

4970

2013-2014 Regular Sessions

I N S E N A T E

May 2, 2013

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

AN ACT to amend the public health law and the insurance law, in relation to requiring health care plans and insurers to provide expedited review of applications of health care professionals who are joining a group practice and grant provisional credentials to such professionals

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

1 Section 1. Subdivision 1 of section 4406-d of the public health law,
2 as amended by chapter 237 of the laws of 2009, is amended to read as
3 follows:
4 1. (a) A health care plan shall, upon request, make available and
5 disclose to health care professionals written application procedures and
6 minimum qualification requirements which a health care professional must
7 meet in order to be considered by the health care plan. The plan shall
8 consult with appropriately qualified health care professionals in devel-
9 oping its qualification requirements. A health care plan shall complete
10 review of the health care professional's application to participate in
11 the in-network portion of the health care plan's network and shall,
12 within ninety days of receiving a health care professional's completed
13 application to participate in the health care plan's network, notify the
14 health care professional as to: (i) whether he or she is credentialed;
15 or (ii) whether additional time is necessary to make a determination in
16 spite of the health care plan's best efforts or because of a failure of
17 a third party to provide necessary documentation, or non-routine or
18 unusual circumstances require additional time for review. In such
19 instances where additional time is necessary because of a lack of neces-
20 sary documentation, a health plan shall make every effort to obtain such
21 information as soon as possible. PROVIDED, HOWEVER, THAT IF THE APPLI-
22 CANT IS A HEALTH CARE PROFESSIONAL WHO IS JOINING A GROUP PRACTICE OF
23 HEALTH CARE PROFESSIONALS, AT LEAST ONE OF WHOM PARTICIPATES IN THE

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

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1 IN-NETWORK PORTION OF A HEALTH CARE PLAN'S NETWORK, A HEALTH CARE PLAN
2 SHALL, WITHIN THIRTY DAYS OF RECEIVING SUCH A HEALTH CARE PROFESSIONAL'S
3 COMPLETE APPLICATION TO PARTICIPATE IN THE HEALTH CARE PLAN'S NETWORK,
4 INCLUDING SUBMISSION OF ALL NECESSARY DOCUMENTATION FROM THE APPLICANT
5 AND THIRD PARTIES, COMPLETE REVIEW AND NOTIFY THE HEALTH CARE PROFES-
6 SIONAL AS TO WHETHER HE OR SHE IS CREDENTIALLED.

7 (b) If the completed application of a newly-licensed health care
8 professional or a health care professional who has recently relocated to
9 this state from another state and has not previously practiced in this
10 state, who joins a group practice of health care professionals each of
11 whom participates in the in-network portion of a health care plan's
12 network, is neither approved nor declined within ninety days pursuant to
13 paragraph (a) of this subdivision, the health care professional shall be
14 deemed "provisionally credentialed" and may participate in the in-net-
15 work portion of the health care plan's network[; provided, however, that
16 a provisionally credentialed physician may not be designated as an
17 enrollee's primary care physician until such time as the physician has
18 been fully credentialed]. The network participation for a HEALTH CARE
19 PROFESSIONAL DEEMED provisionally credentialed [health care profes-
20 sional] PURSUANT TO THIS PARAGRAPH shall begin on the day following the
21 ninetieth day of receipt of the completed application and shall last
22 until the final credentialing determination is made by the health care
23 plan. [A health care professional shall only be eligible for provisional
24 credentialing if the group practice of health care professionals noti-
25 fies the health care plan in writing that, should the application ulti-
26 mately be denied, the health care professional or the group practice:
27 (i) shall refund any payments made by the health care plan for in-net-
28 work services provided by the provisionally credentialed health care
29 professional that exceed any out-of-network benefits payable under the
30 enrollee's contract with the health care plan; and (ii)] IT SHALL BE
31 UNDERSTOOD THAT PROVISIONALLY CREDENTIALLED PROVIDERS' REIMBURSEMENT WILL
32 BE APPROVED BUT HELD BY THE HEALTH CARE PLAN UNTIL FINAL APPROVAL;
33 PROVIDED, HOWEVER, THAT IF REIMBURSEMENT IS DENIED, THE PROVISIONALLY
34 CREDENTIALLED PROVIDER shall not pursue reimbursement from the enrollee,
35 except to collect the copayment that otherwise would have been payable
36 had the enrollee received services from a health care professional
37 participating in the in-network portion of a health care plan's network.
38 Interest and penalties pursuant to section three thousand two hundred
39 twenty-four-a of the insurance law shall not be assessed based on the
40 denial of a claim submitted during the period when the health care
41 professional was provisionally credentialed; provided, however, that
42 nothing herein shall prevent a health care plan from paying a claim from
43 a health care professional who is provisionally credentialed upon
44 submission of such claim. A health care plan shall not deny, after
45 appeal, a claim for services provided by a provisionally credentialed
46 health care professional solely on the ground that the claim was not
47 timely filed.

