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

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2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

Introduced by Sen. KRUEGER -- 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 annual audits of health maintenance organizations, health insurers and health and hospital service corporations

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

Section 1. Subsection (e) of section 3217-a of the insurance law is relettered subsection (g) and two new subsections (e) and (f) are added to read as follows:

(E) THE DEPARTMENT SHALL ON AN ANNUAL BASIS:

(1) AUDIT EVERY INSURER SUBJECT TO THIS ARTICLE FOR COMPLIANCE WITH THE PROVISIONS OF THIS SECTION, CHAPTER SEVEN HUNDRED FIVE OF THE LAWS OF NINETEEN HUNDRED NINETY-SIX, CHAPTER FIVE HUNDRED EIGHTY-SIX OF THE LAWS OF NINETEEN HUNDRED NINETY-EIGHT AND CHAPTERS SIX HUNDRED THIRTY-SEVEN AND SIX HUNDRED SIXTY-SIX OF THE LAWS OF NINETEEN HUNDRED NINETY-SEVEN;

(2) INVESTIGATE THE PROFICIENCY OF EVERY INSURER SUBJECT TO THIS ARTICLE IN FURNISHING ACCURATE INFORMATION IN RESPONSE TO INQUIRIES; AND

(3) PUBLISH THE RESULTS OF SUCH AUDITS AND INVESTIGATIONS IN THE ANNUAL CONSUMER GUIDE DESCRIBED IN SECTION TWO HUNDRED TEN OF THIS CHAPTER.

(F) ANY INSURER SUBJECT TO THIS ARTICLE WHICH FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION, CHAPTER SEVEN HUNDRED FIVE OF THE LAWS OF NINETEEN HUNDRED NINETY-SIX, CHAPTER FIVE HUNDRED EIGHTY-SIX OF THE LAWS OF NINETEEN HUNDRED NINETY-EIGHT AND CHAPTERS SIX HUNDRED THIRTY-SEVEN AND SIX HUNDRED SIXTY-SIX OF THE LAWS OF NINETEEN HUNDRED NINETY-SEVEN, OR WHICH EXHIBITS A PATTERN OF FURNISHING INACCURATE, INCOMPLETE OR MISLEADING INFORMATION IN RESPONSE TO INQUIRIES SHALL, IN ADDITION TO ANY OTHER PENALTIES WHICH MAY APPLY, BE BARRED FROM USING THE ALTERNATIVE PROCEDURE FOR ADJUSTING PREMIUMS SET FORTH IN SUBPARAGRAPH (A) OF PARAGRAPH TWO OF SUBSECTION (E) OF SECTION THREE THOUSAND TWO HUNDRED

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

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THIRTY-ONE OF THIS ARTICLE FOR A PERIOD OF ONE YEAR, OR UNTIL THE SUPERINTENDENT FINDS THAT SUCH INSURER IS IN COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION AND ROUTINELY PROVIDES ACCURATE RESPONSES TO INQUIRIES, WHICHEVER OCCURS LATER.

S 2. Subsection (e) of section 4324 of the insurance law is relettered subsection (g) and two new subsections (e) and (f) are added to read as follows:

(E) THE DEPARTMENT SHALL ON AN ANNUAL BASIS:

(1) AUDIT EVERY CORPORATION SUBJECT TO THIS ARTICLE FOR COMPLIANCE WITH THE PROVISIONS OF THIS SECTION, CHAPTER SEVEN HUNDRED FIVE OF THE LAWS OF NINETEEN HUNDRED NINETY-SIX, CHAPTER FIVE HUNDRED EIGHTY-SIX OF THE LAWS OF NINETEEN HUNDRED NINETY-EIGHT AND CHAPTERS SIX HUNDRED THIRTY-SEVEN AND SIX HUNDRED SIXTY-SIX OF THE LAWS OF NINETEEN HUNDRED NINETY-SEVEN;

(2) INVESTIGATE THE PROFICIENCY OF EVERY CORPORATION SUBJECT TO THIS ARTICLE IN FURNISHING ACCURATE INFORMATION IN RESPONSE TO INQUIRIES; AND

(3) PUBLISH THE RESULTS OF SUCH AUDITS AND INVESTIGATIONS IN THE ANNUAL CONSUMER GUIDE DESCRIBED IN SECTION TWO HUNDRED TEN OF THIS CHAPTER.

(F) ANY CORPORATION SUBJECT TO THIS ARTICLE WHICH FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION, CHAPTER SEVEN HUNDRED FIVE OF THE LAWS OF NINETEEN HUNDRED NINETY-SIX, CHAPTER FIVE HUNDRED EIGHTY-SIX OF THE LAWS OF NINETEEN HUNDRED NINETY-EIGHT AND CHAPTERS SIX HUNDRED THIRTY-SEVEN AND SIX HUNDRED SIXTY-SIX OF THE LAWS OF NINETEEN HUNDRED NINETY-SEVEN OR WHICH EXHIBITS A PATTERN OF FURNISHING INACCURATE, INCOMPLETE OR MISLEADING INFORMATION IN RESPONSE TO INQUIRIES SHALL, IN ADDITION TO ANY OTHER PENALTIES WHICH MAY APPLY, BE BARRED FROM USING THE ALTERNATIVE PROCEDURE FOR ADJUSTING PREMIUMS SET FORTH IN SUBSECTION (G) OF SECTION FOUR THOUSAND THREE HUNDRED EIGHT OF THIS ARTICLE FOR A PERIOD OF ONE YEAR, OR UNTIL THE SUPERINTENDENT OF INSURANCE FINDS THAT SUCH CORPORATION IS IN COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION AND ROUTINELY PROVIDES ACCURATE RESPONSES TO INQUIRIES, WHICHEVER OCCURS LATER.

