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I N A S S E M B L Y

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Introduced by M. of A. MARKEY, REILLY, ABBATE, COLTON, GUNTHER, JAFFEE, SPANO, PHEFFER, MILLMAN, BARRON, GALEF, ORTIZ, ZEBROWSKI, DenDEKKER, CARROZZA, PEOPLES-STOKES, BOYLAND -- Multi-Sponsored by -- M. of A. ALFANO, AMEDORE, BRENNAN, BURLING, CALHOUN, CHRISTENSEN, CONTE, CROUCH, DelMONTE, ERRIGO, FINCH, GLICK, GOTTFRIED, HYER-SPENCER, KOON, LUPARDO, MAYERSOHN, McDONOUGH, McENENY, MENG, PERRY, RAIA, RUSSELL, SCARBOROUGH, SCHIMEL, SWEENEY, THIELE, TOBACCO, WEISENBERG -- read once and referred to the Committee on Insurance -- amended on the special order of third reading, ordered reprinted as amended, retaining its place on the special order of third reading -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading -- passed by Assembly and delivered to the Senate, recalled from the Senate, vote reconsidered, bill amended, ordered reprinted, retaining its place on the special order of third reading

AN ACT to amend the insurance law, in relation to insurance coverage for out-of-network dialysis

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

Section 1. Subsection (i) of section 3216 of the insurance law is amended by adding a new paragraph 27 to read as follows:

(27)(A) EVERY POLICY THAT INCLUDES COVERAGE FOR DIALYSIS TREATMENT THAT REQUIRES SUCH SERVICES TO BE PROVIDED BY AN IN-NETWORK PROVIDER AND THAT DOES NOT PROVIDE COVERAGE FOR OUT-OF-NETWORK DIALYSIS TREATMENT SHALL NOT DENY COVERAGE OF SUCH SERVICES BECAUSE THE SERVICES ARE PROVIDED BY AN OUT-OF-NETWORK PROVIDER, PROVIDED THAT EACH OF THE FOLLOWING CONDITIONS ARE MET:

(I) THE OUT-OF-NETWORK PROVIDER IS DULY LICENSED TO PRACTICE AND AUTHORIZED TO PROVIDE SUCH TREATMENT;

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

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(II) THE OUT-OF-NETWORK PROVIDER IS LOCATED OUTSIDE THE SERVICE AREA OF THE INSURER;

(III) THE IN-NETWORK HEALTHCARE PROVIDER TREATING THE INSURED FOR THE CONDITION ISSUES A WRITTEN ORDER FOR DIALYSIS TREATMENT STATING THAT IN HIS OR HER OPINION SUCH TREATMENT IS NECESSARY;

(IV) THE INSURED HAS NOTIFIED, IN WRITING, THE INSURER AT LEAST THIRTY DAYS IN ADVANCE OF THE PROPOSED DATE OR DATES OF SUCH OUT-OF-NETWORK DIALYSIS TREATMENT. THE NOTICE SHALL INCLUDE THE AUTHORIZATION REQUIRED BY CLAUSE (III) OF THIS SUBPARAGRAPH. IN THE EVENT THE INSURED MUST TRAVEL ON SUDDEN NOTICE DUE TO FAMILY OR OTHER EMERGENCY, SHORTER NOTICE MAY BE PERMITTED, PROVIDED THAT THE INSURER HAS REASONABLE OPPORTUNITY TO REVIEW THE TRAVEL AND TREATMENT PLANS OF THE INSURED;

(V) THE INSURER SHALL HAVE THE RIGHT TO PRE-APPROVE THE DIALYSIS TREATMENT AND SCHEDULE; AND

(VI) SUCH COVERAGE IS LIMITED TO NO GREATER THAN TEN OUT-OF-NETWORK TREATMENTS IN A CALENDAR YEAR.

(B) WHERE COVERAGE FOR OUT-OF-NETWORK DIALYSIS TREATMENT IS PROVIDED PURSUANT TO SUBPARAGRAPH (A) OF THIS PARAGRAPH, NO INSURER SHALL BE OBLIGATED TO REIMBURSE THE OUT-OF-NETWORK PROVIDER AT AN AMOUNT GREATER THAN IT WOULD HAVE PAID FOR THE SAME TREATMENT WITHIN A NETWORK, INCLUDING ALL DRUGS AND ANCILLARY SERVICES TIED TO DIALYSIS TREATMENT, AND ANY AMOUNT CHARGED BY A PROVIDER IN EXCESS OF THE AMOUNT REIMBURSED BY THE INSURER SHALL BE THE RESPONSIBILITY OF THE INSURED RECEIVING THE OUT-OF-NETWORK SERVICES.

