

2331

2013-2014 Regular Sessions

I N S E N A T E

January 16, 2013

Introduced by Sens. KLEIN, CARLUCCI, SAVINO, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law and the public health law, in relation to making actuarially appropriate reductions in health insurance premiums in return for an enrollee's or insured's participation in a qualified wellness program

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

1 Section 1. Section 3231 of the insurance law, as added by chapter 501
2 of the laws of 1992, is amended by adding a new subsection (c-1) to read
3 as follows:
4 (C-1) SUBJECT TO THE APPROVAL OF THE SUPERINTENDENT, AN INSURER OR
5 HEALTH MAINTENANCE ORGANIZATION ISSUING AN INDIVIDUAL OR GROUP HEALTH
6 INSURANCE POLICY PURSUANT TO THIS SECTION MAY PROVIDE FOR AN ACTUARIALLY
7 APPROPRIATE REDUCTION IN PREMIUM RATES OR OTHER BENEFITS OR ENHANCEMENTS
8 APPROVED BY THE SUPERINTENDENT TO ENCOURAGE AN ENROLLEE'S OR INSURED'S
9 ACTIVE PARTICIPATION IN A QUALIFIED WELLNESS PROGRAM. A QUALIFIED WELL-
10 NESS PROGRAM CAN BE A RISK MANAGEMENT SYSTEM THAT IDENTIFIES AT-RISK
11 POPULATIONS OR ANY OTHER SYSTEMATIC PROGRAM OR COURSE OF MEDICAL CONDUCT
12 WHICH HELPS TO PROMOTE PHYSICAL AND MENTAL FITNESS, HEALTH AND WELL-BE-
13 ING, HELPS TO PREVENT OR MITIGATE THE CONDITIONS OF ACUTE OR CHRONIC
14 SICKNESS, DISEASE OR PAIN, OR WHICH MINIMIZES ADVERSE HEALTH CONSE-
15 QUENCES DUE TO LIFESTYLE. SUCH A WELLNESS PROGRAM MAY HAVE SOME OR ALL
16 OF THE FOLLOWING ELEMENTS TO ADVANCE THE PHYSICAL HEALTH AND MENTAL
17 WELL-BEING OF ITS PARTICIPANTS:
18 (1) AN EDUCATION PROGRAM TO INCREASE THE AWARENESS OF AND DISSEM-
19 INATION OF INFORMATION ABOUT PURSUING HEALTHIER LIFESTYLES, AND WHICH
20 WARNS ABOUT RISKS OF PURSUING ENVIRONMENTAL OR BEHAVIORAL ACTIVITIES
21 THAT ARE DETRIMENTAL TO HUMAN HEALTH. IN ADDITION, INFORMATION ON THE
22 AVAILABILITY OF HEALTH SCREENING TESTS TO ASSIST IN THE EARLY IDENTIFI-

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

LBD06713-01-3

CATION AND TREATMENT OF DISEASES SUCH AS CANCER, HEART DISEASE, HYPERTENSION, DIABETES, ASTHMA, OBESITY OR OTHER ADVERSE HEALTH AFFLICTIONS;

(2) A PROGRAM THAT ENCOURAGES BEHAVIORAL PRACTICES THAT EITHER ENCOURAGES HEALTHY LIVING ACTIVITIES OR DISCOURAGES UNHEALTHY LIVING ACTIVITIES. SUCH ACTIVITIES OR PRACTICES MAY INCLUDE:

(A) DISCOURAGING SUBSTANCE ABUSE, USE OF TOBACCO OR OVERINDULGENCE OF ALCOHOLIC BEVERAGES,

(B) PROMOTION OF HEALTHY EATING HABITS,

(C) EFFORTS TO REDUCE OBESITY AND THE INCIDENCE OF ASTHMA,

(D) INSTITUTING A PROPER FITNESS REGIMEN,

(E) MONITORING AND CONTROLLING EXCESS STRESS AND HYPERTENSION, AND

(F) METHODS TO MANAGE AND COPE WITH CHRONIC PAIN; AND

(3) THE MONITORING OF THE PROGRESS OF EACH COVERED PERSON TO TRACK HIS OR HER ADHERENCE TO SUCH WELLNESS PROGRAM AND TO PROVIDE ASSISTANCE AND MORAL SUPPORT TO SUCH COVERED PERSON TO ASSIST HIM OR HER TO ATTAIN THE GOALS OF THE COVERED PERSON'S WELLNESS PROGRAM.

