

# STATE OF NEW YORK

5328--A

2019-2020 Regular Sessions

## IN SENATE

April 26, 2019

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to denial of coverage of additional or related 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:

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2 REPEALED and a new subsection (c) is added to read as follows:

3 (c)(1) If a health care provider, while providing a service or procedure to treat a patient, determines that providing an additional or  
4 related service or procedure, such as a service or procedure to address  
5 a co-morbid condition, is immediately necessary as part of such treatment, and in the clinical judgment of the health care provider it is a  
6 medically timely service and it would not be medically advisable to  
7 interrupt the provision of care to the patient in order to obtain pre-  
8 authorization from a health plan for the additional or related service  
9 or procedure, a denial of payment for the additional or related service  
10 or procedure due to lack of pre-authorization shall be upheld on appeal  
11 only if it is determined that:

12 (i) the additional or related service or procedure is not a covered  
13 benefit;

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

17 (iii) the additional or related service or procedure was experimental  
18 or investigational pursuant to section four thousand nine hundred four  
19  
20

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

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

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

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