STATE OF NEW YORK

4889

2023-2024 Regular Sessions

IN SENATE

February 16, 2023

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

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:

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

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

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

(15-b) (A) Every policy which provides medical coverage that includes coverage for physician services in a physician's office and every policy 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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shall include coverage for the following equipment and supplies for the treatment of asthma, and for children under nineteen years of age additional equipment and supplies for use in school, if recommended or prescribed by a physician or other licensed health care provider legally authorized to prescribe under title eight of the education law: rescue inhaler treatments and nebulizers; spacers, valved holding chambers, masks and/or other such devices used to assist in getting medication into the lungs. In addition, the commissioner of the department of health shall provide and periodically update by rule or regulation a list of additional asthma equipment and related supplies such as are medically necessary for the treatment of asthma, for which there shall also be coverage. Such policies shall also include coverage for asthma self-management education to ensure that persons with asthma, or persons who have a child or children with asthma, are educated as to the proper self-management and treatment of their condition, including information on proper use of devices and triggers in the environment which should be avoided or managed. Such coverage for self-management education and education relating to devices shall be limited to visits medically necessary upon the diagnosis of asthma, where a physician diagnoses a significant change in the patient's symptoms or conditions which necessitate changes in a patient's self-management, or where reeducation or refresher education is necessary. Such education may be provided by the physician or other licensed health care provider legally authorized to prescribe under title eight of the education law, or their staff, as part of an office visit for asthma diagnosis or treatment, or by a certified asthma nurse educator, upon the referral of a physician or other licensed health care provider legally authorized to prescribe under title eight of the education law. Education provided by the certified asthma nurse educator, may be limited to group settings wherever practicable. Coverage for self-management education and education relating to devices shall also include home visits when medically necessary.

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

§ 3. Subsection (k) of section 3221 of the insurance law is amended by adding a new paragraph 23 to read as follows:

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

education relating to devices shall be limited to visits medically necessary upon the diagnosis of asthma, where a physician diagnoses a significant change in the patient's symptoms or conditions which necessitate changes in a patient's self-management, or where reeducation or refresher education is necessary. Such education may be provided by the physician or other licensed health care provider legally authorized to prescribe under title eight of the education law, or their staff, as part of an office visit for asthma diagnosis or treatment, or by a certified asthma nurse educator, upon the referral of a physician or other licensed health care provider legally authorized to prescribe under title eight of the education law. Education provided by the certified asthma nurse educator, may be limited to group settings wherever practicable. Coverage for self-management education and education relating to devices shall also include home visits when medically necessary.

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

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