

3781

2009-2010 Regular Sessions

I N A S S E M B L Y

January 28, 2009

Introduced by M. of A. KAVANAGH -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to genetic predisposition

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

1 Section 1. Subsection (a) of section 107 of the insurance law is
2 amended by adding a new paragraph 54 to read as follows:

3 (54) "GENETIC PREDISPOSITION" SHALL MEAN THE PRESENCE OF A VARIATION
4 IN THE COMPOSITION OF THE GENES OF AN INDIVIDUAL OR AN INDIVIDUAL'S
5 FAMILY MEMBER WHICH IS SCIENTIFICALLY OR MEDICALLY IDENTIFIABLE AND
6 WHICH IS DETERMINED TO BE ASSOCIATED WITH AN INCREASED STATISTICAL RISK
7 OF BEING EXPRESSED AS EITHER A PHYSICAL OR MENTAL DISEASE OR DISABILITY
8 IN THE INDIVIDUAL OR HAVING OFFSPRING WITH A GENETICALLY INFLUENCED
9 DISEASE, BUT WHICH HAS NOT RESULTED IN ANY SYMPTOMS OF SUCH DISEASE OR
10 DISORDER.

11 S 2. Subsection (a) of section 3231 of the insurance law, as amended
12 by chapter 661 of the laws of 1997, is amended to read as follows:

13 (a) No individual health insurance policy and no group health insur-
14 ance policy covering between two and fifty employees or members of the
15 group exclusive of spouses and dependents, hereinafter referred to as a
16 small group, providing hospital and/or medical benefits, including medi-
17 care supplemental insurance, shall be issued in this state unless such
18 policy is community rated and, notwithstanding any other provisions of
19 law, the underwriting of such policy involves no more than the imposi-
20 tion of a pre-existing condition limitation as permitted by this arti-
21 cle. Any individual, and dependents of such individual, and any small
22 group, including all employees or group members and dependents of
23 employees or members, applying for individual health insurance coverage,
24 including medicare supplemental coverage, or small group health insur-
25 ance coverage, including medicare supplemental insurance, must be
26 accepted at all times throughout the year for any hospital and/or

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

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1 medical coverage offered by the insurer to individuals or small groups
2 in this state. Once accepted for coverage, an individual or small group
3 cannot be terminated by the insurer due to claims experience. Termi-
4 nation of an individual or small group shall be based only on one or
5 more of the reasons set forth in subsection (g) of section three thou-
6 sand two hundred sixteen or subsection (p) of section three thousand two
7 hundred twenty-one of this article. Group hospital and/or medical cover-
8 age, including medicare supplemental insurance, obtained through an
9 out-of-state trust covering a group of fifty or fewer employees or
10 participating persons who are residents of this state must be community
11 rated regardless of the situs of delivery of the policy. Notwithstanding
12 any other provisions of law, the underwriting of such policy may involve
13 no more than the imposition of a pre-existing condition limitation as
14 permitted by this article, and once accepted for coverage, an individual
15 or small group cannot be terminated due to claims experience. Termi-
16 nation of an individual or small group shall be based only on one or
17 more of the reasons set forth in subsection (p) of section three thou-
18 sand two hundred twenty-one of this article. For the purposes of this
19 section, "community rated" means a rating methodology in which the
20 premium for all persons covered by a policy or contract form is the same
21 based on the experience of the entire pool of risks covered by that
22 policy or contract form without regard to age, sex, health status,
23 INCLUDING ANY GENETIC PREDISPOSITION, or occupation.

