

4511

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 certain application and referral forms for health care plans

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

1 Section 1. Subdivision 1 of section 4406-d of the public health law,
2 as amended by chapter 237 of the laws of 2009, is amended to read as
3 follows:

4 1. (a) A health care plan shall, upon request, make available and
5 disclose to health care professionals written application procedures and
6 minimum qualification requirements which a health care professional must
7 meet in order to be considered by the health care plan. The plan shall
8 consult with appropriately qualified health care professionals in devel-
9 oping its qualification requirements. A health care plan shall complete
10 review of the health care professional's UNIVERSAL HEALTH CARE PROFES-
11 SIONAL application [to participate] FOR PARTICIPATION in the in-network
12 portion of the health care plan's network and shall, within ninety days
13 of receiving a health care professional's completed UNIVERSAL applica-
14 tion to participate in the health care plan's network, notify the health
15 care professional as to: (i) whether he or she is credentialed; or (ii)
16 whether additional time is necessary to make a determination in spite of
17 the health care plan's best efforts or because of a failure of a third
18 party to provide necessary documentation, or non-routine or unusual
19 circumstances require additional time for review. In such instances
20 where additional time is necessary because of a lack of necessary
21 documentation, a health plan shall make every effort to obtain such
22 information as soon as possible.

23 (b) If the completed application of a newly-licensed health care
24 professional or a health care professional who has recently relocated to
25 this state from another state and has not previously practiced in this

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

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1 state, who joins a group practice of health care professionals each of
2 whom participates in the in-network portion of a health care plan's
3 network, is neither approved nor declined within ninety days pursuant to
4 paragraph (a) of this subdivision, the health care professional shall be
5 deemed "provisionally credentialed" and may participate in the in-net-
6 work portion of the health care plan's network; provided, however, that
7 a provisionally credentialed physician may not be designated as an
8 enrollee's primary care physician until such time as the physician has
9 been fully credentialed. The network participation for a provisionally
10 credentialed health care professional shall begin on the day following
11 the ninetieth day of receipt of the completed application and shall last
12 until the final credentialing determination is made by the health care
13 plan. A health care professional shall only be eligible for provisional
14 credentialing if the group practice of health care professionals noti-
15 fies the health care plan in writing that, should the application ulti-
16 mately be denied, the health care professional or the group practice:
17 (i) shall refund any payments made by the health care plan for in-net-
18 work services provided by the provisionally credentialed health care
19 professional that exceed any out-of-network benefits payable under the
20 enrollee's contract with the health care plan; and (ii) shall not pursue
21 reimbursement from the enrollee, except to collect the copayment that
22 otherwise would have been payable had the enrollee received services
23 from a health care professional participating in the in-network portion
24 of a health care plan's network. Interest and penalties pursuant to
25 section three thousand two hundred twenty-four-a of the insurance law
26 shall not be assessed based on the denial of a claim submitted during
27 the period when the health care professional was provisionally creden-
28 tialed; provided, however, that nothing herein shall prevent a health
29 care plan from paying a claim from a health care professional who is
30 provisionally credentialed upon submission of such claim. A health care
31 plan shall not deny, after appeal, a claim for services provided by a
32 provisionally credentialed health care professional solely on the ground
33 that the claim was not timely filed.

34 (C) THE COMMISSIONER, IN CONSULTATION WITH THE SUPERINTENDENT OF
35 INSURANCE, AND REPRESENTATIVES OF HEALTH CARE PLANS, HOSPITALS AND
36 HEALTH CARE PROFESSIONALS SHALL ADOPT BY REGULATION SUCH UNIVERSAL
37 HEALTH CARE PROFESSIONAL APPLICATION FOR PARTICIPATION FORM, AND A FORM
38 FOR THE RENEWAL OF CREDENTIALING WHICH SHALL BE AN ABBREVIATED VERSION
39 OF THE UNIVERSAL APPLICATION FORM, FOR USE BY HEALTH CARE PLANS WHICH
40 OFFER MANAGED CARE PRODUCTS FOR THE PURPOSE OF CREDENTIALING AND RE-CRE-
41 DENTIALING HEALTH CARE PROFESSIONALS WHO SEEK TO PARTICIPATE IN A HEALTH
42 CARE PLAN'S PROVIDER NETWORK AND FOR THE PURPOSE OF CREDENTIALING AND
43 RE-CREDENTIALING HEALTH CARE PROFESSIONALS WHO ARE EMPLOYED OR HAVE
44 STAFF PRIVILEGES AT HOSPITALS OR OTHER HEALTH CARE FACILITIES WHICH SEEK
45 TO PARTICIPATE IN A PROVIDER NETWORK.

