STATE OF NEW YORK

1321

2023-2024 Regular Sessions

IN SENATE

January 11, 2023

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

AN ACT to amend the public health law and the social services law, in relation to support of living organ donation

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

Section 1. Subdivisions 2 and 5 of section 4370 of the public health law, as added by a chapter of the laws of 2022 amending the public health law, the tax law and the social services law relating to support of living organ donation, as proposed in legislative bills numbers S. 1594 and A. 146-A, are amended to read as follows:

2. "Living donor" means**: (a)** an individual who makes a living donation**; or**

(b) an individual who incurs expenses as part of the living donation screening and evaluation process but that, through no decision or judgment of their own, does not become an actual living donor.

5. "Paired donation" means a living donation in which the living donor's organ is incompatible with the ultimate intended recipient and the living donor's organ is transplanted into another recipient, and in turn another living donor makes a living donation, directly or through one or more paired donations, to the ultimate **intended** recipient **of the initial living donor**.

§ 2. Paragraph (a) of subdivision 2 of section 4371 of the public health law, as added by a chapter of the laws of 2022 amending the public health law, the tax law and the social services law relating to support of living organ donation, as proposed in legislative bills numbers S. 1594 and A. 146-A, is amended to read as follows:

(a) Subject to appropriations therefor, the program shall pay the living donor expenses for living donors who are residents of the state and make a living donation in which the ultimate recipient, either directly or through paired donation is a resident of the state. The

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

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commissioner through regulations shall establish eligible living donor expenses that are eligible for reimbursement under the program which shall include at a minimum: lost wages (including demonstrated lost non-employment income)[~~;~~] **or** the economic value of sick or vacation days expended; travel and lodging, child care and elder care expenses; and costs of medications and care associated with the living donation surgery **that are not covered by health insurance**. The total period of time related to lost wages or expended sick or vacation days shall not exceed four weeks unless special circumstances are demonstrated, such as the nature of physical labor required for the living donor's employment; provided that the total period shall in no event exceed eight weeks. The commissioner may**,** by regulation**,** impose [~~a limitation~~] **reasonable limitations** on: (i) the amount of lost wages for a living donor making an income in excess of an annual rate of one hundred twenty-five thousand dollars; or (ii) the amount of living donor expenses above fourteen thousand dollars for any single living donor; and may include additional living donor expenses including reimbursement for costs of care performed by relatives or family members of the living donor.

§ 3. Section 4372 of the public health law, as added by a chapter of the laws of 2022 amending the public health law, the tax law and the social services law relating to support of living organ donation, as proposed in legislative bills numbers S. 1594 and A. 146-A, is amended to read as follows:

§ 4372. Transplant education of patients with kidney disease or end stage renal failure. [~~For any patient with chronic kidney disease stage four or end stage renal disease, a nephrologist managing the patient's treatment or, if the patient is not under the treatment of a nephrologist then the patient's primary care practitioner, shall consider whether the patient is a candidate for transplantation under applicable professional and legal guidelines, and, if the patient appears to be a candidate for transplantation, provide the patient with transplant education materials including those prepared under section two hundred seven of this chapter~~] **Nephrologists and primary care providers with primary responsibility of caring for patients with chronic kidney disease stage three or four, or end stage renal disease, shall provide patients with current and evidence based printed educational materials about the progression of kidney disease and relevant prevention and treatment options, including transplantation**.

§ 4. Paragraph (d) of subdivision 1 of section 207 of the public health law, as amended by a chapter of the laws of 2022 amending the public health law, the tax law and the social services law relating to support of living organ donation, as proposed in legislative bills numbers S. 1594 and A. 146-A, is amended to read as follows:

(d) The need for and importance of organ and tissue donation, including living donation, including information about being registered as an organ and tissue donor and executing documents of gift under article forty-three of this chapter; and information to increase patient understanding about the medical option of transplant and its desirability. [~~In implementing this paragraph, the~~] **The** department shall consult with the transplant council [~~in the department~~] **on the production of any such information and ensure that such information is culturally and linguistically appropriate for all recipients**.

§ 5. Section 365-o of the social services law, as added by a chapter of the laws of 2022 amending the public health law, the tax law and the social services law relating to support of living organ donation, as

proposed in legislative bills numbers S. 1594 and A. 146-A, is amended to read as follows:

§ 365-o. Provision and coverage of services for living organ donors. This section applies in the case of a living donor under section forty-three hundred seventy-one of the public health law who is [~~otherwise eligible for~~] enrolled in medical assistance under this [~~article. Services for that person covered under that section that would otherwise be health care services under this article shall be paid for under this article and not under such section~~] title. Living donor expenses for eligible individuals under section forty-three hundred seventy-one of the public health law that are covered benefits under this title are excluded from reimbursement under the living donor support program, defined in section forty-three hundred seventy of the public health law, provided federal financial participation is available.

§ 6. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2022 amending the public health law, the tax law and the social services law relating to support of living organ donation, as proposed in legislative bills numbers S. 1594 and A. 146-A, takes effect.