

3991

2011-2012 Regular Sessions

I N S E N A T E

March 11, 2011

Introduced by Sen. LARKIN -- 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 CONSE-
13 QUENCES DUE TO LIFESTYLE. SUCH WELLNESS PROGRAM SHALL DEMONSTRATE ACTU-
14 ARIALLY THAT IT ENCOURAGES THE GENERAL GOOD HEALTH AND WELL-BEING OF THE
15 COVERED POPULATION. THE INSURER OR HEALTH MAINTENANCE ORGANIZATION SHALL
16 NOT REQUIRE SPECIFIC OUTCOMES AS A RESULT OF AN ENROLLEE'S OR INSURED'S
17 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
23 ISSUANCE OF ITS POLICIES OF GROUP ACCIDENT, GROUP HEALTH OR GROUP ACCI-

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

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1 DENT AND HEALTH INSURANCE, MAY PROVIDE FOR AN ACTUARIALLY APPROPRIATE
2 REDUCTION IN PREMIUM RATES IN RETURN FOR AN ENROLLEE'S OR INSURED'S
3 ADHERENCE TO A BONA FIDE WELLNESS PROGRAM. A BONA FIDE WELLNESS PROGRAM
4 IS EITHER A RISK MANAGEMENT SYSTEM THAT IDENTIFIES AT-RISK POPULATIONS
5 OR ANY OTHER SYSTEMATIC PROGRAM OR COURSE OF MEDICAL CONDUCT WHICH HELPS
6 TO PROMOTE GOOD HEALTH, HELPS TO PREVENT OR MITIGATE ACUTE OR CHRONIC
7 SICKNESS OR DISEASE, OR WHICH MINIMIZES ADVERSE HEALTH CONSEQUENCES DUE
8 TO LIFESTYLE. SUCH WELLNESS PROGRAM SHALL DEMONSTRATE ACTUARIALLY THAT
9 IT ENCOURAGES THE GENERAL GOOD HEALTH AND WELL-BEING OF THE COVERED
10 POPULATION. THE INSURER OR HEALTH MAINTENANCE ORGANIZATION SHALL NOT
11 REQUIRE SPECIFIC OUTCOMES AS A RESULT OF AN ENROLLEE'S OR INSURED'S
12 ADHERENCE TO THE APPROVED WELLNESS PROGRAM.

13 S 3. Section 4317 of the insurance law is amended by adding a new
14 subsection (c-1) to read as follows:

15 (C-1) SUBJECT TO THE APPROVAL OF THE SUPERINTENDENT, AN INSURER OR
16 HEALTH MAINTENANCE ORGANIZATION ISSUING AN INDIVIDUAL OR GROUP HEALTH
17 INSURANCE CONTRACT PURSUANT TO THIS SECTION MAY PROVIDE AN ACTUARIALLY
18 APPROPRIATE REDUCTION IN PREMIUM RATES IN RETURN FOR AN ENROLLEE'S OR
19 INSURED'S ADHERENCE TO A BONA FIDE WELLNESS PROGRAM. A BONA FIDE WELL-
20 NESS PROGRAM IS EITHER A RISK MANAGEMENT SYSTEM THAT IDENTIFIES AT-RISK
21 POPULATIONS OR ANY OTHER SYSTEMATIC PROGRAM OR COURSE OF MEDICAL CONDUCT
22 WHICH HELPS TO PROMOTE GOOD HEALTH, HELPS TO PREVENT OR MITIGATE ACUTE
23 OR CHRONIC SICKNESS OR DISEASE, OR WHICH MINIMIZES ADVERSE HEALTH CONSE-
24 QUENCES DUE TO LIFESTYLE. SUCH WELLNESS PROGRAM SHALL DEMONSTRATE ACTU-
25 ARIALLY THAT IT ENCOURAGES THE GENERAL GOOD HEALTH AND WELL-BEING OF THE
26 COVERED POPULATION. THE INSURER OR HEALTH MAINTENANCE ORGANIZATION SHALL
27 NOT REQUIRE SPECIFIC OUTCOMES AS A RESULT OF AN ENROLLEE'S OR INSURED'S
28 ADHERENCE TO THE APPROVED WELLNESS PROGRAM.

