STATE OF NEW YORK

5278

2023-2024 Regular Sessions

IN ASSEMBLY

March 7, 2023

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

AN ACT to amend the insurance law, in relation to health insurance coverage of physical and occupational therapy services

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

Section 1. Paragraph 23 of subsection (i) of section 3216 of the insurance law, as added by chapter 593 of the laws of 2000, is amended to read as follows:

(23) If a policy provides for reimbursement for physical and occupational therapy service which is within the lawful scope of practice of a duly licensed physical or occupational therapist, an insured shall be entitled to reimbursement for such service whether the said service is performed by a physician or through a duly licensed physical or occupational therapist, provided however, that nothing contained herein shall be construed to impair any terms of such policy including appropriate utilization review and the requirement that said service be performed pursuant to a medical order, or a similar or related service of a physician**, provided, further, that such terms shall not impose co-payments in excess of twenty percent of the total reimbursement to the provider of care**.

§ 2. Subparagraph (A) of paragraph 1 of subsection (f) of section 4235 of the insurance law, as amended by chapter 219 of the laws of 2011, item (ii) as amended by chapter 479 of the laws of 2022, is amended to read as follows:

(A) Any policy of group accident, group health or group accident and health insurance may include provisions for the payment by the insurer of benefits for expenses incurred on account of hospital, medical or surgical care or physical and occupational therapy by licensed physical and occupational therapists upon the prescription or referral of a physician for the employee or other member of the insured group, the

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

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employee's or member's spouse, the employee's or member's child or children, or other persons chiefly dependent upon the employee or member for support and maintenance; provided that:

(i) a policy of hospital, medical, surgical, or prescription drug expense insurance that provides coverage for children shall provide such coverage to a married or unmarried child until attainment of age twenty-six, without regard to financial dependence, residency with the employee or member, student status, or employment, except a policy that is a grandfathered health plan may, for plan years beginning before January first, two thousand fourteen, exclude coverage of an adult child under age twenty-six who is eligible to enroll in an employer-sponsored health plan other than a group health plan of a parent. For purposes of this item, "grandfathered health plan" means coverage provided by an insurer in which an individual was enrolled on March twenty-third, two thousand ten for as long as the coverage maintains grandfathered status in accordance with section 1251(e) of the Affordable Care Act, 42 U.S.C. § 18011(e); [~~and~~]

(ii) a policy under which coverage terminates at a specified age shall not so terminate with respect to an unmarried child who is incapable of self-sustaining employment by reason of mental illness, developmental disability, as defined in the mental hygiene law, or physical handicap and who became so incapable prior to attainment of the age at which coverage would otherwise terminate and who is chiefly dependent upon such employee or member for support and maintenance, while the insurance of the employee or member remains in force and the child remains in such condition, if the insured employee or member has within thirty-one days of such child's attainment of the termination age submitted proof of such child's incapacity as described herein[~~.~~]**; and**

(iii) no policy of group accident, group health or group accident and health insurance shall impose co-payments in excess of twenty percent of the total reimbursement to the provider of care.

§ 3. Subparagraph (A) of paragraph 4 of subsection (f) of section 4235 of the insurance law, as amended by chapter 593 of the laws of 2000, is amended to read as follows:

(A) any physical and occupational therapy service which is within the lawful scope of practice of a licensed physical and occupational therapist, a subscriber to such policy shall be entitled to reimbursement for such service, whether the said service is performed by a physician or licensed physical and occupational therapist pursuant to prescription or referral by a physician**, provided however, that no policy of group accident, group health or group accident and health insurance shall impose co-payments in excess of twenty percent of the total reimbursement to the provider of care**;

§ 4. Subparagraph (G) of paragraph 1 of subsection (b) of section 4301 of the insurance law, as amended by chapter 593 of the laws of 2000, is amended to read as follows:

(G) physical and occupational therapy care provided through licensed physical and occupational therapists upon the prescription of a physician**. Co-payments related to reimbursement for such services shall not exceed twenty percent of the total reimbursement to the provider of care**,

§ 5. Paragraph 13 of subsection (b) of section 4322 of the insurance law, as added by chapter 504 of the laws of 1995, is amended to read as follows:

(13) Outpatient physical therapy up to ninety visits per condition per calendar year. **Any co-payments related to reimbursement for physical**

therapy services shall not exceed twenty percent of the total reimbursement to the provider of care.

§ 6. This act shall take effect on the one hundred eightieth day after it shall have become a law.