

STATE OF NEW YORK

2880--A

Cal. No. 493

2019-2020 Regular Sessions

IN ASSEMBLY

January 28, 2019

Introduced by M. of A. HUNTER -- read once and referred to the Committee on Insurance -- reported and referred to the Committee on Codes -- advanced to a third reading, passed by Assembly and delivered to the Senate, recalled from the Senate, vote reconsidered, bill amended, ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the insurance law, in relation to denial of coverage of additional or alternative services or procedures related to health care services for which pre-authorization was granted or did not require pre-authorization; and to repeal certain provisions of such law relating thereto

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

Section 1. Subsection (c) of section 3238 of the insurance law is REPEALED and a new subsection (c) is added to read as follows:

(c)(1) If a health care provider, while providing a service or procedure to treat a patient, determines that an additional or alternative service or procedure is necessary as part of such treatment, and in the sole judgment of the health care provider it is not advisable to interrupt the provision of care to the patient in order to obtain pre-authorization from a health plan for the additional or alternative service or procedure, a denial of payment for the additional or alternative service or procedure due to lack of pre-authorization shall be upheld on appeal only if it is determined that:

(i) the additional or alternative service or procedure is not a covered benefit;

(ii) the additional or alternative service or procedure was not medically necessary pursuant to section four thousand nine hundred four of this chapter or section forty-nine hundred four of the public health law;

(iii) the additional or alternative service or procedure was experimental or investigational pursuant to section four thousand nine

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

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1 hundred four of this chapter or section forty-nine hundred four of the
2 public health law; or

3 (iv) one of the conditions set forth in paragraphs one through six of
4 subsection (a) of this section is met.

5 (2) The provisions of this subsection shall apply to situations in
6 which pre-authorization was required and received for the initial
7 service or procedure, or the initial service or procedure did not
8 require pre-authorization.

9 (3) The provisions of this subsection shall apply without regard to
10 whether the current procedural terminology (CPT) code for the additional
11 or alternative service or procedure is different than the CPT code for
12 the initial service or procedure.

13 § 2. This act shall take effect on the ninetieth day after it shall
14 have become a law.