24 S 3. The opening paragraph of subsection (b) of section 3232 of the
25 insurance law, as amended by chapter 661 of the laws of 1997, is amended
26 to read as follows:

27 No pre-existing condition provision shall exclude coverage for a peri-
28 od in excess of twelve months following the enrollment date of coverage
29 for the covered person and may only relate to a condition (whether phys-
30 ical or mental), regardless of the cause of the condition, for which
31 medical advice, diagnosis, care or treatment was recommended or received
32 within the six-month period ending on the enrollment date. NO PRE-EX-
33 ISTING CONDITION PROVISION SHALL EXCLUDE COVERAGE ON THE BASIS OF ANY
34 GENETIC PREDISPOSITION. For purposes of this section "enrollment date"
35 means the first day of coverage of the individual under the policy or,
36 if earlier, the first day of the waiting period that must pass with
37 respect to an individual before such individual is eligible to be
38 covered for benefits. If an individual seeks and obtains coverage in the
39 individual market, any period after the date the individual files a
40 substantially complete application for coverage and before the first day
41 of coverage is a waiting period. For purposes of this section genetic
42 information shall not be treated as a pre-existing condition in the
43 absence of a diagnosis of the condition related to such information. No
44 pre-existing condition limitation provision shall exclude coverage in
45 the case of:

46 S 4. Subsection (a) of section 4317 of the insurance law, as amended
47 by chapter 661 of the laws of 1997, is amended to read as follows:

48 (a) No individual health insurance contract and no group health insur-
49 ance contract covering between two and fifty employees or members of the
50 group exclusive of spouses and dependents, including contracts for which
51 the premiums are paid by a remitting agent for a group, hereinafter
52 referred to as a small group, providing hospital and/or medical bene-
53 fits, including Medicare supplemental insurance, shall be issued in this
54 state unless such contract is community rated and, notwithstanding any
55 other provisions of law, the underwriting of such contract involves no
56 more than the imposition of a pre-existing condition limitation as

1 permitted by this article. Any individual, and dependents of such indi-
2 vidual, and any small group, including all employees or group members
3 and dependents of employees or members, applying for individual or small
4 group health insurance coverage must be accepted at all times throughout
5 the year for any hospital and/or medical coverage, including Medicare
6 supplemental insurance, offered by the corporation to individuals or
7 small groups in this state. Once accepted for coverage, an individual or
8 small group cannot be terminated by the insurer due to claims experi-
9 ence. Termination of coverage for individuals or small groups may be
10 based only on one or more of the reasons set forth in subsection (c) of
11 section four thousand three hundred four or subsection (j) of section
12 four thousand three hundred five of this article. For the purposes of
13 this section, "community rated" means a rating methodology in which the
14 premium for all persons covered by a policy or contract form is the
15 same, based on the experience of the entire pool of risks covered by
16 that policy or contract form without regard to age, sex, health status,
17 INCLUDING ANY GENETIC PREDISPOSITION, or occupation.

18 S 5. The opening paragraph of subsection (b) of section 4318 of the
19 insurance law, as amended by chapter 661 of the laws of 1997, is amended
20 to read as follows:

21 No pre-existing condition provision shall exclude coverage for a peri-
22 od in excess of twelve months following the enrollment date for the
23 covered person and may only relate to a condition (whether physical or
24 mental), regardless of the cause of the condition for which medical
25 advice, diagnosis, care or treatment was recommended or received within
26 the six month period ending on the enrollment date. For purposes of
27 this section "enrollment date" means the first day of coverage of the
28 individual under the contract or, if earlier, the first day of the wait-
29 ing period that must pass with respect to an individual before the indi-
30 vidual is eligible to be covered for benefits. If an individual seeks
31 and obtains coverage in the individual market, any period after the date
32 the individual files a substantially complete application for coverage
33 and before the first day of coverage is a waiting period. For purposes
34 of this section, genetic information shall not be treated as a pre-ex-
35 isting condition in the absence of a diagnosis of the condition related
36 to such information. NO PRE-EXISTING CONDITION PROVISION SHALL EXCLUDE
37 COVERAGE ON THE BASIS OF ANY GENETIC PREDISPOSITION. No pre-existing
38 condition provision shall exclude coverage in the case of:

39 S 6. This act shall take effect on the sixtieth day after it shall
40 have become a law and shall apply to all policies issued, renewed,
41 altered or modified on or after such date.