

# STATE OF NEW YORK

4787

2023-2024 Regular Sessions

## IN SENATE

February 14, 2023

Introduced by Sens. RIVERA, RAMOS -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the social services law, in relation to requiring periodic reviews of pending applications for material change in the coverage status of certain matters relative to new health technology assessment or medical evidence

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

1 Section 1. Subdivision 5 of section 365-d of the social services law,  
2 as added by section 46-a of part B of chapter 57 of the laws of 2015, is  
3 amended to read as follows:

4 5. (a) The commissioner, in consultation with the committee, shall  
5 undertake periodic reviews of pending applications for material change  
6 in the coverage status of a particular item, health technology or  
7 service, and any matter relative to new health technology assessment or  
8 medical evidence for which an applicant has submitted a complete appli-  
9 cation to the department within three months of receipt. The department  
10 shall notify an applicant of incompleteness within thirty days of  
11 receipt of submission. Receipt of applications shall be published on the  
12 department's website within seven days of receipt. The commissioner  
13 shall schedule a review of such pending applications and cause publica-  
14 tion of the date of review on the department's website within seven days  
15 of the review required by this paragraph.

16 (b) The commissioner, in consultation with the committee, shall issue  
17 a report to the chair of the standing committee on health in the senate  
18 and assembly and publish the report on the department's website within  
19 thirty days of review of any pending application pursuant to paragraph  
20 (a) of this subdivision. Such report shall provide the date of applica-  
21 tion, date of review, and a stated determination of sufficiency of  
22 evidence warranting committee deliberation and recommendation. In the  
23 event of an affirmative determination of sufficiency of evidence, the  
24 commissioner shall require the committee to issue a recommendation with-  
25 in six months of such determination of sufficiency. In the event of a  
26 negative determination, the commissioner shall detail such insufficiency

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

LBD08099-01-3

1 of evidence and allow the applicant to cure stated deficiencies for  
2 review under the requirements provided in paragraph (a) of this subdivi-  
3 sion.

4 (c) The committee shall consider any matter regarding material changes  
5 in the coverage status of a particular item, health technology or  
6 service, and any matter relative to new health technology assessment or  
7 medical evidence review for which the department determines a sufficient  
8 body of evidence exists to warrant committee deliberation. The commis-  
9 sioner shall provide members of the committee with any evidence or  
10 information related to the health technology or medical service assess-  
11 ment including but not limited to, information submitted by members of  
12 the public. The department shall report to the committee programmatic  
13 changes to benefits that do not rise to the level of a material change,  
14 as well as determinations of when sufficient medical evidence exists to  
15 warrant committee deliberations. The commissioner shall provide forty-  
16 five days public notice on the department's website prior to any meeting  
17 of the committee to develop recommendations concerning health technology  
18 or medical service coverage determinations. Such notice shall include a  
19 description of the proposed health technology or service to be reviewed,  
20 the conditions or diseases impacted by the health technology or service,  
21 the proposals to be considered by the committee, and the systematic  
22 evidence-based assessment prepared in accordance with this subdivision.  
23 The committee shall allow interested parties a reasonable opportunity to  
24 make an oral presentation to the committee related to the health tech-  
25 nology or service to be reviewed and to submit written information. The  
26 committee shall consider any information provided by any interested  
27 party, including, but not limited to, health care providers, health care  
28 facilities, patients, consumers and manufacturers. For all health tech-  
29 nologies or services selected for review, the department shall conduct  
30 or commission a systematic evidence-based assessment of the health tech-  
31 nology's or service's safety and clinical efficacy. The assessment shall  
32 use established systematic review elements, study quality assessment,  
33 and data synthesis. Upon completion, the systematic, evidence-based  
34 assessment shall be made available to the public.

35 (d) The commissioner shall make a determination of coverage within  
36 sixty days of the issuance of recommendation by the committee.

37 (e) Notwithstanding any other law or regulation, in the event a deter-  
38 mination of coverage status is not made under this section within one  
39 year of application receipt such application shall be deemed approved  
40 for coverage provided such technology is also covered by two of the  
41 following:

- 42 (i) Medicare;  
43 (ii) health plans authorized under articles thirty-two or forty-three  
44 of the insurance law;  
45 (iii) Medicaid managed care plans;  
46 (iv) the benchmark plan of the New York state of health;  
47 (v) the New York state health insurance plan; or  
48 (vi) the workers' compensation board.

49 (f) Technologies or services denied coverage under this subdivision  
50 may appeal such determination to the commissioner, who shall issue a  
51 final determination of coverage within six months of such appeal. Such  
52 final determinations shall be subject to article seventy-eight of the  
53 civil practice law and rules.

54 § 2. This act shall take effect immediately.