

STATE OF NEW YORK

3231

2021-2022 Regular Sessions

IN SENATE

January 28, 2021

Introduced by Sen. SANDERS -- 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 contracts or agreements by health maintenance organizations

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 7 of section 4406-c of the public health law,
2 as added by chapter 705 of the laws of 1996 and as renumbered by chapter
3 487 of the laws of 2010, is renumbered subdivision 15 and four new
4 subdivisions 11, 12, 13 and 14 are added to read as follows:

5 11. No contract or agreement between a health care plan and a health
6 care provider shall contain any clause which entitles such health care
7 plan to reimburse the health care provider at the lowest price or rate
8 that such health care provider has charged another person or entity for
9 rendering the same treatment or performing the same procedure.

10 12. No health care plan shall by contract, written policy or written
11 procedure prohibit any health care provider from referring a patient or
12 enrollee to a health care provider based solely upon such health care
13 provider's participation status with the managed care product subscribed
14 to by the patient or enrollee.

15 13. No health care plan shall by contract, written policy or written
16 procedure require the disclosure of an enrollee's diagnosis on a
17 prescription as a condition for dispensing of a pharmaceutical drug or
18 agent, unless otherwise required by law.

19 14. No health care plan shall by contract, written policy or procedure
20 provide for or allow the substitution of a pharmaceutical drug or agent
21 (other than a generic substitution) by any person other than the
22 prescribing health care professional or by a pharmacist under section
23 sixty-eight hundred one-a of the education law.

24 § 2. Subsection (h) of section 3217-b of the insurance law, as relet-
25 tered by chapter 237 of the laws of 2009, is relettered subsection (p)

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

LBD00253-01-1

1 and four new subsections (h), (m), (n) and (o) are added to read as
2 follows:

3 (h) No contract or agreement between an insurer and a health care
4 provider shall contain any clause which entitles such insurer to reim-
5 burse the health care provider at the lowest price or rate that such
6 health care provider has charged another person or entity for rendering
7 the same treatment or performing the same procedure.

8 (m) No insurer shall by contract, written policy or written procedure
9 prohibit any health care provider from referring an insured to a physi-
10 cian based solely upon such physician's participation status with the
11 insurance product subscribed to by the insured.

12 (n) No insurer shall by contract, written policy or written procedure
13 require the disclosure of an insured's diagnosis on a prescription as a
14 condition for authorizing the coverage for or payment or dispensing of a
15 pharmaceutical drug or agent, unless otherwise required by law.

16 (o) No insurer which maintains a drug formulary, or which contracts
17 with another entity to maintain a drug formulary, shall by contract,
18 written policy or procedure provide for or allow the substitution of a
19 pharmaceutical drug or agent (other than a generic substitution) by any
20 person other than the prescribing health care professional or by a phar-
21 macist under section sixty-eight hundred one-a of the education law.

22 § 3. Subsection (i) of section 4325 of the insurance law, as relet-
23 tered by chapter 487 of the laws of 2010, is relettered subsection (q)
24 and four new subsections (i), (n), (o) and (p) are added to read as
25 follows:

26 (i) No contract or agreement between an insurer and a health care
27 provider shall contain any clause which entitles such insurer to reim-
28 burse the health care provider at the lowest price or rate that such
29 health care provider has charged another person or entity for rendering
30 the same treatment or performing the same procedure.

31 (n) No insurer shall by contract, written policy or written procedure
32 prohibit any health care provider from referring an insured to a physi-
33 cian based solely upon such physician's participation status with the
34 insurance product subscribed to by the insured.

35 (o) No insurer shall by contract, written policy or written procedure
36 require the disclosure of an insured's diagnosis on a prescription as a
37 condition for authorizing the coverage for or payment or dispensing of a
38 pharmaceutical drug or agent, unless otherwise required by law.

39 (p) No insurer which maintains a drug formulary, or which contracts
40 with another entity to maintain a drug formulary, shall by contract,
41 written policy or procedure provide for or allow the substitution of a
42 pharmaceutical drug or agent (other than a generic substitution) by any
43 person other than the prescribing health care professional or by a phar-
44 macist under section sixty-eight hundred one-a of the education law.

45 § 4. This act shall take effect on the one hundred eightieth day after
46 it shall have become a law.