SUCH WELLNESS PROGRAM SHALL DEMONSTRATE ACTUARIALLY THAT IT ENCOURAGES THE GENERAL GOOD HEALTH AND WELL-BEING OF THE COVERED POPULATION. THE INSURER OR HEALTH MAINTENANCE ORGANIZATION SHALL NOT REQUIRE SPECIFIC OUTCOMES AS A RESULT OF AN ENROLLEE'S OR INSURED'S ADHERENCE TO THE APPROVED WELLNESS PROGRAM.

S 2. Subsection (h) of section 4235 of the insurance law is amended by adding a new paragraph 5 to read as follows:

(5) EACH INSURER DOING BUSINESS IN THIS STATE, WHEN FILING WITH THE SUPERINTENDENT ITS SCHEDULES OF PREMIUM RATES, RULES AND CLASSIFICATION OF RISKS FOR USE IN CONNECTION WITH THE ISSUANCE OF ITS POLICIES OF GROUP ACCIDENT, GROUP HEALTH OR GROUP ACCIDENT AND HEALTH INSURANCE, MAY PROVIDE FOR AN ACTUARIALLY APPROPRIATE REDUCTION IN PREMIUM RATES OR OTHER BENEFITS OR ENHANCEMENTS APPROVED BY THE SUPERINTENDENT TO ENCOURAGE AN ENROLLEE'S OR INSURED'S ACTIVE PARTICIPATION IN A QUALIFIED WELLNESS PROGRAM. A QUALIFIED WELLNESS PROGRAM CAN BE A RISK MANAGEMENT SYSTEM THAT IDENTIFIES AT-RISK POPULATIONS OR ANY OTHER SYSTEMATIC PROGRAM OR COURSE OF MEDICAL CONDUCT WHICH HELPS TO PROMOTE PHYSICAL AND MENTAL FITNESS, HEALTH AND WELL-BEING, HELPS TO PREVENT OR MITIGATE THE CONDITIONS OF ACUTE OR CHRONIC SICKNESS, DISEASE OR PAIN, OR WHICH MINIMIZES ADVERSE HEALTH CONSEQUENCES DUE TO LIFESTYLE. SUCH A WELLNESS PROGRAM MAY HAVE SOME OR ALL OF THE FOLLOWING ELEMENTS TO ADVANCE THE PHYSICAL HEALTH AND MENTAL WELL-BEING OF ITS PARTICIPANTS:

(A) AN EDUCATION PROGRAM TO INCREASE THE AWARENESS OF AND DISSEMINATION OF INFORMATION ABOUT PURSUING HEALTHIER LIFESTYLES, AND WHICH WARNS ABOUT RISKS OF PURSUING ENVIRONMENTAL OR BEHAVIORAL ACTIVITIES THAT ARE DETRIMENTAL TO HUMAN HEALTH. IN ADDITION, INFORMATION ON THE AVAILABILITY OF HEALTH SCREENING TESTS TO ASSIST IN THE EARLY IDENTIFICATION AND TREATMENT OF DISEASES SUCH AS CANCER, HEART DISEASE, HYPERTENSION, DIABETES, ASTHMA, OBESITY OR OTHER ADVERSE HEALTH AFFLICTIONS;

(B) A PROGRAM THAT ENCOURAGES BEHAVIORAL PRACTICES THAT EITHER ENCOURAGES HEALTHY LIVING ACTIVITIES OR DISCOURAGES UNHEALTHY LIVING ACTIVITIES. SUCH ACTIVITIES OR PRACTICES MAY INCLUDE:

(I) DISCOURAGING SUBSTANCE ABUSE, USE OF TOBACCO OR OVERINDULGENCE OF ALCOHOLIC BEVERAGES,

(II) PROMOTION OF HEALTHY EATING HABITS,

(III) EFFORTS TO REDUCE OBESITY AND THE INCIDENCE OF ASTHMA,

(IV) INSTITUTING A PROPER FITNESS REGIMEN,

(V) MONITORING AND CONTROLLING EXCESS STRESS AND HYPERTENSION, AND

(VI) METHODS TO MANAGE AND COPE WITH CHRONIC PAIN; AND

(C) THE MONITORING OF THE PROGRESS OF EACH COVERED PERSON TO TRACK HIS OR HER ADHERENCE TO SUCH WELLNESS PROGRAM AND TO PROVIDE ASSISTANCE AND MORAL SUPPORT TO SUCH COVERED PERSON TO ASSIST HIM OR HER TO ATTAIN THE GOALS OF THE COVERED PERSON'S WELLNESS PROGRAM.

