

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:

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

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

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

22 (15-b) (A) Every policy which provides medical coverage that includes
23 coverage for physician services in a physician's office and every policy
24 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.

LBD02413-01-3

1 shall include coverage for the following equipment and supplies for the
2 treatment of asthma, and for children under nineteen years of age addi-
3 tional equipment and supplies for use in school, if recommended or
4 prescribed by a physician or other licensed health care provider legally
5 authorized to prescribe under title eight of the education law: rescue
6 inhaler treatments and nebulizers; spacers, valved holding chambers,
7 masks and/or other such devices used to assist in getting medication
8 into the lungs. In addition, the commissioner of the department of
9 health shall provide and periodically update by rule or regulation a
10 list of additional asthma equipment and related supplies such as are
11 medically necessary for the treatment of asthma, for which there shall
12 also be coverage. Such policies shall also include coverage for asthma
13 self-management education to ensure that persons with asthma, or persons
14 who have a child or children with asthma, are educated as to the proper
15 self-management and treatment of their condition, including information
16 on proper use of devices and triggers in the environment which should be
17 avoided or managed. Such coverage for self-management education and
18 education relating to devices shall be limited to visits medically
19 necessary upon the diagnosis of asthma, where a physician diagnoses a
20 significant change in the patient's symptoms or conditions which neces-
21 sitate changes in a patient's self-management, or where reeducation or
22 refresher education is necessary. Such education may be provided by the
23 physician or other licensed health care provider legally authorized to
24 prescribe under title eight of the education law, or their staff, as
25 part of an office visit for asthma diagnosis or treatment, or by a
26 certified asthma nurse educator, upon the referral of a physician or
27 other licensed health care provider legally authorized to prescribe
28 under title eight of the education law. Education provided by the certi-
29 fied asthma nurse educator, may be limited to group settings wherever
30 practicable. Coverage for self-management education and education relat-
31 ing to devices shall also include home visits when medically necessary.

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

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

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

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7 prescribe under title eight of the education law, or their staff, as
8 part of an office visit for asthma diagnosis or treatment, or by a
9 certified asthma nurse educator, upon the referral of a physician or
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11 under title eight of the education law. Education provided by the certi-
12 fied asthma nurse educator, may be limited to group settings wherever
13 practicable. Coverage for self-management education and education relat-
14 ing to devices shall also include home visits when medically necessary.

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

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