

2011-2012 Regular Sessions

S E N A T E - A S S E M B L Y

March 2, 2011

IN SENATE -- Introduced by Sen. KRUGER -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

IN ASSEMBLY -- 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,

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

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

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

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

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

51 (a) No individual health insurance contract and no group health insur-  
52 ance contract covering between two and fifty employees or members of the  
53 group exclusive of spouses and dependents, including contracts for which  
54 the premiums are paid by a remitting agent for a group, hereinafter  
55 referred to as a small group, providing hospital and/or medical bene-  
56 fits, including Medicare supplemental insurance, shall be issued in this

1 state unless such contract is community rated and, notwithstanding any  
2 other provisions of law, the underwriting of such contract involves no  
3 more than the imposition of a pre-existing condition limitation as  
4 permitted by this article. Any individual, and dependents of such indi-  
5 vidual, and any small group, including all employees or group members  
6 and dependents of employees or members, applying for individual or small  
7 group health insurance coverage must be accepted at all times throughout  
8 the year for any hospital and/or medical coverage, including Medicare  
9 supplemental insurance, offered by the corporation to individuals or  
10 small groups in this state. Once accepted for coverage, an individual or  
11 small group cannot be terminated by the insurer due to claims experi-  
12 ence. Termination of coverage for individuals or small groups may be  
13 based only on one or more of the reasons set forth in subsection (c) of  
14 section four thousand three hundred four or subsection (j) of section  
15 four thousand three hundred five of this article. For the purposes of  
16 this section, "community rated" means a rating methodology in which the  
17 premium for all persons covered by a policy or contract form is the  
18 same, based on the experience of the entire pool of risks covered by  
19 that policy or contract form without regard to age, sex, health status,  
20 INCLUDING ANY GENETIC PREDISPOSITION, or occupation.

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

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

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