

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

3905--A

2009-2010 Regular Sessions

I N S E N A T E

April 3, 2009

Introduced by Sen. DUANE -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law and the insurance law, in relation to certain application and referral forms for health care plans

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

1 Section 1. Subdivision 1 of section 4406-d of the public health law,
2 as amended by chapter 237 of the laws of 2009, is amended to read as
3 follows:
4 1. (a) A health care plan shall, upon request, make available and
5 disclose to health care professionals written application procedures and
6 minimum qualification requirements which a health care professional must
7 meet in order to be considered by the health care plan. The plan shall
8 consult with appropriately qualified health care professionals in devel-
9 oping its qualification requirements. A health care plan shall complete
10 review of the health care professional's UNIVERSAL HEALTH CARE PROFES-
11 SIONAL application [to participate] FOR PARTICIPATION in the in-network
12 portion of the health care plan's network and shall, within ninety days
13 of receiving a health care professional's completed UNIVERSAL applica-
14 tion to participate in the health care plan's network, notify the health
15 care professional as to: (i) whether he or she is credentialed; or (ii)
16 whether additional time is necessary to make a determination in spite of
17 the health care plan's best efforts or because of a failure of a third
18 party to provide necessary documentation, or non-routine or unusual
19 circumstances require additional time for review. In such instances
20 where additional time is necessary because of a lack of necessary
21 documentation, a health plan shall make every effort to obtain such
22 information as soon as possible.

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

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1 (b) If the completed application of a newly-licensed health care
2 professional or a health care professional who has recently relocated to
3 this state from another state and has not previously practiced in this
4 state, who joins a group practice of health care professionals each of
5 whom participates in the in-network portion of a health care plan's
6 network, is neither approved nor declined within ninety days pursuant to
7 paragraph (a) of this subdivision, the health care professional shall be
8 deemed "provisionally credentialed" and may participate in the in-net-
9 work portion of the health care plan's network; provided, however, that
10 a provisionally credentialed physician may not be designated as an
11 enrollee's primary care physician until such time as the physician has
12 been fully credentialed. The network participation for a provisionally
13 credentialed health care professional shall begin on the day following
14 the ninetieth day of receipt of the completed application and shall last
15 until the final credentialing determination is made by the health care
16 plan. A health care professional shall only be eligible for provisional
17 credentialing if the group practice of health care professionals noti-
18 fies the health care plan in writing that, should the application ulti-
19 mately be denied, the health care professional or the group practice:
20 (i) shall refund any payments made by the health care plan for in-net-
21 work services provided by the provisionally credentialed health care
22 professional that exceed any out-of-network benefits payable under the
23 enrollee's contract with the health care plan; and (ii) shall not pursue
24 reimbursement from the enrollee, except to collect the copayment that
25 otherwise would have been payable had the enrollee received services
26 from a health care professional participating in the in-network portion
27 of a health care plan's network. Interest and penalties pursuant to
28 section three thousand two hundred twenty-four-a of the insurance law
29 shall not be assessed based on the denial of a claim submitted during
30 the period when the health care professional was provisionally creden-
31 tialed; provided, however, that nothing herein shall prevent a health
32 care plan from paying a claim from a health care professional who is
33 provisionally credentialed upon submission of such claim. A health care
34 plan shall not deny, after appeal, a claim for services provided by a
35 provisionally credentialed health care professional solely on the ground
36 that the claim was not timely filed.

