

STATE OF NEW YORK

380

2021-2022 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 6, 2021

Introduced by M. of A. CAHILL -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to including certain out of home services such as transition from a hospital, nursing facility or other institutional setting to the home within home care insurance coverage

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

1 Section 1. Subparagraphs (C), (D) and (E) of paragraph 1 of subsection
2 (k) of section 3221 of the insurance law, subparagraphs (C) and (D) as
3 amended by chapter 557 of the laws of 2000, are amended to read as
4 follows:

5 (C) Home care means the care and treatment of a covered person who is
6 under the care of a physician [~~but only if~~] and who requires the
7 services of an agency described in subparagraph (D) of this paragraph
8 for: transition of the covered person from hospital, nursing facility or
9 other institutional setting to home; rehabilitation, recovery or medical
10 management of the covered person at home following hospitalization or
11 following care in a nursing facility or other institutional setting; or
12 medical management of a condition predisposing the covered individual to
13 hospitalization [~~or~~], confinement in a nursing facility [~~as defined in~~
14 ~~subchapter XVIII of the federal Social Security Act, 42 U.S.C. §§ 1395~~
15 ~~et seq, would otherwise have been required~~] or the need for other out-
16 of-home services otherwise covered under the contract if home care [~~was~~]
17 is not provided, and the plan covering the home health service is estab-
18 lished and approved in writing by such physician.

19 (D) Home care shall be provided by an agency possessing a valid
20 certificate of approval or license issued pursuant to article thirty-six
21 of the public health law and shall consist of one or more of the follow-
22 ing:

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

LBD01582-01-1

1 (i) Part-time or intermittent home nursing care by or under the super-
2 vision of a registered professional nurse (R.N.).

3 (ii) Part-time or intermittent home health aide services which consist
4 primarily of caring for the patient.

5 (iii) Physical, occupational or speech therapy, social work, respir-
6 atory therapy and nutritional counseling, if provided by the home health
7 service or agency.

8 (iv) Medical supplies, drugs and medications prescribed by a physi-
9 cian, and laboratory services by or on behalf of a certified home health
10 agency or licensed home care services agency to the extent such items
11 would have been covered under the contract if the covered person had
12 been hospitalized or confined in a skilled nursing facility as defined
13 in subchapter XVIII of the federal Social Security Act, 42 U.S.C. §§
14 1395 et seq.

15 (E) For the purpose of determining the benefits for home care avail-
16 able to a covered person, [~~each visit by a member of a home care team~~
17 ~~shall be considered as one home care visit; the contract may contain a~~
18 ~~limitation on the number of home care visits, but not less than forty~~
19 ~~such visits in any calendar year or in any continuous period of twelve~~
20 ~~months, for each person covered under the contract; four hours of home~~
21 ~~health aide service shall be considered as one home care visit]~~ nothing
22 in this paragraph shall be construed to prevent the management or utili-
23 zation review of home care benefits, including the use of preauthori-
24 zation and appropriateness criteria as to the level and intensity of
25 treatment applicable to home care, provided however that any such deter-
26 minations may be subject to appeal under article forty-nine of this
27 chapter.

28 § 2. Paragraph 3 of subsection (a) of section 4303 of the insurance
29 law, subparagraphs (A), (B) and (C) as amended by chapter 557 of the
30 laws of 2000 and subparagraph (D) as amended by chapter 21 of the laws
31 of 1990, is amended to read as follows:

32 (3) For home care to residents in this state. Such home care coverage
33 shall be included at the inception of all new contracts and, with
34 respect to all other contracts, added at any anniversary date of the
35 contract subject to evidence of insurability. Such coverage may be
36 subject to an annual deductible of not more than fifty dollars for each
37 covered person and may be subject to a coinsurance provision which
38 provides for coverage of not less than seventy-five percent of the
39 reasonable cost of services for which payment may be made. No such
40 corporation need provide such coverage to persons eligible for medicare.

