

5895

2013-2014 Regular Sessions

I N S E N A T E

June 19, 2013

Introduced by Sen. RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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
21 CERTIFIED PURSUANT TO ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW,
22 CREATED AS A RESULT OF SETTLEMENTS ENTERED INTO DURING THE YEAR TWO

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

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1 THOUSAND NINE BETWEEN THE DEPARTMENT OF LAW AND INDIVIDUAL HEALTH INSUR-
2 ANCE ORGANIZATIONS.

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

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

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

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

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

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

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

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

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

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

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