

# 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:

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

3 (36) Every policy which provides medical, major medical, or similar  
4 comprehensive type coverage to a policyholder shall provide coverage for  
5 prosthetic devices that are intended for medically necessary rehabilita-  
6 tive and habilitative purposes as required by 42 U.S.C. § 18022. Cover-  
7 age shall include the cost of repair or replacement of prosthetic  
8 devices due to normal wear and tear, if a prosthetic device has been  
9 outgrown or no longer fits properly, or where a change in the medical  
10 condition makes replacement necessary. Coverage shall not include the  
11 costs of repair or replacement of a prosthetic device that is covered  
12 under the warranty of the manufacture or when the repair or replacement  
13 is necessary due to misuse or negligence. The term "prosthetic device"  
14 as used in this paragraph includes an artificial limb, but shall not  
15 include shoes or any other article considered as ordinary wearing  
16 apparel, whether or not specifically constructed. The term "policyhold-  
17 er" as used in this paragraph shall mean a veteran of the armed forces  
18 who resides in the state of New York and whose medical need for such  
19 prosthetic device resulted from an injury suffered while on active duty  
20 serving in the armed forces. Such coverage shall be subject to annual  
21 deductibles and coinsurance as deemed appropriate by the superintendent.  
22 The coverage required by this paragraph shall be identical to, and shall  
23 not enhance or increase the essential health benefit coverage chosen by  
24 the state pursuant to 45 CFR 156.100. Nothing in this paragraph shall be  
25 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.

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1 benefits for medically necessary rehabilitative and habilitative  
2 purposes.

3 § 2. Subsection (1) of section 3221 of the insurance law is amended by  
4 adding a new paragraph 21 to read as follows:

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

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

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

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