

4970--A

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 -- 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 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

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

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1 information as soon as possible. PROVIDED, HOWEVER, THAT IF THE APPLI-
2 CANT IS A HEALTH CARE PROFESSIONAL WHO IS JOINING A GROUP PRACTICE OF
3 HEALTH CARE PROFESSIONALS, OR NEW EMPLOYEE OF A FACILITY OPERATING UNDER
4 ARTICLE TWENTY-EIGHT OR THIRTY-ONE OF THIS CHAPTER THAT IS A PARTICIPAT-
5 ING PROVIDER IN THE HEALTH PLAN, AT LEAST ONE OF WHOM PARTICIPATES IN
6 THE IN-NETWORK PORTION OF A HEALTH CARE PLAN'S NETWORK, A HEALTH CARE
7 PLAN SHALL, WITHIN THIRTY DAYS OF RECEIVING SUCH A HEALTH CARE PROFES-
8 SIONAL'S COMPLETE APPLICATION TO PARTICIPATE IN THE HEALTH CARE PLAN'S
9 NETWORK, INCLUDING SUBMISSION OF ALL NECESSARY DOCUMENTATION FROM THE
10 APPLICANT AND THIRD PARTIES, COMPLETE REVIEW AND NOTIFY THE HEALTH CARE
11 PROFESSIONAL AS TO WHETHER HE OR SHE IS CREDENTIALLED.

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

53 (C) IF THE APPLICANT IS A HEALTH CARE PROFESSIONAL WHO IS JOINING A
54 GROUP PRACTICE OF HEALTH CARE PROFESSIONALS, OR NEW EMPLOYEE OF A FACIL-
55 ITY OPERATING UNDER ARTICLE TWENTY-EIGHT OR THIRTY-ONE OF THIS CHAPTER
56 THAT IS A PARTICIPATING PROVIDER IN THE HEALTH PLAN, AT LEAST ONE OF

1 WHOM PARTICIPATES IN THE IN-NETWORK PORTION OF A HEALTH CARE PLAN'S
2 NETWORK, UPON HIS OR HER SUBMISSION OF A COMPLETE APPLICATION TO PARTIC-
3 IPATE IN THE HEALTH CARE PLAN'S NETWORK, INCLUDING SUBMISSION OF ALL
4 NECESSARY DOCUMENTATION FROM THE APPLICANT AND THIRD PARTIES, HE OR SHE
5 SHALL BE DEEMED "PROVISIONALLY CREDENTIALLED" AND MAY PARTICIPATE IN THE
6 IN-NETWORK PORTION OF THE HEALTH CARE PLAN'S NETWORK. THE NETWORK
7 PARTICIPATION FOR A HEALTH CARE PROFESSIONAL DEEMED PROVISIONALLY
8 CREDENTIALLED PURSUANT TO THIS PARAGRAPH SHALL BEGIN ON THE DAY FOLLOWING
9 NOTIFICATION BY THE HEALTH CARE PLAN THAT THE COMPLETED APPLICATION WAS
10 RECEIVED AND SHALL LAST UNTIL THE FINAL CREDENTIALING DETERMINATION IS
11 MADE BY THE HEALTH CARE PLAN.

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

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

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

42 (a) (1) An insurer which offers a managed care product shall, upon
43 request, make available and disclose to health care professionals writ-
44 ten application procedures and minimum qualification requirements which
45 a health care professional must meet in order to be considered by the
46 insurer for participation in the in-network benefits portion of the
47 insurer's network for the managed care product. The insurer shall
48 consult with appropriately qualified health care professionals in devel-
49 oping its qualification requirements for participation in the in-network
50 benefits portion of the insurer's network for the managed care product.
51 An insurer shall complete review of the health care professional's
52 application to participate in the in-network portion of the insurer's
53 network and, within ninety days of receiving a health care profes-
54 sional's completed application to participate in the insurer's network,
55 will notify the health care professional as to: (A) whether he or she is
56 credentialed; or (B) whether additional time is necessary to make a

