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

4609

2011-2012 Regular Sessions

I N S E N A T E

April 13, 2011

Introduced by Sens. KLEIN, CARLUCCI, SAVINO, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law and the public health law, in relation to making actuarially appropriate reductions in health insurance premiums in return for an enrollee's or insured's participation in a qualified wellness program

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

Section 1. Section 3231 of the insurance law, as added by chapter 501 of the laws of 1992, is amended by adding a new subsection (c-1) to read as follows:

(C-1) SUBJECT TO THE APPROVAL OF THE SUPERINTENDENT, AN INSURER OR HEALTH MAINTENANCE ORGANIZATION ISSUING AN INDIVIDUAL OR GROUP HEALTH INSURANCE POLICY PURSUANT TO THIS SECTION MAY PROVIDE FOR AN ACTUARIALLY APPROPRIATE REDUCTION IN PREMIUM RATES OR OTHER BENEFITS OR ENHANCEMENTS APPROVED BY THE SUPERINTENDENT TO ENCOURAGE AN ENROLLEE'S OR INSURED'S ACTIVE PARTICIPATION IN A QUALIFIED WELLNESS PROGRAM. A QUALIFIED WELLNESS PROGRAM CAN BE A RISK MANAGEMENT SYSTEM THAT IDENTIFIES AT-RISK POPULATIONS OR ANY OTHER SYSTEMATIC PROGRAM OR COURSE OF MEDICAL CONDUCT WHICH HELPS TO PROMOTE PHYSICAL AND MENTAL FITNESS, HEALTH AND WELL-BEING, HELPS TO PREVENT OR MITIGATE THE CONDITIONS OF ACUTE OR CHRONIC SICKNESS, DISEASE OR PAIN, OR WHICH MINIMIZES ADVERSE HEALTH CONSEQUENCES DUE TO LIFESTYLE. SUCH A WELLNESS PROGRAM MAY HAVE SOME OR ALL OF THE FOLLOWING ELEMENTS TO ADVANCE THE PHYSICAL HEALTH AND MENTAL WELL-BEING OF ITS PARTICIPANTS:

(1) AN EDUCATION PROGRAM TO INCREASE THE AWARENESS OF AND DISSEMINATION OF INFORMATION ABOUT PURSUING HEALTHIER LIFESTYLES, AND WHICH WARNS ABOUT RISKS OF PURSUING ENVIRONMENTAL OR BEHAVIORAL ACTIVITIES THAT ARE DETRIMENTAL TO HUMAN HEALTH. IN ADDITION, INFORMATION ON THE AVAILABILITY OF HEALTH SCREENING TESTS TO ASSIST IN THE EARLY IDENTIFI-

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

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CATION AND TREATMENT OF DISEASES SUCH AS CANCER, HEART DISEASE, HYPERTENSION, DIABETES, ASTHMA, OBESITY OR OTHER ADVERSE HEALTH AFFLICTIONS;

(2) A PROGRAM THAT ENCOURAGES BEHAVIORAL PRACTICES THAT EITHER ENCOURAGES HEALTHY LIVING ACTIVITIES OR DISCOURAGES UNHEALTHY LIVING ACTIVITIES. SUCH ACTIVITIES OR PRACTICES MAY INCLUDE:

(A) DISCOURAGING SUBSTANCE ABUSE, USE OF TOBACCO OR OVERINDULGENCE OF ALCOHOLIC BEVERAGES,

(B) PROMOTION OF HEALTHY EATING HABITS,

(C) EFFORTS TO REDUCE OBESITY AND THE INCIDENCE OF ASTHMA,

(D) INSTITUTING A PROPER FITNESS REGIMEN,

(E) MONITORING AND CONTROLLING EXCESS STRESS AND HYPERTENSION, AND

(F) METHODS TO MANAGE AND COPE WITH CHRONIC PAIN; AND

(3) THE MONITORING OF THE PROGRESS OF EACH COVERED PERSON TO TRACK HIS OR HER ADHERENCE TO SUCH WELLNESS PROGRAM AND TO PROVIDE ASSISTANCE AND MORAL SUPPORT TO SUCH COVERED PERSON TO ASSIST HIM OR HER TO ATTAIN THE GOALS OF THE COVERED PERSON'S WELLNESS PROGRAM.

