

9835

I N A S S E M B L Y

April 12, 2016

Introduced by M. of A. ABINANTI -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to payments from the New York state medical indemnity fund

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

1 Section 1. Section 2999-j of the public health law is amended by
2 adding two new subdivisions 2-a and 7-a to read as follows:
3 2-A. A REQUEST FOR REVIEW OF A DENIAL OF A CLAIM OR A DENIAL OF A
4 REQUEST FOR PRIOR AUTHORIZATION FOR THE PAYMENT OR REIMBURSEMENT FROM
5 THE FUND FOR QUALIFYING HEALTH CARE COSTS MUST BE MADE BY THE CLAIMANT
6 NO LATER THAN SIXTY DAYS FROM RECEIPT OF THE DENIAL AND, AT A CLAIMANT'S
7 OPTION, BY EITHER (A) MAKING APPLICATION TO THE COURT WHEREIN THE JUDGE-
8 MENT WAS AWARDED OR THE CASE WAS SETTLED, OR (B) FOLLOWING THE PROCESS
9 ESTABLISHED BY REGULATIONS OF THE COMMISSIONER FOR THE ADMINISTRATIVE
10 REVIEW OF A DENIAL OF A CLAIM OR REQUEST FOR PRIOR AUTHORIZATION.
11 7-A. A REQUEST FOR A REVIEW OF A DETERMINATION BY THE FUND ADMINISTRA-
12 TOR THAT THE RELEVANT PROVISIONS OF SUBDIVISION SIX OF THIS SECTION HAVE
13 NOT BEEN MET AND/OR THAT THE PLAINTIFF OR CLAIMANT IS NOT A QUALIFIED
14 PLAINTIFF MAY BE MADE BY ANY OF THE PARTIES, NO LATER THAN SIXTY DAYS
15 FROM RECEIPT OF THE DENIAL, BY MAKING APPLICATION TO THE COURT WHEREIN
16 THE JUDGMENT WAS AWARDED OR THE CASE WAS SETTLED.
17 S 2. Subdivisions 2 and 4 of section 2999-j of the public health law,
18 as added by section 52 of part H of chapter 59 of the laws of 2011, are
19 amended to read as follows:
20 2. The provision of qualifying health care costs to qualified plain-
21 tiffs shall not be subject to prior authorization, except as described
22 by the commissioner in regulation; provided, however, that such regu-
23 lation shall not prevent qualified plaintiffs from receiving care or
24 assistance that would, at a minimum, be authorized under the medicaid
25 program; and provided, further, that if any prior authorization is
26 required by such regulation, the regulation shall require that requests
27 for prior authorization be processed within a reasonably prompt period
28 of time and, SUBJECT TO THE PROVISIONS OF SUBDIVISION TWO-A OF THIS

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

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1 SECTION, shall identify a process for prompt administrative review of
2 any denial of a request for prior authorization.

3 4. The amount of qualifying health care costs to be paid from the fund
4 shall be calculated[: (a) with respect to services provided in private
5 physician practices on the basis of one hundred percent of the usual and
6 customary rates,] ON THE BASIS OF ONE HUNDRED PERCENT OF THE USUAL AND
7 CUSTOMARY RATES AS DEFINED BY FAIR HEALTH, INC., IN ITS USUAL, CUSTOMARY
8 AND REASONABLE DATABASE AT THE TIME OF BILLING, AND IF NO SUCH RATES ARE
9 AVAILABLE, as defined by the commissioner in regulation[: or (b) with
10 respect to all other services, on the basis of Medicaid rates of
11 reimbursement or, where no such rates are available, as defined by the
12 commissioner in regulation] THAT IS CONSISTENT WITH PAYMENT OF ONE
13 HUNDRED PERCENT OF THE USUAL AND CUSTOMARY RATES CHARGED BY PROVIDERS OF
14 SUCH SERVICES IN THE GEOGRAPHIC AREA WHERE THE SERVICE IS PROVIDED.

15 S 3. Subdivision 1 of section 2999-h of the public health law, as
16 added by section 52 of part H of chapter 59 of the laws of 2011, is
17 amended to read as follows:

18 1. "Birth-related neurological injury" means an injury to the brain or
19 spinal cord of a live infant caused by the deprivation of oxygen or
20 mechanical injury occurring in the course of labor, delivery or resusci-
21 tation or by other medical services provided or not provided during
22 delivery [admission] that rendered the infant with a permanent and
23 substantial motor impairment or with a developmental disability as that
24 term is defined by section 1.03 of the mental hygiene law, or both. This
25 definition shall apply to live births only.

26 S 4. This act shall take effect on the forty-fifth day after it shall
27 have become a law.