46 (D) THE COMMISSIONER, IN CONSULTATION WITH THE SUPERINTENDENT OF
47 INSURANCE, AND REPRESENTATIVES OF HEALTH CARE PLANS, HOSPITALS AND
48 HEALTH CARE PROFESSIONALS SHALL ADOPT BY REGULATION A UNIVERSAL HEALTH
49 CARE PROFESSIONAL REFERRAL FORM FOR THE PURPOSE OF SIMPLIFYING THE PROC-
50 ESS OF REFERRAL OF PATIENTS TO OTHER HEALTH CARE PROFESSIONALS.

51 (E) THE COMMISSIONER, IN CONSULTATION WITH THE SUPERINTENDENT OF
52 INSURANCE, AND REPRESENTATIVES OF HEALTH CARE PLANS, HOSPITALS AND
53 HEALTH CARE PROFESSIONALS SHALL REVISE THE UNIVERSAL APPLICATION,
54 RE-CREDENTIALING AND UNIVERSAL HEALTH CARE PROFESSIONAL REFERRAL FORMS
55 AS NECESSARY, TO CONFORM WITH INDUSTRY-WIDE, NATIONAL STANDARDS OF
56 CREDENTIALING, RE-CREDENTIALING AND HEALTH CARE REFERRAL.

1 (F) IN DEVELOPING THE UNIVERSAL HEALTH CARE PROFESSIONAL APPLICATION
2 RE-CREDENTIALING FORMS, THE COMMISSIONER SHALL ENSURE THAT THE CREDEN-
3 TIALING AND RE-CREDENTIALING REQUIREMENTS FOR PARTICIPATION IN THE MEDI-
4 CAID PROGRAM, THE STATE CHILD HEALTH PLUS PROGRAM AND THE FAMILY HEALTH
5 PLUS PROGRAMS ARE ADEQUATELY REFLECTED ON THE HEALTH CARE PROFESSIONAL
6 APPLICATION AND RE-CREDENTIALING FORMS.

7 (G) ALL THE CREDENTIALING AND RE-CREDENTIALING FORMS REQUIRED FOR
8 DEVELOPMENT UNDER THIS SUBDIVISION SHALL BE THE ONLY FORMS THAT MAY BE
9 USED FOR CREDENTIALING AND RE-CREDENTIALING HEALTH CARE PROFESSIONALS BY
10 HEALTH CARE PLANS, HOSPITALS, AND OTHER HEALTH CARE FACILITIES.

11 (H) THE PROFESSIONAL REFERRAL FORM REQUIRED FOR DEVELOPMENT UNDER THIS
12 SUBDIVISION SHALL BE THE ONLY FORM THAT A HEALTH CARE PLAN MAY REQUIRE A
13 HEALTH CARE PROFESSIONAL TO USE FOR THE PURPOSES OF MAKING A PROFES-
14 SIONAL REFERRAL; PROVIDED, HOWEVER, THAT A HEALTH CARE PLAN MAY REQUEST
15 ADDITIONAL PATIENT INFORMATION SEPARATELY FROM THE PROFESSIONAL REFERRAL
16 FORM FOR THE PURPOSES OF REVIEWING SUCH PROFESSIONAL REFERRAL.

