

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:

1     Section 1. Section 3231 of the insurance law, as added by chapter 501  
2 of the laws of 1992, is amended by adding a new subsection (c-1) to read  
3 as follows:  
4     (C-1) SUBJECT TO THE APPROVAL OF THE SUPERINTENDENT, AN INSURER OR  
5 HEALTH MAINTENANCE ORGANIZATION ISSUING AN INDIVIDUAL OR GROUP HEALTH  
6 INSURANCE POLICY PURSUANT TO THIS SECTION MAY PROVIDE FOR AN ACTUARIALLY  
7 APPROPRIATE REDUCTION IN PREMIUM RATES OR OTHER BENEFITS OR ENHANCEMENTS  
8 APPROVED BY THE SUPERINTENDENT TO ENCOURAGE AN ENROLLEE'S OR INSURED'S  
9 ACTIVE PARTICIPATION IN A QUALIFIED WELLNESS PROGRAM. A QUALIFIED WELL-  
10 NESS PROGRAM CAN BE A RISK MANAGEMENT SYSTEM THAT IDENTIFIES AT-RISK  
11 POPULATIONS OR ANY OTHER SYSTEMATIC PROGRAM OR COURSE OF MEDICAL CONDUCT  
12 WHICH HELPS TO PROMOTE PHYSICAL AND MENTAL FITNESS, HEALTH AND WELL-BE-  
13 ING, HELPS TO PREVENT OR MITIGATE THE CONDITIONS OF ACUTE OR CHRONIC  
14 SICKNESS, DISEASE OR PAIN, OR WHICH MINIMIZES ADVERSE HEALTH CONSE-  
15 QUENCES DUE TO LIFESTYLE. SUCH A WELLNESS PROGRAM MAY HAVE SOME OR ALL  
16 OF THE FOLLOWING ELEMENTS TO ADVANCE THE PHYSICAL HEALTH AND MENTAL  
17 WELL-BEING OF ITS PARTICIPANTS:  
18     (1) AN EDUCATION PROGRAM TO INCREASE THE AWARENESS OF AND DISSEM-  
19 INATION OF INFORMATION ABOUT PURSUING HEALTHIER LIFESTYLES, AND WHICH  
20 WARNS ABOUT RISKS OF PURSUING ENVIRONMENTAL OR BEHAVIORAL ACTIVITIES  
21 THAT ARE DETRIMENTAL TO HUMAN HEALTH. IN ADDITION, INFORMATION ON THE  
22 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.

LBD10001-01-1

1 CATION AND TREATMENT OF DISEASES SUCH AS CANCER, HEART DISEASE, HYPER-  
2 TENSION, DIABETES, ASTHMA, OBESITY OR OTHER ADVERSE HEALTH AFFLICTIONS;

3 (2) A PROGRAM THAT ENCOURAGES BEHAVIORAL PRACTICES THAT EITHER ENCOUR-  
4 AGES HEALTHY LIVING ACTIVITIES OR DISCOURAGES UNHEALTHY LIVING ACTIV-  
5 ITIES. SUCH ACTIVITIES OR PRACTICES MAY INCLUDE:

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

8 (B) PROMOTION OF HEALTHY EATING HABITS,

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

10 (D) INSTITUTING A PROPER FITNESS REGIMEN,

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

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

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

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

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

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

39 (A) AN EDUCATION PROGRAM TO INCREASE THE AWARENESS OF AND DISSEM-  
40 INATION OF INFORMATION ABOUT PURSUING HEALTHIER LIFESTYLES, AND WHICH  
41 WARNS ABOUT RISKS OF PURSUING ENVIRONMENTAL OR BEHAVIORAL ACTIVITIES  
42 THAT ARE DETRIMENTAL TO HUMAN HEALTH. IN ADDITION, INFORMATION ON THE  
43 AVAILABILITY OF HEALTH SCREENING TESTS TO ASSIST IN THE EARLY IDENTIFI-  
44 CATION AND TREATMENT OF DISEASES SUCH AS CANCER, HEART DISEASE, HYPER-  
45 TENSION, DIABETES, ASTHMA, OBESITY OR OTHER ADVERSE HEALTH AFFLICTIONS;

