

To: New York State Dietetic Association  
From: Hinman Straub Advisors, LLC  
Date: Monday, November 2, 2009  
Re: Insurance Mandates: NYS Overview

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The following is a review of current law(s) as they relate to insurance mandates in New York State. Included in this report is information regarding legislative initiatives currently before the Legislature.

### **Insurance Law: DSMT**

In January *1994*, the Chapter 378 of the Laws of 1993 became effective – providing for the reimbursement by private health insurance plans of medically necessary diabetes self-management education and education relating to diet. [Insurance law §3216 (i)(15-a), and 3221 (k)(7) and 4303 (u).]

Services will be covered when provided by

- a physician or other licensed health care legally authorized to provide treatment
- staff as a part of an office visit for diabetes diagnosis or treatment
- certified diabetes nurse educator
- registered dietitian
- certified nutritionist or dietitian

This law applies to:

- All Health maintenance Organizations
- Health insurance policies, which provide comprehensive or major medical coverage
- Health insurance policies, which cover outpatient services, performed in a physician's office

This law does not apply to:

- Medicaid Recipients
- Union-sponsored benefit plans that are self-insured
- Medicare or Medigap (Medicare supplemental policies) beneficiaries
- Plans which insure employees in more than one state
- Employer-sponsored benefit plans that are self insured
- Health insurance policies which were not issued in New York State

### **Social Services Law: DSMT**

The 2008-09 enacted budget amended subdivision 2 of section 365-a of the social services law by adding new paragraph (g). The amendment provided for Medicaid reimbursement of diabetes self management training services for an individual diagnosed with diabetes when provided by

- Licensed, registered or certified health care professional, as determined by the commissioner, who is also certified as a diabetes educator by the National Certification Board for Diabetes Educators.

The Department of Health has determined that a RD who is certified as a diabetes educator is eligible for Medicaid reimbursement when providing DSMT to an individual diagnosed with diabetes.

### **Other professional or professional services**

Chapter 426 of the Laws of 1997 provided for mandated coverage of chiropractic care. The law requires insurers and HMOs to cover all services provided by a licensed chiropractor within the scope of practice of his or her license. Chiropractors became licensed in 1963 [Chapter 780 of the Laws of 1963].

Licensed clinical social workers may be extended the “R” privilege for reimbursement for psychotherapy services if the LCSW meets certain requirements [3 years post graduate experience in psychotherapy supervised appropriately]. Coverage is only required whenever the health insurance contract includes reimbursement of qualified psychologists and psychiatrists.

In 1983, midwives were extended insurance reimbursement. This occurred before the midwifery licensure act was enacted. However, at that time, midwives were nurses first and then extended their education to midwifery. The midwifery act designated them as a unique profession rather than an extension of a current profession. Midwives were licensed as a separate profession in 1992.

### **Certified Dietitian/Nutritionist [Article 157 of the Education Law]**

NYS provides for the certification of dietitians and nutritionists. The requirements for New York State certification are far below that of the Registered Dietitian. NYS permits applicants with an associate’s degree to be certified. Certification is a title protection. The law states that only applicants who meet the requirements for certification are allowed to use the title CDN. The law does not protect a scope of practice. As a result, while only those certified may call themselves a CDN, anyone regardless of education or experience may practice dietetics/nutrition.

### **NYSDA Licensure**

NYSDA has made a policy decision to advocate for a scope of practice licensure to ensure that all practitioners in NYS are qualified to practice the profession. NYSDA also supports the reimbursement of MNT by Registered Dietitians. However, since NYS has acknowledged in law the CDN, reimbursement, if mandated, would be extended to the NYS

recognized profession for dietetics and nutrition care. This is not an issue of support, but rather an issue of timing. Before extending into a reimbursement mandate, NYSDA is committed to ensuring that professionals in NYS practicing dietetics and nutrition are highly qualified and have a defined scope of practice.