

STATE OF NEW YORK

4335

2019-2020 Regular Sessions

IN SENATE

March 7, 2019

Introduced by Sen. SALAZAR -- 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 certain application and referral forms for health care plans

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 425 of the laws of 2016, 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 universal health care profes-
11 sional application [~~to participate~~] for participation in the in-network
12 portion of the health care plan's network and shall, within sixty days
13 of receiving a health care professional's completed universal applica-
14 tion to participate in the health care plan's network, notify the health
15 care professional as to: (i) whether he or she is credentialed; or (ii)
16 whether additional time is necessary to make a determination because of
17 a failure of a third party to provide necessary documentation. In such
18 instances where additional time is necessary because of a lack of neces-
19 sary documentation, a health plan shall make every effort to obtain such
20 information as soon as possible and shall make a final determination
21 within twenty-one days of receiving the necessary documentation.

22 (b) If the completed application of a newly-licensed health care
23 professional or a health care professional who has recently relocated to
24 this state from another state and has not previously practiced in this
25 state, who joins a group practice of health care professionals each of

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

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1 whom participates in the in-network portion of a health care plan's
2 network, is neither approved nor declined within sixty days of
3 submission of a completed application pursuant to paragraph (a) of this
4 subdivision, the health care professional shall be deemed "provisionally
5 credentialed" and may participate in the in-network portion of the
6 health care plan's network; provided, however, that a provisionally
7 credentialed physician may not be designated as an enrollee's primary
8 care physician until such time as the physician has been fully creden-
9 tialed. The network participation for a provisionally credentialed
10 health care professional shall begin on the day following the sixtieth
11 day of receipt of the completed application and shall last until the
12 final credentialing determination is made by the health care plan. A
13 health care professional shall only be eligible for provisional creden-
14 tialing if the group practice of health care professionals notifies the
15 health care plan in writing that, should the application ultimately be
16 denied, the health care professional or the group practice: (i) shall
17 refund any payments made by the health care plan for in-network services
18 provided by the provisionally credentialed health care professional that
19 exceed any out-of-network benefits payable under the enrollee's contract
20 with the health care plan; and (ii) shall not pursue reimbursement from
21 the enrollee, except to collect the copayment that otherwise would have
22 been payable had the enrollee received services from a health care
23 professional participating in the in-network portion of a health care
24 plan's network. Interest and penalties pursuant to section three thou-
25 sand two hundred twenty-four-a of the insurance law shall not be
26 assessed based on the denial of a claim submitted during the period when
27 the health care professional was provisionally credentialed; provided,
28 however, that nothing herein shall prevent a health care plan from
29 paying a claim from a health care professional who is provisionally
30 credentialed upon submission of such claim. A health care plan shall not
31 deny, after appeal, a claim for services provided by a provisionally
32 credentialed health care professional solely on the ground that the
33 claim was not timely filed.

34 (c) The commissioner, in consultation with the superintendent of
35 financial services, and representatives of health care plans, hospitals
36 and health care professionals shall adopt by regulation such universal
37 health care professional application for participation form, and a form
38 for the renewal of credentialing which shall be an abbreviated version
39 of the universal application form, for use by health care plans which
40 offer managed care products for the purpose of credentialing and re-cre-
41 credentialing health care professionals who seek to participate in a health
42 care plan's provider network, including credentialing and re-credential-
43 ing health care professionals who are employed or have staff privileges
44 at hospitals or other health care facilities which seek to participate
45 in a provider network.

46 (d) The commissioner, in consultation with the superintendent of
47 financial services, and representatives of health care plans, hospitals
48 and health care professionals shall adopt by regulation a universal
49 health care professional referral form for the purpose of simplifying
50 the process of referral of patients to other health care professionals.

51 (e) The commissioner, in consultation with the superintendent of
52 financial services, and representatives of health care plans, hospitals
53 and health care professionals shall revise the universal application,
54 re-credentialing and universal health care professional referral forms
55 as necessary, to conform with industry-wide, national standards of
56 credentialing, re-credentialing and health care referral.

1 (f) In developing the universal health care professional application
2 re-credentialing forms, the commissioner shall ensure that the creden-
3 tialing and re-credentialing requirements for participation in the medi-
4 caid program and the state child health plus program are adequately
5 reflected on the health care professional application and re-credential-
6 ing forms.

7 (g) All the credentialing and re-credentialing forms required for
8 development under this subdivision shall be the only forms that may be
9 used for credentialing and re-credentialing health care professionals by
10 health care plans, hospitals, and other health care facilities.

11 (h) The professional referral form required for development under this
12 subdivision shall be the only form that a health care plan may require a
13 health care professional to use for the purposes of making a profes-
14 sional referral; provided, however, that a health care plan may request
15 additional patient information separately from the professional referral
16 form for the purposes of reviewing such professional referral.

