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

6939

I N S E N A T E

April 13, 2012

Introduced by Sen. KRUEGER -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to requiring health insurance companies to provide health care proxy forms to the insured and to store completed proxies on behalf of the insured and to amend the social services law, in relation to requiring the department of social services to provide health care proxy forms and instructions to applicants for Medicaid

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

Section 1. Section 3217-a of the insurance law is amended by adding a new subsection (f) to read as follows:

(F) EACH INSURER SUBJECT TO THIS ARTICLE SHALL SUPPLY TO EACH INSURED BIENNIALLY, OR UPON REQUEST, TO EACH PROSPECTIVE INSURED PRIOR TO ENROLLMENT, A WRITTEN HEALTH CARE PROXY FORM AND A WRITTEN DESCRIPTION OF THE PURPOSE OF THE HEALTH CARE PROXY FORM AND THE PROCEDURE BY WHICH TO COMPLETE SUCH FORM.

S 2. The insurance law is amended by adding a new section 3240 to read as follows:

S 3240. HEALTH CARE PROXY. (A) AN INSURER SUBJECT TO THIS ARTICLE SHALL ACCEPT RECEIPT FROM AN INSURED OF HIS OR HER COMPLETED HEALTH CARE PROXY AND STORE SUCH COMPLETED PROXY WITH THE INSURED'S PERMANENT RECORDS. THE INSURED MAY SUBMIT SUCH PROXY TO THE INSURER AT THE TIME OF REGISTRATION OR ENROLLMENT OF HIS OR HER HEALTH INSURANCE POLICY OR AT ANY TIME THE INSURED HOLDS A POLICY WITH THE INSURER. THE INSURED MAY FILE AN UPDATED COMPLETED PROXY WITH HIS OR HER INSURER AT ANY TIME THE INSURED HOLDS A POLICY WITH THE INSURER.

(B) AN INSURER SHALL PROVIDE A COPY OF AN INSURED'S MOST RECENTLY EXECUTED HEALTH CARE PROXY STORED WITH THE INSURED'S PERMANENT RECORDS BY THE INSURER TO ANY HEALTH CARE PROVIDER OR INSTITUTION TREATING THE INSURED WITHIN TWENTY-FOUR HOURS AFTER RECEIVING INITIAL NOTIFICATION OF THE INSURED'S TREATMENT.

S 3. Subdivision 1-a of section 366-a of the social services law, as added by chapter 512 of the laws of 2011, is amended to read as follows:

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

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1-a. Every person making application for medical assistance, and every person on whose behalf an application is made, shall[, if interested,] be given the New York state department of health model health care proxy form, A WRITTEN DESCRIPTION OF THE PURPOSE OF THE HEALTH CARE PROXY FORM AND THE PROCEDURE BY WHICH TO COMPLETE SUCH FORM by the person taking the application, except where doing so would impede the immediate provision of health care services. THE DEPARTMENT SHALL SUPPLY TO EACH PERSON INSURED BIENNIALLY, OR UPON REQUEST, A WRITTEN HEALTH CARE PROXY FORM, A WRITTEN DESCRIPTION OF THE PURPOSE OF THE HEALTH CARE PROXY FORM AND THE PROCEDURE BY WHICH TO COMPLETE SUCH FORM. THE DEPARTMENT SHALL ACCEPT RECEIPT FROM THE APPLICANT OF HIS OR HER COMPLETED HEALTH CARE PROXY AND STORE SUCH COMPLETED PROXY WITH THE APPLICANT'S PERMANENT RECORDS. THE APPLICANT MAY SUBMIT HIS OR HER COMPLETED PROXY TO THE DEPARTMENT AT THE TIME OF APPLICATION OR ENROLLMENT FOR BENEFITS PURSUANT TO THE PROVISIONS OF THIS TITLE OR AT ANY TIME THE APPLICANT IS RECEIVING BENEFITS PURSUANT TO THE PROVISIONS OF THIS TITLE. THE DEPARTMENT SHALL PROVIDE A COPY OF THE APPLICANT'S MOST RECENTLY EXECUTED HEALTH CARE PROXY STORED WITH THE APPLICANT'S PERMANENT RECORDS BY THE DEPARTMENT TO ANY HEALTH CARE PROVIDER OR INSTITUTION TREATING THE APPLICANT WITHIN TWENTY-FOUR HOURS AFTER RECEIVING INITIAL NOTIFICATION OF THE APPLICANT'S TREATMENT.

S 4. This act shall take effect on the sixtieth day after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.