STATE OF NEW YORK

3649

2021-2022 Regular Sessions

IN SENATE

January 30, 2021

Introduced by Sen. ORTT -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to mandatory health insurance coverage for providing prosthetic devices

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

Section 1. Subsection (i) of section 3216 of the insurance law is amended by adding a new paragraph 36 to read as follows:

(36) Every policy which provides medical, major medical, or similar comprehensive type coverage to a policyholder shall provide coverage for prosthetic devices that are intended for medically necessary rehabilitative and habilitative purposes as required by 42 U.S.C. § 18022. Coverage shall include the cost of repair or replacement of prosthetic devices due to normal wear and tear, if a prosthetic device has been outgrown or no longer fits properly, or where a change in the medical condition makes replacement necessary. Coverage shall not include the costs of repair or replacement of a prosthetic device that is covered under the warranty of the manufacture or when the repair or replacement is necessary due to misuse or negligence. The term "prosthetic device" as used in this paragraph includes an artificial limb, but shall not include shoes or any other article considered as ordinary wearing apparel, whether or not specifically constructed. The term "policyholder" as used in this paragraph shall mean a veteran of the armed forces who resides in the state of New York and whose medical need for such prosthetic device resulted from an injury suffered while on active duty serving in the armed forces. Such coverage shall be subject to annual deductibles and coinsurance as deemed appropriate by the superintendent. The coverage required by this paragraph shall be identical to, and shall not enhance or increase the essential health benefit coverage chosen by the state pursuant to 45 CFR 156.100. Nothing in this paragraph shall be construed to prevent the medical management or utilization review of

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

LBD07760-01-1

benefits for medically necessary rehabilitative and habilitative purposes.

§ 2. Subsection (l) of section 3221 of the insurance law is amended by adding a new paragraph 21 to read as follows:

(21) Every policy which provides medical, major medical, or similar comprehensive type coverage to a policyholder shall provide coverage for prosthetic devices that are intended for medically necessary rehabilitative and habilitative purposes as required by 42 U.S.C. § 18022. Coverage shall include the cost of repair or replacement of prosthetic devices due to normal wear and tear, if a prosthetic device has been outgrown or no longer fits properly, or where a change in the medical condition makes replacement necessary. Coverage shall not include the costs of repair or replacement of a prosthetic device that is covered under the warranty of the manufacturer or when the repair or replacement is necessary due to misuse or negligence. The term "prosthetic device" as used in this paragraph includes an artificial limb, but shall not include shoes or any other article considered as ordinary wearing apparel, whether or not specifically constructed. The term "policyholder" as used in this paragraph shall mean a veteran of the armed forces who resides in the state of New York and whose medical need for such prosthetic device resulted from an injury suffered while on active duty serving in the armed forces. Such coverage shall be subject to annual deductibles and coinsurance as deemed appropriate by the superintendent. The coverage required by this paragraph shall be identical to, and shall not enhance or increase the essential health benefit coverage chosen by the state pursuant to 45 CFR 156.100. Nothing in this paragraph shall be construed to prevent the medical management or utilization review of benefits for medically necessary rehabilitative and habilitative purposes.

§ 3. Section 4303 of the insurance law is amended by adding a new subsection (ss) to read as follows:

(ss) Every policy which provides medical, major medical, or similar comprehensive type coverage to a policyholder shall provide coverage for prosthetic devices that are intended for medically necessary rehabilitative and habilitative purposes as required by 42 U.S.C. § 18022. Coverage shall include the cost of repair or replacement of prosthetic devices due to normal wear and tear, if a prosthetic device has been outgrown or no longer fits properly, or where a change in the medical condition makes replacement necessary. Coverage shall not include the costs of repair or replacement of a prosthetic device that is covered under the warranty of the manufacturer or when the repair or replacement is necessary due to misuse or negligence. The term "prosthetic device" as used in this subsection includes an artificial limb, but shall not include shoes or any other article considered as ordinary wearing apparel, whether or not specifically constructed. The term "policyholder" as used in this subsection shall mean a veteran of the armed forces who resides in the state of New York and whose medical need for such prosthetic device resulted from an injury suffered while on active duty serving in the armed forces. Such coverage shall be subject to annual deductibles and coinsurance as deemed appropriate by the superintendent. The coverage required by this subsection shall be identical to, and shall not enhance or increase the essential health benefit coverage chosen by the state pursuant to 45 CFR 156.100. Nothing in this subsection shall be construed to prevent the medical management or utilization review of benefits for medically necessary rehabilitative and habilitative purposes.

§ 4. This act shall take effect on the one hundred eightieth day after it shall have become a law and shall apply to policies and contracts issued, renewed, modified, altered or amended on or after such effective date.