

STATE OF NEW YORK

4131

2023-2024 Regular Sessions

IN ASSEMBLY

February 9, 2023

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

AN ACT to amend the public health law, in relation to definitions of certain terms relating to the New York state medical indemnity fund; to repeal section 2999-k of the public health law, relating to claims for qualifying health care costs under the New York state medical indemnity fund; and to amend chapter 517 of the laws of 2016, amending the public health law relating to payments from the New York state medical indemnity fund, in relation to the effectiveness thereof

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

1 Section 1. Section 2999-h of the public health law, as amended by a
2 chapter of the laws of 2022 amending the public health law relating to
3 qualifying health care costs under the New York state medical indemnity
4 fund and amending chapter 517 of the laws of 2016 amending the public
5 health law relating to payments from the New York state medical indem-
6 nity fund relating to the effectiveness thereof, as proposed in legisla-
7 tive bills numbers S. 8591-A and A. 6442-C, is amended to read as
8 follows:

9 § 2999-h. Definitions. As used in this title, unless the context or
10 subject matter requires otherwise:

11 1. [~~"Activities of daily living" means basic personal everyday activ-~~
12 ~~ities, including, but not limited to, tasks such as eating, toileting,~~
13 ~~grooming, dressing, bathing, and transferring.~~

14 ~~2.~~] "Birth-related neurological injury" means an injury to the brain
15 or spinal cord of a live infant caused by the deprivation of oxygen or
16 mechanical injury occurring in the course of labor, delivery or resusci-
17 tation, or by other medical services provided or not provided during
18 delivery admission, that rendered the infant with a permanent and
19 substantial motor impairment or with a developmental disability as that

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

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1 term is defined by section 1.03 of the mental hygiene law, or both. This
2 definition shall apply to live births only.

3 [~~3.~~] 2. "Fund" means the New York state medical indemnity fund.

4 [~~4. "Instrumental activities of daily living" means activities related
5 to living independently in the community, including but not limited to,
6 meal planning and preparation, managing finances, shopping for food,
7 clothing and other essential items, performing essential household
8 chores, communicating by phone or other media, and traveling around and
9 participating in the community.~~

10 ~~5.]~~ 3. "Qualifying health care costs" means the future [~~costs for~~]
11 medical, hospital, surgical, nursing, dental, rehabilitation [~~services~~],
12 habilitation [~~services~~], [~~therapeutic services, and custodial care,
13 behavioral and mental health care, respite care, durable medical equip-
14 ment, environmental home modifications (emods), assistive technology,
15 and vehicle modifications, prescription and over the counter medica-
16 tions,~~] respite, custodial, durable medical equipment, home modifica-
17 tions, assistive technology, vehicle modifications, transportation for
18 purposes of health care related appointments, prescription and non-pres-
19 cription medications, and other health care costs actually incurred for
20 services rendered to and supplies utilized by qualified plaintiffs,
21 which are necessary to meet their health care needs, as determined by
22 their treating physicians, physician assistants, or nurse practitioners
23 and as otherwise defined by the commissioner in regulation[, ~~copayments
24 and deductibles for services, items, equipment or medication paid for by
25 commercial insurance, and any other health care costs actually incurred
26 for services rendered to and supplies utilized by a qualified plaintiff
27 that their health care provider has stated in writing is necessary to
28 meet the qualified plaintiff's health care needs. The statement of
29 necessity may be based on the assessment of a health care provider
30 licensed or certified under title eight of the education law and as
31 otherwise defined in regulation. Health care providers as used in this
32 section shall mean health care providers licensed or certified under
33 title eight of the education law and as otherwise may be defined in
34 regulation. Qualifying health care costs shall be covered regardless of
35 the setting where these services are provided].~~

36 [~~6.~~] 4. "Qualified plaintiff" means every plaintiff or claimant who
37 (i) has been found by a jury or court to have sustained a birth-related
38 neurological injury as the result of medical malpractice, or (ii) has
39 sustained a birth-related neurological injury as the result of alleged
40 medical malpractice, and has settled his or her lawsuit or claim there-
41 for; and (iii) has been ordered to be enrolled in the fund by a court in
42 New York state.

43 § 2. Section 2999-k of the public health law, as added by a chapter of
44 the laws of 2022 amending the public health law relating to qualifying
45 health care costs under the New York state medical indemnity fund and
46 amending chapter 517 of the laws of 2016 amending the public health law
47 relating to payments from the New York state medical indemnity fund
48 relating to the effectiveness thereof, as proposed in legislative bills
49 numbers S. 8591-A and A. 6442-C, is REPEALED.

50 § 3. Section 5 of chapter 517 of the laws of 2016, amending the public
51 health law relating to payments from the New York state medical indem-
52 nity fund, as amended by a chapter of the laws of 2022 amending the
53 public health law relating to qualifying health care costs under the New
54 York state medical indemnity fund and amending chapter 517 of the laws
55 of 2016 amending the public health law relating to payments from the New
56 York state medical indemnity fund relating to the effectiveness thereof,

1 as proposed in legislative bills numbers S. 8591-A and A. 6442-C, is
2 amended to read as follows:

3 § 5. This act shall take effect on the forty-fifth day after it shall
4 have become a law, provided that the amendments to subdivision 4 of
5 section 2999-j of the public health law made by section two of this act
6 shall take effect on June 30, 2017 and shall expire and be deemed
7 repealed December 31, 2025.

8 § 4. This act shall take effect on the same date and in the same
9 manner as a chapter of the laws of 2022 amending the public health law
10 relating to qualifying health care costs under the New York state
11 medical indemnity fund and amending chapter 517 of the laws of 2016
12 amending the public health law relating to payments from the New York
13 state medical indemnity fund relating to the effectiveness thereof, as
14 proposed in legislative bills numbers S. 8591-A and A. 6442-C, takes
15 effect.