37 (C) THE COMMISSIONER, IN CONSULTATION WITH THE SUPERINTENDENT OF
38 INSURANCE, AND REPRESENTATIVES OF HEALTH CARE PLANS, HOSPITALS AND
39 HEALTH CARE PROFESSIONALS SHALL ADOPT BY REGULATION SUCH UNIVERSAL
40 HEALTH CARE PROFESSIONAL APPLICATION FOR PARTICIPATION FORM, AND A FORM
41 FOR THE RENEWAL OF CREDENTIALING WHICH SHALL BE AN ABBREVIATED VERSION
42 OF THE UNIVERSAL APPLICATION FORM, FOR USE BY HEALTH CARE PLANS WHICH
43 OFFER MANAGED CARE PRODUCTS FOR THE PURPOSE OF CREDENTIALING AND RE-CRE-
44 DENTIALING HEALTH CARE PROFESSIONALS WHO SEEK TO PARTICIPATE IN A HEALTH
45 CARE PLAN'S PROVIDER NETWORK AND FOR THE PURPOSE OF CREDENTIALING AND
46 RE-CREDENTIALING HEALTH CARE PROFESSIONALS WHO ARE EMPLOYED OR HAVE
47 STAFF PRIVILEGES AT HOSPITALS OR OTHER HEALTH CARE FACILITIES WHICH SEEK
48 TO PARTICIPATE IN A PROVIDER NETWORK.

49 (D) THE COMMISSIONER, IN CONSULTATION WITH THE SUPERINTENDENT OF
50 INSURANCE, AND REPRESENTATIVES OF HEALTH CARE PLANS, HOSPITALS AND
51 HEALTH CARE PROFESSIONALS SHALL ADOPT BY REGULATION A UNIVERSAL HEALTH
52 CARE PROFESSIONAL REFERRAL FORM FOR THE PURPOSE OF SIMPLIFYING THE PROC-
53 ESS OF REFERRAL OF PATIENTS TO OTHER HEALTH CARE PROFESSIONALS.

54 (E) THE COMMISSIONER, IN CONSULTATION WITH THE SUPERINTENDENT OF
55 INSURANCE, AND REPRESENTATIVES OF HEALTH CARE PLANS, HOSPITALS AND
56 HEALTH CARE PROFESSIONALS SHALL REVISE THE UNIVERSAL APPLICATION,

1 RE-CREDENTIALING AND UNIVERSAL HEALTH CARE PROFESSIONAL REFERRAL FORMS
2 AS NECESSARY, TO CONFORM WITH INDUSTRY-WIDE, NATIONAL STANDARDS OF
3 CREDENTIALING, RE-CREDENTIALING AND HEALTH CARE REFERRAL.

4 (F) IN DEVELOPING THE UNIVERSAL HEALTH CARE PROFESSIONAL APPLICATION
5 RE-CREDENTIALING FORMS, THE COMMISSIONER SHALL ENSURE THAT THE CREDEN-
6 TIALING AND RE-CREDENTIALING REQUIREMENTS FOR PARTICIPATION IN THE MEDI-
7 CAID PROGRAM, THE STATE CHILD HEALTH PLUS PROGRAM AND THE FAMILY HEALTH
8 PLUS PROGRAMS ARE ADEQUATELY REFLECTED ON THE HEALTH CARE PROFESSIONAL
9 APPLICATION AND RE-CREDENTIALING FORMS.

10 (G) ALL THE CREDENTIALING AND RE-CREDENTIALING FORMS REQUIRED FOR
11 DEVELOPMENT UNDER THIS SUBDIVISION SHALL BE THE ONLY FORMS THAT MAY BE
12 USED FOR CREDENTIALING AND RE-CREDENTIALING HEALTH CARE PROFESSIONALS BY
13 HEALTH CARE PLANS, HOSPITALS, AND OTHER HEALTH CARE FACILITIES.

14 (H) THE PROFESSIONAL REFERRAL FORM REQUIRED FOR DEVELOPMENT UNDER THIS
15 SUBDIVISION SHALL BE THE ONLY FORM THAT A HEALTH CARE PLAN MAY REQUIRE A
16 HEALTH CARE PROFESSIONAL TO USE FOR THE PURPOSES OF MAKING A PROFES-
17 SIONAL REFERRAL; PROVIDED, HOWEVER, THAT A HEALTH CARE PLAN MAY REQUEST
18 ADDITIONAL PATIENT INFORMATION SEPARATELY FROM THE PROFESSIONAL REFERRAL
19 FORM FOR THE PURPOSES OF REVIEWING SUCH PROFESSIONAL REFERRAL.

