

# STATE OF NEW YORK

2451

2021-2022 Regular Sessions

## IN ASSEMBLY

January 19, 2021

Introduced by M. of A. REYES, LUPARDO, BARRON, DAVILA, SEAWRIGHT, SIMON, O'DONNELL, DARLING -- read once and referred to the Committee on Insurance

AN ACT to amend the social services law and the insurance law, in relation to coverage for the treatment of asthma

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

1 Section 1. Paragraph (r) of subdivision 2 of section 365-a of the  
2 social services law, as added by section 32 of part C of chapter 58 of  
3 the laws of 2008, is amended to read as follows:

4 (r) asthma self-management training services for persons or parents of  
5 persons diagnosed with asthma including information on proper use of  
6 devices such as spacers, valved holding chambers and masks, and triggers  
7 in the environment which should be avoided or managed, when such  
8 services are ordered by a physician, registered physician's assistant,  
9 registered nurse practitioner, or licensed midwife and provided by a  
10 licensed, registered, or certified health care professional, as deter-  
11 mined by the commissioner of health, who is certified as an asthma  
12 educator by the National Asthma Educator Certification Board, or a  
13 successor national certification board; provided, however, that the  
14 provisions of this paragraph shall not take effect unless all necessary  
15 approvals under federal law and regulation have been obtained to receive  
16 federal financial participation in the costs of health care services  
17 provided pursuant to this paragraph. Nothing in this paragraph shall be  
18 construed to modify any licensure, certification or scope of practice  
19 provision under title eight of the education law.

20 § 2. Subsection (i) of section 3216 of the insurance law is amended by  
21 adding a new paragraph 15-b to read as follows:

22 (15-b) (A) Every policy which provides medical coverage that includes  
23 coverage for physician services in a physician's office and every policy  
24 which provides major medical or similar comprehensive-type coverage

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

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1 shall include coverage for the following equipment and supplies for the  
2 treatment of asthma, and for children under nineteen years of age addi-  
3 tional equipment and supplies for use in school, if recommended or  
4 prescribed by a physician or other licensed health care provider legally  
5 authorized to prescribe under title eight of the education law: rescue  
6 inhaler treatments and nebulizers; spacers, valved holding chambers,  
7 masks and/or other such devices used to assist in getting medication  
8 into the lungs. In addition, the commissioner of the department of  
9 health shall provide and periodically update by rule or regulation a  
10 list of additional asthma equipment and related supplies such as are  
11 medically necessary for the treatment of asthma, for which there shall  
12 also be coverage. Such policies shall also include coverage for asthma  
13 self-management education to ensure that persons with asthma, or  
14 person's who have a child or children with asthma, are educated as to  
15 the proper self-management and treatment of their condition, including  
16 information on proper use of devices and triggers in the environment  
17 which should be avoided or managed. Such coverage for self-management  
18 education and education relating to devices shall be limited to visits  
19 medically necessary upon the diagnosis of asthma, where a physician  
20 diagnoses a significant change in the patient's symptoms or conditions  
21 which necessitate changes in a patient's self-management, or where reed-  
22 ucation or refresher education is necessary. Such education may be  
23 provided by the physician or other licensed health care provider legally  
24 authorized to prescribe under title eight of the education law, or their  
25 staff, as part of an office visit for asthma diagnosis or treatment, or  
26 by a certified asthma nurse educator, upon the referral of a physician  
27 or other licensed health care provider legally authorized to prescribe  
28 under title eight of the education law. Education provided by the certi-  
29 fied asthma nurse educator, may be limited to group settings wherever  
30 practicable. Coverage for self-management education and education relat-  
31 ing to devices shall also include home visits when medically necessary.

32 (B) Such coverage may be subject to annual deductibles and coinsurance  
33 as may be deemed appropriate by the superintendent and as are consistent  
34 with those established for other benefits within a given policy.

35 § 3. Subsection (k) of section 3221 of the insurance law is amended by  
36 adding a new paragraph 22 to read as follows:

37 (22) (A) Every policy which provides medical coverage that includes  
38 coverage for physician services in a physician's office and every policy  
39 which provides major medical or similar comprehensive-type coverage  
40 shall include coverage for the following equipment and supplies for the  
41 treatment of asthma, and for children under nineteen years of age addi-  
42 tional equipment and supplies for use in school, if recommended or  
43 prescribed by a physician or other licensed health care provider legally  
44 authorized to prescribe under title eight of the education law: rescue  
45 inhaler treatments and nebulizers; spacers, valved holding chambers,  
46 masks and/or other such devices used to assist in getting medication  
47 into the lungs. In addition, the commissioner of the department of  
48 health shall provide and periodically update by rule or regulation a  
49 list of additional asthma equipment and related supplies such as are  
50 medically necessary for the treatment of asthma, for which there shall  
51 also be coverage. Such policies shall also include coverage for asthma  
52 self-management education to ensure that persons with asthma, or  
53 person's who have a child or children with asthma, are educated as to  
54 the proper self-management and treatment of their condition, including  
55 information on proper use of devices and triggers in the environment  
56 which should be avoided or managed. Such coverage for self-management

1 education and education relating to devices shall be limited to visits  
2 medically necessary upon the diagnosis of asthma, where a physician  
3 diagnoses a significant change in the patient's symptoms or conditions  
4 which necessitate changes in a patient's self-management, or where reed-  
5 ucation or refresher education is necessary. Such education may be  
6 provided by the physician or other licensed health care provider legally  
7 authorized to prescribe under title eight of the education law, or their  
8 staff, as part of an office visit for asthma diagnosis or treatment, or  
9 by a certified asthma nurse educator, upon the referral of a physician  
10 or other licensed health care provider legally authorized to prescribe  
11 under title eight of the education law. Education provided by the certi-  
12 fied asthma nurse educator, may be limited to group settings wherever  
13 practicable. Coverage for self-management education and education relat-  
14 ing to devices shall also include home visits when medically necessary.

15 (B) Such coverage may be subject to annual deductibles and coinsurance  
16 as may be deemed appropriate by the superintendent and as are consistent  
17 with those established for other benefits within a given policy.

18 § 4. This act shall take effect on the first of January next succeed-  
19 ing the date on which it shall have become a law and shall apply to all  
20 policies issued, renewed, altered or modified on or after such date.