ASSEMBLY, No. 971

STATE OF NEW JERSEY

219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:
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SYNOPSIS

Requires hospital, bio-analytical, and clinical laboratories to provide information and offer of HIV screening to patients living in areas with high prevalence of HIV.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

AN ACT concerning HIV screenings and supplementing Title 26 of the Revised Statutes.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. a. Pursuant to a standing order issued by its chief medical officer, a general hospital licensed pursuant to P.L.1971, c.136 (C.26:2H-1 et seq.), when providing laboratory services on an outpatient basis to an individual who resides in an area with a high prevalence of human immunodeficiency virus (HIV), shall, upon registration, provide the individual with a verbal and written statement of the federal Centers for Disease Control and Prevention (CDC) policy regarding HIV, and offer to provide an HIV screening test to that individual. If the individual consents to undergo an HIV screening test pursuant to this subsection, the hospital laboratory shall perform the HIV screening test and transmit the test results to the health care provider rendering the referral for laboratory services. The standing order shall designate a process for an appropriate member of the hospital staff to contact an individual who tests positive for HIV in a screening test performed pursuant to this subsection, so as to advise the individual of the test results, provide the individual with information concerning counseling services, resources, and programs for people with HIV, and to encourage the individual to seek appropriate follow-up care. A diagnosed case of HIV shall be reported to the Department of Health pursuant to, and records of the diagnosis shall be held confidential as required by, P.L.1989, c.303 (C.26:5C-5 et seq.).

b. Pursuant to a standing order issued by its chief medical officer or an equivalent officer, a bio-analytical or clinical laboratory, when providing laboratory services to an individual who resides in an area with a high prevalence of HIV who was referred for laboratory services by a health care professional licensed pursuant to Title 45 of the Revised Statutes, shall, upon registration, provide the individual with a verbal and written statement of CDC policy regarding HIV screening and offer to provide an HIV screening test to that individual. If the individual consents to undergo an HIV screening test pursuant to this subsection, the laboratory shall perform the HIV screening test and transmit the test results to the health care professional who provided the referral for laboratory services. A diagnosed case of HIV shall be reported to the Department of Health pursuant to, and records of the diagnosis shall be held confidential as required by, P.L.1989, c.303 (C.26:5C-5 et seq.).

c. This section shall not affect the scope of practice of any health care professional or diminish any authority or legal or professional obligation of any health care professional to offer an HIV screening

test, or to provide services or health care for the individual who is subject to an HIV screening test.

d. A hospital, bio-analytical, or clinical laboratory shall not be required to provide an individual with a statement of CDC policy regarding HIV screening and offer to provide an HIV screening test to the individual pursuant to this section if, upon a review of the laboratory's records, it is determined the individual has been tested for HIV within the past four months.

e. In the event that a laboratory that performs an HIV screening test pursuant to subsection a. or b. of this section is out-of-network with respect to a covered person's health benefits plan, the carrier shall reimburse the laboratory for the cost of the screening test at the carrier's in-network rate, or in any other reasonable amount as agreed upon by the laboratory and the carrier, less any applicable copayment, coinsurance, or deductible. In no case shall the laboratory bill the covered person for the screening test, except for the covered person's applicable copayment, coinsurance, or deductible.

f. The Commissioner of Health shall review HIV incidence rates throughout the State and shall generate a list of locations in the State with a high prevalence of HIV infection, which shall be updated quarterly or at such other intervals as the commissioner deems appropriate, and shall be made available through the Department of Health's Internet website. This list shall be used by hospital, bio-analytical, and clinical laboratories for the purpose of determining whether to provide an individual with a statement of CDC policy regarding HIV screening and offering to provide an HIV screening test pursuant to this section.

g. The commissioner shall evaluate the impact of the provisions of this section with respect to the number of individuals who are screened for HIV, and the number of individuals who have accessed health care, counseling, or other resources, programs, or services following a positive test. No later than one year after the effective date of this act, the Commissioner of Health shall submit a report of the evaluation to the Governor and, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Legislature.

h. As used in this section:

"Carrier" means a carrier as defined in section 2 of P.L.1997, c.192 (C.26:2S-2).

"Health benefits plan" means a health benefits plan as defined in section 2 of P.L.1997, c.192 (C.26:2S-2), the State Health Benefits Program established pursuant to the "State Health Benefits Program Act," P.L.1961, c.49 (C.52:14-17.25 et seq.), and the School Employees' Health Benefits Program established pursuant to the "School Employees' Health Benefits Program Act," sections 31 through 41 of P.L.2007, c.103 (C.54:14-17.46.1 through C.52:14-17.46.11).

2. The Commissioner of Health shall, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), adopt such rules and regulations as may be necessary to implement the provisions of this act.

3. This act shall take effect 60 days after the date of enactment.

STATEMENT

This bill requires hospital, bio-analytical, and clinical laboratories to, pursuant to a standing order issued by the chief medical officer of the laboratory, provide individuals who reside in an area with a high prevalence of human immunodeficiency virus (HIV) with a verbal and written statement of the federal Centers for Disease Control and Prevention (CDC) policy regarding HIV, and offer to provide an HIV screening test to that individual. If the individual consents to undergo an HIV screening test, the laboratory is to perform the test and transmit the test results to the health care provider rendering the referral for laboratory services.

In the case of a hospital laboratory, the standing order will be required to designate a process for an appropriate member of the hospital staff to contact an individual who tests positive for HIV, so as to advise the individual of the test results, provide the individual with information concerning counseling services, resources, and programs, and to encourage the individual to seek appropriate follow-up care.

Diagnosed cases of HIV are to be reported to, and held confidential by, the Department of Health (DOH) in accordance with current law as set forth at P.L.1989, c.303 (C.26:5C-5 et seq.).

Nothing in the bill is to affect the scope of practice of any health care professional or diminish any authority or legal or professional obligation of any health care professional to offer an HIV screening test, or to provide services or health care for the individual who is subject to an HIV screening test.

A hospital, bio-analytical, or clinical laboratory is not to be required to provide an individual with a statement of the CDC policy regarding HIV screening and offer to provide an HIV screening test to the individual pursuant to the bill if, upon a review of the laboratory's records, it is determined the individual was tested for HIV within the past four months.

In the event that a laboratory that performs an HIV screening test under the bill is out-of-network with respect to a covered person's health benefits plan, the carrier is to reimburse the laboratory for the cost of the screening test at the carrier's in-network rate, or in any other reasonable amount as agreed upon by the laboratory and the carrier, less any applicable copayment, coinsurance, or deductible. In no case may a laboratory bill a covered person for the screening test,

except for the covered person's applicable copayment, coinsurance, or deductible.

The Commissioner of Health will be required to review HIV incidence rates throughout the State and generate a list of locations in the State with a high prevalence of HIV infection. The list is to be updated quarterly or at such other intervals as the commissioner deems appropriate, and will be made available through the DOH Internet website for laboratories to use for the purpose of determining whether to provide an individual with a statement of CDC policy regarding HIV screening and offer to provide an HIV screening test pursuant to the bill.

The commissioner will be required to evaluate the impact of the bill with respect to the number of individuals who are screened for HIV and the number of individuals who have accessed health care, counseling, or other resources, programs, or services following a positive test. No later than one year after the effective date of the bill, the commissioner will be required to submit a report of the evaluation to the Governor and to the Legislature.