SUCH WELLNESS PROGRAM SHALL DEMONSTRATE ACTUARIALLY THAT IT ENCOURAGES THE GENERAL GOOD HEALTH AND WELL-BEING OF THE COVERED POPULATION. THE INSURER OR HEALTH MAINTENANCE ORGANIZATION SHALL NOT REQUIRE SPECIFIC OUTCOMES AS A RESULT OF AN ENROLLEE'S OR INSURED'S ADHERENCE TO THE APPROVED WELLNESS PROGRAM.

S 2. Subsection (h) of section 4235 of the insurance law is amended by adding a new paragraph 5 to read as follows:

(5) EACH INSURER DOING BUSINESS IN THIS STATE, WHEN FILING WITH THE SUPERINTENDENT ITS SCHEDULES OF PREMIUM RATES, RULES AND CLASSIFICATION OF RISKS FOR USE IN CONNECTION WITH THE ISSUANCE OF ITS POLICIES OF GROUP ACCIDENT, GROUP HEALTH OR GROUP ACCIDENT AND HEALTH INSURANCE, MAY PROVIDE FOR AN ACTUARIALLY APPROPRIATE REDUCTION IN PREMIUM RATES OR OTHER BENEFITS OR ENHANCEMENTS APPROVED BY THE SUPERINTENDENT TO ENCOURAGE AN ENROLLEE'S OR INSURED'S ACTIVE PARTICIPATION IN A QUALIFIED WELLNESS PROGRAM. A QUALIFIED WELLNESS PROGRAM CAN BE A RISK MANAGEMENT SYSTEM THAT IDENTIFIES AT-RISK POPULATIONS OR ANY OTHER SYSTEMATIC PROGRAM OR COURSE OF MEDICAL CONDUCT WHICH HELPS TO PROMOTE PHYSICAL AND MENTAL FITNESS, HEALTH AND WELL-BEING, HELPS TO PREVENT OR MITIGATE THE CONDITIONS OF ACUTE OR CHRONIC SICKNESS, DISEASE OR PAIN, OR WHICH MINIMIZES ADVERSE HEALTH CONSEQUENCES DUE TO LIFESTYLE. SUCH A WELLNESS PROGRAM MAY HAVE SOME OR ALL OF THE FOLLOWING ELEMENTS TO ADVANCE THE PHYSICAL HEALTH AND MENTAL WELL-BEING OF ITS PARTICIPANTS:

(A) AN EDUCATION PROGRAM TO INCREASE THE AWARENESS OF AND DISSEMINATION OF INFORMATION ABOUT PURSUING HEALTHIER LIFESTYLES, AND WHICH WARNS ABOUT RISKS OF PURSUING ENVIRONMENTAL OR BEHAVIORAL ACTIVITIES THAT ARE DETRIMENTAL TO HUMAN HEALTH. IN ADDITION, INFORMATION ON THE AVAILABILITY OF HEALTH SCREENING TESTS TO ASSIST IN THE EARLY IDENTIFICATION AND TREATMENT OF DISEASES SUCH AS CANCER, HEART DISEASE, HYPERTENSION, DIABETIES, ASTHMA, OBESITY OR OTHER ADVERSE HEALTH AFFLICTIONS;

(B) A PROGRAM THAT ENCOURAGES BEHAVIORAL PRACTICES THAT EITHER ENCOURAGES HEALTHY LIVING ACTIVITIES OR DISCOURAGES UNHEALTHY LIVING ACTIVITIES. SUCH ACTIVITIES OR PRACTICES MAY INCLUDE:

(I) DISCOURAGING SUBSTANCE ABUSE, USE OF TOBACCO OR OVERINDULGENCE OF ALCOHOLIC BEVERAGES,

(II) PROMOTION OF HEALTHY EATING HABITS,

(III) EFFORTS TO REDUCE OBESITY AND THE INCIDENCE OF ASTHMA,

(IV) INSTITUTING A PROPER FITNESS REGIMEN,

(V) MONITORING AND CONTROLLING EXCESS STRESS AND HYPERTENSION, AND

(VI) METHODS TO MANAGE AND COPE WITH CHRONIC PAIN; AND

(C) THE MONITORING OF THE PROGRESS OF EACH COVERED PERSON TO TRACK HIS OR HER ADHERENCE TO SUCH WELLNESS PROGRAM AND TO PROVIDE ASSISTANCE AND MORAL SUPPORT TO SUCH COVERED PERSON TO ASSIST HIM OR HER TO ATTAIN THE GOALS OF THE COVERED PERSON'S WELLNESS PROGRAM.

