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

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2011-2012 Regular Sessions

I N A S S E M B L Y

February 4, 2011

Introduced by M. of A. BARCLAY, KOLB, OAKS, GIGLIO, REILICH, MOLINARO -- Multi-Sponsored by -- M. of A. BURLING, CALHOUN, CONTE, CROUCH, FINCH, HAWLEY, SAYWARD, TEDISCO -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to the establishment of freedom health insurance plans

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

Section 1. Subsection (l) of section 3216 of the insurance law, as added by chapter 504 of the laws of 1995, is amended to read as follows:

(l) On and after January first, nineteen hundred ninety-seven, no insurer shall offer major medical, comprehensive or other comparable individual contracts, other than for purposes of conversion, unless the benefits of such contracts, including deductibles and coinsurance, are identical to the out-of-plan benefits of the contracts described in section four thousand three hundred twenty-two of this chapter. Such contracts must include a prescription drug benefit complying with the requirements of that section. THE REQUIREMENTS OF THIS SUBSECTION SHALL NOT APPLY TO A POLICY INTENDED TO QUALIFY FOR USE IN A HEALTH SAVINGS ACCOUNT PURSUANT TO SECTION 1201 OF THE FEDERAL MEDICARE PRESCRIPTION DRUG, IMPROVEMENT AND MODERNIZATION ACT OF 2003. SUCH POLICIES SHALL BE KNOWN AS "FREEDOM POLICIES".

S 2. Section 3221 of the insurance law is amended by adding a new subsection (s) to read as follows:

(S) NO GROUP OR BLANKET ACCIDENT AND HEALTH INSURANCE POLICY ISSUED OR ISSUED FOR DELIVERY IN THIS STATE FOR USE IN A HEALTH SAVINGS ACCOUNT PURSUANT TO SECTION 1201 OF THE FEDERAL MEDICARE PRESCRIPTION DRUG, IMPROVEMENT, AND MODERNIZATION ACT OF 2003 SHALL BE REQUIRED TO MEET THE REQUIREMENTS OF THIS SECTION, OR REGULATIONS ISSUED BY THE SUPERINTENDENT, WITH REGARD TO COVERED HEALTH CARE SERVICES WHICH MUST BE INCLUDED IN THE POLICY. SUCH POLICIES SHALL BE KNOWN AS "FREEDOM POLICIES".

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

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S 3. Subsection (l) of section 4304 of the insurance law, as added by chapter 504 of the laws of 1995, is amended to read as follows:

(l) On and after January first, nineteen hundred ninety-seven, no insurer shall offer major medical, comprehensive or other comparable individual contracts on a direct payment basis, other than for purposes of conversion, unless the benefits of such contracts, including deductibles and coinsurance, are identical to the out-of-plan benefits of the contracts described in section four thousand three hundred twenty-two of this article. Such contracts must include a prescription drug benefit complying with the requirements of such section. THE REQUIREMENTS OF THIS SUBSECTION SHALL NOT APPLY TO A POLICY INTENDED TO QUALIFY FOR USE IN A HEALTH SAVINGS ACCOUNT PURSUANT TO SECTION 1201 OF THE FEDERAL MEDICARE PRESCRIPTION DRUG, IMPROVEMENT AND MODERNIZATION ACT OF 2003. SUCH POLICIES SHALL BE KNOWN AS "FREEDOM POLICIES".

S 4. Section 4304 of the insurance law is amended by adding a new subsection (n) to read as follows:

(N) NO POLICY ISSUED TO A REMITTING AGENT ON BEHALF OF A GROUP PURSUANT TO SUBSECTION (A) OF THIS SECTION, AND NO POLICY ISSUED TO A GROUP PURSUANT TO SECTION FOUR THOUSAND THREE HUNDRED FIVE OF THIS ARTICLE, FOR USE IN A HEALTH SAVINGS ACCOUNT PURSUANT TO SECTION 1201 OF THE FEDERAL MEDICARE PRESCRIPTION DRUG, IMPROVEMENT, AND MODERNIZATION ACT OF 2003 SHALL BE REQUIRED TO MEET THE REQUIREMENTS OF THIS SECTION OR SECTION FOUR THOUSAND THREE HUNDRED FIVE OF THIS ARTICLE, OR REGULATIONS ISSUED BY THE SUPERINTENDENT, WITH REGARD TO COVERED HEALTH CARE SERVICES WHICH MUST BE INCLUDED IN THE POLICY. SUCH POLICIES SHALL BE KNOWN AS "FREEDOM POLICIES".

S 5. Subsection (a) of section 4322 of the insurance law, as amended by chapter 342 of the laws of 2004, is amended to read as follows:

(a) On and after January first, nineteen hundred ninety-six, all health maintenance organizations issued a certificate of authority under article forty-four of the public health law or licensed under this article shall offer to individuals, in addition to the standardized contract required by section four thousand three hundred twenty-one of this article, a standardized individual enrollee direct payment contract on an open enrollment basis as prescribed by section four thousand three hundred seventeen of this article and section four thousand four hundred six of the public health law, and regulations promulgated thereunder, with an out-of-plan benefit system, provided, however, that such requirements shall not apply to a health maintenance organization exclusively serving individuals enrolled pursuant to title eleven of article five of the social services law, title eleven-D of article five of the social services law, title one-A of article twenty-five of the public health law or title eighteen of the federal Social Security Act, and, further provided, that such health maintenance organization shall not discontinue a contract for an individual receiving comprehensive-type coverage in effect prior to January first, two thousand four who is ineligible to purchase policies offered after such date pursuant to this section or section four thousand three hundred twenty-two of this article due to the provision of 42 U.S.C. 1395ss in effect prior to January first, two thousand four. The out-of-plan benefit system shall either be provided by the health maintenance organization pursuant to subdivision two of section four thousand four hundred six of the public health law or through an accompanying insurance contract providing out-of-plan benefits offered by a company appropriately licensed pursuant to this chapter. On and after January first, nineteen hundred ninety-six, the contracts issued pursuant to this section and section four thousand

three hundred twenty-one of this article shall be the only contracts offered by health maintenance organizations to individuals; PROVIDED, HOWEVER, THIS LIMITATION SHALL NOT APPLY TO ONE OR MORE POLICIES INTENDED TO QUALIFY FOR USE IN A HEALTH SAVINGS ACCOUNT PURSUANT TO SECTION 1201 OF THE FEDERAL MEDICARE PRESCRIPTION DRUG, IMPROVEMENT, AND MODERNIZATION ACT OF 2003. SUCH POLICIES SHALL BE KNOWN AS "FREEDOM POLICIES". The enrollee contracts issued by a health maintenance organization under this section and section four thousand three hundred twenty-one of this article shall also be the only contracts issued by the health maintenance organization for purposes of conversion pursuant to sections four thousand three hundred four and four thousand three hundred five of this article. However, nothing in this section shall be deemed to require health maintenance organizations to terminate individual direct payment contracts issued prior to January first, nineteen hundred ninety-six or prohibit health maintenance organizations from terminating individual direct payment contracts issued prior to January first, nineteen hundred ninety-six.

S 6. This act shall take effect immediately.