20 S 2. Subsection (a) of section 4803 of the insurance law, as amended
21 by chapter 237 of the laws of 2009, is amended to read as follows:

22 (a) (1) An insurer which offers a managed care product shall, upon
23 request, make available and disclose to health care professionals writ-
24 ten application procedures and minimum qualification requirements which
25 a health care professional must meet in order to be considered by the
26 insurer for participation in the in-network benefits portion of the
27 insurer's network for the managed care product. The insurer shall
28 consult with appropriately qualified health care professionals in devel-
29 oping its qualification requirements for participation in the in-network
30 benefits portion of the insurer's network for the managed care product.
31 An insurer shall complete review of the health care professional's
32 application to participate in the in-network portion of the insurer's
33 network and, within ninety days of receiving a health care profes-
34 sional's completed application to participate in the insurer's network,
35 will notify the health care professional as to: (A) whether he or she is
36 credentialed; or (B) whether additional time is necessary to make a
37 determination in spite of the insurer's best efforts or because of a
38 failure of a third party to provide necessary documentation, or non-
39 routine or unusual circumstances require additional time for review. In
40 such instances where additional time is necessary because of a lack of
41 necessary documentation, an insurer shall make every effort to obtain
42 such information as soon as possible. THE PLANS SHALL ALSO IMPLEMENT
43 PROCEDURES TO PERMIT NEWLY LICENSED HEALTH CARE PROFESSIONALS TO RENDER
44 CARE AND RECEIVE PAYMENT FOR CARE PROVIDED TO ENROLLEES ON A PROVISIONAL
45 BASIS DURING THE PENDENCY OF THE APPLICATION PROCESS OF SUCH NEWLY
46 LICENSED HEALTH CARE PROFESSIONALS.

47 (2) If the completed application of a newly-licensed health care
48 professional or a health care professional who has recently relocated to
49 this state from another state and has not previously practiced in this
50 state, who joins a group practice of health care professionals each of
51 whom participates in the in-network portion of an insurer's network, is
52 neither approved nor declined within ninety days pursuant to paragraph
53 one of this subsection, such health care professional shall be deemed
54 "provisionally credentialed" and may participate in the in-network
55 portion of an insurer's network; provided, however, that a provisionally
56 credentialed physician may not be designated as an insured's primary

1 care physician until such time as the physician has been fully creden-
2 tialed. The network participation for a provisionally credentialed
3 health care professional shall begin on the day following the ninetieth
4 day of receipt of the completed application and shall last until the
5 final credentialing determination is made by the insurer. A health care
6 professional shall only be eligible for provisional credentialing if the
7 group practice of health care professionals notifies the insurer in
8 writing that, should the application ultimately be denied, the health
9 care professional or the group practice: (A) shall refund any payments
10 made by the insurer for in-network services provided by the provi-
11 sionally credentialed health care professional that exceed any out-of-
12 network benefits payable under the insured's contract with the insurer;
13 and (B) shall not pursue reimbursement from the insured, except to
14 collect the copayment or coinsurance that otherwise would have been
15 payable had the insured received services from a health care profes-
16 sional participating in the in-network portion of an insurer's network.
17 Interest and penalties pursuant to section three thousand two hundred
18 twenty-four-a of this chapter shall not be assessed based on the denial
19 of a claim submitted during the period when the health care professional
20 was provisionally credentialed; provided, however, that nothing herein
21 shall prevent an insurer from paying a claim from a health care profes-
22 sional who is provisionally credentialed upon submission of such claim.
23 An insurer shall not deny, after appeal, a claim for services provided
24 by a provisionally credentialed health care professional solely on the
25 ground that the claim was not timely filed.