SUCH WELLNESS PROGRAM SHALL DEMONSTRATE ACTUARIALLY THAT IT ENCOURAGES THE GENERAL GOOD HEALTH AND WELL-BEING OF THE COVERED POPULATION. THE INSURER OR HEALTH MAINTENANCE ORGANIZATION SHALL NOT REQUIRE SPECIFIC OUTCOMES AS A RESULT OF AN ENROLLEE'S OR INSURED'S ADHERENCE TO THE APPROVED WELLNESS PROGRAM.

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

(C-1) SUBJECT TO THE APPROVAL OF THE SUPERINTENDENT, AN INSURER OR HEALTH MAINTENANCE ORGANIZATION ISSUING AN INDIVIDUAL OR GROUP HEALTH INSURANCE CONTRACT PURSUANT TO THIS SECTION MAY PROVIDE FOR AN ACTUARIALLY APPROPRIATE REDUCTION IN PREMIUM RATES OR OTHER BENEFITS OR ENHANCEMENTS APPROVED BY THE SUPERINTENDENT TO ENCOURAGE AN ENROLLEE'S OR INSURED'S ACTIVE PARTICIPATION IN A QUALIFIED WELLNESS PROGRAM. A QUALIFIED WELLNESS PROGRAM CAN BE A RISK MANAGEMENT SYSTEM THAT IDENTIFIES AT-RISK POPULATIONS OR ANY OTHER SYSTEMATIC PROGRAM OR COURSE OF MEDICAL CONDUCT WHICH HELPS TO PROMOTE PHYSICAL AND MENTAL FITNESS, HEALTH AND WELL-BEING, HELPS TO PREVENT OR MITIGATE THE CONDITIONS OF ACUTE OR CHRONIC SICKNESS, DISEASE OR PAIN, OR WHICH MINIMIZES ADVERSE HEALTH CONSEQUENCES DUE TO LIFESTYLE. SUCH A WELLNESS PROGRAM MAY HAVE SOME OR ALL OF THE FOLLOWING ELEMENTS TO ADVANCE THE PHYSICAL HEALTH AND MENTAL WELL-BEING OF ITS PARTICIPANTS:

(1) AN EDUCATION PROGRAM TO INCREASE THE AWARENESS OF AND DISSEMINATION OF INFORMATION ABOUT PURSUING HEALTHIER LIFESTYLES, AND WHICH WARNS ABOUT RISKS OF PURSUING ENVIRONMENTAL OR BEHAVIORAL ACTIVITIES THAT ARE DETRIMENTAL TO HUMAN HEALTH. IN ADDITION, INFORMATION ON THE AVAILABILITY OF HEALTH SCREENING TESTS TO ASSIST IN THE EARLY IDENTIFICATION AND TREATMENT OF DISEASES SUCH AS CANCER, HEART DISEASE, HYPERTENSION, DIABETES, ASTHMA, OBESITY OR OTHER ADVERSE HEALTH AFFLICTIONS;

(2) A PROGRAM THAT ENCOURAGES BEHAVIORAL PRACTICES THAT EITHER ENCOURAGES HEALTHY LIVING ACTIVITIES OR DISCOURAGES UNHEALTHY LIVING ACTIVITIES. SUCH ACTIVITIES OR PRACTICES MAY INCLUDE:

(A) DISCOURAGING SUBSTANCE ABUSE, USE OF TOBACCO OR OVERINDULGENCE OF ALCOHOLIC BEVERAGES,

(B) PROMOTION OF HEALTHY EATING HABITS,

(C) EFFORTS TO REDUCE OBESITY AND THE INCIDENCE OF ASTHMA,

(D) INSTITUTING A PROPER FITNESS REGIMEN,

(E) MONITORING AND CONTROLLING EXCESS STRESS AND HYPERTENSION, AND

(F) METHODS TO MANAGE AND COPE WITH CHRONIC PAIN; AND

(3) THE MONITORING OF THE PROGRESS OF EACH COVERED PERSON TO TRACK HIS OR HER ADHERENCE TO SUCH WELLNESS PROGRAM AND TO PROVIDE ASSISTANCE AND MORAL SUPPORT TO SUCH COVERED PERSON TO ASSIST HIM OR HER TO ATTAIN THE GOALS OF THE COVERED PERSON'S WELLNESS PROGRAM.

