

5068--A

2011-2012 Regular Sessions

I N S E N A T E

May 3, 2011

Introduced by Sens. HANNON, AVELLA, BALL, KRUEGER, MARTINS -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law and the public health law, in relation to requiring a health care plan which provides coverage of out of network care to provide certain information to insureds, subscribers or enrollees

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Subsection (a) of section 3217-a of the insurance law is
2 amended by adding a new paragraph 18 to read as follows:
3 (18) WHERE APPLICABLE, IF THE POLICY OFFERS OUT-OF-NETWORK COVERAGE
4 APPROVED BY THE SUPERINTENDENT PURSUANT TO SECTION THIRTY-TWO HUNDRED
5 FORTY OF THIS ARTICLE, A DESCRIPTION OF ITS METHODOLOGY FOR REIMBURSING
6 OUT-OF-NETWORK HEALTH CARE SERVICES WHICH SHALL BE SET FORTH AS THE
7 PERCENTAGE OF THE USUAL AND CUSTOMARY COSTS OF OUT-OF-NETWORK HEALTH
8 CARE SERVICES THE POLICY WILL COVER. INCLUDED WITHIN THIS DESCRIPTION
9 SHALL BE EXAMPLES OF ANTICIPATED OUT OF PACKET COSTS FOR FREQUENTLY
10 BILLED OUT-OF-NETWORK HEALTH CARE SERVICES PROVIDED BY VARIOUS HEALTH
11 CARE PROVIDER SPECIALISTS. FOR THE PURPOSES OF THIS PARAGRAPH "USUAL AND
12 CUSTOMARY COSTS OF OUT-OF NETWORK HEALTH CARE SERVICES" SHALL MEAN THE
13 EIGHTIETH PERCENTILE OF THE ACTUAL CHARGES FOR A HEALTH CARE SERVICE
14 PERFORMED BY AN OUT-OF-NETWORK HEALTH CARE PROVIDER IN THE SAME OR SIMI-
15 LAR SPECIALITY, AND PROVIDED IN THE SAME ZIP CODE OR IN THE SAME
16 GEOGRAPHICAL AREA DEFINED BY LOCALITIES WITH THE SAME FIRST THREE ZIP
17 CODE DIGITS, AS REPORTED IN A BENCHMARKING DATABASE MAINTAINED BY A
18 NONPROFIT ORGANIZATION WITHOUT AFFILIATION WITH AN INSURER LICENSED TO
19 WRITE ACCIDENT AND HEALTH INSURANCE, A CORPORATION ORGANIZED PURSUANT TO
20 ARTICLE FORTY-THREE OF THIS CHAPTER, A HEALTH MAINTENANCE ORGANIZATION

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

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1 CERTIFIED PURSUANT TO ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW,
2 CREATED AS A RESULT OF SETTLEMENTS ENTERED INTO DURING THE YEAR TWO
3 THOUSAND NINE BETWEEN THE DEPARTMENT OF LAW AND INDIVIDUAL HEALTH INSUR-
4 ANCE ORGANIZATIONS.

