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

8123

2009-2010 Regular Sessions

I N A S S E M B L Y

May 5, 2009

Introduced by M. of A. KAVANAGH -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to genetic discrimination in health insurance

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

Section 1. Subsection (1) of section 3221 of the insurance law is amended by adding a new paragraph 18 to read as follows:

(18) (A) DEFINITIONS. AS USED IN THIS PARAGRAPH:

(I) "PREDISPOSING GENETIC CHARACTERISTIC" SHALL MEAN ANY INHERITED GENE OR CHROMOSOME, OR ALTERATION THEREOF, AS DETERMINED BY A GENETIC TEST OR INFERRED FROM INFORMATION DERIVED FROM AN INDIVIDUAL OR FAMILY MEMBER, THAT IS SCIENTIFICALLY OR MEDICALLY BELIEVED TO PREDISPOSE AN INDIVIDUAL OR THE OFFSPRING OF THAT INDIVIDUAL TO A PHYSICAL OR MENTAL DISEASE OR DISABILITY, OR TO BE ASSOCIATED WITH A STATISTICALLY SIGNIFICANT INCREASED RISK OF DEVELOPMENT OF A PHYSICAL OR MENTAL DISEASE OR DISABILITY.

(II) "GENETIC TEST" SHALL MEAN A TEST FOR DETERMINING THE PRESENCE OR ABSENCE OF AN INHERITED GENETIC CHARACTERISTIC IN AN INDIVIDUAL, INCLUDING TESTS OF NUCLEIC ACIDS SUCH AS DNA, RNA AND MITOCHONDRIAL DNA, CHROMOSOMES OR PROTEINS IN ORDER TO IDENTIFY A PREDISPOSING GENETIC CHARACTERISTIC.

(B) NO GROUP OR BLANKET POLICY DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE WHICH COVERS FIFTY-ONE OR MORE EMPLOYEES AND PROVIDES HOSPITAL, MEDICAL, MAJOR MEDICAL OR SIMILAR COMPREHENSIVE-TYPE COVERAGE SHALL EXCLUDE ANY GROUP MEMBER OR ELIGIBLE DEPENDENT OR ESTABLISH ANY RATES OR TERMS THEREFOR SOLELY ON THE BASIS OF ANY PREDISPOSING GENETIC CHARACTERISTIC.

(C) NO ISSUER OF HEALTH INSURANCE IN THIS STATE SHALL REQUIRE OR UTILIZE TESTS FOR OR INFORMATION ABOUT A GROUP MEMBER'S PREDISPOSING GENETIC CHARACTERISTICS AS A PART OF THE PROCESS OF UNDERWRITING.

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

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S 2. The insurance law is amended by adding a new section 4306-c to read as follows:

S 4306-C. GENETIC DISCRIMINATION PROHIBITED. (A) NO CONTRACT ISSUED BY A HOSPITAL SERVICE CORPORATION, HEALTH SERVICE CORPORATION OR MEDICAL EXPENSE INDEMNITY CORPORATION TO A GROUP OF FIFTY-ONE OR MORE EMPLOYEES SHALL EXCLUDE ANY GROUP MEMBER OR ELIGIBLE DEPENDENT OR ESTABLISH ANY RATES OR TERMS THEREFOR SOLELY ON THE BASIS OF ANY PREDISPOSING GENETIC CHARACTERISTIC.

(B) NO MEDICAL EXPENSE INDEMNITY CORPORATION, HOSPITAL SERVICE CORPORATION OR HEALTH SERVICES CORPORATION SHALL REQUIRE OR UTILIZE TESTS FOR OR INFORMATION ABOUT A GROUP MEMBER'S PREDISPOSING GENETIC CHARACTERISTICS.

(C) AS USED IN THIS SECTION:

(1) "PREDISPOSING GENETIC CHARACTERISTIC" SHALL MEAN ANY INHERITED GENE OR CHROMOSOME, OR ALTERATION THEREOF, AS DETERMINED BY A GENETIC TEST OR INFERRED FROM INFORMATION DERIVED FROM AN INDIVIDUAL OR FAMILY MEMBER, THAT IS SCIENTIFICALLY OR MEDICALLY BELIEVED TO PREDISPOSE AN INDIVIDUAL OR THE OFFSPRING OF THAT INDIVIDUAL TO A PHYSICAL OR MENTAL DISEASE OR DISABILITY, OR TO BE ASSOCIATED WITH A STATISTICALLY SIGNIFICANT INCREASED RISK OF DEVELOPMENT OF A PHYSICAL OR MENTAL DISEASE OR DISABILITY.

(2) "GENETIC TEST" SHALL MEAN A TEST FOR DETERMINING THE PRESENCE OR ABSENCE OF AN INHERITED GENETIC CHARACTERISTIC IN AN INDIVIDUAL, INCLUDING TESTS OF NUCLEIC ACIDS SUCH AS DNA, RNA AND MITOCHONDRIAL DNA, CHROMOSOMES OR PROTEINS IN ORDER TO IDENTIFY A PREDISPOSING GENETIC CHARACTERISTIC.

S 3. This act shall take effect on the ninetieth day after it shall have become a law, and shall apply to all policies and contracts issued, renewed, modified, altered or amended on or after such effective date.