

2867

2009-2010 Regular Sessions

I N   A S S E M B L Y

January 21, 2009

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Introduced by M. of A. SCHIMMINGER, PEOPLES, SWEENEY -- Multi-Sponsored  
by -- M. of A. BARCLAY, COLTON, DelMONTE, EDDINGTON, MAGEE -- read  
once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to making actuarially  
appropriate reductions in health insurance premiums in return for an  
enrollee's or insured's participation in a bona fide wellness program;  
and to establish an advisory committee on wellness to report thereon

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

1     Section 1. Section 3231 of the insurance law, as added by chapter 501  
2     of the laws of 1992, is amended by adding a new subsection (c-1) to read  
3     as follows:  
4     (C-1) SUBJECT TO THE APPROVAL OF THE SUPERINTENDENT, AN INSURER OR  
5     HEALTH MAINTENANCE ORGANIZATION ISSUING AN INDIVIDUAL OR GROUP HEALTH  
6     INSURANCE POLICY PURSUANT TO THIS SECTION MAY PROVIDE AN ACTUARIALLY  
7     APPROPRIATE REDUCTION IN PREMIUM RATES IN RETURN FOR AN ENROLLEE'S OR  
8     INSURED'S ADHERENCE TO A BONA FIDE WELLNESS PROGRAM. A BONA FIDE WELL-  
9     NESS PROGRAM IS EITHER A RISK MANAGEMENT SYSTEM THAT IDENTIFIES AT-RISK  
10    POPULATIONS OR ANY OTHER SYSTEMATIC PROGRAM OR COURSE OF MEDICAL CONDUCT  
11    WHICH HELPS TO PROMOTE GOOD HEALTH, HELPS TO PREVENT OR MITIGATE ACUTE  
12    OR CHRONIC SICKNESS OR DISEASE, OR WHICH MINIMIZES ADVERSE HEALTH CONSE-  
13    QUENCES DUE TO LIFESTYLE. SUCH WELLNESS PROGRAM SHALL DEMONSTRATE ACTU-  
14    ARIALLY THAT IT ENCOURAGES THE GENERAL GOOD HEALTH AND WELL-BEING OF THE  
15    COVERED POPULATION. THE INSURER OR HEALTH MAINTENANCE ORGANIZATION SHALL  
16    NOT REQUIRE SPECIFIC OUTCOMES AS A RESULT OF AN ENROLLEE'S OR INSURED'S  
17    ADHERENCE TO THE APPROVED WELLNESS PROGRAM.  
18    S 2. Subsection (h) of section 4235 of the insurance law is amended by  
19    adding a new paragraph 5 to read as follows:  
20    (5) EACH DOMESTIC, FOREIGN OR ALIEN INSURER DOING BUSINESS IN THIS  
21    STATE, WHEN FILING WITH THE SUPERINTENDENT ITS SCHEDULES OF PREMIUM  
22    RATES, RULES AND CLASSIFICATION OF RISKS FOR USE IN CONNECTION WITH THE

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

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1 ISSUANCE OF ITS POLICIES OF GROUP ACCIDENT, GROUP HEALTH OR GROUP ACCI-  
2 DENT AND HEALTH INSURANCE, MAY PROVIDE FOR AN ACTUARIALLY APPROPRIATE  
3 REDUCTION IN PREMIUM RATES IN RETURN FOR AN ENROLLEE'S OR INSURED'S  
4 ADHERENCE TO A BONA FIDE WELLNESS PROGRAM. A BONA FIDE WELLNESS PROGRAM  
5 IS EITHER A RISK MANAGEMENT SYSTEM THAT IDENTIFIES AT-RISK POPULATIONS  
6 OR ANY OTHER SYSTEMATIC PROGRAM OR COURSE OF MEDICAL CONDUCT WHICH HELPS  
7 TO PROMOTE GOOD HEALTH, HELPS TO PREVENT OR MITIGATE ACUTE OR CHRONIC  
8 SICKNESS OR DISEASE, OR WHICH MINIMIZES ADVERSE HEALTH CONSEQUENCES DUE  
9 TO LIFESTYLE. SUCH WELLNESS PROGRAM SHALL DEMONSTRATE ACTUARIALLY THAT  
10 IT ENCOURAGES THE GENERAL GOOD HEALTH AND WELL-BEING OF THE COVERED  
11 POPULATION. THE INSURER OR HEALTH MAINTENANCE ORGANIZATION SHALL NOT  
12 REQUIRE SPECIFIC OUTCOMES AS A RESULT OF AN ENROLLEE'S OR INSURED'S  
13 ADHERENCE TO THE APPROVED WELLNESS PROGRAM.

14 S 3. Section 4317 of the insurance law is amended by adding a new  
15 subsection (c-1) to read as follows:

16 (C-1) SUBJECT TO THE APPROVAL OF THE SUPERINTENDENT, AN INSURER OR  
17 HEALTH MAINTENANCE ORGANIZATION ISSUING AN INDIVIDUAL OR GROUP HEALTH  
18 INSURANCE CONTRACT PURSUANT TO THIS SECTION MAY PROVIDE AN ACTUARIALLY  
19 APPROPRIATE REDUCTION IN PREMIUM RATES IN RETURN FOR AN ENROLLEE'S OR  
20 INSURED'S ADHERENCE TO A BONA FIDE WELLNESS PROGRAM. A BONA FIDE WELL-  
21 NESS PROGRAM IS EITHER A RISK MANAGEMENT SYSTEM THAT IDENTIFIES AT-RISK  
22 POPULATIONS OR ANY OTHER SYSTEMATIC PROGRAM OR COURSE OF MEDICAL CONDUCT  
23 WHICH HELPS TO PROMOTE GOOD HEALTH, HELPS TO PREVENT OR MITIGATE ACUTE  
24 OR CHRONIC SICKNESS OR DISEASE, OR WHICH MINIMIZES ADVERSE HEALTH CONSE-  
25 QUENCES DUE TO LIFESTYLE. SUCH WELLNESS PROGRAM SHALL DEMONSTRATE ACTU-  
26 ARIALLY THAT IT ENCOURAGES THE GENERAL GOOD HEALTH AND WELL-BEING OF THE  
27 COVERED POPULATION. THE INSURER OR HEALTH MAINTENANCE ORGANIZATION SHALL  
28 NOT REQUIRE SPECIFIC OUTCOMES AS A RESULT OF AN ENROLLEE'S OR INSURED'S  
29 ADHERENCE TO THE APPROVED WELLNESS PROGRAM.

