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

3537

2009-2010 Regular Sessions

I N A S S E M B L Y

January 27, 2009

Introduced by M. of A. BRADLEY, ZEBROWSKI, SCHIMEL, GUNTHER, GALEF -- Multi-Sponsored by -- M. of A. BOYLAND, MAISEL, SWEENEY, TOWNS, WEISENBERG -- read once and referred to the Committee on Insurance

AN ACT to amend the public health law and the insurance law, in relation to ensuring investments in health care

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

Section 1. Statement of legislative intent. The legislature finds that there is an ongoing need to improve the health status of residents of the state. Health care providers, business, health insurers and health maintenance organizations all have a responsibility to ensure that the communities they serve have the best health care possible. This is a shared responsibility. However, many health insurers and health maintenance organizations incur substantial profits and have excess reserves while health care providers in general struggle financially. There needs to be both a balance between the financial health of providers and that of health insurers and health maintenance organizations and additional funding to improve the provision of health services in communities across the state, including improvements in quality, workforce, infrastructure and efficiency.

The legislature finds that requiring health insurers and health maintenance organizations to provide funds for reinvestment in health care will benefit all New Yorkers.

S 2. The public health law is amended by adding a new section 2807-z to read as follows:

S 2807-Z. HEALTH CARE COMMUNITY REINVESTMENT FUND. 1. FUNDS ACCUMULATED, INCLUDING INCOME FROM INVESTED FUNDS, FROM THE PAYMENTS SPECIFIED IN SECTIONS THREE THOUSAND TWO HUNDRED FORTY AND FOUR THOUSAND THREE HUNDRED TWENTY-EIGHT OF THE INSURANCE LAW SHALL BE DEPOSITED AND CREDITED TO A SPECIAL REVENUE FUND-OTHER FUND TO BE ESTABLISHED BY THE COMPTROLLER. TO THE EXTENT OF FUNDS APPROPRIATED THEREFOR, THE COMMISSIONER

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

LBD03547-01-9

SHALL PROVIDE FUNDING TO IMPROVE THE PROVISION OF HEALTH SERVICES IN COMMUNITIES ACROSS THE STATE, INCLUDING IMPROVEMENTS IN QUALITY, WORKFORCE, INFRASTRUCTURE AND EFFICIENCY, IN ACCORDANCE WITH THE DETERMINATIONS OF THE REGIONAL HEALTH CARE COMMUNITY REINVESTMENT COMMITTEES ESTABLISHED PURSUANT TO SUBDIVISION TWO OF THIS SECTION. SUCH APPROPRIATED FUNDS SHALL BE ALLOCATED ACROSS REGIONS OF THE STATE ON THE BASIS OF THE TWO THOUSAND CENSUS POPULATION. REGIONS SHALL BE THOSE REGIONS THAT WERE ESTABLISHED PURSUANT TO PARAGRAPH (B) OF SUBDIVISION SIXTEEN OF SECTION TWO THOUSAND EIGHT HUNDRED SEVEN-C OF THIS ARTICLE. NOTWITHSTANDING SECTIONS ONE HUNDRED TWELVE AND ONE HUNDRED SIXTY-THREE OF THE STATE FINANCE LAW, OR ANY OTHER INCONSISTENT PROVISION OF LAW, FUNDS SHALL BE ALLOCATED AND DISTRIBUTED WITHOUT A COMPETITIVE BID OR REQUEST FOR PROPOSAL PROCESS.

2. A HEALTH CARE COMMUNITY REINVESTMENT COMMITTEE SHALL BE ESTABLISHED IN EACH REGION OF THE STATE BY THE COMMISSIONER IN CONSULTATION WITH THE SUPERINTENDENT OF INSURANCE TO DETERMINE REGIONAL NEEDS AND PRIORITIES FOR THE AWARDING OF FUNDS. EACH SUCH COMMITTEE SHALL HAVE MEMBERS REPRESENTING PAYERS, CONSUMERS, HOSPITALS AND PHYSICIANS IN THE REGION, BUSINESS AND COMMUNITY LEADERS. FUNDS WITHIN A REGION SHALL BE DISTRIBUTED PURSUANT TO DETERMINATIONS MADE BY THE REGIONAL HEALTH CARE COMMUNITY REINVESTMENT COMMITTEE.

