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I N A S S E M B L Y

January 20, 2010

Introduced by M. of A. BING, MAGNARELLI, GUNTHER, CLARK, JAFFEE, GALEF, STIRPE, SKARTADOS, CASTRO, CHRISTENSEN -- Multi-Sponsored by -- M. of A. BENJAMIN, COOK, GOTTFRIED, KOON, MAGEE, M. MILLER, PAULIN, PHEFFER, SPANO, SWEENEY, WEISENBERG -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to overpayments to health care providers

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

Section 1. Subsection (b) of section 3224-b of the insurance law is amended by adding a new paragraph 2-a to read as follows:

(2-A) IF A PROVIDER OF A HEALTH CARE PLAN ALLEGES FRAUD OR OTHER INTENTIONAL MISCONDUCT, OR ABUSIVE BILLING TO SEEK RECOVERY OF AN OVERPAYMENT PURSUANT TO PARAGRAPH TWO OF THIS SUBSECTION MORE THAN TWENTY-FOUR MONTHS AFTER THE ORIGINAL PAYMENT WAS RECEIVED BY THE HEALTH CARE PROVIDER, AND IT IS FOUND THAT SUCH PAYMENT OR PAYMENTS IN DISPUTE WERE NOT THE RESULT OF FRAUD OR OTHER INTENTIONAL MISCONDUCT OR ABUSIVE BILLING, SUCH PROVIDER OF THE HEALTH CARE PLAN SHALL BE RESPONSIBLE FOR THE REASONABLE LEGAL FEES OF THE HEALTH CARE PROVIDER CONNECTED WITH THE DEFENSE OF THE ALLEGATIONS THAT THERE WAS AN OVERPAYMENT. THE DEPARTMENT SHALL FINE ANY PROVIDER OF A HEALTH CARE PLAN FOUND TO HAVE KNOWINGLY, WILLFULLY OR RECKLESSLY MADE FALSE CHARGES UNDER THIS SECTION IN AN AMOUNT OF UP TO FIVE THOUSAND DOLLARS PER PAYMENT THAT IS FALSELY CHARGED TO HAVE BEEN THE RESULT OF FRAUD OR OTHER INTENTIONAL MISCONDUCT OR ABUSIVE BILLING.

S 2. This act shall take effect immediately.

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

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