29 S 4. Subsection (n) of section 4326 of the insurance law is amended by
30 adding a new paragraph 4 to read as follows:

31 (4) APPROVAL OF THE SUPERINTENDENT, AN INSURER OR HEALTH MAINTENANCE
32 ORGANIZATION ISSUING A CONTRACT FOR QUALIFYING SMALL EMPLOYERS OR INDIV-
33 IDUALS PURSUANT TO THIS SECTION MAY PROVIDE AN ACTUARIALLY APPROPRIATE
34 REDUCTION IN PREMIUM RATES IN RETURN FOR AN ENROLLEE'S OR INSURED'S
35 ADHERENCE TO A BONA FIDE WELLNESS PROGRAM. A BONA FIDE WELLNESS PROGRAM
36 IS EITHER A RISK MANAGEMENT SYSTEM THAT IDENTIFIES AT-RISK POPULATIONS
37 OR ANY OTHER SYSTEMATIC PROGRAM OR COURSE OF MEDICAL CONDUCT WHICH HELPS
38 TO PROMOTE GOOD HEALTH, HELPS TO PREVENT OR MITIGATE ACUTE OR CHRONIC
39 SICKNESS OR DISEASE, OR WHICH MINIMIZES ADVERSE HEALTH CONSEQUENCES DUE
40 TO LIFESTYLE. SUCH WELLNESS PROGRAM SHALL DEMONSTRATE ACTUARIALLY THAT
41 IT ENCOURAGES THE GENERAL GOOD HEALTH AND WELL-BEING OF THE COVERED
42 POPULATION. THE INSURER OR HEALTH MAINTENANCE ORGANIZATION SHALL NOT
43 REQUIRE SPECIFIC OUTCOMES AS A RESULT OF AN ENROLLEE'S OR INSURED'S
44 ADHERENCE TO THE APPROVED WELLNESS PROGRAM.

45 S 5. a. The commissioner of health and the superintendent of insurance
46 shall convene an advisory committee on wellness to examine and make
47 recommendations to the governor and legislature on issues, including but
48 not limited to:

49 (1) methods to more efficiently disseminate information about more
50 healthful lifestyles to promote a reduction in acute or chronic
51 illnesses, how to develop innovative wellness programs that can be
52 implemented by insurers, health maintenance organizations, hospitals,
53 physicians and other health care providers, whether or not the provision
54 of health care and its financing can be restructured to encourage gener-
55 al good health and well-being of this state's citizens, whether or not
56 other incentives, both monetary and non-monetary, can be developed to

1 encourage persons to pursue more healthy lifestyles, and survey and make
2 suggestions on how to improve the effectiveness of programs currently
3 being administered by state, county and local governments that promote
4 good health.

5 (2) the cost effectiveness of developing or expanding current wellness
6 programs administered by state and local governments, hospitals, public
7 and private schools and clinics, health insurers and health maintenance
8 organizations that provide for early prenatal care, cancer screenings,
9 asthma and diabetes identification and treatments, childhood immuniza-
10 tions, and early risk management systems to identify at-risk popu-
11 lations.

12 (3) whether or not more research should be encouraged, to be conducted
13 by private organizations and the department of health, to determine if
14 disparities exist in the diagnosis and medical treatment of individuals
15 based on variables such as age, race, gender, ethnicity or other
16 cultural factors, and whether or not it is advisable to establish age,
17 race, gender or ethnic based testing and screening examination schedules
18 to identify the early onset of illness or disease.

19 b. The advisory committee on wellness shall be comprised of fifteen
20 members, and co-chaired by the commissioner of health and the super-
21 intendent of insurance, or their designees. The governor shall appoint
22 seven members to the committee and the temporary president of the senate
23 and the speaker of the assembly shall each appoint three members to the
24 committee, and the minority leaders of the senate and assembly shall
25 each appoint one member. The appointees shall be representatives of
26 health insurers, hospitals, physicians, clinics, other health care
27 providers such as those that specialize in the provision of mental
28 health, chiropractic and homeopathic care, state agencies such as the
29 office of mental health, the departments of environmental conservation,
30 and agriculture and markets, county and other local health department
31 personnel, and school board officials. The appointees shall be named no
32 later than 120 days after the effective date of this section. After
33 evaluating the issues stated in subdivision a of this section, the
34 committee shall deliver a report within a year of the effective date of
35 this section on its findings on such issues to the governor, temporary
36 president of the senate, speaker of the assembly, and the minority lead-
37 ers of the senate and assembly. Such report shall contain the results of
38 its evaluation and any findings or recommendations on enhancing the good
39 health and well-being of the state's residents.

40 S 6. This act shall take effect immediately.