3. A STATEWIDE HEALTH CARE COMMUNITY REINVESTMENT FUND OVERSIGHT COMMITTEE OF FIFTEEN MEMBERS SHALL BE ESTABLISHED BY THE COMMISSIONER IN CONSULTATION WITH THE SUPERINTENDENT OF INSURANCE TO OVERSEE THE DISTRIBUTION OF THE FUNDS. SUCH COMMITTEE SHALL HAVE MEMBERS REPRESENTING PAYERS, CONSUMERS, HOSPITALS AND PHYSICIANS, BUSINESS AND COMMUNITY LEADERS. SUCH COMMITTEE SHALL ENSURE THAT THE REINVESTMENT FUNDS ARE USED IN ACCORDANCE WITH THE PURPOSES AND INTENT OF THIS SECTION.

S 3. The insurance law is amended by adding a new section 3240 to read as follows:

S 3240. REINVESTMENT IN HEALTH CARE. BEGINNING IN CALENDAR YEAR TWO THOUSAND TEN, IF THE LOSS RATIO FOR (A) AN INDIVIDUAL HEALTH INSURANCE POLICY FORM IS LESS THAN EIGHTY-THREE PERCENT, (B) A SMALL GROUP HEALTH INSURANCE POLICY FORM IS LESS THAN SEVENTY-EIGHT PERCENT, OR (C) A LARGE GROUP HEALTH INSURANCE POLICY FORM IS LESS THAN EIGHTY-SIX PERCENT OR SUCH HIGHER PERCENTAGE AS DETERMINED BY THE SUPERINTENDENT PURSUANT TO THIS SECTION, AN INSURER SHALL PAY TO THE COMMISSIONER OF HEALTH OR THE COMMISSIONER'S DESIGNEE A PERCENT OF THE AGGREGATE PREMIUM COLLECTED FOR THE POLICY FORM IN THE PREVIOUS YEAR EQUAL TO THE DIFFERENCE BETWEEN THE MINIMUM LOSS RATIO FOR THE POLICY FORM STATED IN THIS SECTION AND THE ACTUAL LOSS RATIO; PROVIDED HOWEVER, SUCH AMOUNTS SHALL BE OFFSET BY ANY AMOUNT REQUIRED TO BE RETURNED TO POLICY HOLDERS IN ACCORDANCE WITH SECTION THREE THOUSAND TWO HUNDRED THIRTY-ONE OF THIS ARTICLE. FOR PURPOSES OF DETERMINING ANY AMOUNTS THAT WOULD HAVE BEEN RETURNED TO POLICY HOLDERS FOR LARGE GROUP HEALTH INSURANCE POLICY FORMS, THE SUPERINTENDENT SHALL DETERMINE A LOSS RATIO COMPARABLE TO THOSE THAT APPLY TO INDIVIDUAL AND SMALL GROUP HEALTH INSURANCE POLICY FORMS PURSUANT TO SECTION THREE THOUSAND TWO HUNDRED THIRTY-ONE OF THIS ARTICLE. AMOUNTS DUE UNDER THIS SECTION SHALL BE PAID BY MAY FIRST OF THE YEAR FOLLOWING THE CALENDAR YEAR IN WHICH A LOSS RATIO REQUIREMENT WAS NOT SATISFIED. THE INSTRUCTIONS AND FORMAT FOR CALCULATING AND REPORTING LOSS RATIOS SHALL BE THE SAME AS THOSE THAT APPLY TO SECTION THREE THOUSAND TWO HUNDRED THIRTY-ONE OF THIS ARTICLE. FOR PURPOSES OF THIS SECTION, THE SUPERINTENDENT MAY DETERMINE THE LOSS RATIO TO APPLY TO LARGE GROUP HEALTH INSURANCE POLICY FORMS SO THAT SUCH LOSS RATIO IS COMPARABLE TO THOSE THAT APPLY TO INDIVIDUAL HEALTH INSURANCE POLICY FORMS AND SMALL

GROUP HEALTH INSURANCE POLICY FORMS PURSUANT TO THIS SECTION. THE SUPERINTENDENT SHALL HAVE AUTHORITY TO AUDIT DATA, IMPOSE PENALTIES FOR NONCOMPLIANCE WITH THIS SECTION CONSISTENT WITH AUTHORITY PROVIDED TO THE SUPERINTENDENT IN OTHER PROVISIONS OF THIS CHAPTER, AND PROMULGATE REGULATIONS TO IMPLEMENT THIS SECTION.