(C) SUCH COVERAGE OF OUT-OF-NETWORK DIALYSIS SERVICES REQUIRED BY SUBPARAGRAPH (A) OF THIS PARAGRAPH SHALL OTHERWISE BE SUBJECT TO THE LIMITATIONS, EXCLUSIONS AND TERMS OF THE POLICY, INCLUDING, BUT NOT LIMITED TO, UTILIZATION REVIEW, ANNUAL DEDUCTIBLES, COPAYMENTS, AND COINSURANCE, CONSISTENT WITH THOSE REQUIRED FOR OTHER SIMILAR BENEFITS UNDER THE POLICY.

S 2. Subsection (k) of section 3221 of the insurance law is amended by adding a new paragraph 16 to read as follows:

(16)(A) EVERY GROUP OR BLANKET POLICY THAT INCLUDES COVERAGE FOR DIALYSIS TREATMENT THAT REQUIRES SUCH SERVICES TO BE PROVIDED BY AN IN-NETWORK PROVIDER AND THAT DOES NOT PROVIDE COVERAGE FOR OUT-OF-NETWORK DIALYSIS TREATMENT SHALL NOT DENY COVERAGE OF SUCH SERVICES BECAUSE THE SERVICES ARE PROVIDED BY AN OUT-OF-NETWORK PROVIDER, PROVIDED THAT EACH OF THE FOLLOWING CONDITIONS ARE MET:

(I) THE OUT-OF-NETWORK PROVIDER IS DULY LICENSED TO PRACTICE AND AUTHORIZED TO PROVIDE SUCH TREATMENT;

(II) THE OUT-OF-NETWORK PROVIDER IS LOCATED OUTSIDE THE SERVICE AREA OF THE INSURER;

(III) THE IN-NETWORK HEALTHCARE PROVIDER TREATING THE INSURED FOR THE CONDITION ISSUES A WRITTEN ORDER FOR DIALYSIS TREATMENT STATING THAT IN HIS OR HER OPINION SUCH TREATMENT IS NECESSARY;

(IV) THE INSURED HAS NOTIFIED, IN WRITING, THE INSURER AT LEAST THIRTY DAYS IN ADVANCE OF THE PROPOSED DATE OR DATES OF SUCH OUT-OF-NETWORK DIALYSIS TREATMENT. THE NOTICE SHALL INCLUDE THE AUTHORIZATION REQUIRED BY CLAUSE (III) OF THIS SUBPARAGRAPH. IN THE EVENT THE INSURED MUST TRAVEL ON SUDDEN NOTICE DUE TO FAMILY OR OTHER EMERGENCY, SHORTER NOTICE MAY BE PERMITTED, PROVIDED THAT THE INSURER HAS REASONABLE OPPORTUNITY TO REVIEW THE TRAVEL AND TREATMENT PLANS OF THE INSURED;

(V) THE INSURER SHALL HAVE THE RIGHT TO PRE-APPROVE THE DIALYSIS TREATMENT AND SCHEDULE; AND

(VI) SUCH COVERAGE IS LIMITED TO NO GREATER THAN TEN OUT-OF-NETWORK TREATMENTS IN A CALENDAR YEAR.

(B) WHERE COVERAGE FOR OUT-OF-NETWORK DIALYSIS TREATMENT IS PROVIDED PURSUANT TO SUBPARAGRAPH (A) OF THIS PARAGRAPH, NO INSURER SHALL BE OBLIGATED TO REIMBURSE THE OUT-OF-NETWORK PROVIDER AT AN AMOUNT GREATER THAN IT WOULD HAVE PAID FOR THE SAME TREATMENT WITHIN A NETWORK, INCLUDING ALL DRUGS AND ANCILLARY SERVICES TIED TO DIALYSIS TREATMENT, AND ANY AMOUNT CHARGED BY A PROVIDER IN EXCESS OF THE AMOUNT REIMBURSED BY THE INSURER SHALL BE THE RESPONSIBILITY OF THE INSURED RECEIVING THE OUT-OF-NETWORK SERVICES.

(C) SUCH COVERAGE OF OUT-OF-NETWORK DIALYSIS SERVICES REQUIRED BY SUBPARAGRAPH (A) OF THIS PARAGRAPH SHALL OTHERWISE BE SUBJECT TO THE LIMITATIONS, EXCLUSIONS AND TERMS OF THE POLICY, INCLUDING, BUT NOT LIMITED TO, UTILIZATION REVIEW, ANNUAL DEDUCTIBLES, COPAYMENTS, AND COINSURANCE, CONSISTENT WITH THOSE REQUIRED FOR OTHER SIMILAR BENEFITS UNDER THE POLICY.