S 3. Subsection (b) of section 210 of the insurance law, as amended by chapter 579 of the laws of 1998, is amended to read as follows:

(b) Beginning September first, nineteen hundred ninety-nine and annually thereafter, the superintendent shall include in such guide, and insurers and entities certified pursuant to article forty-four of the public health law shall provide to the superintendent the information required for such guide in a timely fashion, the following information:

(1) The number of grievances filed pursuant to section forty-four hundred eight-a of the public health law or article forty-eight of this chapter and the number of such grievances in which an adverse determination of the insurer or entity was reversed in whole or in part versus the number of such determinations which were upheld; [and]

(2) The number of appeals to utilization review determinations which were filed pursuant to article forty-nine of the public health law or article forty-nine of this chapter and the number of such determinations which were reversed versus the number of such determinations which were upheld[.];

(3) THE LOSS RATIOS INCURRED, FOR THE PREVIOUS YEAR, ON CONTRACTS ISSUED PURSUANT TO SECTIONS FOUR THOUSAND THREE HUNDRED TWENTY-ONE AND FOUR THOUSAND THREE HUNDRED TWENTY-TWO OF THIS CHAPTER; AND

(4) EACH INSURER OR ENTITY'S DEGREE OF COMPLIANCE WITH THE PROVISIONS OF CHAPTER SEVEN HUNDRED FIVE OF THE LAWS OF NINETEEN HUNDRED NINETY-SIX, CHAPTER FIVE HUNDRED EIGHTY-SIX OF THE LAWS OF NINETEEN

HUNDRED NINETY-EIGHT AND CHAPTERS SIX HUNDRED THIRTY-SEVEN AND SIX HUNDRED SIXTY-SIX OF THE LAWS OF NINETEEN HUNDRED NINETY-SEVEN.

S 4. Section 4408 of the public health law is amended by adding a new subdivision 7 to read as follows:

7. (A) THE DEPARTMENT, IN COOPERATION WITH THE DEPARTMENT OF INSURANCE, SHALL, ON AN ANNUAL BASIS:

(I) AUDIT EVERY HEALTH MAINTENANCE ORGANIZATION FOR COMPLIANCE WITH THE PROVISIONS OF THIS SECTION, CHAPTER SEVEN HUNDRED FIVE OF THE LAWS OF NINETEEN HUNDRED NINETY-SIX, CHAPTER FIVE HUNDRED EIGHTY-SIX OF THE LAWS OF NINETEEN HUNDRED NINETY-EIGHT AND CHAPTERS SIX HUNDRED THIRTY-SEVEN AND SIX HUNDRED SIXTY-SIX OF THE LAWS OF NINETEEN HUNDRED NINETY-SEVEN;

(II) INVESTIGATE THE PROFICIENCY OF EVERY SUCH ORGANIZATION IN FURNISHING ACCURATE INFORMATION IN RESPONSE TO INQUIRIES; AND

(III) PUBLISH THE RESULTS OF SUCH AUDITS AND INVESTIGATIONS IN THE ANNUAL CONSUMER GUIDE DESCRIBED IN SECTION TWO HUNDRED TEN OF THE INSURANCE LAW.

(B) ANY HEALTH MAINTENANCE ORGANIZATION WHICH FAILS TO COMPLY WITH THE REQUIREMENTS OF THIS SECTION, CHAPTER SEVEN HUNDRED FIVE OF THE LAWS OF NINETEEN HUNDRED NINETY-SIX, CHAPTER FIVE HUNDRED EIGHTY-SIX OF THE LAWS OF NINETEEN HUNDRED NINETY-EIGHT AND CHAPTERS SIX HUNDRED THIRTY-SEVEN AND SIX HUNDRED SIXTY-SIX OF THE LAWS OF NINETEEN HUNDRED NINETY-SEVEN OR WHICH EXHIBITS A PATTERN OF FURNISHING INACCURATE, INCOMPLETE OR MISLEADING INFORMATION IN RESPONSE TO INQUIRIES SHALL, IN ADDITION TO ANY OTHER PENALTIES WHICH MAY APPLY, BE BARRED FROM USING THE ALTERNATIVE PROCEDURE FOR ADJUSTING PREMIUMS SET FORTH IN SUBSECTION (G) OF SECTION FOUR THOUSAND THREE HUNDRED EIGHT OF THE INSURANCE LAW FOR A PERIOD OF ONE YEAR, OR UNTIL THE COMMISSIONER FINDS THAT SUCH ORGANIZATION IS IN COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION AND ROUTINELY PROVIDES ACCURATE RESPONSES TO INQUIRIES, WHICHEVER OCCURS LATER.

S 5. This act shall take effect immediately.