S T A T E O F N E W Y O R K

2867

2009-2010 Regular Sessions

I N A S S E M B L Y

January 21, 2009

Introduced by M. of A. SCHIMMINGER, PEOPLES, SWEENEY -- Multi-Sponsored by -- M. of A. BARCLAY, COLTON, DelMONTE, EDDINGTON, MAGEE -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to making actuarially appropriate reductions in health insurance premiums in return for an enrollee's or insured's participation in a bona fide wellness program; and to establish an advisory committee on wellness to report thereon

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

Section 1. Section 3231 of the insurance law, as added by chapter 501 of the laws of 1992, is amended by adding a new subsection (c-1) to read as follows:

(C-1) SUBJECT TO THE APPROVAL OF THE SUPERINTENDENT, AN INSURER OR HEALTH MAINTENANCE ORGANIZATION ISSUING AN INDIVIDUAL OR GROUP HEALTH INSURANCE POLICY PURSUANT TO THIS SECTION MAY PROVIDE AN ACTUARIALLY APPROPRIATE REDUCTION IN PREMIUM RATES IN RETURN FOR AN ENROLLEE'S OR INSURED'S ADHERENCE TO A BONA FIDE WELLNESS PROGRAM. A BONA FIDE WELLNESS PROGRAM IS EITHER A RISK MANAGEMENT SYSTEM THAT IDENTIFIES AT-RISK POPULATIONS OR ANY OTHER SYSTEMATIC PROGRAM OR COURSE OF MEDICAL CONDUCT WHICH HELPS TO PROMOTE GOOD HEALTH, HELPS TO PREVENT OR MITIGATE ACUTE OR CHRONIC SICKNESS OR DISEASE, OR WHICH MINIMIZES ADVERSE HEALTH CONSEQUENCES DUE TO LIFESTYLE. SUCH WELLNESS PROGRAM SHALL DEMONSTRATE ACTUARIALLY THAT IT ENCOURAGES THE GENERAL GOOD HEALTH AND WELL-BEING OF THE COVERED POPULATION. THE INSURER OR HEALTH MAINTENANCE ORGANIZATION SHALL NOT REQUIRE SPECIFIC OUTCOMES AS A RESULT OF AN ENROLLEE'S OR INSURED'S ADHERENCE TO THE APPROVED WELLNESS PROGRAM.

S 2. Subsection (h) of section 4235 of the insurance law is amended by adding a new paragraph 5 to read as follows:

(5) EACH DOMESTIC, FOREIGN OR ALIEN INSURER DOING BUSINESS IN THIS STATE, WHEN FILING WITH THE SUPERINTENDENT ITS SCHEDULES OF PREMIUM RATES, RULES AND CLASSIFICATION OF RISKS FOR USE IN CONNECTION WITH THE

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

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ISSUANCE OF ITS POLICIES OF GROUP ACCIDENT, GROUP HEALTH OR GROUP ACCIDENT AND HEALTH INSURANCE, MAY PROVIDE FOR AN ACTUARIALLY APPROPRIATE REDUCTION IN PREMIUM RATES IN RETURN FOR AN ENROLLEE'S OR INSURED'S ADHERENCE TO A BONA FIDE WELLNESS PROGRAM. A BONA FIDE WELLNESS PROGRAM IS EITHER A RISK MANAGEMENT SYSTEM THAT IDENTIFIES AT-RISK POPULATIONS OR ANY OTHER SYSTEMATIC PROGRAM OR COURSE OF MEDICAL CONDUCT WHICH HELPS TO PROMOTE GOOD HEALTH, HELPS TO PREVENT OR MITIGATE ACUTE OR CHRONIC SICKNESS OR DISEASE, OR WHICH MINIMIZES ADVERSE HEALTH CONSEQUENCES DUE TO LIFESTYLE. SUCH WELLNESS PROGRAM SHALL DEMONSTRATE ACTUARIALLY THAT IT ENCOURAGES THE GENERAL GOOD HEALTH AND WELL-BEING OF THE COVERED POPULATION. THE INSURER OR HEALTH MAINTENANCE ORGANIZATION SHALL NOT REQUIRE SPECIFIC OUTCOMES AS A RESULT OF AN ENROLLEE'S OR INSURED'S ADHERENCE TO THE APPROVED WELLNESS PROGRAM.

S 3. Section 4317 of the insurance law is amended by adding a new subsection (c-1) to read as follows:

(C-1) SUBJECT TO THE APPROVAL OF THE SUPERINTENDENT, AN INSURER OR HEALTH MAINTENANCE ORGANIZATION ISSUING AN INDIVIDUAL OR GROUP HEALTH INSURANCE CONTRACT PURSUANT TO THIS SECTION MAY PROVIDE AN ACTUARIALLY APPROPRIATE REDUCTION IN PREMIUM RATES IN RETURN FOR AN ENROLLEE'S OR INSURED'S ADHERENCE TO A BONA FIDE WELLNESS PROGRAM. A BONA FIDE WELLNESS PROGRAM IS EITHER A RISK MANAGEMENT SYSTEM THAT IDENTIFIES AT-RISK POPULATIONS OR ANY OTHER SYSTEMATIC PROGRAM OR COURSE OF MEDICAL CONDUCT WHICH HELPS TO PROMOTE GOOD HEALTH, HELPS TO PREVENT OR MITIGATE ACUTE OR CHRONIC SICKNESS OR DISEASE, OR WHICH MINIMIZES ADVERSE HEALTH CONSEQUENCES DUE TO LIFESTYLE. SUCH WELLNESS PROGRAM SHALL DEMONSTRATE ACTUARIALLY THAT IT ENCOURAGES THE GENERAL GOOD HEALTH AND WELL-BEING OF THE COVERED POPULATION. THE INSURER OR HEALTH MAINTENANCE ORGANIZATION SHALL NOT REQUIRE SPECIFIC OUTCOMES AS A RESULT OF AN ENROLLEE'S OR INSURED'S ADHERENCE TO THE APPROVED WELLNESS PROGRAM.

S 4. Subsection (n) of section 4326 of the insurance law is amended by adding a new paragraph 4 to read as follows:

(4) APPROVAL OF THE SUPERINTENDENT, AN INSURER OR HEALTH MAINTENANCE ORGANIZATION ISSUING A CONTRACT FOR QUALIFYING SMALL EMPLOYERS OR INDIVIDUALS PURSUANT TO THIS SECTION MAY PROVIDE AN ACTUARIALLY APPROPRIATE REDUCTION IN PREMIUM RATES IN RETURN FOR AN ENROLLEE'S OR INSURED'S ADHERENCE TO A BONA FIDE WELLNESS PROGRAM. A BONA FIDE WELLNESS PROGRAM IS EITHER A RISK MANAGEMENT SYSTEM THAT IDENTIFIES AT-RISK POPULATIONS OR ANY OTHER SYSTEMATIC PROGRAM OR COURSE OF MEDICAL CONDUCT WHICH HELPS TO PROMOTE GOOD HEALTH, HELPS TO PREVENT OR MITIGATE ACUTE OR CHRONIC SICKNESS OR DISEASE, OR WHICH MINIMIZES ADVERSE HEALTH CONSEQUENCES DUE TO LIFESTYLE. SUCH WELLNESS PROGRAM SHALL DEMONSTRATE ACTUARIALLY THAT IT ENCOURAGES THE GENERAL GOOD HEALTH AND WELL-BEING OF THE COVERED POPULATION. THE INSURER OR HEALTH MAINTENANCE ORGANIZATION SHALL NOT REQUIRE SPECIFIC OUTCOMES AS A RESULT OF AN ENROLLEE'S OR INSURED'S ADHERENCE TO THE APPROVED WELLNESS PROGRAM.

S 5. a. The commissioner of health and the superintendent of insurance shall convene an advisory committee on wellness to examine and make recommendations to the governor and legislature on issues, including but not limited to:

(1) methods to more efficiently disseminate information about more healthful lifestyles to promote a reduction in acute or chronic illnesses, how to develop innovative wellness programs that can be implemented by insurers, health maintenance organizations, hospitals, physicians and other health care providers, whether or not the provision of health care and its financing can be restructured to encourage general good health and well-being of this state's citizens, whether or not

other incentives, both monetary and non-monetary, can be developed to encourage persons to pursue more healthy lifestyles, and survey and make suggestions on how to improve the effectiveness of programs currently being administered by state, county and local governments that promote good health.

(2) the cost effectiveness of developing or expanding current wellness programs administered by state and local governments, hospitals, public and private schools and clinics, health insurers and health maintenance organizations that provide for early prenatal care, cancer screenings, asthma and diabetes identification and treatments, childhood immunizations, and early risk management systems to identify at-risk populations.

(3) whether or not more research should be encouraged, to be conducted by private organizations and the department of health, to determine if disparities exist in the diagnosis and medical treatment of individuals based on variables such as age, race, gender, ethnicity or other cultural factors, and whether or not it is advisable to establish age, race, gender or ethnic based testing and screening examination schedules to identify the early onset of illness or disease.

b. The advisory committee on wellness shall be comprised of fifteen members, and co-chaired by the commissioner of health and the superintendent of insurance, or their designees. The governor shall appoint seven members to the committee and the temporary president of the senate and the speaker of the assembly shall each appoint three members to the committee, and the minority leaders of the senate and assembly shall each appoint one member. The appointees shall be representatives of health insurers, hospitals, physicians, clinics, other health care providers such as those that specialize in the provision of mental health, chiropractic and homeopathic care, state agencies such as the office of mental health, the departments of environmental conservation, and agriculture and markets, county and other local health department personnel, and school board officials. The appointees shall be named no later than 120 days after the effective date of this section. After evaluating the issues stated in subdivision a of this section, the committee shall deliver a report within a year of the effective date of this section on its findings on such issues to the governor, temporary president of the senate, speaker of the assembly, and the minority leaders of the senate and assembly. Such report shall contain the results of its evaluation and any findings or recommendations on enhancing the good health and well-being of the state's residents.

S 6. This act shall take effect immediately.