41 (A) Home care shall mean the care and treatment of a covered person
42 who is under the care of a physician [~~but only if:~~

43 ~~(i)]~~ (i)] and who requires the services of an agency described in subpara-
44 graph (B) of this paragraph for: transition of the covered person from
45 hospital, nursing facility or other institutional setting to home; for
46 rehabilitation, recovery or medical management of the covered person at
47 home following hospitalization or following care in a nursing facility
48 or other institutional setting; or medical management of a condition
49 predisposing the covered individual to hospitalization [or], confinement
50 in a nursing facility [as defined in subchapter XVIII of the Social
51 Security Act, 42 U.S.C. § 1395 et seq, would otherwise have been
52 required] or the need for other out-of-home services otherwise covered
53 under the policy, if home care [~~was~~] is not provided, and

54 [~~(ii)]~~ the plan covering the home health service is established and
55 approved in writing by such physician.

1 (B) Home care shall be provided by an agency possessing a valid
2 certificate of approval or license issued pursuant to article thirty-six
3 of the public health law.

4 (C) Home care shall consist of one or more of the following:

5 (i) part-time or intermittent home nursing care by or under the super-
6 vision of a registered professional nurse (R.N.),

7 (ii) part-time or intermittent home health aide services which consist
8 primarily of caring for the patient,

9 (iii) physical, occupational or speech therapy, social work, respira-
10 tory therapy and nutritional counseling, if provided by the home health
11 service or agency, and

12 (iv) medical supplies, drugs and medications prescribed by a physi-
13 cian, and laboratory services by or on behalf of a certified home health
14 agency or licensed home care services agency to the extent such items
15 would have been covered or provided under the contract if the covered
16 person had been hospitalized or confined in a skilled nursing facility
17 as defined in subchapter XVIII of the Social Security Act, 42 U.S.C. §
18 1395 et seq.

19 (D) For the purpose of determining the benefits for home care avail-
20 able to a covered person, ~~[each visit by a member of a home care team~~
21 ~~shall be considered as one home care visit. The contract may contain a~~
22 ~~limitation on the number of home care visits, but not less than forty~~
23 ~~such visits in any calendar year or in any continuous period of twelve~~
24 ~~months, for each covered person. Four hours of home health aide service~~
25 ~~shall be considered as one home care visit. Every contract issued by a~~
26 ~~hospital service corporation or health service corporation which~~
27 ~~provides coverage supplementing part A and part B of subchapter XVIII of~~
28 ~~the Social Security Act, 42 U.S.C. § 1395 et seq, must make available~~
29 ~~and, if requested by a subscriber holding a direct payment contract or~~
30 ~~by all subscribers in a group remittance group or by the contract holder~~
31 ~~in the case of group contracts issued pursuant to section four thousand~~
32 ~~three hundred five of this article, provide coverage of supplemental~~
33 ~~home care visits beyond those provided by part A and part B, sufficient~~
34 ~~to produce an aggregate coverage of three hundred sixty-five home care~~
35 ~~visits per contract year. Such coverage shall be provided pursuant to~~
36 ~~regulations prescribed by the superintendent. Written notice of the~~
37 ~~availability of such coverage shall be delivered to the group remitting~~
38 ~~agent or group contract holder prior to inception of such contract and~~
39 ~~annually thereafter, except that this notice shall not be required where~~
40 ~~a policy covers two hundred or more employees or where the benefit~~
41 ~~structure was the subject of collective bargaining affecting persons who~~
42 ~~are employed in more than one state]~~ nothing in this paragraph shall be
43 construed to prevent the management or utilization review of home care
44 benefits, including the use of preauthorization and appropriateness
45 criteria as to the level and intensity of treatment applicable to home
46 care, provided however that any such determinations may be subject to
47 appeal under article forty-nine of this chapter.

48 § 3. This act shall take effect on the first of January next succeed-
49 ing the date on which it shall have become a law and shall apply to all
50 policies and contracts issued, renewed, modified, altered or amended on
51 or after such date.