17 § 2. Subsection (a) of section 4803 of the insurance law, as amended
18 by chapter 425 of the laws of 2016, is amended to read as follows:

19 (a) (1) An insurer which offers a managed care product shall, upon
20 request, make available and disclose to health care professionals writ-
21 ten application procedures and minimum qualification requirements which
22 a health care professional must meet in order to be considered by the
23 insurer for participation in the in-network benefits portion of the
24 insurer's network for the managed care product. The insurer shall
25 consult with appropriately qualified health care professionals in devel-
26 oping its qualification requirements for participation in the in-network
27 benefits portion of the insurer's network for the managed care product.
28 An insurer shall complete review of the health care professional's
29 application to participate in the in-network portion of the insurer's
30 network and, within sixty days of receiving a health care professional's
31 completed application to participate in the insurer's network, will
32 notify the health care professional as to: (A) whether he or she is
33 credentialed; or (B) whether additional time is necessary to make a
34 determination because of a failure of a third party to provide necessary
35 documentation. In such instances where additional time is necessary
36 because of a lack of necessary documentation, an insurer shall make
37 every effort to obtain such information as soon as possible and shall
38 make a final determination within twenty-one days of receiving the
39 necessary documentation. The plans shall also implement procedures to
40 permit newly licensed health care professionals to render care and
41 receive payment for care provided to enrollees on a provisional basis
42 during the pendency of the application process of such newly licensed
43 health care professionals.

44 (2) If the completed application of a newly-licensed health care
45 professional or a health care professional who has recently relocated to
46 this state from another state and has not previously practiced in this
47 state, who joins a group practice of health care professionals each of
48 whom participates in the in-network portion of an insurer's network, is
49 neither approved nor declined within sixty days of submission of a
50 completed application pursuant to paragraph one of this subsection, such
51 health care professional shall be deemed "provisionally credentialed"
52 and may participate in the in-network portion of an insurer's network;
53 provided, however, that a provisionally credentialed physician may not
54 be designated as an insured's primary care physician until such time as
55 the physician has been fully credentialed. The network participation for
56 a provisionally credentialed health care professional shall begin on the

1 day following the sixtieth day of receipt of the completed application
2 and shall last until the final credentialing determination is made by
3 the insurer. A health care professional shall only be eligible for
4 provisional credentialing if the group practice of health care profes-
5 sionals notifies the insurer in writing that, should the application
6 ultimately be denied, the health care professional or the group prac-
7 tice: (A) shall refund any payments made by the insurer for in-network
8 services provided by the provisionally credentialed health care profes-
9 sional that exceed any out-of-network benefits payable under the
10 insured's contract with the insurer; and (B) shall not pursue reimburse-
11 ment from the insured, except to collect the copayment or coinsurance
12 that otherwise would have been payable had the insured received services
13 from a health care professional participating in the in-network portion
14 of an insurer's network. Interest and penalties pursuant to section
15 three thousand two hundred twenty-four-a of this chapter shall not be
16 assessed based on the denial of a claim submitted during the period when
17 the health care professional was provisionally credentialed; provided,
18 however, that nothing herein shall prevent an insurer from paying a
19 claim from a health care professional who is provisionally credentialed
20 upon submission of such claim. An insurer shall not deny, after appeal,
21 a claim for services provided by a provisionally credentialed health
22 care professional solely on the ground that the claim was not timely
23 filed.

24 (3) The superintendent, in consultation with the commissioner of
25 health, and representatives of health care plans, hospitals, and health
26 care professionals shall adopt by regulation a universal health care
27 professional application for participation form, and a form for the
28 renewal of credentialing which shall be an abbreviated version of the
29 universal application form for use by health care plans which offer
30 managed care products for the purpose of credentialing and re-creden-
31 tialing health care professionals who seek to participate in a health
32 care plan's provider network, including credentialing and re-credential-
33 ing health care professionals who are employed or have staff privileges
34 at hospitals or other health care facilities which seek to participate
35 in a provider network.

36 (4) The superintendent, in consultation with the commissioner of
37 health, and representatives of health care plans, hospitals and health
38 care professionals shall adopt by regulation a universal health care
39 professional referral form for the purpose of simplifying the process of
40 referral of patients to other health care professionals.

41 (5) The superintendent, in consultation with the commissioner of
42 health, and representatives of health care plans, hospitals and health
43 care professionals shall revise the universal application, re-creden-
44 tialing and universal health care professional referral forms as neces-
45 sary, to conform with industry-wide, national standards of credential-
46 ing, re-credentialing and health care referral.

47 (6) In developing the universal health care professional application
48 re-credentialing forms, the superintendent shall ensure that the creden-
49 tialing and re-credentialing requirements for participation in the medi-
50 caid program and the state child health plus program are adequately
51 reflected on the health care professional application and re-credential-
52 ing forms.

53 (7) The credentialing and re-credentialing forms required for develop-
54 ment under this subsection shall be the only forms that may be used for
55 credentialing and re-credentialing health care professionals by insur-
56 ers, hospitals and other health care facilities.

1 (8) The professional referral form required for development under this
2 subsection shall be the only form that an insurer may require a health
3 care professional to use for the purposes of making a professional
4 referral; provided, however, that an insurer may request additional
5 patient information separately from the professional referral form for
6 the purposes of reviewing such professional referral.

7 § 3. This act shall take effect on the one hundred eightieth day after
8 it shall have become a law.