

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. GOTTFRIED, CAHILL, CANESTRARI, ENGLEBRIGHT, GALEF, ROBINSON, HOYT, LANCMAN -- Multi-Sponsored by -- M. of A. ABBATE, AUBRY, BRENNAN, CLARK, COLTON, COOK, CYMBROWITZ, DINOWITZ, HEASTIE, JACOBS, KELLNER, MAYERSOHN, McENENY, J. MILLER, MILLMAN, ORTIZ, PAULIN, PERRY, PHEFFER, PRETLOW, RAMOS, J. RIVERA, TITUS, TOWNS, WEISENBERG -- read once and referred 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

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

1 documentation, a health plan shall make every effort to obtain such  
2 information as soon as possible.

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

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

51 (D) THE COMMISSIONER, IN CONSULTATION WITH THE SUPERINTENDENT OF  
52 INSURANCE, AND REPRESENTATIVES OF HEALTH CARE PLANS, HOSPITALS AND  
53 HEALTH CARE PROFESSIONALS SHALL ADOPT BY REGULATION A UNIVERSAL HEALTH  
54 CARE PROFESSIONAL REFERRAL FORM FOR THE PURPOSE OF SIMPLIFYING THE PROC-  
55 ESS OF REFERRAL OF PATIENTS TO OTHER HEALTH CARE PROFESSIONALS.

1 (E) THE COMMISSIONER, IN CONSULTATION WITH THE SUPERINTENDENT OF  
2 INSURANCE, AND REPRESENTATIVES OF HEALTH CARE PLANS, HOSPITALS AND  
3 HEALTH CARE PROFESSIONALS SHALL REVISE THE UNIVERSAL APPLICATION,  
4 RE-CREDENTIALING AND UNIVERSAL HEALTH CARE PROFESSIONAL REFERRAL FORMS  
5 AS NECESSARY, TO CONFORM WITH INDUSTRY-WIDE, NATIONAL STANDARDS OF  
6 CREDENTIALING, RE-CREDENTIALING AND HEALTH CARE REFERRAL.

7 (F) IN DEVELOPING THE UNIVERSAL HEALTH CARE PROFESSIONAL APPLICATION  
8 RE-CREDENTIALING FORMS, THE COMMISSIONER SHALL ENSURE THAT THE CREDEN-  
9 TIALING AND RE-CREDENTIALING REQUIREMENTS FOR PARTICIPATION IN THE MEDI-  
10 CAID PROGRAM, THE STATE CHILD HEALTH PLUS PROGRAM AND THE FAMILY HEALTH  
11 PLUS PROGRAMS ARE ADEQUATELY REFLECTED ON THE HEALTH CARE PROFESSIONAL  
12 APPLICATION AND RE-CREDENTIALING FORMS.

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

17 (H) THE PROFESSIONAL REFERRAL FORM REQUIRED FOR DEVELOPMENT UNDER THIS  
18 SUBDIVISION SHALL BE THE ONLY FORM THAT A HEALTH CARE PLAN MAY REQUIRE A  
19 HEALTH CARE PROFESSIONAL TO USE FOR THE PURPOSES OF MAKING A PROFES-  
20 SIONAL REFERRAL; PROVIDED, HOWEVER, THAT A HEALTH CARE PLAN MAY REQUEST  
21 ADDITIONAL PATIENT INFORMATION SEPARATELY FROM THE PROFESSIONAL REFERRAL  
22 FORM FOR THE PURPOSES OF REVIEWING SUCH PROFESSIONAL REFERRAL.

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

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

50 (2) If the completed application of a newly-licensed health care  
51 professional or a health care professional who has recently relocated to  
52 this state from another state and has not previously practiced in this  
53 state, who joins a group practice of health care professionals each of  
54 whom participates in the in-network portion of an insurer's network, is  
55 neither approved nor declined within ninety days pursuant to paragraph  
56 one of this subsection, such health care professional shall be deemed

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

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

41 (4) THE SUPERINTENDENT, IN CONSULTATION WITH THE COMMISSIONER OF  
42 HEALTH, AND REPRESENTATIVES OF HEALTH CARE PLANS, HOSPITALS AND HEALTH  
43 CARE PROFESSIONALS SHALL ADOPT BY REGULATION A UNIVERSAL HEALTH CARE  
44 PROFESSIONAL REFERRAL FORM FOR THE PURPOSE OF SIMPLIFYING THE PROCESS OF  
45 REFERRAL OF PATIENTS TO OTHER HEALTH CARE PROFESSIONALS.

46 (5) THE SUPERINTENDENT, IN CONSULTATION WITH THE COMMISSIONER OF  
47 HEALTH, AND REPRESENTATIVES OF HEALTH CARE PLANS, HOSPITALS AND HEALTH  
48 CARE PROFESSIONALS SHALL REVISE THE UNIVERSAL APPLICATION, RE-CREDEN-  
49 TIALING AND UNIVERSAL HEALTH CARE PROFESSIONAL REFERRAL FORMS AS NECES-  
50 SARY, TO CONFORM WITH INDUSTRY-WIDE, NATIONAL STANDARDS OF CREDENTIAL-  
51 ING, RE-CREDENTIALING AND HEALTH CARE REFERRAL.

52 (6) IN DEVELOPING THE UNIVERSAL HEALTH CARE PROFESSIONAL APPLICATION  
53 RE-CREDENTIALING FORMS, THE SUPERINTENDENT SHALL ENSURE THAT THE CREDEN-  
54 TIALING AND RE-CREDENTIALING REQUIREMENTS FOR PARTICIPATION IN THE MEDI-  
55 CAID PROGRAM, THE STATE CHILD HEALTH PLUS PROGRAM AND THE FAMILY HEALTH

1 PLUS PROGRAMS ARE ADEQUATELY REFLECTED ON THE HEALTH CARE PROFESSIONAL  
2 APPLICATION AND RE-CREDENTIALING FORMS.

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

7 (8) THE PROFESSIONAL REFERRAL FORM REQUIRED FOR DEVELOPMENT UNDER THIS  
8 SUBSECTION SHALL BE THE ONLY FORM THAT AN INSURER MAY REQUIRE A HEALTH  
9 CARE PROFESSIONAL TO USE FOR THE PURPOSES OF MAKING A PROFESSIONAL  
10 REFERRAL; PROVIDED, HOWEVER, THAT AN INSURER MAY REQUEST ADDITIONAL  
11 PATIENT INFORMATION SEPARATELY FROM THE PROFESSIONAL REFERRAL FORM FOR  
12 THE PURPOSES OF REVIEWING SUCH PROFESSIONAL REFERRAL.

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