STATE OF NEW YORK

365

2023-2024 Regular Sessions

IN ASSEMBLY

January 6, 2023

Introduced by M. of A. L. ROSENTHAL -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, the public health law and the social services law, in relation to requiring coverage for delivery through store and forward technology

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

Section 1. Legislative findings and declaration. The Legislature hereby finds that there is a serious health concern in insurance policies denying coverage for contraceptive care. The Legislature also finds that throughout the COVID-19 pandemic, telemedicine has been essential for patients across the state to receive care safely.

This Act enacts various provisions requiring that insurance policies cover services provided through telemedicine, including requirements that insurers provide coverage for contraceptive care, that will allow patients across the state to receive care and limit the risk of infection of COVID-19 throughout the pandemic.

§ 2. Subsection (a) of section 3217-h of the insurance law, as amended by section 3 of part V of chapter 57 of the laws of 2022, is amended to read as follows:

(a) (1) An insurer shall not exclude from coverage a service that is otherwise covered under a policy that provides comprehensive coverage for hospital, medical or surgical care**, or prescription drugs** because the service is delivered via telehealth **or through store and forward technology**, as [~~that term is~~] **such terms are** defined in subsection (b) of this section[~~; provided, however, that an insurer may exclude from coverage a service by a health care provider where the provider is not otherwise covered under the policy~~] **and in section twenty-nine hundred ninety-nine-cc of the public health law**. An insurer may subject the coverage of a service delivered via telehealth to co-payments, coinsurance or deductibles provided that they are at least as favorable to the

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

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insured as those established for the same service when not delivered via telehealth. An insurer may subject the coverage of a service delivered via telehealth to reasonable utilization management and quality assurance requirements that are consistent with those established for the same service when not delivered via telehealth.

(2) An insurer that provides comprehensive coverage for hospital, medical or surgical care shall reimburse covered services delivered by means of telehealth on the same basis, at the same rate, and to the same extent that such services are reimbursed when delivered in person; provided that reimbursement of covered services delivered via telehealth shall not require reimbursement of costs not actually incurred in the provision of the telehealth services, including charges related to the use of a clinic or other facility when neither the originating site nor distant site occur within the clinic or other facility.

(3) An insurer that provides comprehensive coverage for hospital, medical, or surgical care with a network of health care providers shall ensure that such network is adequate to meet the telehealth needs of insured individuals for services covered under the policy when medically appropriate.

§ 2-a. Subsection (a) of section 3217-h of the insurance law, as added by chapter 6 of the laws of 2015, is amended to read as follows:

(a) An insurer shall not exclude from coverage a service that is otherwise covered under a policy that provides comprehensive coverage for hospital, medical or surgical care**, or prescription drugs** because the service is delivered via telehealth **or through store and forward technology**, as [~~**that term is**~~] **such terms are** defined in subsection (b) of this section [~~**; provided, however, that an insurer may exclude from coverage a service by a health care provider where the provider is not otherwise covered under the policy**~~] **and in section twenty-nine hundred ninety-nine-cc of the public health law**. An insurer may subject the coverage of a service delivered via telehealth to co-payments, coinsurance or deductibles provided that they are at least as favorable to the insured as those established for the same service when not delivered via telehealth. An insurer may subject the coverage of a service delivered via telehealth to reasonable utilization management and quality assurance requirements that are consistent with those established for the same service when not delivered via telehealth.

§ 3. Subsection (i) of section 3216 of the insurance law is amended by adding a new paragraph 39 to read as follows:

(39) Every policy which provides coverage for prescription drugs shall include coverage for the cost of contraceptive care delivered through store and forward technology as authorized by section twenty-nine hundred ninety-nine-cc of the public health law.

§ 4. Subsection (l) of section 3221 of the insurance law is amended by adding a new paragraph 22 to read as follows:

(22) Every policy which provides coverage for prescription drugs shall include coverage for the cost of contraceptive care delivered through store and forward technology in accordance with section twenty-nine hundred ninety-nine-cc of the public health law.