48 (C) IF THE APPLICANT IS A HEALTH CARE PROFESSIONAL WHO IS JOINING A
49 GROUP PRACTICE OF HEALTH CARE PROFESSIONALS, AT LEAST ONE OF WHOM
50 PARTICIPATES IN THE IN-NETWORK PORTION OF A HEALTH CARE PLAN'S NETWORK,
51 UPON HIS OR HER SUBMISSION OF A COMPLETE APPLICATION TO PARTICIPATE IN
52 THE HEALTH CARE PLAN'S NETWORK, INCLUDING SUBMISSION OF ALL NECESSARY
53 DOCUMENTATION FROM THE APPLICANT AND THIRD PARTIES, HE OR SHE SHALL BE
54 DEEMED "PROVISIONALLY CREDENTIALLED" AND MAY PARTICIPATE IN THE IN-NET-
55 WORK PORTION OF THE HEALTH CARE PLAN'S NETWORK. THE NETWORK PARTIC-
56 IPATION FOR A HEALTH CARE PROFESSIONAL DEEMED PROVISIONALLY CREDENTIALLED

PURSUANT TO THIS PARAGRAPH SHALL BEGIN ON THE DAY FOLLOWING NOTIFICATION BY THE HEALTH CARE PLAN THAT THE COMPLETED APPLICATION WAS RECEIVED AND SHALL LAST UNTIL THE FINAL CREDENTIALING DETERMINATION IS MADE BY THE HEALTH CARE PLAN.

(D) IF A HEALTH CARE PROFESSIONAL IS DEEMED "PROVISIONALLY CREDENTIALLED" PURSUANT TO PARAGRAPH (B) OR (C) OF THIS SUBDIVISION, HE OR SHE MAY NOT BE DESIGNATED AS AN ENROLLEE'S PRIMARY CARE PHYSICIAN UNTIL SUCH TIME AS THE PHYSICIAN HAS BEEN FULLY CREDENTIALLED. IT SHALL BE UNDERSTOOD THAT PROVISIONALLY CREDENTIALLED PROVIDERS' REIMBURSEMENT WILL BE APPROVED BUT HELD BY THE HEALTH CARE PLAN UNTIL FINAL APPROVAL; PROVIDED, HOWEVER, THAT IF REIMBURSEMENT IS DENIED, THE PROVISIONALLY CREDENTIALLED PROVIDER SHALL NOT PURSUE REIMBURSEMENT FROM THE ENROLLEE, EXCEPT TO COLLECT THE COPAYMENT THAT OTHERWISE WOULD HAVE BEEN PAYABLE HAD THE ENROLLEE RECEIVED SERVICES FROM A HEALTH CARE PROFESSIONAL PARTICIPATING IN THE IN-NETWORK PORTION OF A HEALTH CARE PLAN'S NETWORK. INTEREST AND PENALTIES PURSUANT TO SECTION THREE THOUSAND TWO HUNDRED TWENTY-FOUR-A OF THE INSURANCE LAW SHALL NOT BE ASSESSED BASED ON THE DENIAL OF A CLAIM SUBMITTED DURING THE PERIOD WHEN THE HEALTH CARE PROFESSIONAL WAS PROVISIONALLY CREDENTIALLED; PROVIDED, HOWEVER, THAT NOTHING HEREIN SHALL PREVENT A HEALTH CARE PLAN FROM PAYING A CLAIM FROM A HEALTH CARE PROFESSIONAL WHO IS PROVISIONALLY CREDENTIALLED UPON SUBMISSION OF SUCH CLAIM. A HEALTH CARE PLAN SHALL NOT DENY, AFTER APPEAL, A CLAIM FOR SERVICES PROVIDED BY A PROVISIONALLY CREDENTIALLED HEALTH CARE PROFESSIONAL SOLELY ON THE GROUND THAT THE CLAIM WAS NOT TIMELY FILED.

(E) IF A HEALTH CARE PROFESSIONAL HAS BEEN CREDENTIALLED BY A HEALTH CARE PLAN PURSUANT TO THIS SUBDIVISION, AND SUBSEQUENT THERETO BUT PRIOR TO EXPIRATION OR TERMINATION OF HIS OR HER CONTRACT WITH THE HEALTH CARE PLAN, THE HEALTH CARE PROFESSIONAL OR THE GROUP PRACTICE CHANGES THE ADDRESS OF OR ADDS AN ADDITIONAL LOCATION TO THE PRACTICE, HE OR SHE SHALL NOT BE REQUIRED TO REAPPLY FOR CERTIFICATION BUT SHALL BE REQUIRED TO FILE NOTICE OF SUCH CHANGE OR ADDITION WITH THE HEALTH CARE PLAN.