SUCH WELLNESS PROGRAM SHALL DEMONSTRATE ACTUARIALLY THAT IT ENCOURAGES THE GENERAL GOOD HEALTH AND WELL-BEING OF THE COVERED POPULATION. THE INSURER OR HEALTH MAINTENANCE ORGANIZATION SHALL NOT REQUIRE SPECIFIC OUTCOMES AS A RESULT OF AN ENROLLEE'S OR INSURED'S ADHERENCE TO THE APPROVED WELLNESS PROGRAM.

S 3. Section 4317 of the insurance law is amended by adding a new subsection (c-1) to read as follows:

(C-1) SUBJECT TO THE APPROVAL OF THE SUPERINTENDENT, AN INSURER OR HEALTH MAINTENANCE ORGANIZATION ISSUING AN INDIVIDUAL OR GROUP HEALTH INSURANCE CONTRACT PURSUANT TO THIS SECTION MAY PROVIDE FOR AN ACTUARIALLY APPROPRIATE REDUCTION IN PREMIUM RATES OR OTHER BENEFITS OR ENHANCEMENTS APPROVED BY THE SUPERINTENDENT TO ENCOURAGE AN ENROLLEE'S OR INSURED'S ACTIVE PARTICIPATION IN A QUALIFIED WELLNESS PROGRAM. A QUALIFIED WELLNESS PROGRAM CAN BE A RISK MANAGEMENT SYSTEM THAT IDENTIFIES AT-RISK POPULATIONS OR ANY OTHER SYSTEMATIC PROGRAM OR COURSE OF MEDICAL CONDUCT WHICH HELPS TO PROMOTE PHYSICAL AND MENTAL FITNESS, HEALTH AND WELL-BEING, HELPS TO PREVENT OR MITIGATE THE CONDITIONS OF ACUTE OR CHRONIC SICKNESS, DISEASE OR PAIN, OR WHICH MINIMIZES ADVERSE HEALTH CONSEQUENCES DUE TO LIFESTYLE. SUCH A WELLNESS PROGRAM MAY HAVE SOME OR ALL OF THE FOLLOWING ELEMENTS TO ADVANCE THE PHYSICAL HEALTH AND MENTAL WELL-BEING OF ITS PARTICIPANTS:

(1) AN EDUCATION PROGRAM TO INCREASE THE AWARENESS OF AND DISSEMINATION OF INFORMATION ABOUT PURSUING HEALTHIER LIFESTYLES, AND WHICH WARNS ABOUT RISKS OF PURSUING ENVIRONMENTAL OR BEHAVIORAL ACTIVITIES THAT ARE DETRIMENTAL TO HUMAN HEALTH. IN ADDITION, INFORMATION ON THE AVAILABILITY OF HEALTH SCREENING TESTS TO ASSIST IN THE EARLY IDENTIFICATION AND TREATMENT OF DISEASES SUCH AS CANCER, HEART DISEASE, HYPERTENSION, DIABETES, ASTHMA, OBESITY OR OTHER ADVERSE HEALTH AFFLICTIONS;

(2) A PROGRAM THAT ENCOURAGES BEHAVIORAL PRACTICES THAT EITHER ENCOURAGES HEALTHY LIVING ACTIVITIES OR DISCOURAGES UNHEALTHY LIVING ACTIVITIES. SUCH ACTIVITIES OR PRACTICES MAY INCLUDE:

(A) DISCOURAGING SUBSTANCE ABUSE, USE OF TOBACCO OR OVERINDULGENCE OF ALCOHOLIC BEVERAGES,

(B) PROMOTION OF HEALTHY EATING HABITS,

(C) EFFORTS TO REDUCE OBESITY AND THE INCIDENCE OF ASTHMA,

(D) INSTITUTING A PROPER FITNESS REGIMEN,

(E) MONITORING AND CONTROLLING EXCESS STRESS AND HYPERTENSION, AND

(F) METHODS TO MANAGE AND COPE WITH CHRONIC PAIN; AND

(3) THE MONITORING OF THE PROGRESS OF EACH COVERED PERSON TO TRACK HIS OR HER ADHERENCE TO SUCH WELLNESS PROGRAM AND TO PROVIDE ASSISTANCE AND MORAL SUPPORT TO SUCH COVERED PERSON TO ASSIST HIM OR HER TO ATTAIN THE GOALS OF THE COVERED PERSON'S WELLNESS PROGRAM.

SUCH WELLNESS PROGRAM SHALL DEMONSTRATE ACTUARIALLY THAT IT ENCOURAGES THE GENERAL GOOD HEALTH AND WELL-BEING OF THE COVERED POPULATION. THE INSURER OR HEALTH MAINTENANCE ORGANIZATION SHALL NOT REQUIRE SPECIFIC OUTCOMES AS A RESULT OF AN ENROLLEE'S OR INSURED'S ADHERENCE TO THE APPROVED WELLNESS PROGRAM.

