



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

VETO # 189

November 29, 2017

TO THE SENATE:

I am returning herewith, without my approval, the following bill:

Senate Bill Number 3421, entitled:

“AN ACT to amend the social services law, in relation to establishing topical oxygen wound therapy as a Medicaid benefit”

NOT APPROVED

The bill would amend Social Services Law § 365-a to add Topical Oxygen Wound Therapy (TOWT) as a statutorily protected Medicaid benefit before the existing statutory and public review process is complete. TOWT is a wound treatment therapy using controlled application of 100% oxygen to an open moist wound at slightly than higher atmospheric pressure.

I support the intent of the legislation to provide the best possible treatment to patients, but the effect of this bill would be to circumvent the statutorily established process under Social Services Law created to ensure that a transparent review process, public participation, and rigorous evidence based consideration are undertaken prior to making any material changes to Medicaid coverage.

The Medicaid program has and continues to cover treatment for patients currently undergoing TOWT. Such coverage will continue until such time as the Medicaid Evidence Based Benefits Review Advisory Committee (EBBRAC), created to make sound, evidence-based determinations on the efficacy of a treatment and provide recommendations to the Department and the Commissioner of Health, have made their final determination as to the efficacy of the treatment. That is the proper and established process set out in law to determine whether a treatment should be permanently covered by the Medicaid program. Therefore, I am constrained to veto this bill.

The bill is disapproved.

A handwritten signature in black ink, appearing to read 'A. Cuomo'.