

6426--B

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I N A S S E M B L Y

March 26, 2013

Introduced by M. of A. CUSICK -- read once and referred to the Committee on Health -- recommitted to the Committee on Health in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the public health law and the insurance law, in relation to requiring health care plans and insurers to provide expedited review of applications of health care professionals who are joining a group practice and grant provisional credentials to such professionals

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 application to participate in
11 the in-network portion of the health care plan's network and shall,
12 within ninety days of receiving a health care professional's completed
13 application to participate in the health care plan's network, notify the
14 health care professional as to: (i) whether he or she is credentialed;
15 or (ii) whether additional time is necessary to make a determination in
16 spite of the health care plan's best efforts or because of a failure of
17 a third party to provide necessary documentation, or non-routine or
18 unusual circumstances require additional time for review. In such
19 instances where additional time is necessary because of a lack of neces-

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

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1 sary documentation, a health plan shall make every effort to obtain such
2 information as soon as possible. PROVIDED, HOWEVER, THAT IF THE APPLI-
3 CANT IS A HEALTH CARE PROFESSIONAL WHO IS JOINING A GROUP PRACTICE OF
4 HEALTH CARE PROFESSIONALS, OR NEW EMPLOYEE OF A FACILITY OPERATING UNDER
5 ARTICLE TWENTY-EIGHT OF THIS CHAPTER OR ARTICLE THIRTY-ONE OF THE MENTAL
6 HYGIENE LAW THAT IS A PARTICIPATING PROVIDER IN THE HEALTH PLAN, AT
7 LEAST ONE OF WHOM PARTICIPATES IN THE IN-NETWORK PORTION OF A HEALTH
8 CARE PLAN'S NETWORK, A HEALTH CARE PLAN SHALL, WITHIN THIRTY DAYS OF
9 RECEIVING SUCH A HEALTH CARE PROFESSIONAL'S COMPLETE APPLICATION TO
10 PARTICIPATE IN THE HEALTH CARE PLAN'S NETWORK, INCLUDING SUBMISSION OF
11 ALL NECESSARY DOCUMENTATION FROM THE APPLICANT AND THIRD PARTIES,
12 COMPLETE REVIEW AND NOTIFY THE HEALTH CARE PROFESSIONAL AS TO WHETHER HE
13 OR SHE IS CREDENTIALLED.

14 (b) If the completed application of a newly-licensed health care
15 professional or a health care professional who has recently relocated to
16 this state from another state and has not previously practiced in this
17 state, who joins a group practice of health care professionals each of
18 whom participates in the in-network portion of a health care plan's
19 network, is neither approved nor declined within ninety days pursuant to
20 paragraph (a) of this subdivision, the health care professional shall be
21 deemed "provisionally credentialed" and may participate in the in-net-
22 work portion of the health care plan's network[; provided, however, that
23 a provisionally credentialed physician may not be designated as an
24 enrollee's primary care physician until such time as the physician has
25 been fully credentialed]. The network participation for a HEALTH CARE
26 PROFESSIONAL DEEMED provisionally credentialed [health care profes-
27 sional] PURSUANT TO THIS PARAGRAPH shall begin on the day following the
28 ninetieth day of receipt of the completed application and shall last
29 until the final credentialing determination is made by the health care
30 plan. [A health care professional shall only be eligible for provisional
31 credentialing if the group practice of health care professionals noti-
32 fies the health care plan in writing that, should the application ulti-
33 mately be denied, the health care professional or the group practice:
34 (i) shall refund any payments made by the health care plan for in-net-
35 work services provided by the provisionally credentialed health care
36 professional that exceed any out-of-network benefits payable under the
37 enrollee's contract with the health care plan; and (ii)] IT SHALL BE
38 UNDERSTOOD THAT PROVISIONALLY CREDENTIALLED PROVIDERS' REIMBURSEMENT WILL
39 BE APPROVED BUT HELD BY THE HEALTH CARE PLAN UNTIL FINAL APPROVAL;
40 PROVIDED, HOWEVER, THAT IF REIMBURSEMENT IS DENIED, THE PROVISIONALLY
41 CREDENTIALLED PROVIDER shall not pursue reimbursement from the enrollee,
42 except to collect the copayment that otherwise would have been payable
43 had the enrollee received services from a health care professional
44 participating in the in-network portion of a health care plan's network.
45 Interest and penalties pursuant to section three thousand two hundred
46 twenty-four-a of the insurance law shall not be assessed based on the
47 denial of a claim submitted during the period when the health care
48 professional was provisionally credentialed; provided, however, that
49 nothing herein shall prevent a health care plan from paying a claim from
50 a health care professional who is provisionally credentialed upon
51 submission of such claim. A health care plan shall not deny, after
52 appeal, a claim for services provided by a provisionally credentialed
53 health care professional solely on the ground that the claim was not
54 timely filed.

