

STATE OF NEW YORK

9826

IN ASSEMBLY

April 9, 2024

Introduced by M. of A. REYES, LUPARDO, SEAWRIGHT, SIMON, FORREST, DARLING, DICKENS, DINOWITZ, GALLAGHER, ZINERMAN, SILLITTI, MEEKS, JACKSON, DAVILA -- read once and referred to the Committee on Insurance

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
25 shall include coverage for the following equipment and supplies for the
26 treatment of asthma, and for children under nineteen years of age addi-

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

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

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

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

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

1 significant change in the patient's symptoms or conditions which neces-
2 sitate changes in a patient's self-management, or where reeducation or
3 refresher education is necessary. Such education may be provided by the
4 physician or other licensed health care provider legally authorized to
5 prescribe under title eight of the education law, or their staff, as
6 part of an office visit for asthma diagnosis or treatment, or by a
7 certified asthma nurse educator, upon the referral of a physician or
8 other licensed health care provider legally authorized to prescribe
9 under title eight of the education law. Education provided by the certi-
10 fied asthma nurse educator, may be limited to group settings wherever
11 practicable. Coverage for self-management education and education relat-
12 ing to devices shall also include home visits when medically necessary.

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

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