SUCH WELLNESS PROGRAM SHALL DEMONSTRATE ACTUARIALLY THAT IT ENCOURAGES THE GENERAL GOOD HEALTH AND WELL-BEING OF THE COVERED POPULATION. THE INSURER OR HEALTH MAINTENANCE ORGANIZATION SHALL NOT REQUIRE SPECIFIC OUTCOMES AS A RESULT OF AN ENROLLEE'S OR INSURED'S ADHERENCE TO THE APPROVED WELLNESS PROGRAM.

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

(4) APPROVAL OF THE SUPERINTENDENT, AN INSURER OR HEALTH MAINTENANCE ORGANIZATION ISSUING A CONTRACT FOR QUALIFYING SMALL EMPLOYERS OR INDIVIDUALS PURSUANT TO THIS SECTION MAY PROVIDE FOR AN ACTUARIALLY APPRO-

PRIATE REDUCTION IN PREMIUM RATES OR OTHER BENEFITS OR ENHANCEMENTS APPROVED BY THE SUPERINTENDENT TO ENCOURAGE AN ENROLLEE'S OR INSURED'S ACTIVE PARTICIPATION IN A QUALIFIED WELLNESS PROGRAM. A QUALIFIED WELLNESS PROGRAM CAN BE A RISK MANAGEMENT SYSTEM THAT IDENTIFIES AT-RISK POPULATIONS OR ANY OTHER SYSTEMATIC PROGRAM OR COURSE OF MEDICAL CONDUCT WHICH HELPS TO PROMOTE PHYSICAL AND MENTAL FITNESS, HEALTH AND WELL-BEING, HELPS TO PREVENT OR MITIGATE THE CONDITIONS OF ACUTE OR CHRONIC SICKNESS, DISEASE OR PAIN, OR WHICH MINIMIZES ADVERSE HEALTH CONSEQUENCES DUE TO LIFESTYLE. SUCH A WELLNESS PROGRAM MAY HAVE SOME OR ALL OF THE FOLLOWING ELEMENTS TO ADVANCE THE PHYSICAL HEALTH AND MENTAL WELL-BEING OF ITS PARTICIPANTS:

(1) AN EDUCATION PROGRAM TO INCREASE THE AWARENESS OF AND DISSEMINATION OF INFORMATION ABOUT PURSUING HEALTHIER LIFESTYLES, AND WHICH WARNS ABOUT RISKS OF PURSUING ENVIRONMENTAL OR BEHAVIORAL ACTIVITIES THAT ARE DETRIMENTAL TO HUMAN HEALTH. IN ADDITION, INFORMATION ON THE AVAILABILITY OF HEALTH SCREENING TESTS TO ASSIST IN THE EARLY IDENTIFICATION AND TREATMENT OF DISEASES SUCH AS CANCER, HEART DISEASE, HYPERTENSION, DIABETES, ASTHMA, OBESITY OR OTHER ADVERSE HEALTH AFFLICTIONS;

(2) A PROGRAM THAT ENCOURAGES BEHAVIORAL PRACTICES THAT EITHER ENCOURAGES HEALTHY LIVING ACTIVITIES OR DISCOURAGES UNHEALTHY LIVING ACTIVITIES. SUCH ACTIVITIES OR PRACTICES MAY INCLUDE:

(A) DISCOURAGING SUBSTANCE ABUSE, USE OF TOBACCO OR OVERINDULGENCE OF ALCOHOLIC BEVERAGES,

(B) PROMOTION OF HEALTHY EATING HABITS,

(C) EFFORTS TO REDUCE OBESITY AND THE INCIDENCE OF ASTHMA,

(D) INSTITUTING A PROPER FITNESS REGIMEN,

(E) MONITORING AND CONTROLLING EXCESS STRESS AND HYPERTENSION, AND

(F) METHODS TO MANAGE AND COPE WITH CHRONIC PAIN; AND

(3) THE MONITORING OF THE PROGRESS OF EACH COVERED PERSON TO TRACK HIS OR HER ADHERENCE TO SUCH WELLNESS PROGRAM AND TO PROVIDE ASSISTANCE AND MORAL SUPPORT TO SUCH COVERED PERSON TO ASSIST HIM OR HER TO ATTAIN THE GOALS OF THE COVERED PERSON'S WELLNESS PROGRAM.

SUCH WELLNESS PROGRAM SHALL DEMONSTRATE ACTUARIALLY THAT IT ENCOURAGES THE GENERAL GOOD HEALTH AND WELL-BEING OF THE COVERED POPULATION. THE INSURER OR HEALTH MAINTENANCE ORGANIZATION SHALL NOT REQUIRE SPECIFIC OUTCOMES AS A RESULT OF AN ENROLLEE'S OR INSURED'S ADHERENCE TO THE APPROVED WELLNESS PROGRAM.

