

651

2009-2010 Regular Sessions

I N S E N A T E

January 12, 2009

Introduced by Sens. LARKIN, FARLEY, LEIBELL -- read twice and ordered printed, and when printed to be committed 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 ASSEMBLY, 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 CONSEQUENCES DUE TO LIFESTYLE. SUCH WELLNESS PROGRAM SHALL DEMONSTRATE ACTUARIALLY THAT IT ENCOURAGES THE GENERAL GOOD HEALTH AND WELL-BEING OF THE COVERED POPULATION. THE INSURER OR HEALTH MAINTENANCE ORGANIZATION SHALL NOT REQUIRE SPECIFIC OUTCOMES AS A RESULT OF AN ENROLLEE'S OR INSURED'S 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.

LBD03806-01-9

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.