17 S 2. Subsection (a) of section 4803 of the insurance law, as amended
18 by chapter 237 of the laws of 2009, is amended to read as follows:

19 (a) (1) An insurer which offers a managed care product shall, upon
20 request, make available and disclose to health care professionals writ-
21 ten application procedures and minimum qualification requirements which
22 a health care professional must meet in order to be considered by the
23 insurer for participation in the in-network benefits portion of the
24 insurer's network for the managed care product. The insurer shall
25 consult with appropriately qualified health care professionals in devel-
26 oping its qualification requirements for participation in the in-network
27 benefits portion of the insurer's network for the managed care product.
28 An insurer shall complete review of the health care professional's
29 application to participate in the in-network portion of the insurer's
30 network and, within ninety days of receiving a health care profes-
31 sional's completed application to participate in the insurer's network,
32 will notify the health care professional as to: (A) whether he or she is
33 credentialed; or (B) whether additional time is necessary to make a
34 determination in spite of the insurer's best efforts or because of a
35 failure of a third party to provide necessary documentation, or non-
36 routine or unusual circumstances require additional time for review. In
37 such instances where additional time is necessary because of a lack of
38 necessary documentation, an insurer shall make every effort to obtain
39 such information as soon as possible. THE PLANS SHALL ALSO IMPLEMENT
40 PROCEDURES TO PERMIT NEWLY LICENSED HEALTH CARE PROFESSIONALS TO RENDER
41 CARE AND RECEIVE PAYMENT FOR CARE PROVIDED TO ENROLLEES ON A PROVISIONAL
42 BASIS DURING THE PENDENCY OF THE APPLICATION PROCESS OF SUCH NEWLY
43 LICENSED HEALTH CARE PROFESSIONALS.

44 (2) If the completed application of a newly-licensed health care
45 professional or a health care professional who has recently relocated to
46 this state from another state and has not previously practiced in this
47 state, who joins a group practice of health care professionals each of
48 whom participates in the in-network portion of an insurer's network, is
49 neither approved nor declined within ninety days pursuant to paragraph
50 one of this subsection, such health care professional shall be deemed
51 "provisionally credentialed" and may participate in the in-network
52 portion of an insurer's network; provided, however, that a provisionally
53 credentialed physician may not be designated as an insured's primary
54 care physician until such time as the physician has been fully creden-
55 tialed. The network participation for a provisionally credentialed
56 health care professional shall begin on the day following the ninetieth

1 day of receipt of the completed application and shall last until the
2 final credentialing determination is made by the insurer. A health care
3 professional shall only be eligible for provisional credentialing if the
4 group practice of health care professionals notifies the insurer in
5 writing that, should the application ultimately be denied, the health
6 care professional or the group practice: (A) shall refund any payments
7 made by the insurer for in-network services provided by the provi-
8 sionally credentialed health care professional that exceed any out-of-
9 network benefits payable under the insured's contract with the insurer;
10 and (B) shall not pursue reimbursement from the insured, except to
11 collect the copayment or coinsurance that otherwise would have been
12 payable had the insured received services from a health care profes-
13 sional participating in the in-network portion of an insurer's network.
14 Interest and penalties pursuant to section three thousand two hundred
15 twenty-four-a of this chapter shall not be assessed based on the denial
16 of a claim submitted during the period when the health care professional
17 was provisionally credentialed; provided, however, that nothing herein
18 shall prevent an insurer from paying a claim from a health care profes-
19 sional who is provisionally credentialed upon submission of such claim.
20 An insurer shall not deny, after appeal, a claim for services provided
21 by a provisionally credentialed health care professional solely on the
22 ground that the claim was not timely filed.

