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

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2009-2010 Regular Sessions

I N A S S E M B L Y

January 23, 2009

Introduced by M. of A. BRADLEY, SCARBOROUGH, SCHIMMINGER, FIELDS, LATIMER, CLARK, GALEF, MAYERSOHN, ENGLEBRIGHT, GREENE, PHEFFER -- Multi-Sponsored by -- M. of A. ALFANO, AUBRY, BACALLES, BARRA, BRENNAN, CAMARA, COLTON, COOK, DelMONTE, GLICK, GOTTFRIED, GUNTHER, HIKIND, JACOBS, LAVINE, McENENY, MILLMAN, REILLY, J. RIVERA, N. RIVERA, SEMINERIO, SWEENEY, WEISENBERG -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law and the public health law, in relation to the display of participating physicians on an insurance provider's website

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

Section 1. Paragraph 17 of subsection (a) of section 3217-a of the insurance law, as added by chapter 705 of the laws of 1996, is amended to read as follows:

(17) where applicable, a listing by specialty, which may be in a separate document that is updated annually, of the name, address, and telephone number of all participating providers, including facilities, and in addition, in the case of physicians, board certification, PROVIDED, HOWEVER, THAT AN INSURER WHICH ELECTS TO POST SUCH INFORMATION ELECTRONICALLY ON ITS WEBSITE SHALL:

(A) REMOVE ANY NON-PARTICIPATING PROVIDER FROM ITS LIST WITHIN THIRTY CALENDAR DAYS FROM THE DATE WHEN: (I) THE PROVIDER HAS NOTIFIED THE INSURER, IN WRITING, IT WILL NO LONGER PARTICIPATE WITH THE INSURER; OR (II) THE CONTRACTUAL AGREEMENT BETWEEN THE INSURER AND PROVIDER CEASES TO BE IN EFFECT; AND

(B) INCLUDE A PROVISION IN CONTRACTS WITH PARTICIPATING PROVIDERS UNDER WHICH THE INSURER, WHEN IT FAILS TO REMOVE A NON-PARTICIPATING PROVIDER FROM ITS WEBSITE WITHIN SUCH THIRTY DAY PERIOD, SHALL BE LIABLE FOR OUT-OF-NETWORK RATES FOR SERVICES RENDERED BY A NON-PARTICIPATING PROVIDER TO AN INSURED FROM THE DATE SUCH NON-PARTICIPATING PROVIDER

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

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SHOULD HAVE BEEN REMOVED TO THE DATE THAT SUCH NON-PARTICIPATING PROVIDER IS REMOVED. SUCH CONTRACT PROVISION SHALL ALSO PROVIDE THAT SUCH PAYMENT AMOUNT SHALL NOT BE REDUCED BY ANY APPLICABLE CO-PAYMENT OR DEDUCTIBLE AND SHALL INCLUDE EXPRESS PROVISIONS INDICATING THAT THE PROVIDER SHALL HOLD INSUREDS HARMLESS FROM LIABILITY AND SHALL NOT BILL INSUREDS UNDER ANY CIRCUMSTANCES FOR THE COSTS OF COVERED SERVICES RENDERED BY THE CONTRACTING PROVIDER.

S 2. Paragraph 17 of subsection (a) of section 4324 of the insurance law, as added by chapter 705 of the laws of 1996, is amended to read as follows:

(17) where applicable, a listing by specialty, which may be in a separate document that is updated annually, of the name, address, and telephone number of all participating providers, including facilities, and in addition, in the case of physicians, board certification, PROVIDED, HOWEVER, THAT A HEALTH SERVICE, HOSPITAL SERVICE OR MEDICAL INDEMNITY EXPENSE CORPORATION WHICH ELECTS TO POST SUCH INFORMATION ELECTRONICALLY ON ITS WEBSITE SHALL:

(A) REMOVE ANY NON-PARTICIPATING PROVIDER FROM ITS LIST WITHIN THIRTY CALENDAR DAYS FROM THE DATE WHEN: (I) THE PROVIDER HAS NOTIFIED THE CORPORATION, IN WRITING, IT WILL NO LONGER PARTICIPATE WITH THE CORPORATION; OR (II) THE CONTRACTUAL AGREEMENT BETWEEN THE CORPORATION AND THE PROVIDER CEASES TO BE IN EFFECT; AND

