

5157

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. MORAHAN -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law and the public health law, in relation to the assignment of reimbursement by an insured to an out-of-network provider

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

1 Section 1. Subsection (g) of section 3217-b of the insurance law, as  
2 relettered by chapter 586 of the laws of 1998, is relettered subsection  
3 (i) and a new subsection (g) is added to read as follows:

4 (G) NO INSURER SUBJECT TO THIS ARTICLE SHALL BY CONTRACT, WRITTEN  
5 POLICY OR WRITTEN PROCEDURE PROHIBIT OR RESTRICT ANY INSURED FROM  
6 ASSIGNING HIS OR HER RIGHTS TO REIMBURSEMENT FOR SERVICES UNDER THE  
7 INSURANCE CONTRACT TO AN OUT-OF-NETWORK SERVICE PROVIDER. IF THE INSURER  
8 IS SUPPLIED WITH SUCH AN ASSIGNMENT, THE INSURER SHALL MAKE ANY  
9 REIMBURSEMENT PAYMENTS DIRECTLY TO THE OUT-OF-NETWORK PROVIDER. UPON  
10 MAKING PAYMENT TO THE OUT-OF-NETWORK PROVIDER, THE INSURER SHALL SEND AN  
11 EXPLANATION OF THE PAYMENT TO THE INSURED. SUCH EXPLANATION SHALL  
12 INCLUDE BUT NOT BE LIMITED TO, THE AMOUNT PAID TO THE HEALTH CARE  
13 PROVIDER, THE PERCENTAGE OF THE TOTAL CLAIM REPRESENTED BY THE PAYMENT,  
14 THE SERVICES FOR WHICH PAYMENT WAS MADE, THE HEALTH CARE PROVIDER  
15 PROVIDING THOSE SERVICES AND THE CALCULATIONS FOR PAYMENT, BY SERVICE  
16 PROVIDED, INCLUDING CO-PAYMENTS, DEDUCTIBLES, SURCHARGES AND FEE SCHED-  
17 ULES.

18 S 2. Subsection (g) of section 4325 of the insurance law, as relet-  
19 tered by chapter 586 of the laws of 1998, is relettered subsection (i)  
20 and a new subsection (g) is added to read as follows:

21 (G) NO INSURER SUBJECT TO THIS ARTICLE SHALL BY CONTRACT, WRITTEN  
22 POLICY OR WRITTEN PROCEDURE PROHIBIT OR RESTRICT ANY INSURED FROM  
23 ASSIGNING HIS OR HER RIGHTS TO REIMBURSEMENT FOR SERVICES UNDER THE  
24 INSURANCE CONTRACT TO AN OUT-OF-NETWORK SERVICE PROVIDER. IF THE INSURER

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

LBD03342-01-9

1 IS SUPPLIED WITH SUCH AN ASSIGNMENT, THE INSURER SHALL MAKE ANY  
2 REIMBURSEMENT PAYMENTS DIRECTLY TO THE OUT-OF-NETWORK PROVIDER. UPON  
3 MAKING PAYMENT TO THE OUT-OF-NETWORK PROVIDER, THE INSURER SHALL SEND AN  
4 EXPLANATION OF THE PAYMENT TO THE INSURED. SUCH EXPLANATION SHALL  
5 INCLUDE BUT NOT BE LIMITED TO, THE AMOUNT PAID TO THE HEALTH CARE  
6 PROVIDER, THE PERCENTAGE OF THE TOTAL CLAIM REPRESENTED BY THE PAYMENT,  
7 THE SERVICES FOR WHICH PAYMENT WAS MADE, THE HEALTH CARE PROVIDER  
8 PROVIDING THOSE SERVICES AND THE CALCULATIONS FOR PAYMENT, BY SERVICE  
9 PROVIDED, INCLUDING CO-PAYMENTS, DEDUCTIBLES, SURCHARGES AND FEE SCHED-  
10 ULES.

11 S 3. Subdivision 6 of section 4406-c of the public health law is  
12 renumbered subdivision 7 and a new subdivision 6 is added to read as  
13 follows:

14 6. NO INSURANCE PLAN SHALL BY CONTRACT, WRITTEN POLICY OR WRITTEN  
15 PROCEDURE PROHIBIT OR RESTRICT ANY INSURED FROM ASSIGNING HIS OR HER  
16 RIGHTS TO REIMBURSEMENT FOR SERVICES UNDER THE INSURANCE CONTRACT TO AN  
17 OUT-OF-NETWORK SERVICE PROVIDER. IF THE INSURER IS SUPPLIED WITH SUCH AN  
18 ASSIGNMENT, THE INSURER SHALL MAKE ANY REIMBURSEMENT PAYMENTS DIRECTLY  
19 TO THE OUT-OF-NETWORK PROVIDER. UPON MAKING PAYMENT TO THE OUT-OF-NET-  
20 WORK PROVIDER, THE INSURER SHALL SEND AN EXPLANATION OF THE PAYMENT TO  
21 THE INSURED. SUCH EXPLANATION SHALL INCLUDE, BUT NOT BE LIMITED TO, THE  
22 AMOUNT PAID TO THE HEALTH CARE PROVIDER, THE PERCENTAGE OF THE TOTAL  
23 CLAIM REPRESENTED BY THE PAYMENT, THE SERVICES FOR WHICH PAYMENT WAS  
24 MADE, THE HEALTH CARE PROVIDER PROVIDING THOSE SERVICES AND THE CALCU-  
25 LATIONS FOR PAYMENT, BY SERVICE PROVIDED, INCLUDING CO-PAYMENTS, DEDUCT-  
26 IBLES, SURCHARGES AND FEE SCHEDULES.

27 S 4. This act shall take effect on the sixtieth day after it shall  
28 have become a law and shall apply to any insurance contract entered  
29 into, amended or modified on or after such effective date.