26 (3) THE SUPERINTENDENT, IN CONSULTATION WITH THE COMMISSIONER OF
27 HEALTH, AND REPRESENTATIVES OF HEALTH CARE PLANS, HOSPITALS, AND HEALTH
28 CARE PROFESSIONALS SHALL ADOPT BY REGULATION A UNIVERSAL HEALTH CARE
29 PROFESSIONAL APPLICATION FOR PARTICIPATION FORM, AND A FORM FOR THE
30 RENEWAL OF CREDENTIALING WHICH SHALL BE AN ABBREVIATED VERSION OF THE
31 UNIVERSAL APPLICATION FORM FOR USE BY HEALTH CARE PLANS WHICH OFFER
32 MANAGED CARE PRODUCTS FOR THE PURPOSE OF CREDENTIALING AND RE-CREDEN-
33 TIALING HEALTH CARE PROFESSIONALS WHO SEEK TO PARTICIPATE IN A HEALTH
34 CARE PLAN'S PROVIDER NETWORK AND FOR THE PURPOSE OF CREDENTIALING AND
35 RE-CREDENTIALING HEALTH CARE PROFESSIONALS WHO ARE EMPLOYED OR HAVE
36 STAFF PRIVILEGES AT HOSPITALS OR OTHER HEALTH CARE FACILITIES WHICH SEEK
37 TO PARTICIPATE IN A PROVIDER NETWORK.

38 (4) THE SUPERINTENDENT, IN CONSULTATION WITH THE COMMISSIONER OF
39 HEALTH, AND REPRESENTATIVES OF HEALTH CARE PLANS, HOSPITALS AND HEALTH
40 CARE PROFESSIONALS SHALL ADOPT BY REGULATION A UNIVERSAL HEALTH CARE
41 PROFESSIONAL REFERRAL FORM FOR THE PURPOSE OF SIMPLIFYING THE PROCESS OF
42 REFERRAL OF PATIENTS TO OTHER HEALTH CARE PROFESSIONALS.

43 (5) THE SUPERINTENDENT, IN CONSULTATION WITH THE COMMISSIONER OF
44 HEALTH, AND REPRESENTATIVES OF HEALTH CARE PLANS, HOSPITALS AND HEALTH
45 CARE PROFESSIONALS SHALL REVISE THE UNIVERSAL APPLICATION, RE-CREDEN-
46 TIALING AND UNIVERSAL HEALTH CARE PROFESSIONAL REFERRAL FORMS AS NECES-
47 SARY, TO CONFORM WITH INDUSTRY-WIDE, NATIONAL STANDARDS OF CREDENTIAL-
48 ING, RE-CREDENTIALING AND HEALTH CARE REFERRAL.

49 (6) IN DEVELOPING THE UNIVERSAL HEALTH CARE PROFESSIONAL APPLICATION
50 RE-CREDENTIALING FORMS, THE SUPERINTENDENT SHALL ENSURE THAT THE CREDEN-
51 TIALING AND RE-CREDENTIALING REQUIREMENTS FOR PARTICIPATION IN THE MEDI-
52 CAID PROGRAM, THE STATE CHILD HEALTH PLUS PROGRAM AND THE FAMILY HEALTH
53 PLUS PROGRAMS ARE ADEQUATELY REFLECTED ON THE HEALTH CARE PROFESSIONAL
54 APPLICATION AND RE-CREDENTIALING FORMS.

55 (7) THE CREDENTIALING AND RE-CREDENTIALING FORMS REQUIRED FOR DEVELOP-
56 MENT UNDER THIS SUBSECTION SHALL BE THE ONLY FORMS THAT MAY BE USED FOR

1 CREDENTIALING AND RE-CREDENTIALING HEALTH CARE PROFESSIONALS BY INSUR-
2 ERS, HOSPITALS AND OTHER HEALTH CARE FACILITIES.

3 (8) THE PROFESSIONAL REFERRAL FORM REQUIRED FOR DEVELOPMENT UNDER THIS
4 SUBSECTION SHALL BE THE ONLY FORM THAT AN INSURER MAY REQUIRE A HEALTH
5 CARE PROFESSIONAL TO USE FOR THE PURPOSES OF MAKING A PROFESSIONAL
6 REFERRAL; PROVIDED, HOWEVER, THAT AN INSURER MAY REQUEST ADDITIONAL
7 PATIENT INFORMATION SEPARATELY FROM THE PROFESSIONAL REFERRAL FORM FOR
8 THE PURPOSES OF REVIEWING SUCH PROFESSIONAL REFERRAL.

9 S 3. This act shall take effect on the one hundred eightieth day after
10 it shall have become a law.