(B) INCLUDE A PROVISION IN ITS CONTRACTS WITH PARTICIPATING PROVIDERS UNDER WHICH THE CORPORATION, WHEN IT FAILS TO REMOVE A NONPARTICIPATING PROVIDER FROM ITS WEBSITE WITHIN SUCH THIRTY DAY PERIOD, SHALL BE LIABLE FOR PAYMENT OF OUT-OF-NETWORK RATES FOR ANY SERVICES RENDERED BY A NONPARTICIPATING PROVIDER TO A SUBSCRIBER OF THE CORPORATION FROM THE DATE SUCH NONPARTICIPATING PROVIDER SHOULD HAVE BEEN REMOVED TO THE DATE THAT SUCH NONPARTICIPATING PROVIDER IS REMOVED. SUCH CONTRACT PROVISIONS SHALL ALSO PROVIDE THAT SUCH PAYMENT AMOUNT SHALL NOT BE REDUCED BY ANY APPLICABLE CO-PAYMENT OR DEDUCTIBLE PROVISION AND SHALL INCLUDE EXPRESS PROVISIONS INDICATING THAT THE PROVIDER SHALL HOLD SUBSCRIBERS HARMLESS FROM LIABILITY AND SHALL NOT BILL SUBSCRIBERS UNDER ANY CIRCUMSTANCES FOR THE COSTS OF COVERED SERVICES RENDERED BY THE CONTRACTING PROVIDER; and

S 3. Paragraph (r) of subdivision 1 of section 4408 of the public health law, as added by chapter 705 of the laws of 1996, is amended to read as follows:

(r) a listing by specialty, which may be in a separate document that is updated annually, of the name, address and telephone number of all participating providers, including facilities, and, in addition, in the case of physicians, board certification, PROVIDED, HOWEVER, THAT A HEALTH MAINTENANCE ORGANIZATION WHICH ELECTS TO POST SUCH INFORMATION ELECTRONICALLY ON ITS WEBSITE SHALL:

(A) REMOVE ANY NON-PARTICIPATING PROVIDER FROM ITS LIST WITHIN THIRTY CALENDAR DAYS FROM THE DATE WHEN: (I) THE PROVIDER HAS NOTIFIED THE HEALTH MAINTENANCE ORGANIZATION, IN WRITING, IT WILL NO LONGER PARTICIPATE WITH THE HEALTH MAINTENANCE ORGANIZATION; OR (II) THE CONTRACTUAL AGREEMENT BETWEEN THE HEALTH MAINTENANCE ORGANIZATION AND THE PROVIDER CEASES TO BE IN EFFECT; AND

(B) INCLUDE A PROVISION IN ITS CONTRACTS WITH PARTICIPATING PROVIDERS UNDER WHICH THE HEALTH MAINTENANCE ORGANIZATION, WHEN IT FAILS TO REMOVE A NONPARTICIPATING PROVIDER FROM ITS WEBSITE WITHIN SUCH THIRTY DAY PERIOD, SHALL BE LIABLE FOR PAYMENT OF OUT-OF-NETWORK RATES FOR ANY SERVICES RENDERED BY A NONPARTICIPATING PROVIDER TO AN ENROLLEE OF THE HEALTH MAINTENANCE ORGANIZATION FROM THE DATE SUCH NONPARTICIPATING

PROVIDER SHOULD HAVE BEEN REMOVED TO THE DATE THAT SUCH NONPARTICIPATING PROVIDER IS REMOVED. SUCH CONTRACT PROVISIONS SHALL ALSO PROVIDE THAT SUCH PAYMENT AMOUNT SHALL NOT BE REDUCED BY ANY APPLICABLE CO-PAYMENT OR DEDUCTIBLE PROVISION AND SHALL INCLUDE EXPRESS PROVISIONS INDICATING THAT THE PROVIDER SHALL HOLD ENROLLEES HARMLESS FROM LIABILITY AND SHALL NOT BILL ENROLLEES UNDER ANY CIRCUMSTANCES FOR THE COSTS OF COVERED SERVICES RENDERED BY THE CONTRACTING PROVIDER.

S 4. This act shall take effect on the first of January next succeeding the date on which it shall have become a law and shall apply to all contracts issued, renewed, modified or altered on and after such effective date.