§ 5. Section 4303 of the insurance law is amended by adding a new subsection (uu) to read as follows:

(uu) Every contract issued by a hospital service corporation or a health service corporation which provides coverage for prescription drugs shall include coverage for the cost of contraceptive care delivered through store and forward technology as that term is defined in section twenty-nine hundred ninety-nine-cc of the public health law.

§ 6. Subsection (a) of section 4306-g of the insurance law, as amended by section 4 of part V of chapter 57 of the laws of 2022, is amended to read as follows:

(a) (1) A corporation shall not exclude from coverage a service that is otherwise covered under a contract that provides comprehensive coverage for hospital, medical or surgical care, or prescription drugs because the service is delivered via telehealth[~~,~~] or through store and forward technology as [~~that term is~~] such terms are defined in subsection (b) of this section[~~; provided, however, that a corporation may exclude from coverage a service by a health care provider where the provider is not otherwise covered under the contract~~] and in section twenty-nine hundred ninety-nine-cc of the public health law. A corporation may subject the coverage of a service delivered via telehealth to co-payments, coinsurance or deductibles provided that they are at least as favorable to the insured as those established for the same service when not delivered via telehealth. A corporation may subject the coverage of a service delivered via telehealth to reasonable utilization management and quality assurance requirements that are consistent with those established for the same service when not delivered via telehealth.

(2) A corporation that provides comprehensive coverage for hospital, medical or surgical care shall reimburse covered services delivered by means of telehealth on the same basis, at the same rate, and to the same extent that such services are reimbursed when delivered in person; provided that reimbursement of covered services delivered via telehealth shall not require reimbursement of costs not actually incurred in the provision of the telehealth services, including charges related to the use of a clinic or other facility when neither the originating site nor the distant site occur within the clinic or other facility. The superintendent may promulgate regulations to implement the provisions of this section.

(3) A corporation that provides comprehensive coverage for hospital, medical, or surgical care with a network of health care providers shall ensure that such network is adequate to meet the telehealth needs of insured individuals for services covered under the policy when medically appropriate.

§ 6-a. Subsection (a) of section 4306-g of the insurance law, as added by chapter 6 of the laws of 2015, is amended to read as follows:

(a) A corporation shall not exclude from coverage a service that is otherwise covered under a contract that provides comprehensive coverage for hospital, medical or surgical care, or prescription drugs because the service is delivered via telehealth[~~,~~] or through store and forward technology as [~~that term is~~] such terms are defined in subsection (b) of this section [~~; provided, however, that a corporation may exclude from coverage a service by a health care provider where the provider is not otherwise covered under the contract~~] and in section twenty-nine hundred ninety-nine-cc of the public health law. A corporation may subject the coverage of a service delivered via telehealth to co-payments, coinsurance or deductibles provided that they are at least as favorable to the insured as those established for the same service when not delivered via telehealth. A corporation may subject the coverage of a service delivered via telehealth to reasonable utilization management and quality assurance requirements that are consistent with those established for the same service when not delivered via telehealth.

§ 7. Subdivision 6 of section 2999-cc of the public health law, as added by chapter 6 of the laws of 2015, is amended to read as follows:

6. "Store and forward technology" means the asynchronous, electronic transmission of a patient's health information [~~in the form of patient-specific digital images and/or pre-recorded videos from a provider at~~] **from** an originating site to a telehealth provider at a distant site.

§ 8. Subdivision 2 of section 365-a of the social services law is amended by adding a new paragraph (kk) to read as follows:

(kk) care and services provided by a telehealth provider pursuant to section twenty-nine hundred ninety-nine-cc of the public health law.

§ 9. This act shall take effect immediately; provided that the amendments to subsection (a) of section 3217-h of the insurance law made by section two of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 7 of part V of chapter 57 of the laws of 2022, as amended, when upon such date the provisions of section two-a of this act shall take effect; provided, further, the amendments to subsection (a) of section 4306-g of the insurance law made by section six of this act shall be subject to the expiration and reversion of such subsection pursuant to section 7 of part V of chapter 57 of the laws of 2022, as amended, when upon such date the provisions of section six-a of this act shall take effect.