46 (B) A PROGRAM THAT ENCOURAGES BEHAVIORAL PRACTICES THAT EITHER ENCOUR-  
47 AGES HEALTHY LIVING ACTIVITIES OR DISCOURAGES UNHEALTHY LIVING ACTIV-  
48 ITIES. SUCH ACTIVITIES OR PRACTICES MAY INCLUDE:

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

51 (II) PROMOTION OF HEALTHY EATING HABITS,

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

53 (IV) INSTITUTING A PROPER FITNESS REGIMEN,

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

55 (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-

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

12 (1) AN EDUCATION PROGRAM TO INCREASE THE AWARENESS OF AND DISSEM-  
13 INATION OF INFORMATION ABOUT PURSUING HEALTHIER LIFESTYLES, AND WHICH  
14 WARNS ABOUT RISKS OF PURSUING ENVIRONMENTAL OR BEHAVIORAL ACTIVITIES  
15 THAT ARE DETRIMENTAL TO HUMAN HEALTH. IN ADDITION, INFORMATION ON THE  
16 AVAILABILITY OF HEALTH SCREENING TESTS TO ASSIST IN THE EARLY IDENTIFI-  
17 CATION AND TREATMENT OF DISEASES SUCH AS CANCER, HEART DISEASE, HYPER-  
18 TENSION, DIABETES, ASTHMA, OBESITY OR OTHER ADVERSE HEALTH AFFLICTIONS;

19 (2) A PROGRAM THAT ENCOURAGES BEHAVIORAL PRACTICES THAT EITHER ENCOUR-  
20 AGES HEALTHY LIVING ACTIVITIES OR DISCOURAGES UNHEALTHY LIVING ACTIV-  
21 ITIES. SUCH ACTIVITIES OR PRACTICES MAY INCLUDE:

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

24 (B) PROMOTION OF HEALTHY EATING HABITS,

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

26 (D) INSTITUTING A PROPER FITNESS REGIMEN,

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

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

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

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

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

40 5-A. SUBJECT TO THE APPROVAL OF THE SUPERINTENDENT, MAY PROVIDE FOR AN  
41 ACTUARIALLY APPROPRIATE REDUCTION IN PREMIUM RATES OR OTHER BENEFITS OR  
42 ENHANCEMENTS APPROVED BY THE SUPERINTENDENT TO ENCOURAGE AN ENROLLEE'S  
43 ACTIVE PARTICIPATION IN A QUALIFIED WELLNESS PROGRAM. A QUALIFIED WELL-  
44 NESS PROGRAM CAN BE A RISK MANAGEMENT SYSTEM THAT IDENTIFIES AT-RISK  
45 POPULATIONS OR ANY OTHER SYSTEMATIC PROGRAM OR COURSE OF MEDICAL CONDUCT  
46 WHICH HELPS TO PROMOTE PHYSICAL AND MENTAL FITNESS, HEALTH AND WELL-BE-  
47 ING, HELPS TO PREVENT OR MITIGATE THE CONDITIONS OF ACUTE OR CHRONIC  
48 SICKNESS, DISEASE OR PAIN, OR WHICH MINIMIZES ADVERSE HEALTH CONSE-  
49 QUENCES DUE TO LIFESTYLE. SUCH A WELLNESS PROGRAM MAY HAVE SOME OR ALL  
50 OF THE FOLLOWING ELEMENTS TO ADVANCE THE PHYSICAL HEALTH AND MENTAL  
51 WELL-BEING OF ITS PARTICIPANTS:

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

1 CATION AND TREATMENT OF DISEASES SUCH AS CANCER, HEART DISEASE, HYPER-  
2 TENSION, DIABETES, ASTHMA, OBESITY OR OTHER ADVERSE HEALTH AFFLICTIONS;

3 (2) A PROGRAM THAT ENCOURAGES BEHAVIORAL PRACTICES THAT EITHER ENCOUR-  
4 AGES HEALTHY LIVING ACTIVITIES OR DISCOURAGES UNHEALTHY LIVING ACTIV-  
5 ITIES. SUCH ACTIVITIES OR PRACTICES MAY INCLUDE:

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

8 (B) PROMOTION OF HEALTHY EATING HABITS,

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

10 (D) INSTITUTING A PROPER FITNESS REGIMEN,

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

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

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

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

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