STATE OF NEW YORK

5073

2021-2022 Regular Sessions

IN SENATE

February 23, 2021

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

AN ACT to amend the public health law and the social services law, in relation to providing Medicaid reimbursement for interpretation services provided by hospital inpatient and outpatient departments

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

Section 1. Section 2807-c of the public health law is amended by adding a new subdivision 36 to read as follows:

36. Interpretation services. (a) Notwithstanding any provision of law, rule or regulation to the contrary, the commissioner shall adjust inpatient medical assistance rates of payment to provide reimbursement for the costs associated with the provision of interpretation services for patients in receipt of medical assistance who have limited English proficiency. Reimbursement shall be available for the costs associated with the provision of interpretation services at all locations during all times that patient care is available, including but not limited to health care, billing and making appointments. To be eligible for reimbursement, the provision of interpretation services must be documented in such a manner as to enable reporting to and audit by the commissioner.

(b) Such adjustment shall be made for discharges on and after the first of April, two thousand twenty-three.

(c) For purposes of this subdivision, "patients with limited English proficiency" means patients whose primary language is not English and who cannot speak, read, write or understand the English language at a level sufficient to permit such patients to interact effectively with health care providers and their staff.

(d) For the purposes of this subdivision, "interpretation services" refers to language assistance services provided by individuals with proven bilingual skills in both English and the relevant language to

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

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communicate information necessary for the patient to access services and, in the case of interpretation services provided during the course of a clinical encounter, services provided by individuals trained and skilled in medical interpreting techniques, ethics and terminology.

§ 2. Paragraph (g) of subdivision 2 of section 2807 of the public health law is amended by adding a new subparagraph (iii) to read as follows:

(iii) Notwithstanding any provision of law, rule or regulation to the contrary, the commissioner shall adjust rates of payment for general hospital outpatient and emergency services to provide reimbursement for the costs associated with the provision of interpretation services for patients in receipt of medical assistance who have limited English proficiency. Such adjustment shall be made for outpatient and emergency services provided on and after April first, two thousand twenty-three. Reimbursement shall be available for the costs associated with the provision of interpretation services at all locations during all times that patient care is available, including but not limited to health care, billing and making appointments. To be eligible for reimbursement, the provision of interpretation services must be documented in such a manner as to enable reporting to and audit by the commissioner. For the purposes of this subparagraph, "patients with limited English proficiency" means patients whose primary language is not English and who cannot speak, read, write or understand the English language at a level sufficient to permit such patients to interact effectively with health care providers and their staff. For purposes of this subdivision, "interpretation services" refers to language assistance services provided by individuals with sufficient fluency in both English and the relevant language to communicate information necessary for the patient to access services and, in the case of interpretation provided during the course of a clinical encounter, services provided by individuals trained and skilled in medical interpreting techniques, skills, ethics and terminology. Hospitals must use a skilled interpreter or translation service until such time as rules and regulations are promulgated by the commissioner. After such rules and regulations are promulgated, hospitals shall use individuals who meet such criteria in order to receive reimbursement. No reimbursement shall be provided when a patient who has been informed in his or her primary language of the availability of free interpretation and translation services requests the use of family, friends or others who are not formally trained in translation or interpretation.

§ 3. Section 2807 of the public health law is amended by adding a new subdivision 22 to read as follows:

22. Notwithstanding any provision of law, rule or regulation to the contrary, the commissioner shall adjust rates of payment for diagnostic and treatment centers licensed pursuant to this article to provide reimbursement for the costs associated with the provision of interpretation services for patients in receipt of medical assistance who have limited English proficiency. Such adjustments shall be made for services provided at diagnostic and treatment centers licensed pursuant to this article on and after April first, two thousand twenty-three. Reimbursement shall be available for the costs associated with the provision of interpretation services at all locations during all times that patient care is available, including but not limited to health care, billing and making appointments. To be eligible for reimbursement, the provision of interpretation services must be documented in such a manner as to enable reporting to and audit by the commissioner.

For the purposes of this subdivision, "patients with limited English proficiency" means patients whose primary language is not English and who cannot speak, read, write or understand the English language at a level sufficient to permit such patients to interact effectively with health care providers and their staff. For the purposes of this subdivision, "interpretation services" refers to language assistance services provided by individuals with sufficient fluency in both English and the relevant language to communicate information necessary for the patient to access services and, in the case of interpretation provided during the course of a clinical encounter, services provided by individuals trained and skilled in medical interpreting techniques, skills, ethics and terminology.

§ 4. Subdivision 8 of section 2807 of the public health law is amended by adding a new paragraph (g) to read as follows:

(g) Subject to receipt of all necessary federal approvals, rates of payment computed in accordance with this subdivision shall be further adjusted in accordance with the provisions of subdivision twenty of this section.

§ 5. Subdivision 1 of section 368-a of the social services law is amended by adding a new paragraph (aa) to read as follows:

(aa) Notwithstanding any provision of law to the contrary, the full amount expended for interpretation services provided pursuant to subdivision thirty-six of section twenty-eight hundred seven-c of the public health law, or subparagraph (iii) of paragraph (g) of subdivision two of section twenty-eight hundred seven of the public health law, or subdivision twenty-three of section twenty-eight hundred seven of the public health law, after first deducting therefrom federal funds properly received or to be received on account of such expenditures.

§ 6. Notwithstanding any provision of law, rule or regulation to the contrary, the effectiveness of subdivisions 4, 7, 7-a, and 7-b of section 2807 of the public health law, and section 18 of chapter 2 of the laws of 1988, as they relate to time frames for notice, approval or certification of rates of payment, and to the requirement of prior notice of rates of payment, are hereby suspended and shall for purposes of implementing the provisions of this act be deemed to have been without any force and effect from and after February 1, 2023 for such rates effective for the period April 1, 2023 through March 31, 2024.

§ 7. This act shall take effect on the one hundred twentieth day after it shall have become a law. Effective immediately, the commissioner of health is immediately authorized to promulgate, amend and/or repeal any rules and regulations necessary to implement the provisions of this act on its effective date.