S 3. Section 4303 of the insurance law is amended by adding a new subsection (gg) to read as follows:

(GG) (1) EVERY CONTRACT ISSUED BY A HOSPITAL SERVICE CORPORATION, HEALTH SERVICE CORPORATION OR MEDICAL EXPENSE INDEMNITY CORPORATION THAT INCLUDES COVERAGE FOR DIALYSIS TREATMENT THAT REQUIRES SUCH SERVICES TO BE PROVIDED BY AN IN-NETWORK PROVIDER AND THAT DOES NOT PROVIDE COVERAGE FOR OUT-OF-NETWORK DIALYSIS TREATMENT SHALL NOT DENY COVERAGE OF SUCH SERVICES BECAUSE THE SERVICES ARE PROVIDED BY AN OUT-OF-NETWORK PROVIDER, PROVIDED THAT EACH OF THE FOLLOWING CONDITIONS ARE MET:

(A) THE OUT-OF-NETWORK PROVIDER IS DULY LICENSED TO PRACTICE AND AUTHORIZED TO PROVIDE SUCH TREATMENT;

(B) THE OUT-OF-NETWORK PROVIDER IS LOCATED OUTSIDE THE SERVICE AREA OF THE INSURER;

(C) THE IN-NETWORK HEALTHCARE PROVIDER TREATING THE COVERED PERSON FOR THE CONDITION ISSUES A WRITTEN ORDER FOR DIALYSIS TREATMENT STATING THAT IN HIS OR HER OPINION SUCH TREATMENT IS NECESSARY;

(D) THE COVERED PERSON HAS NOTIFIED, IN WRITING, THE CORPORATION AT LEAST THIRTY DAYS IN ADVANCE OF THE PROPOSED DATE OR DATES OF SUCH OUT-OF-NETWORK DIALYSIS TREATMENT. THE NOTICE SHALL INCLUDE THE AUTHORIZATION REQUIRED BY SUBPARAGRAPH (C) OF THIS PARAGRAPH. IN THE EVENT THE COVERED PERSON MUST TRAVEL ON SUDDEN NOTICE DUE TO FAMILY OR OTHER EMERGENCY, SHORTER NOTICE MAY BE PERMITTED, PROVIDED THAT THE CORPORATION HAS REASONABLE OPPORTUNITY TO REVIEW THE TRAVEL AND TREATMENT PLANS OF THE COVERED PERSON;

(E) THE CORPORATION SHALL HAVE THE RIGHT TO PRE-APPROVE THE DIALYSIS TREATMENT AND SCHEDULE; AND

(F) SUCH COVERAGE IS LIMITED TO NO GREATER THAN TEN OUT-OF-NETWORK TREATMENTS IN A CALENDAR YEAR.

(2) WHERE COVERAGE FOR OUT-OF-NETWORK DIALYSIS TREATMENT IS PROVIDED PURSUANT TO PARAGRAPH ONE OF THIS SUBSECTION, NO CORPORATION SHALL BE OBLIGATED TO REIMBURSE THE OUT-OF-NETWORK PROVIDER AT AN AMOUNT GREATER THAN IT WOULD HAVE PAID FOR THE SAME TREATMENT WITHIN A NETWORK, INCLUDING ALL DRUGS AND ANCILLARY SERVICES TIED TO DIALYSIS TREATMENT, AND ANY AMOUNT CHARGED BY A PROVIDER IN EXCESS OF THE AMOUNT REIMBURSED BY THE CORPORATION SHALL BE THE RESPONSIBILITY OF THE COVERED PERSON RECEIVING THE OUT-OF-NETWORK SERVICES.

(3) SUCH COVERAGE OF OUT-OF-NETWORK DIALYSIS SERVICES REQUIRED BY PARAGRAPH ONE OF THIS SUBSECTION SHALL OTHERWISE BE SUBJECT TO THE LIMITATIONS, EXCLUSIONS AND TERMS OF THE POLICY, INCLUDING, BUT NOT LIMITED TO, UTILIZATION REVIEW, ANNUAL DEDUCTIBLES, COPAYMENTS, AND COINSURANCE, CONSISTENT WITH THOSE REQUIRED FOR OTHER SIMILAR BENEFITS UNDER THE POLICY.

S 4. Paragraph 12 of subsection (b) of section 4322 of the insurance law, as added by chapter 504 of the laws of 1995, is amended to read as follows:

(12) Hemodialysis services CONSISTENT WITH THE PROVISIONS OF SUBSECTION (GG) OF SECTION FOUR THOUSAND THREE HUNDRED THREE OF THIS ARTICLE.

S 5. 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 insurance policies and contracts issued, renewed, modified or altered on or after such effective date.