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

4509

2011-2012 Regular Sessions

I N S E N A T E

April 8, 2011

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

AN ACT to amend the public health law and the insurance law, in relation to approvals by a utilization review agent

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

Section 1. Paragraph (h) of subdivision 1 of section 4902 of the public health law, as added by chapter 705 of the laws of 1996, is amended to read as follows:

(h) Establishment of a requirement that emergency services rendered to an enrollee shall not be subject to prior authorization nor shall reimbursement for such services be denied on retrospective review; provided, however, that such services are medically necessary to stabilize or treat an emergency condition. IN REVIEWING A DENIAL FOR COVERAGE OF EMERGENCY SERVICES TO TREAT AN EMERGENCY MEDICAL CONDITION, THE UTILIZATION REVIEW AGENT SHALL TAKE THE FOLLOWING FACTORS INTO CONSIDERATION:

(1) THE TIME OF DAY AND DAY OF THE WEEK THE CARE WAS PROVIDED;

(2) THE PRESENTING SYMPTOMS, INCLUDING BUT NOT LIMITED TO, SEVERE PAIN, TO ENSURE THAT THE DECISION TO DENY REIMBURSEMENT FOR EMERGENCY SERVICE IS NOT MADE SOLELY ON THE BASIS OF THE FINAL DIAGNOSIS.

S 2. Subdivision 7 of section 4903 of the public health law, as added by chapter 586 of the laws of 1998, is amended to read as follows:

7. Failure by the utilization review agent to make a determination within the time periods prescribed in this section shall be deemed to be an [adverse determination subject to appeal pursuant to section forty nine hundred four of this title] APPROVAL.

S 3. Subdivision 1 of section 4904 of the public health law, as added by chapter 705 of the laws of 1996, is amended to read as follows:

1. An enrollee, the enrollee's designee and[, in connection with retrospective adverse determinations,] an enrollee's health care provid-

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

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er, may appeal an adverse determination rendered by a utilization review agent.

S 4. The opening paragraph of subdivision 5 of section 4905 of the public health law is designated paragraph (a) and a new paragraph (b) is added to read as follows:

(B) WHENEVER A UTILIZATION REVIEW AGENT MAKES A VERBAL REPRESENTATION REGARDING PREAUTHORIZATION OR APPROVAL, THE UTILIZATION REVIEW AGENT SHALL IMMEDIATELY THEREAFTER SUPPLY THE PROVIDER WITH A WRITTEN CONFIRMATION OF THE APPROVAL BY EITHER:

(I) SENDING A COPY OF SUCH APPROVAL THROUGH ELECTRONIC MAIL TO AN ADDRESS SPECIFIED BY THE PROVIDER;

(II) SENDING A COPY OF SUCH APPROVAL THROUGH FACSIMILE TRANSMISSION TO A NUMBER SPECIFIED BY THE PROVIDER; OR

(III) POSTING A COPY OF SUCH APPROVAL ON A SPECIFIC WEBPAGE OF THE INSURER'S WEBSITE TO WHICH THE PROVIDER HAS BEEN DIRECTED AND TO WHICH THE PROVIDER HAS BEEN GIVEN ACCESS SO THAT THE PROVIDER MAY IMMEDIATELY PRINT AND RETAIN A HARD COPY.

S 5. The opening paragraph of subdivision 2 of section 4910 of the public health law, as amended by chapter 237 of the laws of 2009, is amended to read as follows:

An enrollee, the enrollee's designee and[, in connection with concurrent and retrospective adverse determinations,] an enrollee's health care provider, shall have the right to request an external appeal when:

S 6. Paragraph 8 of subsection (a) of section 4902 of the insurance law, as added by chapter 705 of the laws of 1996, is amended to read as follows:

(8) Establishment of a requirement that emergency services rendered to an insured shall not be subject to prior authorization nor shall reimbursement for such services be denied on retrospective review; provided, however, that such services are medically necessary to stabilize or treat an emergency condition. IN REVIEWING A DENIAL FOR COVERAGE OF EMERGENCY SERVICES TO TREAT AN EMERGENCY MEDICAL CONDITION, THE UTILIZATION REVIEW AGENT SHALL TAKE THE FOLLOWING FACTORS INTO CONSIDERATION:

(I) THE TIME OF DAY AND DAY OF THE WEEK THE CARE WAS PROVIDED;

(II) THE PRESENTING SYMPTOMS, INCLUDING BUT NOT LIMITED TO, SEVERE PAIN, TO ENSURE THAT THE DECISION TO DENY REIMBURSEMENT FOR EMERGENCY SERVICE IS NOT MADE SOLELY ON THE BASIS OF THE FINAL DIAGNOSIS.

S 7. Subsection (g) of section 4903 of the insurance law, as added by chapter 586 of the laws of 1998, is amended to read as follows:

(g) Failure by the utilization review agent to make a determination within the time periods prescribed in this section shall be deemed to be an [adverse determination subject to appeal pursuant to section four thousand nine hundred four of this title] APPROVAL.

S 8. Subsection (a) of section 4904 of the insurance law, as added by chapter 705 of the laws of 1996, is amended to read as follows:

(a) An insured, the insured's designee and[, in connection with retrospective adverse determinations,] an insured's health care provider, may appeal an adverse determination rendered by a utilization review agent.

S 9. The opening paragraph of subsection (e) of section 4905 of the insurance law is designated paragraph 1 and a new paragraph 2 is added to read as follows:

(2) WHENEVER A UTILIZATION REVIEW AGENT MAKES A VERBAL REPRESENTATION REGARDING PREAUTHORIZATION OR APPROVAL, THE UTILIZATION REVIEW AGENT SHALL IMMEDIATELY THEREAFTER SUPPLY THE PROVIDER WITH A WRITTEN CONFIRMATION OF THE APPROVAL BY EITHER:

(I) SENDING A COPY OF SUCH APPROVAL THROUGH ELECTRONIC MAIL TO AN ADDRESS SPECIFIED BY THE PROVIDER;

(II) SENDING A COPY OF SUCH APPROVAL THROUGH FACSIMILE TRANSMISSION TO A NUMBER SPECIFIED BY THE PROVIDER; OR

(III) POSTING A COPY OF SUCH APPROVAL ON A SPECIFIC WEBPAGE OF THE INSURER'S WEBSITE TO WHICH THE PROVIDER HAS BEEN DIRECTED AND TO WHICH THE PROVIDER HAS BEEN GIVEN ACCESS SO THAT THE PROVIDER MAY IMMEDIATELY PRINT AND RETAIN A HARD COPY.

S 10. The opening paragraph of subsection (b) of section 4910 of the insurance law, as amended by chapter 237 of the laws of 2009, is amended to read as follows:

An insured, the insured's designee and[, in connection with concurrent and retrospective adverse determinations,] an insured's health care provider, shall have the right to request an external appeal when:

S 11. This act shall take effect on January first next succeeding the date on which it shall have become a law, and shall apply to all policies and contracts issued, renewed, modified, altered or amended on and after such effective date.