23 (3) THE SUPERINTENDENT, IN CONSULTATION WITH THE COMMISSIONER OF
24 HEALTH, AND REPRESENTATIVES OF HEALTH CARE PLANS, HOSPITALS, AND HEALTH
25 CARE PROFESSIONALS SHALL ADOPT BY REGULATION A UNIVERSAL HEALTH CARE
26 PROFESSIONAL APPLICATION FOR PARTICIPATION FORM, AND A FORM FOR THE
27 RENEWAL OF CREDENTIALING WHICH SHALL BE AN ABBREVIATED VERSION OF THE
28 UNIVERSAL APPLICATION FORM FOR USE BY HEALTH CARE PLANS WHICH OFFER
29 MANAGED CARE PRODUCTS FOR THE PURPOSE OF CREDENTIALING AND RE-CREDEN-
30 TIALING HEALTH CARE PROFESSIONALS WHO SEEK TO PARTICIPATE IN A HEALTH
31 CARE PLAN'S PROVIDER NETWORK AND FOR THE PURPOSE OF CREDENTIALING AND
32 RE-CREDENTIALING HEALTH CARE PROFESSIONALS WHO ARE EMPLOYED OR HAVE
33 STAFF PRIVILEGES AT HOSPITALS OR OTHER HEALTH CARE FACILITIES WHICH SEEK
34 TO PARTICIPATE IN A PROVIDER NETWORK.

35 (4) THE SUPERINTENDENT, IN CONSULTATION WITH THE COMMISSIONER OF
36 HEALTH, AND REPRESENTATIVES OF HEALTH CARE PLANS, HOSPITALS AND HEALTH
37 CARE PROFESSIONALS SHALL ADOPT BY REGULATION A UNIVERSAL HEALTH CARE
38 PROFESSIONAL REFERRAL FORM FOR THE PURPOSE OF SIMPLIFYING THE PROCESS OF
39 REFERRAL OF PATIENTS TO OTHER HEALTH CARE PROFESSIONALS.

40 (5) THE SUPERINTENDENT, IN CONSULTATION WITH THE COMMISSIONER OF
41 HEALTH, AND REPRESENTATIVES OF HEALTH CARE PLANS, HOSPITALS AND HEALTH
42 CARE PROFESSIONALS SHALL REVISE THE UNIVERSAL APPLICATION, RE-CREDEN-
43 TIALING AND UNIVERSAL HEALTH CARE PROFESSIONAL REFERRAL FORMS AS NECES-
44 SARY, TO CONFORM WITH INDUSTRY-WIDE, NATIONAL STANDARDS OF CREDENTIAL-
45 ING, RE-CREDENTIALING AND HEALTH CARE REFERRAL.

46 (6) IN DEVELOPING THE UNIVERSAL HEALTH CARE PROFESSIONAL APPLICATION
47 RE-CREDENTIALING FORMS, THE SUPERINTENDENT SHALL ENSURE THAT THE CREDEN-
48 TIALING AND RE-CREDENTIALING REQUIREMENTS FOR PARTICIPATION IN THE MEDI-
49 CAID PROGRAM, THE STATE CHILD HEALTH PLUS PROGRAM AND THE FAMILY HEALTH
50 PLUS PROGRAMS ARE ADEQUATELY REFLECTED ON THE HEALTH CARE PROFESSIONAL
51 APPLICATION AND RE-CREDENTIALING FORMS.

52 (7) THE CREDENTIALING AND RE-CREDENTIALING FORMS REQUIRED FOR DEVELOP-
53 MENT UNDER THIS SUBSECTION SHALL BE THE ONLY FORMS THAT MAY BE USED FOR
54 CREDENTIALING AND RE-CREDENTIALING HEALTH CARE PROFESSIONALS BY INSUR-
55 ERS, HOSPITALS AND OTHER HEALTH CARE FACILITIES.

1 (8) THE PROFESSIONAL REFERRAL FORM REQUIRED FOR DEVELOPMENT UNDER THIS
2 SUBSECTION SHALL BE THE ONLY FORM THAT AN INSURER MAY REQUIRE A HEALTH
3 CARE PROFESSIONAL TO USE FOR THE PURPOSES OF MAKING A PROFESSIONAL
4 REFERRAL; PROVIDED, HOWEVER, THAT AN INSURER MAY REQUEST ADDITIONAL
5 PATIENT INFORMATION SEPARATELY FROM THE PROFESSIONAL REFERRAL FORM FOR
6 THE PURPOSES OF REVIEWING SUCH PROFESSIONAL REFERRAL.

7 S 3. This act shall take effect on the one hundred eightieth day after
8 it shall have become a law.