30 S 4. Subsection (n) of section 4326 of the insurance law is amended by  
31 adding a new paragraph 4 to read as follows:

32 (4) APPROVAL OF THE SUPERINTENDENT, AN INSURER OR HEALTH MAINTENANCE  
33 ORGANIZATION ISSUING A CONTRACT FOR QUALIFYING SMALL EMPLOYERS OR INDIV-  
34 IDUALS PURSUANT TO THIS SECTION MAY PROVIDE AN ACTUARIALLY APPROPRIATE  
35 REDUCTION IN PREMIUM RATES IN RETURN FOR AN ENROLLEE'S OR INSURED'S  
36 ADHERENCE TO A BONA FIDE WELLNESS PROGRAM. A BONA FIDE WELLNESS PROGRAM  
37 IS EITHER A RISK MANAGEMENT SYSTEM THAT IDENTIFIES AT-RISK POPULATIONS  
38 OR ANY OTHER SYSTEMATIC PROGRAM OR COURSE OF MEDICAL CONDUCT WHICH HELPS  
39 TO PROMOTE GOOD HEALTH, HELPS TO PREVENT OR MITIGATE ACUTE OR CHRONIC  
40 SICKNESS OR DISEASE, OR WHICH MINIMIZES ADVERSE HEALTH CONSEQUENCES DUE  
41 TO LIFESTYLE. SUCH WELLNESS PROGRAM SHALL DEMONSTRATE ACTUARIALLY THAT  
42 IT ENCOURAGES THE GENERAL GOOD HEALTH AND WELL-BEING OF THE COVERED  
43 POPULATION. THE INSURER OR HEALTH MAINTENANCE ORGANIZATION SHALL NOT  
44 REQUIRE SPECIFIC OUTCOMES AS A RESULT OF AN ENROLLEE'S OR INSURED'S  
45 ADHERENCE TO THE APPROVED WELLNESS PROGRAM.

46 S 5. a. The commissioner of health and the superintendent of insurance  
47 shall convene an advisory committee on wellness to examine and make  
48 recommendations to the governor and legislature on issues, including but  
49 not limited to:

50 (1) methods to more efficiently disseminate information about more  
51 healthful lifestyles to promote a reduction in acute or chronic  
52 illnesses, how to develop innovative wellness programs that can be  
53 implemented by insurers, health maintenance organizations, hospitals,  
54 physicians and other health care providers, whether or not the provision  
55 of health care and its financing can be restructured to encourage gener-  
56 al good health and well-being of this state's citizens, whether or not

1 other incentives, both monetary and non-monetary, can be developed to  
2 encourage persons to pursue more healthy lifestyles, and survey and make  
3 suggestions on how to improve the effectiveness of programs currently  
4 being administered by state, county and local governments that promote  
5 good health.

6 (2) the cost effectiveness of developing or expanding current wellness  
7 programs administered by state and local governments, hospitals, public  
8 and private schools and clinics, health insurers and health maintenance  
9 organizations that provide for early prenatal care, cancer screenings,  
10 asthma and diabetes identification and treatments, childhood immuniza-  
11 tions, and early risk management systems to identify at-risk popu-  
12 lations.

13 (3) whether or not more research should be encouraged, to be conducted  
14 by private organizations and the department of health, to determine if  
15 disparities exist in the diagnosis and medical treatment of individuals  
16 based on variables such as age, race, gender, ethnicity or other  
17 cultural factors, and whether or not it is advisable to establish age,  
18 race, gender or ethnic based testing and screening examination schedules  
19 to identify the early onset of illness or disease.

20 b. The advisory committee on wellness shall be comprised of fifteen  
21 members, and co-chaired by the commissioner of health and the super-  
22 intendent of insurance, or their designees. The governor shall appoint  
23 seven members to the committee and the temporary president of the senate  
24 and the speaker of the assembly shall each appoint three members to the  
25 committee, and the minority leaders of the senate and assembly shall  
26 each appoint one member. The appointees shall be representatives of  
27 health insurers, hospitals, physicians, clinics, other health care  
28 providers such as those that specialize in the provision of mental  
29 health, chiropractic and homeopathic care, state agencies such as the  
30 office of mental health, the departments of environmental conservation,  
31 and agriculture and markets, county and other local health department  
32 personnel, and school board officials. The appointees shall be named no  
33 later than 120 days after the effective date of this section. After  
34 evaluating the issues stated in subdivision a of this section, the  
35 committee shall deliver a report within a year of the effective date of  
36 this section on its findings on such issues to the governor, temporary  
37 president of the senate, speaker of the assembly, and the minority lead-  
38 ers of the senate and assembly. Such report shall contain the results of  
39 its evaluation and any findings or recommendations on enhancing the good  
40 health and well-being of the state's residents.

41 S 6. This act shall take effect immediately.