S 2. Subsection (a) of section 4803 of the insurance law, as amended by chapter 237 of the laws of 2009, is amended to read as follows:

(a) (1) An insurer which offers a managed care product shall, upon request, make available and disclose to health care professionals written application procedures and minimum qualification requirements which a health care professional must meet in order to be considered by the insurer for participation in the in-network benefits portion of the insurer's network for the managed care product. The insurer shall consult with appropriately qualified health care professionals in developing its qualification requirements for participation in the in-network benefits portion of the insurer's network for the managed care product. An insurer shall complete review of the health care professional's application to participate in the in-network portion of the insurer's network and, within ninety days of receiving a health care professional's completed application to participate in the insurer's network, will notify the health care professional as to: (A) whether he or she is credentialed; or (B) whether additional time is necessary to make a determination in spite of the insurer's best efforts or because of a failure of a third party to provide necessary documentation, or non-routine or unusual circumstances require additional time for review. In such instances where additional time is necessary because of a lack of necessary documentation, an insurer shall make every effort to obtain such information as soon as possible. PROVIDED, HOWEVER, THAT IF THE APPLICANT IS A HEALTH CARE PROFESSIONAL WHO IS JOINING A GROUP PRACTICE

1 OF HEALTH CARE PROFESSIONALS, AT LEAST ONE OF WHOM PARTICIPATES IN THE
2 IN-NETWORK PORTION OF AN INSURER'S NETWORK, AN INSURER SHALL, WITHIN
3 THIRTY DAYS OF RECEIVING SUCH A HEALTH CARE PROFESSIONAL'S COMPLETE
4 APPLICATION TO PARTICIPATE IN AN INSURER'S NETWORK, INCLUDING SUBMISSION
5 OF ALL NECESSARY DOCUMENTATION FROM THE APPLICANT AND THIRD PARTIES,
6 COMPLETE REVIEW AND NOTIFY THE HEALTH CARE PROFESSIONAL AS TO WHETHER HE
7 OR SHE IS CREDENTIALLED.

8 (2) If the completed application of a newly-licensed health care
9 professional or a health care professional who has recently relocated to
10 this state from another state and has not previously practiced in this
11 state, who joins a group practice of health care professionals each of
12 whom participates in the in-network portion of an insurer's network, is
13 neither approved nor declined within ninety days pursuant to paragraph
14 one of this subsection, such health care professional shall be deemed
15 "provisionally credentialed" and may participate in the in-network
16 portion of an insurer's network[; provided, however, that a provi-
17 sionally credentialed physician may not be designated as an insured's
18 primary care physician until such time as the physician has been fully
19 credentialed]. The network participation for a HEALTH CARE PROFESSIONAL
20 DEEMED provisionally credentialed [health care professional] PURSUANT TO
21 THIS PARAGRAPH shall begin on the day following the ninetieth day of
22 receipt of the completed application and shall last until the final
23 credentialing determination is made by the insurer. [A health care
24 professional shall only be eligible for provisional credentialing if the
25 group practice of health care professionals notifies the insurer in
26 writing that, should the application ultimately be denied, the health
27 care professional or the group practice: (A) shall refund any payments
28 made by the insurer for in-network services provided by the provi-
29 sionally credentialed health care professional that exceed any out-of-
30 network benefits payable under the insured's contract with the insurer;
31 and (B)] IT SHALL BE UNDERSTOOD THAT PROVISIONALLY CREDENTIALLED PROVID-
32 ERS' REIMBURSEMENT WILL BE APPROVED BUT HELD BY THE HEALTH CARE PLAN
33 UNTIL FINAL APPROVAL; PROVIDED, HOWEVER, THAT IF REIMBURSEMENT IS
34 DENIED, THE PROVISIONALLY CREDENTIALLED PROVIDER shall not pursue
35 reimbursement from the insured, except to collect the copayment or coin-
36 surance that otherwise would have been payable had the insured received
37 services from a health care professional participating in the in-network
38 portion of an insurer's network. Interest and penalties pursuant to
39 section three thousand two hundred twenty-four-a of this chapter shall
40 not be assessed based on the denial of a claim submitted during the
41 period when the health care professional was provisionally credentialed;
42 provided, however, that nothing herein shall prevent an insurer from
43 paying a claim from a health care professional who is provisionally
44 credentialed upon submission of such claim. An insurer shall not deny,
45 after appeal, a claim for services provided by a provisionally creden-
46 tialed health care professional solely on the ground that the claim was
47 not timely filed.

