

6189

2009-2010 Regular Sessions

I N S E N A T E

September 25, 2009

Introduced by Sen. KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the insurance law, in relation to overpayment recovery efforts initiated by insurers and HMOs

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

1 Section 1. Subsection (b) of section 3224-b of the insurance law, as
2 amended by chapter 237 of the laws of 2009, is amended to read as
3 follows:

4 (b) Overpayments to health care providers. (1) Other than recovery for
5 duplicate payments, a health plan shall provide thirty days written
6 notice to health care providers before engaging in additional overpay-
7 ment recovery efforts seeking recovery of the overpayment of claims to
8 such health care providers. Such notice shall state the patient name,
9 service date, payment amount, proposed adjustment, and a reasonably
10 specific explanation of the proposed adjustment.

11 (2) A health plan shall provide a health care provider with the oppor-
12 tunity to challenge an overpayment recovery, including the sharing of
13 claims information, and shall establish written policies and procedures
14 for health care providers to follow to challenge an overpayment recov-
15 ery. Such challenge shall set forth the specific grounds on which the
16 provider is challenging the overpayment recovery.

17 (3) A health plan shall not initiate overpayment recovery efforts more
18 than twenty-four months after the original payment was received by a
19 health care provider. However, no such time limit shall apply to over-
20 payment recovery efforts that are: (i) based on a reasonable belief of
21 fraud or other intentional misconduct, [or abusive billing,] (ii)
22 required by, or initiated at the request of, a self-insured plan, or
23 (iii) required or authorized by a state or federal government program or
24 coverage that is provided by this state or a municipality thereof to its
25 respective employees, retirees or members. Notwithstanding the aforemen-

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

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1 tioned time limitations, in the event that a health care provider
2 asserts that a health plan has underpaid a claim or claims, the health
3 plan may defend or set off such assertion of underpayment based on over-
4 payments going back in time as far as the claimed underpayment. [For
5 purposes of this paragraph, "abusive billing" shall be defined as a
6 billing practice which results in the submission of claims that are not
7 consistent with sound fiscal, business, or medical practices and at such
8 frequency and for such a period of time as to reflect a consistent
9 course of conduct.]

10 (4) For the purposes of this subsection the term "health care provid-
11 er" shall mean an entity licensed or certified pursuant to article twen-
12 ty-eight, thirty-six or forty of the public health law, a facility
13 licensed pursuant to article nineteen, thirty-one or thirty-two of the
14 mental hygiene law, or a health care professional licensed, registered
15 or certified pursuant to title eight of the education law.

16 (5) Nothing in this section shall be deemed to limit a health plan's
17 right to pursue recovery of overpayments that occurred prior to the
18 effective date of this section where the health plan has provided the
19 health care provider with notice of such recovery efforts prior to the
20 effective date of this section.

21 (6) NOTHING IN THIS SECTION SHALL APPLY TO ANY TITLE XIX FEDERALLY
22 AUTHORIZED MEDICAID PROGRAMS.

23 S 2. This act shall take effect on the one hundred twentieth day after
24 it shall have become a law; provided, however, that if section 10 of
25 chapter 237 of the laws of 2009 shall not have taken effect on or before
26 such date then section one of this act shall take effect on the same
27 date and in the same manner as section 10 of such chapter takes effect.