5 S 2. The insurance law is amended by adding a new section 3240 to read
6 as follows:

7 S 3240. OUT-OF-NETWORK HEALTH CARE SERVICES. (A) A HEALTH PLAN WHICH
8 PROVIDES COVERAGE FOR OUT-OF-NETWORK HEALTH CARE SERVICES SHALL PROVIDE
9 TO THEIR INSURED, SUBSCRIBERS OR ENROLLEES A DESCRIPTION OF ITS METHOD-
10 OLOGY FOR REIMBURSING OUT-OF-NETWORK HEALTH CARE SERVICES WHICH SHALL BE
11 SET FORTH AS A PERCENTAGE OF THE USUAL AND CUSTOMARY COSTS OF
12 OUT-OF-NETWORK HEALTH CARE SERVICES THE CONTRACT OR POLICY WILL COVER.
13 THE HEALTH PLAN SHALL INCLUDE WITHIN THIS DESCRIPTION EXAMPLES OF ANTIC-
14 IPATED OUT OF POCKET COSTS FOR FREQUENTLY BILLED OUT-OF-NETWORK HEALTH
15 CARE SERVICES PROVIDED BY VARIOUS HEALTH CARE PROVIDER SPECIALISTS. UPON
16 REQUEST OF AN INSURED, SUBSCRIBER OR ENROLLEE, THE HEALTH PLAN SHALL
17 PROVIDE INFORMATION TO THE INSURED, SUBSCRIBER OR ENROLLEE IN WRITING OR
18 THROUGH AN INTERNET WEBSITE THAT REASONABLY PERMITS THE INSURED,
19 SUBSCRIBER OR ENROLLEE TO DETERMINE THE ANTICIPATED OUT OF PACKET COSTS
20 FOR A SPECIFIC OUT-OF-NETWORK HEALTH CARE SERVICE BASED UPON THE DIFFER-
21 ENCE BETWEEN THE ORGANIZATION'S METHODOLOGY FOR REIMBURSING OUT-OF-NET-
22 WORK HEALTH CARE SERVICES AND THE USUAL AND CUSTOMARY COSTS OF
23 OUT-OF-NETWORK HEALTH CARE SERVICES. THE SUPERINTENDENT SHALL NOT
24 APPROVE A POLICY ISSUED BY A HEALTH PLAN THAT PROVIDES COVERAGE FOR
25 OUT-OF-NETWORK HEALTH CARE SERVICES UNLESS THE HEALTH PLAN DEMONSTRATES
26 THAT THE POLICY WILL PROVIDE SIGNIFICANT COVERAGE OF THE USUAL AND
27 CUSTOMARY COSTS OF OUT-OF-NETWORK HEALTH CARE SERVICES.

28 (B) FOR THE PURPOSES OF THIS SECTION, THE TERM:

29 (1) "HEALTH PLAN" SHALL MEAN AN INSURER LICENSED TO WRITE ACCIDENT AND
30 HEALTH INSURANCE, A CORPORATION ORGANIZED PURSUANT TO ARTICLE
31 FORTY-THREE OF THIS CHAPTER, A HEALTH MAINTENANCE ORGANIZATION CERTIFIED
32 PURSUANT TO ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW OR A MUNICIPAL
33 COOPERATIVE HEALTH BENEFIT PLAN PURSUANT TO ARTICLE FORTY-SEVEN OF THIS
34 CHAPTER; AND

35 (2) "USUAL AND CUSTOMARY COSTS OF OUT-OF-NETWORK HEALTH CARE SERVICES"
36 SHALL MEAN THE EIGHTIETH PERCENTILE OF THE ACTUAL CHARGES FOR A HEALTH
37 CARE SERVICE PERFORMED BY AN OUT-OF-NETWORK HEALTH CARE PROVIDER IN THE
38 SAME OR SIMILAR SPECIALTY, AND PROVIDED IN THE SAME ZIP CODE OR WITHIN
39 THE SAME GEOGRAPHICAL AREA DEFINED BY LOCALITIES WITH THE SAME FIRST
40 THREE ZIP CODE DIGITS, AS REPORTED IN A BENCHMARKING DATABASE MAINTAINED
41 BY A NONPROFIT ORGANIZATION WITHOUT AFFILIATION WITH A HEALTH PLAN,
42 CREATED AS A RESULT OF SETTLEMENTS ENTERED INTO DURING THE YEAR TWO
43 THOUSAND NINE BETWEEN THE DEPARTMENT OF LAW AND INDIVIDUAL HEALTH INSUR-
44 ANCE ORGANIZATIONS.

45 S 3. Subsection (a) of section 4324 of the insurance law is amended by
46 adding a new paragraph 19 to read as follows:

47 (19) WHERE APPLICABLE, IF THE CONTRACT INCLUDES OUT OF NETWORK COVER-
48 AGE APPROVED BY THE SUPERINTENDENT PURSUANT TO SECTION THIRTY-TWO
49 HUNDRED FORTY OF THIS CHAPTER, A DESCRIPTION OF THE METHODOLOGY FOR
50 REIMBURSING OUT-OF-NETWORK HEALTH CARE SERVICES WHICH SHALL BE SET FORTH
51 AS THE PERCENTAGE OF THE USUAL AND CUSTOMARY COSTS OF OUT-OF-NETWORK
52 HEALTH CARE SERVICES THE CONTRACT WILL COVER. INCLUDED WITHIN THIS
53 DESCRIPTION SHALL BE EXAMPLES OF ANTICIPATED OUT OF POCKET COSTS FOR
54 FREQUENTLY BILLED OUT-OF-NETWORK HEALTH CARE SERVICES PROVIDED BY VARI-
55 OUS HEALTH CARE PROVIDER SPECIALISTS. FOR THE PURPOSES OF THIS PARAGRAPH
56 "USUAL AND CUSTOMARY COSTS OF OUT-OF-NETWORK HEALTH CARE SERVICES" SHALL