48 (3) IF THE APPLICANT IS A HEALTH CARE PROFESSIONAL WHO IS JOINING A
49 GROUP PRACTICE OF HEALTH CARE PROFESSIONALS, AT LEAST ONE OF WHOM
50 PARTICIPATES IN THE IN-NETWORK PORTION OF AN INSURER'S NETWORK, UPON HIS
51 OR HER SUBMISSION OF A COMPLETE APPLICATION TO PARTICIPATE IN THE INSUR-
52 ER'S NETWORK, INCLUDING SUBMISSION OF ALL NECESSARY DOCUMENTATION FROM
53 THE APPLICANT AND THIRD PARTIES, HE OR SHE SHALL BE DEEMED "PROVI-
54 SIONALLY CREDENTIALLED" AND MAY PARTICIPATE IN THE IN-NETWORK PORTION OF
55 THE INSURER'S NETWORK. THE NETWORK PARTICIPATION FOR A HEALTH CARE
56 PROFESSIONAL DEEMED PROVISIONALLY CREDENTIALLED PURSUANT TO THIS PARA-

1 GRAPH SHALL BEGIN ON THE DAY FOLLOWING NOTIFICATION BY THE INSURER THAT
2 THE COMPLETED APPLICATION WAS RECEIVED AND SHALL LAST UNTIL THE FINAL
3 CREDENTIALING DETERMINATION IS MADE BY THE INSURER.

4 (4) IF A HEALTH CARE PROFESSIONAL IS DEEMED "PROVISIONALLY CREDEN-
5 TIALED" PURSUANT TO PARAGRAPH TWO OR THREE OF THIS SUBSECTION, HE OR SHE
6 MAY NOT BE DESIGNATED AS AN ENROLLEE'S PRIMARY CARE PHYSICIAN UNTIL SUCH
7 TIME AS THE PHYSICIAN HAS BEEN FULLY CREDENTIALLED. IT SHALL BE UNDER-
8 STOOD THAT PROVISIONALLY CREDENTIALLED PROVIDERS' REIMBURSEMENT WILL BE
9 APPROVED BUT HELD BY THE HEALTH CARE PLAN UNTIL FINAL APPROVAL;
10 PROVIDED, HOWEVER, THAT IF REIMBURSEMENT IS DENIED, THE PROVISIONALLY
11 CREDENTIALLED PROVIDER SHALL NOT PURSUE REIMBURSEMENT FROM THE INSURED,
12 EXCEPT TO COLLECT THE COPAYMENT OR COINSURANCE THAT OTHERWISE WOULD HAVE
13 BEEN PAYABLE HAD THE INSURED RECEIVED SERVICES FROM A HEALTH CARE
14 PROFESSIONAL PARTICIPATING IN THE IN-NETWORK PORTION OF AN INSURER'S
15 NETWORK. INTEREST AND PENALTIES PURSUANT TO SECTION THREE THOUSAND TWO
16 HUNDRED TWENTY-FOUR-A OF THIS CHAPTER SHALL NOT BE ASSESSED BASED ON THE
17 DENIAL OF A CLAIM SUBMITTED DURING THE PERIOD WHEN THE HEALTH CARE
18 PROFESSIONAL WAS PROVISIONALLY CREDENTIALLED; PROVIDED, HOWEVER, THAT
19 NOTHING HEREIN SHALL PREVENT AN INSURER FROM PAYING A CLAIM FROM A
20 HEALTH CARE PROFESSIONAL WHO IS PROVISIONALLY CREDENTIALLED UPON
21 SUBMISSION OF SUCH CLAIM. AN INSURER SHALL NOT DENY, AFTER APPEAL, A
22 CLAIM FOR SERVICES PROVIDED BY A PROVISIONALLY CREDENTIALLED HEALTH CARE
23 PROFESSIONAL SOLELY ON THE GROUND THAT THE CLAIM WAS NOT TIMELY FILED.

24 (5) IF A HEALTH CARE PROFESSIONAL HAS BEEN CREDENTIALLED BY AN INSURER
25 PURSUANT TO THIS SUBDIVISION, AND SUBSEQUENT THERETO BUT PRIOR TO EXPI-
26 RATION OR TERMINATION OF HIS OR HER CONTRACT WITH THE INSURER FOR
27 PARTICIPATION IN THE IN-NETWORK BENEFITS PORTION OF THE INSURER'S
28 NETWORK FOR A MANAGED CARE PRODUCT, THE HEALTH CARE PROFESSIONAL OR THE
29 GROUP PRACTICE CHANGES THE ADDRESS OF OR ADDS AN ADDITIONAL LOCATION TO
30 THE PRACTICE, SUCH HEALTH CARE PROFESSIONAL SHALL NOT BE REQUIRED TO
31 REAPPLY FOR CERTIFICATION BUT SHALL BE REQUIRED TO FILE NOTICE OF SUCH
32 CHANGE OR ADDITION WITH THE INSURER.

33 S 3. This act shall take effect on the one hundred eightieth day after
34 it shall have become a law.