S 4. Subsection (n) of section 4326 of the insurance law is amended by adding a new paragraph 4 to read as follows:

(4) APPROVAL OF THE SUPERINTENDENT, AN INSURER OR HEALTH MAINTENANCE ORGANIZATION ISSUING A CONTRACT FOR QUALIFYING SMALL EMPLOYERS OR INDIVIDUALS PURSUANT TO THIS SECTION MAY PROVIDE FOR AN ACTUARIALLY APPRO-

1 PRIATE REDUCTION IN PREMIUM RATES OR OTHER BENEFITS OR ENHANCEMENTS
2 APPROVED BY THE SUPERINTENDENT TO ENCOURAGE AN ENROLLEE'S OR INSURED'S
3 ACTIVE PARTICIPATION IN A QUALIFIED WELLNESS PROGRAM. A QUALIFIED WELL-
4 NESS PROGRAM CAN BE A RISK MANAGEMENT SYSTEM THAT IDENTIFIES AT-RISK
5 POPULATIONS OR ANY OTHER SYSTEMATIC PROGRAM OR COURSE OF MEDICAL CONDUCT
6 WHICH HELPS TO PROMOTE PHYSICAL AND MENTAL FITNESS, HEALTH AND WELL-BE-
7 ING, HELPS TO PREVENT OR MITIGATE THE CONDITIONS OF ACUTE OR CHRONIC
8 SICKNESS, DISEASE OR PAIN, OR WHICH MINIMIZES ADVERSE HEALTH CONSE-
9 QUENCES DUE TO LIFESTYLE. SUCH A WELLNESS PROGRAM MAY HAVE SOME OR ALL
10 OF THE FOLLOWING ELEMENTS TO ADVANCE THE PHYSICAL HEALTH AND MENTAL
11 WELL-BEING OF ITS PARTICIPANTS:

12 (1) AN EDUCATION PROGRAM TO INCREASE THE AWARENESS OF AND DISSEM-
13 INATION OF INFORMATION ABOUT PURSUING HEALTHIER LIFESTYLES, AND WHICH
14 WARNS ABOUT RISKS OF PURSUING ENVIRONMENTAL OR BEHAVIORAL ACTIVITIES
15 THAT ARE DETRIMENTAL TO HUMAN HEALTH. IN ADDITION, INFORMATION ON THE
16 AVAILABILITY OF HEALTH SCREENING TESTS TO ASSIST IN THE EARLY IDENTIFI-
17 CATION AND TREATMENT OF DISEASES SUCH AS CANCER, HEART DISEASE, HYPER-
18 TENSION, DIABETES, ASTHMA, OBESITY OR OTHER ADVERSE HEALTH AFFLICTIONS;

19 (2) A PROGRAM THAT ENCOURAGES BEHAVIORAL PRACTICES THAT EITHER ENCOUR-
20 AGES HEALTHY LIVING ACTIVITIES OR DISCOURAGES UNHEALTHY LIVING ACTIV-
21 ITIES. SUCH ACTIVITIES OR PRACTICES MAY INCLUDE:

22 (A) DISCOURAGING SUBSTANCE ABUSE, USE OF TOBACCO OR OVERINDULGENCE OF
23 ALCOHOLIC BEVERAGES,

24 (B) PROMOTION OF HEALTHY EATING HABITS,

25 (C) EFFORTS TO REDUCE OBESITY AND THE INCIDENCE OF ASTHMA,

26 (D) INSTITUTING A PROPER FITNESS REGIMEN,

27 (E) MONITORING AND CONTROLLING EXCESS STRESS AND HYPERTENSION, AND

28 (F) METHODS TO MANAGE AND COPE WITH CHRONIC PAIN; AND

29 (3) THE MONITORING OF THE PROGRESS OF EACH COVERED PERSON TO TRACK HIS
30 OR HER ADHERENCE TO SUCH WELLNESS PROGRAM AND TO PROVIDE ASSISTANCE AND
31 MORAL SUPPORT TO SUCH COVERED PERSON TO ASSIST HIM OR HER TO ATTAIN THE
32 GOALS OF THE COVERED PERSON'S WELLNESS PROGRAM.

33 SUCH WELLNESS PROGRAM SHALL DEMONSTRATE ACTUARIALLY THAT IT ENCOURAGES
34 THE GENERAL GOOD HEALTH AND WELL-BEING OF THE COVERED POPULATION. THE
35 INSURER OR HEALTH MAINTENANCE ORGANIZATION SHALL NOT REQUIRE SPECIFIC
36 OUTCOMES AS A RESULT OF AN ENROLLEE'S OR INSURED'S ADHERENCE TO THE
37 APPROVED WELLNESS PROGRAM.