S 4. The insurance law is amended by adding a new section 4328 to read as follows:

S 4328. REINVESTMENT IN HEALTH CARE. BEGINNING IN CALENDAR YEAR TWO THOUSAND TEN, IF THE LOSS RATIO FOR (A) AN INDIVIDUAL DIRECT PAYMENT CONTRACT FORM IS LESS THAN EIGHTY-THREE PERCENT, (B) A SMALL GROUP OR SMALL GROUP REMITTANCE CONTRACT FORM IS LESS THAN SEVENTY-EIGHT PERCENT, OR (C) A LARGE GROUP CONTRACT FORM IS LESS THAN EIGHTY-SIX PERCENT OR SUCH HIGHER PERCENTAGE AS DETERMINED BY THE SUPERINTENDENT PURSUANT TO THIS SECTION, A CORPORATION SUBJECT TO THE PROVISIONS OF THIS ARTICLE SHALL PAY TO THE COMMISSIONER OF HEALTH OR THE COMMISSIONER OF HEALTH'S DESIGNEE A PERCENT OF THE AGGREGATE PREMIUMS EARNED FOR THE CONTRACT FORM IN THE PREVIOUS CALENDAR YEAR EQUAL TO THE DIFFERENCE BETWEEN THE MINIMUM LOSS RATIO FOR THE POLICY FORM AS STATED IN THIS SECTION AND THE ACTUAL LOSS RATIO; PROVIDED HOWEVER, THAT SUCH AMOUNT SHALL BE OFFSET BY ANY AMOUNT REQUIRED TO BE RETURNED TO CONTRACT HOLDERS IN ACCORDANCE WITH SECTION FOUR THOUSAND THREE HUNDRED EIGHT OF THIS ARTICLE. FOR PURPOSES OF DETERMINING ANY AMOUNTS THAT WOULD HAVE BEEN RETURNED TO CONTRACT HOLDERS FOR LARGE GROUP CONTRACT FORMS, THE SUPERINTENDENT SHALL DETERMINE A LOSS RATIO COMPARABLE TO THOSE THAT APPLY TO INDIVIDUAL, SMALL GROUP AND SMALL GROUP REMITTANCE CONTRACT FORMS PURSUANT TO SECTION FOUR THOUSAND THREE HUNDRED EIGHT OF THIS ARTICLE. AMOUNTS DUE UNDER THIS SECTION SHALL BE PAID BY MAY FIRST OF THE YEAR FOLLOWING THE CALENDAR YEAR IN WHICH THE LOSS RATIO REQUIREMENT WAS NOT SATISFIED. THE INSTRUCTIONS AND FORMAT FOR CALCULATING AND REPORTING LOSS RATIOS SHALL BE THE SAME AS THOSE THAT APPLY TO SECTION FOUR THOUSAND THREE HUNDRED EIGHT OF THIS ARTICLE. FOR PURPOSES OF THIS SECTION, THE SUPERINTENDENT MAY DETERMINE THE LOSS RATIO TO APPLY TO LARGE GROUP CONTRACT FORMS SO THAT SUCH LOSS RATIO IS COMPARABLE TO THOSE THAT APPLY TO INDIVIDUAL DIRECT PAY, SMALL GROUP AND SMALL GROUP REMITTANCE CONTRACT FORMS PURSUANT TO THIS SECTION. THE SUPERINTENDENT SHALL HAVE AUTHORITY TO AUDIT DATA, IMPOSE PENALTIES FOR NONCOMPLIANCE WITH THIS SECTION CONSISTENT WITH AUTHORITY PROVIDED TO THE SUPERINTENDENT IN OTHER PROVISIONS OF THIS CHAPTER, AND PROMULGATE REGULATIONS TO IMPLEMENT THIS SECTION.

S 5. This act shall take effect immediately.