STATE OF NEW YORK

9289

IN ASSEMBLY

February 23, 2022

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

AN ACT to amend the social services law, in relation to requiring periodic reviews of pending applications for material change in the coverage status of certain matters relative to new health technology assessment or medical evidence

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

Section 1. Subdivision 5 of section 365-d of the social services law, as added by section 46-a of part B of chapter 57 of the laws of 2015, is amended to read as follows:

5. **(a) The commissioner, in consultation with the committee, shall undertake periodic reviews of pending applications for material change in the coverage status of a particular item, health technology or service, and any matter relative to new health technology assessment or medical evidence for which an applicant has submitted a complete application to the department within three months of receipt. The department shall notify an applicant of incompleteness within thirty days of receipt of submission. Receipt of applications shall be published on the department's website within seven days of receipt. The commissioner shall schedule a review of such pending applications and cause publication of the date of review on the department's website within seven days of the review required by this paragraph.**

(b) The commissioner, in consultation with the committee, shall issue a report to the chair of the standing committee on health in the senate and assembly and publish the report on the department's website within thirty days of review of any pending application pursuant to paragraph (a) of this subdivision. Such report shall provide the date of application, date of review, and a stated determination of sufficiency of evidence warranting committee deliberation and recommendation. In the event of an affirmative determination of sufficiency of evidence, the commissioner shall require the committee to issue a recommendation within six months of such determination of sufficiency. In the event of a negative determination, the commissioner shall detail such insufficiency

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

LBD11652-01-1

of evidence and allow the applicant to cure stated deficiencies for review under the requirements provided in paragraph (a) of this subdivision.

(c) The committee shall consider any matter regarding material changes in the coverage status of a particular item, health technology or service, and any matter relative to new health technology assessment or medical evidence review for which the department determines a sufficient body of evidence exists to warrant committee deliberation. The commissioner shall provide members of the committee with any evidence or information related to the health technology or medical service assessment including but not limited to, information submitted by members of the public. The department shall report to the committee programmatic changes to benefits that do not rise to the level of a material change, as well as determinations of when sufficient medical evidence exists to warrant committee deliberations. The commissioner shall provide forty-five days public notice on the department's website prior to any meeting of the committee to develop recommendations concerning health technology or medical service coverage determinations. Such notice shall include a description of the proposed health technology or service to be reviewed, the conditions or diseases impacted by the health technology or service, the proposals to be considered by the committee, and the systematic evidence-based assessment prepared in accordance with this subdivision. The committee shall allow interested parties a reasonable opportunity to make an oral presentation to the committee related to the health technology or service to be reviewed and to submit written information. The committee shall consider any information provided by any interested party, including, but not limited to, health care providers, health care facilities, patients, consumers and manufacturers. For all health technologies or services selected for review, the department shall conduct or commission a systematic evidence-based assessment of the health technology's or service's safety and clinical efficacy. The assessment shall use established systematic review elements, study quality assessment, and data synthesis. Upon completion, the systematic, evidence-based assessment shall be made available to the public.

(d) The commissioner shall make a determination of coverage within sixty days of the issuance of recommendation by the committee.

(e) Notwithstanding any other law or regulation, in the event a determination of coverage status is not made under this section within one year of application receipt such application shall be deemed approved for coverage provided such technology is also covered by two of the following:

(i) Medicare;

(ii) health plans authorized under articles thirty-two or forty-three of the insurance law;

(iii) Medicaid managed care plans;

(iv) the benchmark plan of the New York state of health;

(v) the New York state health insurance plan; or

(vi) the workers' compensation board.

(f) Technologies or services denied coverage under this subdivision may appeal such determination to the commissioner, who shall issue a final determination of coverage within six months of such appeal. Such final determinations shall be subject to article seventy-eight of the civil practice law and rules.

§ 2. This act shall take effect immediately.