1 MEAN THE EIGHTIETH PERCENTILE OF THE ACTUAL CHARGES FOR A HEALTH CARE
2 SERVICE PERFORMED BY AN OUT-OF-NETWORK HEALTH CARE PROVIDER IN THE SAME
3 OR SIMILAR SPECIALTY, AND PROVIDED IN THE SAME ZIP CODE OR WITHIN THE
4 SAME GEOGRAPHICAL AREA DEFINED BY LOCALITIES WITH THE SAME FIRST THREE
5 ZIP CODE DIGITS, AS REPORTED IN A BENCHMARKING DATABASE MAINTAINED BY A
6 NONPROFIT ORGANIZATION WITHOUT AFFILIATION WITH AN INSURER LICENSED TO
7 WRITE ACCIDENT AND HEALTH INSURANCE, A CORPORATION ORGANIZED PURSUANT TO
8 THIS ARTICLE, OR A HEALTH MAINTENANCE ORGANIZATION CERTIFIED PURSUANT TO
9 ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW, CREATED AS A RESULT OF
10 SETTLEMENTS ENTERED INTO DURING THE YEAR TWO THOUSAND NINE BETWEEN THE
11 DEPARTMENT OF LAW AND INDIVIDUAL HEALTH INSURANCE ORGANIZATIONS.

12 S 4. Subdivision 1 of section 4408 of the public health law is amended
13 by adding a new paragraph (s) to read as follows:

14 (S) WHERE APPLICABLE, IF THE CONTRACT INCLUDES OUT OF NETWORK COVERAGE
15 APPROVED BY THE SUPERINTENDENT PURSUANT TO SECTION THIRTY-TWO HUNDRED
16 FORTY OF THE INSURANCE LAW, A DESCRIPTION OF THE METHODOLOGY FOR REIM-
17 BURSING OUT-OF-PLAN HEALTH CARE SERVICES WHICH SHALL BE SET FORTH AS THE
18 PERCENTAGE OF THE USUAL AND CUSTOMARY COSTS OF OUT-OF-NETWORK HEALTH
19 CARE SERVICES THE CONTRACT WILL COVER. INCLUDED WITHIN THIS DESCRIPTION
20 SHALL BE EXAMPLES OF ANTICIPATED OUT OF POCKET COSTS FOR FREQUENTLY
21 BILLED OUT-OF-PLAN HEALTH CARE SERVICES PROVIDED BY VARIOUS HEALTH CARE
22 PROVIDER SPECIALISTS. FOR THE PURPOSES OF THIS PARAGRAPH, "USUAL AND
23 CUSTOMARY COSTS OF OUT-OF-NETWORK HEALTH CARE SERVICES" SHALL MEAN THE
24 EIGHTIETH PERCENTILE OF THE ACTUAL CHARGES FOR A HEALTH CARE SERVICE
25 PERFORMED BY AN OUT-OF-PLAN HEALTH CARE PROVIDER IN THE SAME OR SIMILAR
26 SPECIALTY, AND PROVIDED IN THE SAME ZIP CODE OR WITHIN THE SAME
27 GEOGRAPHICAL AREA DEFINED BY LOCALITIES WITH THE SAME FIRST THREE ZIP
28 CODE DIGITS, AS REPORTED IN THE BENCHMARKING DATABASE MAINTAINED BY A
29 NONPROFIT ORGANIZATION WITHOUT AFFILIATION WITH AN ORGANIZATION CERTI-
30 FIED UNDER THIS ARTICLE OR AN INSURER OR CORPORATION LICENSED UNDER THE
31 INSURANCE LAW, CREATED AS A RESULT OF SETTLEMENTS ENTERED INTO DURING
32 THE YEAR TWO THOUSAND NINE BETWEEN THE DEPARTMENT OF LAW AND INDIVIDUAL
33 HEALTH INSURANCE ORGANIZATIONS.

34 S 5. This act shall take effect on the sixtieth day after it shall
35 have become a law and shall apply to all policies and contracts issued,
36 renewed, modified, altered or amended on or after such date.