S 5. Section 4405 of the public health law is amended by adding a new subdivision 5-a to read as follows:

5-A. SUBJECT TO THE APPROVAL OF THE SUPERINTENDENT, MAY PROVIDE FOR AN ACTUARIALLY APPROPRIATE REDUCTION IN PREMIUM RATES OR OTHER BENEFITS OR ENHANCEMENTS APPROVED BY THE SUPERINTENDENT TO ENCOURAGE AN ENROLLEE'S ACTIVE PARTICIPATION IN A QUALIFIED WELLNESS PROGRAM. A QUALIFIED WELLNESS PROGRAM CAN BE A RISK MANAGEMENT SYSTEM THAT IDENTIFIES AT-RISK POPULATIONS OR ANY OTHER SYSTEMATIC PROGRAM OR COURSE OF MEDICAL CONDUCT WHICH HELPS TO PROMOTE PHYSICAL AND MENTAL FITNESS, HEALTH AND WELL-BEING, HELPS TO PREVENT OR MITIGATE THE CONDITIONS OF ACUTE OR CHRONIC SICKNESS, DISEASE OR PAIN, OR WHICH MINIMIZES ADVERSE HEALTH CONSEQUENCES DUE TO LIFESTYLE. SUCH A WELLNESS PROGRAM MAY HAVE SOME OR ALL OF THE FOLLOWING ELEMENTS TO ADVANCE THE PHYSICAL HEALTH AND MENTAL WELL-BEING OF ITS PARTICIPANTS:

(1) AN EDUCATION PROGRAM TO INCREASE THE AWARENESS OF AND DISSEMINATION OF INFORMATION ABOUT PURSUING HEALTHIER LIFESTYLES, AND WHICH WARNS ABOUT RISKS OF PURSUING ENVIRONMENTAL OR BEHAVIORAL ACTIVITIES THAT ARE DETRIMENTAL TO HUMAN HEALTH. IN ADDITION, INFORMATION ON THE AVAILABILITY OF HEALTH SCREENING TESTS TO ASSIST IN THE EARLY IDENTIFI-

CATION AND TREATMENT OF DISEASES SUCH AS CANCER, HEART DISEASE, HYPERTENSION, DIABETES, ASTHMA, OBESITY OR OTHER ADVERSE HEALTH AFFLICTIONS;

(2) A PROGRAM THAT ENCOURAGES BEHAVIORAL PRACTICES THAT EITHER ENCOURAGES HEALTHY LIVING ACTIVITIES OR DISCOURAGES UNHEALTHY LIVING ACTIVITIES. SUCH ACTIVITIES OR PRACTICES MAY INCLUDE:

(A) DISCOURAGING SUBSTANCE ABUSE, USE OF TOBACCO OR OVERINDULGENCE OF ALCOHOLIC BEVERAGES,

(B) PROMOTION OF HEALTHY EATING HABITS,

(C) EFFORTS TO REDUCE OBESITY AND THE INCIDENCE OF ASTHMA,

(D) INSTITUTING A PROPER FITNESS REGIMEN,

(E) MONITORING AND CONTROLLING EXCESS STRESS AND HYPERTENSION, AND

(F) METHODS TO MANAGE AND COPE WITH CHRONIC PAIN; AND

(3) THE MONITORING OF THE PROGRESS OF EACH COVERED PERSON TO TRACK HIS OR HER ADHERENCE TO SUCH WELLNESS PROGRAM AND TO PROVIDE ASSISTANCE AND MORAL SUPPORT TO SUCH COVERED PERSON TO ASSIST HIM OR HER TO ATTAIN THE GOALS OF THE COVERED PERSON'S WELLNESS PROGRAM.

SUCH WELLNESS PROGRAM SHALL DEMONSTRATE ACTUARIALLY THAT IT ENCOURAGES THE GENERAL GOOD HEALTH AND WELL-BEING OF THE COVERED POPULATION. THE HEALTH MAINTENANCE ORGANIZATION SHALL NOT REQUIRE SPECIFIC OUTCOMES AS A RESULT OF AN ENROLLEE'S ADHERENCE TO THE APPROVED WELLNESS PROGRAM;

S 6. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided that, effective immediately any rules and regulations necessary to implement the provisions of this act on its effective date are authorized and directed to be added, amended and/or repealed on or before such date.