1 determination in spite of the insurer's best efforts or because of a
2 failure of a third party to provide necessary documentation, or non-
3 routine or unusual circumstances require additional time for review. In
4 such instances where additional time is necessary because of a lack of
5 necessary documentation, an insurer shall make every effort to obtain
6 such information as soon as possible. PROVIDED, HOWEVER, THAT IF THE
7 APPLICANT IS A HEALTH CARE PROFESSIONAL WHO IS JOINING A GROUP PRACTICE
8 OF HEALTH CARE PROFESSIONALS, OR NEW EMPLOYEE OF A FACILITY OPERATING
9 UNDER ARTICLE TWENTY-EIGHT OR THIRTY-ONE OF THE PUBLIC HEALTH LAW THAT
10 IS A PARTICIPATING PROVIDER IN THE HEALTH PLAN, AT LEAST ONE OF WHOM
11 PARTICIPATES IN THE IN-NETWORK PORTION OF AN INSURER'S NETWORK, AN
12 INSURER SHALL, WITHIN THIRTY DAYS OF RECEIVING SUCH A HEALTH CARE
13 PROFESSIONAL'S COMPLETE APPLICATION TO PARTICIPATE IN AN INSURER'S
14 NETWORK, INCLUDING SUBMISSION OF ALL NECESSARY DOCUMENTATION FROM THE
15 APPLICANT AND THIRD PARTIES, COMPLETE REVIEW AND NOTIFY THE HEALTH CARE
16 PROFESSIONAL AS TO WHETHER HE OR SHE IS CREDENTIALLED.

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

1 (3) IF THE APPLICANT IS A HEALTH CARE PROFESSIONAL WHO IS JOINING A
2 GROUP PRACTICE OF HEALTH CARE PROFESSIONALS, OR NEW EMPLOYEE OF A FACIL-
3 ITY OPERATING UNDER ARTICLE TWENTY-EIGHT OR THIRTY-ONE OF THE PUBLIC
4 HEALTH LAW THAT IS A PARTICIPATING PROVIDER IN THE HEALTH PLAN, AT LEAST
5 ONE OF WHOM PARTICIPATES IN THE IN-NETWORK PORTION OF AN INSURER'S
6 NETWORK, UPON HIS OR HER SUBMISSION OF A COMPLETE APPLICATION TO PARTIC-
7 IPATE IN THE INSURER'S NETWORK, INCLUDING SUBMISSION OF ALL NECESSARY
8 DOCUMENTATION FROM THE APPLICANT AND THIRD PARTIES, HE OR SHE SHALL BE
9 DEEMED "PROVISIONALLY CREDENTIALLED" AND MAY PARTICIPATE IN THE IN-NET-
10 WORK PORTION OF THE INSURER'S NETWORK. THE NETWORK PARTICIPATION FOR A
11 HEALTH CARE PROFESSIONAL DEEMED PROVISIONALLY CREDENTIALLED PURSUANT TO
12 THIS PARAGRAPH SHALL BEGIN ON THE DAY FOLLOWING NOTIFICATION BY THE
13 INSURER THAT THE COMPLETED APPLICATION WAS RECEIVED AND SHALL LAST UNTIL
14 THE FINAL CREDENTIALING DETERMINATION IS MADE BY THE INSURER.

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

35 (5) IF A HEALTH CARE PROFESSIONAL HAS BEEN CREDENTIALLED BY AN INSURER
36 PURSUANT TO THIS SUBDIVISION, AND SUBSEQUENT THERETO BUT PRIOR TO EXPI-
37 RATION OR TERMINATION OF HIS OR HER CONTRACT WITH THE INSURER FOR
38 PARTICIPATION IN THE IN-NETWORK BENEFITS PORTION OF THE INSURER'S
39 NETWORK FOR A MANAGED CARE PRODUCT, THE HEALTH CARE PROFESSIONAL OR THE
40 GROUP PRACTICE CHANGES THE ADDRESS OF OR ADDS AN ADDITIONAL LOCATION TO
41 THE PRACTICE, SUCH HEALTH CARE PROFESSIONAL SHALL NOT BE REQUIRED TO
42 REAPPLY FOR CERTIFICATION BUT SHALL BE REQUIRED TO FILE NOTICE OF SUCH
43 CHANGE OR ADDITION WITH THE INSURER.

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