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

4636--A

2011-2012 Regular Sessions

I N S E N A T E

April 14, 2011

Introduced by Sen. GRISANTI -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- recommitted to the Committee on Insurance in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to establishing a demonstration program to prevent influenza; and providing for the repeal of such provisions upon expiration thereof

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

Section 1. The insurance law is amended by adding a new section 1123-a to read as follows:

S 1123-A. HEALTH INSURANCE DEMONSTRATION PROGRAM TO PREVENT INFLUENZA. (A) PURPOSE OF THE DEMONSTRATION PROGRAM. THE LEGISLATURE RECOGNIZES THAT HUNDREDS OF THOUSANDS OF NEW YORK CITIZENS GET THE FLU EVERY YEAR. MOST CALL OUT OF WORK FOR DAYS TO NURSE THE ILLNESS, WHILE MANY OTHERS, LACKING PROPER IMMUNIZATION, SUCCUMB TO THE FLU EVERY YEAR, INCLUDING THE ELDERLY, CHRONICALLY ILL AND CHILDREN. THE FLU IS ONE OF THE MOST PREVENTABLE DISEASES IN BOTH SEVERITY AND OVERALL ILLNESS THROUGH VACCINATION. THE DEMONSTRATION PROGRAM IS INTENDED TO TEST MECHANISMS TO ASSIST INSURERS EXPAND BEYOND PREDETERMINED SETTINGS AND PROVIDERS CURRENTLY ELIGIBLE AS PARTICIPATING PROVIDERS BY INSURERS PROVIDING INFLUENZA VACCINATION FOR INFLUENZA.

(B) DEFINITIONS. AS USED IN THIS SECTION:

(1) "ELIGIBLE HEALTH CARE PROVIDER" MEANS A PERSON, CLINIC, AGENCY OR PHARMACY THAT IS LICENSED OR CERTIFIED PURSUANT TO THE PUBLIC HEALTH LAW OR EDUCATION LAW AND WHO IS LICENSED TO PRESCRIBE AND ADMINISTER VACCINES IN ACCORDANCE WITH STANDARDS AND REQUIREMENTS SET FORTH IN THE EDUCATION LAW OR ANY OTHER APPLICABLE LAW OR RULE.

(2) "ELIGIBLE INSURER" MEANS ANY INSURER PROVIDING HEALTH INSURANCE COVERAGE PURSUANT TO ARTICLE FORTY-THREE OR THIRTY-TWO OF THIS CHAPTER

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

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AND IS LOCATED IN AN EIGHT, TWELVE OR FIVE COUNTY REGION OF THE WORKFORCE RETRAINING PROGRAM AS DEFINED PURSUANT TO SECTION TWENTY-EIGHT HUNDRED SEVEN-G OF THE PUBLIC HEALTH LAW.

(3) "REGION" MEANS AN EIGHT, TWELVE OR FIVE COUNTY REGION AS DEFINED FOR THE WORKFORCE RETRAINING PROGRAM PURSUANT TO SECTION TWENTY-EIGHT HUNDRED SEVEN-G OF THE PUBLIC HEALTH LAW.

(C) DEMONSTRATION PROGRAM TO PREVENT INFLUENZA. (1) BOTH INSURERS AND HEALTH CARE PROVIDERS SHALL BE SUBJECT TO THE PROVISIONS OF THIS CHAPTER AND ANY REGULATIONS PROMULGATED THEREUNDER.

(2) SUBJECT TO PARAGRAPH THREE OF THIS SUBSECTION, THE SUPERINTENDENT MAY ISSUE AN APPROVAL TO AN ELIGIBLE HEALTH CARE PROVIDER PROVIDING VACCINATIONS IF:

(A) THE ELIGIBLE HEALTH CARE PROVIDER DEMONSTRATES THAT IT SATISFIES ALL FINANCIAL, OPERATIONAL AND OTHER REQUIREMENTS OF THIS CHAPTER AND REGULATIONS PROMULGATED THEREUNDER, OTHER THAN ANY REQUIREMENTS EXPRESSLY WAIVED BY THIS SECTION, AND SHALL OPERATE THE DEMONSTRATION PROGRAM IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION;

(B) THE SUPERINTENDENT DETERMINES THAT THE DEMONSTRATION PROGRAM FURTHERS THE PUBLIC POLICY GOALS OF THIS SECTION;

(C) THE HEALTH CARE PROVIDER INTENDS TO ADMINISTER INFLUENZA VACCINE IN THE REGION;

(D) THE NUMBER OF ELIGIBLE HEALTH CARE PROVIDERS DOES NOT EXCEED FIFTY IN THE REGION UNLESS THE ELIGIBLE INSURER IN SUCH REGION CONSENTS TO SUCH ADDITIONAL ELIGIBLE HEALTH CARE PROVIDERS.

(3) ANY ELIGIBLE HEALTH CARE PROVIDER SEEKING THE SUPERINTENDENT'S APPROVAL UNDER PARAGRAPH TWO OF THIS SUBSECTION SHALL SUBMIT A WRITTEN REQUEST TO THE SUPERINTENDENT WITHIN THIRTY DAYS OF THE EFFECTIVE DATE OF THIS SECTION. THE SUPERINTENDENT SHALL MAKE A DETERMINATION ON ANY REQUEST WITHIN NINETY DAYS OF RECEIPT OF ALL NECESSARY INFORMATION.

(4) THE SUPERINTENDENT MAY REVOKE AN APPROVAL ISSUED UNDER PARAGRAPH TWO OF THIS SUBSECTION IF: THE HEALTH CARE PROVIDER THAT RECEIVED SUCH APPROVAL NO LONGER QUALIFIES AS AN ELIGIBLE HEALTH CARE PROVIDER OR IS OTHERWISE OPERATING IN A MANNER INCONSISTENT WITH THE PROVISIONS OF THIS CHAPTER OR REGULATIONS PROMULGATED THEREUNDER. ELIGIBLE INSURERS SHALL SUBMIT PERIODIC REPORTS TO THE SUPERINTENDENT SUFFICIENT TO ENABLE THE SUPERINTENDENT TO EVALUATE THE EFFECTIVENESS OF THE DEMONSTRATION PROGRAM. SUCH REPORTS SHALL IDENTIFY WHETHER TRIVALENT INACTIVATED VACCINE OR LIVE ATTENUATED INFLUENZA VACCINE WAS UTILIZED. IN ADDITION SUCH REPORT SHALL INCLUDE WHETHER SUCH VACCINE WAS ADMINISTERED OUTSIDE A PHYSICIAN'S OFFICE, BARRIERS TO MAKING THE INFLUENZA VACCINATION MORE AVAILABLE AND ANY STRATEGIES FOR REMOVING SUCH BARRIERS.

S 2. This act shall take effect January 1, 2013 and shall expire January 1, 2016 when upon such date the provisions of this act shall be deemed repealed.