v) the commissioner of health is authorized  
15 to implement an incontinence supply utilization management program to  
16 reduce costs without limiting access through the existing provider  
17 network, including but not limited to single or multiple source  
18 contracts or, a preferred incontinence supply program wherein the  
19 department of health will receive enhanced rebates from preferred  
20 manufacturers of incontinence supplies, and may subject non-preferred  
21 manufacturers' incontinence supplies to prior approval pursuant to regu-  
22 lations of the department, provided any necessary approvals under feder-  
23 al law have been obtained to receive federal financial participation in  
24 the costs of incontinence supplies provided pursuant to this subpara-  
25 graph; and (vi) the commissioner of health is authorized to require  
26 prior approval of any prescription drug that is prescribed for a resi-  
27 dent of a nursing home and that is not reimbursed as part of the nursing  
28 home's medicaid rate;

29 § 4. Paragraph (l) of subdivision 2 of section 365-a of the social  
30 services law, as amended by chapter 81 of the laws of 1995, is amended  
31 to read as follows:

32 (l) care and services of podiatrists, clinical psychologists, nurses  
33 and audiologists, including such care and services provided in a hospi-  
34 tal out-patient or clinic facility referred to in paragraph (c) of this  
35 subdivision, and dentists, which care and services shall only be  
36 provided upon referral by a physician, nurse practitioner or certified  
37 nurse midwife in accordance with the program of early and periodic  
38 screening and diagnosis established pursuant to subdivision three of  
39 this section or to persons eligible for benefits under title XVIII of  
40 the federal social security act as qualified medicare beneficiaries in  
41 accordance with federal requirements therefor ~~[and private duty nurses~~  
42 ~~which care and services shall only be provided in accordance with regu-~~  
43 ~~lations of the department of health; provided, however, that private~~  
44 ~~duty nursing services shall not be restricted when such services are~~  
45 ~~more appropriate and cost effective than nursing services provided by a~~  
46 ~~home health agency pursuant to section three hundred sixty-seven-1];~~

47 § 5. Paragraph (n) of subdivision 2 of section 365-a of the social  
48 services law, as added by chapter 556 of the laws of 1986, is REPEALED.

49 § 6. The commissioner of health is authorized to promulgate or adopt  
50 any rules or regulations necessary to implement the provisions of this  
51 act and any procedures, forms, or instructions necessary for such imple-  
52 mentation may be adopted and issued on or after the effective date of  
53 this act. Notwithstanding any inconsistent provision of the state admin-  
54 istrative procedure act or any other provision of law, rule or regu-  
55 lation, the commissioner of health and the superintendent of financial  
56 services and any appropriate council is authorized to adopt or amend or

1 promulgate on an emergency basis any regulation he or she or such coun-  
2 cil determines necessary to implement any provision of this act on its  
3 effective date.

4 § 7. This act shall take effect on the one hundred eightieth day after  
5 it shall have become a law.