38 S 5. Section 4405 of the public health law is amended by adding a new
39 subdivision 5-a to read as follows:

40 5-A. SUBJECT TO THE APPROVAL OF THE SUPERINTENDENT, MAY PROVIDE FOR AN
41 ACTUARIALLY APPROPRIATE REDUCTION IN PREMIUM RATES OR OTHER BENEFITS OR
42 ENHANCEMENTS APPROVED BY THE SUPERINTENDENT TO ENCOURAGE AN ENROLLEE'S
43 ACTIVE PARTICIPATION IN A QUALIFIED WELLNESS PROGRAM. A QUALIFIED WELL-
44 NESS PROGRAM CAN BE A RISK MANAGEMENT SYSTEM THAT IDENTIFIES AT-RISK
45 POPULATIONS OR ANY OTHER SYSTEMATIC PROGRAM OR COURSE OF MEDICAL CONDUCT
46 WHICH HELPS TO PROMOTE PHYSICAL AND MENTAL FITNESS, HEALTH AND WELL-BE-
47 ING, HELPS TO PREVENT OR MITIGATE THE CONDITIONS OF ACUTE OR CHRONIC
48 SICKNESS, DISEASE OR PAIN, OR WHICH MINIMIZES ADVERSE HEALTH CONSE-
49 QUENCES DUE TO LIFESTYLE. SUCH A WELLNESS PROGRAM MAY HAVE SOME OR ALL
50 OF THE FOLLOWING ELEMENTS TO ADVANCE THE PHYSICAL HEALTH AND MENTAL
51 WELL-BEING OF ITS PARTICIPANTS:

52 (1) AN EDUCATION PROGRAM TO INCREASE THE AWARENESS OF AND DISSEM-
53 INATION OF INFORMATION ABOUT PURSUING HEALTHIER LIFESTYLES, AND WHICH
54 WARNS ABOUT RISKS OF PURSUING ENVIRONMENTAL OR BEHAVIORAL ACTIVITIES
55 THAT ARE DETRIMENTAL TO HUMAN HEALTH. IN ADDITION, INFORMATION ON THE
56 AVAILABILITY OF HEALTH SCREENING TESTS TO ASSIST IN THE EARLY IDENTIFI-

1 CATION AND TREATMENT OF DISEASES SUCH AS CANCER, HEART DISEASE, HYPER-
2 TENSION, DIABETES, ASTHMA, OBESITY OR OTHER ADVERSE HEALTH AFFLICTIONS;

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5 ITIES. SUCH ACTIVITIES OR PRACTICES MAY INCLUDE:

6 (A) DISCOURAGING SUBSTANCE ABUSE, USE OF TOBACCO OR OVERINDULGENCE OF
7 ALCOHOLIC BEVERAGES,

8 (B) PROMOTION OF HEALTHY EATING HABITS,

9 (C) EFFORTS TO REDUCE OBESITY AND THE INCIDENCE OF ASTHMA,

10 (D) INSTITUTING A PROPER FITNESS REGIMEN,

11 (E) MONITORING AND CONTROLLING EXCESS STRESS AND HYPERTENSION, AND

12 (F) METHODS TO MANAGE AND COPE WITH CHRONIC PAIN; AND

13 (3) THE MONITORING OF THE PROGRESS OF EACH COVERED PERSON TO TRACK HIS
14 OR HER ADHERENCE TO SUCH WELLNESS PROGRAM AND TO PROVIDE ASSISTANCE AND
15 MORAL SUPPORT TO SUCH COVERED PERSON TO ASSIST HIM OR HER TO ATTAIN THE
16 GOALS OF THE COVERED PERSON'S WELLNESS PROGRAM.

17 SUCH WELLNESS PROGRAM SHALL DEMONSTRATE ACTUARIALLY THAT IT ENCOURAGES
18 THE GENERAL GOOD HEALTH AND WELL-BEING OF THE COVERED POPULATION. THE
19 HEALTH MAINTENANCE ORGANIZATION SHALL NOT REQUIRE SPECIFIC OUTCOMES AS A
20 RESULT OF AN ENROLLEE'S ADHERENCE TO THE APPROVED WELLNESS PROGRAM;

21 S 6. This act shall take effect on the one hundred eightieth day after
22 it shall have become a law; provided that, effective immediately any
23 rules and regulations necessary to implement the provisions of this act
24 on its effective date are authorized and directed to be added, amended
25 and/or repealed on or before such date.