55 (C) IF THE APPLICANT IS A HEALTH CARE PROFESSIONAL WHO IS JOINING A
56 GROUP PRACTICE OF HEALTH CARE PROFESSIONALS, OR NEW EMPLOYEE OF A FACIL-

1 ITY OPERATING UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER OR ARTICLE
2 THIRTY-ONE OF THE MENTAL HYGIENE LAW THAT IS A PARTICIPATING PROVIDER IN
3 THE HEALTH PLAN, AT LEAST ONE OF WHOM PARTICIPATES IN THE IN-NETWORK
4 PORTION OF A HEALTH CARE PLAN'S NETWORK, UPON HIS OR HER SUBMISSION OF A
5 COMPLETE APPLICATION TO PARTICIPATE IN THE HEALTH CARE PLAN'S NETWORK,
6 INCLUDING SUBMISSION OF ALL NECESSARY DOCUMENTATION FROM THE APPLICANT
7 AND THIRD PARTIES, HE OR SHE SHALL BE DEEMED "PROVISIONALLY CREDEN-
8 TIALED" AND MAY PARTICIPATE IN THE IN-NETWORK PORTION OF THE HEALTH CARE
9 PLAN'S NETWORK. THE NETWORK PARTICIPATION FOR A HEALTH CARE PROFESSIONAL
10 DEEMED PROVISIONALLY CREDENTIALLED PURSUANT TO THIS PARAGRAPH SHALL BEGIN
11 ON THE DAY FOLLOWING NOTIFICATION BY THE HEALTH CARE PLAN THAT THE
12 COMPLETED APPLICATION WAS RECEIVED AND SHALL LAST UNTIL THE FINAL
13 CREDENTIALING DETERMINATION IS MADE BY THE HEALTH CARE PLAN.

14 (D) IF A HEALTH CARE PROFESSIONAL IS DEEMED "PROVISIONALLY CREDEN-
15 TIALED" PURSUANT TO PARAGRAPH (B) OR (C) OF THIS SUBDIVISION, HE OR SHE
16 MAY NOT BE DESIGNATED AS AN ENROLLEE'S PRIMARY CARE PHYSICIAN UNTIL SUCH
17 TIME AS THE PHYSICIAN HAS BEEN FULLY CREDENTIALLED. IT SHALL BE UNDER-
18 STOOD THAT PROVISIONALLY CREDENTIALLED PROVIDERS' REIMBURSEMENT WILL BE
19 APPROVED BUT HELD BY THE HEALTH CARE PLAN UNTIL FINAL APPROVAL;
20 PROVIDED, HOWEVER, THAT IF REIMBURSEMENT IS DENIED, THE PROVISIONALLY
21 CREDENTIALLED PROVIDER SHALL NOT PURSUE REIMBURSEMENT FROM THE ENROLLEE,
22 EXCEPT TO COLLECT THE COPAYMENT THAT OTHERWISE WOULD HAVE BEEN PAYABLE
23 HAD THE ENROLLEE RECEIVED SERVICES FROM A HEALTH CARE PROFESSIONAL
24 PARTICIPATING IN THE IN-NETWORK PORTION OF A HEALTH CARE PLAN'S NETWORK.
25 INTEREST AND PENALTIES PURSUANT TO SECTION THREE THOUSAND TWO HUNDRED
26 TWENTY-FOUR-A OF THE INSURANCE LAW SHALL NOT BE ASSESSED BASED ON THE
27 DENIAL OF A CLAIM SUBMITTED DURING THE PERIOD WHEN THE HEALTH CARE
28 PROFESSIONAL WAS PROVISIONALLY CREDENTIALLED; PROVIDED, HOWEVER, THAT
29 NOTHING HEREIN SHALL PREVENT A HEALTH CARE PLAN FROM PAYING A CLAIM FROM
30 A HEALTH CARE PROFESSIONAL WHO IS PROVISIONALLY CREDENTIALLED UPON
31 SUBMISSION OF SUCH CLAIM. A HEALTH CARE PLAN SHALL NOT DENY, AFTER
32 APPEAL, A CLAIM FOR SERVICES PROVIDED BY A PROVISIONALLY CREDENTIALLED
33 HEALTH CARE PROFESSIONAL SOLELY ON THE GROUND THAT THE CLAIM WAS NOT
34 TIMELY FILED.

35 (E) IF A HEALTH CARE PROFESSIONAL HAS BEEN CREDENTIALLED BY A HEALTH
36 CARE PLAN PURSUANT TO THIS SUBDIVISION, AND SUBSEQUENT THERETO BUT PRIOR
37 TO EXPIRATION OR TERMINATION OF HIS OR HER CONTRACT WITH THE HEALTH CARE
38 PLAN, THE HEALTH CARE PROFESSIONAL OR THE GROUP PRACTICE CHANGES THE
39 ADDRESS OF OR ADDS AN ADDITIONAL LOCATION TO THE PRACTICE, HE OR SHE
40 SHALL NOT BE REQUIRED TO REAPPLY FOR CERTIFICATION BUT SHALL BE REQUIRED
41 TO FILE NOTICE OF SUCH CHANGE OR ADDITION WITH THE HEALTH CARE PLAN.

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

44 (a) (1) An insurer which offers a managed care product shall, upon
45 request, make available and disclose to health care professionals writ-
46 ten application procedures and minimum qualification requirements which
47 a health care professional must meet in order to be considered by the
48 insurer for participation in the in-network benefits portion of the
49 insurer's network for the managed care product. The insurer shall
50 consult with appropriately qualified health care professionals in devel-
51 oping its qualification requirements for participation in the in-network
52 benefits portion of the insurer's network for the managed care product.
53 An insurer shall complete review of the health care professional's
54 application to participate in the in-network portion of the insurer's
55 network and, within ninety days of receiving a health care profes-
56 sional's completed application to participate in the insurer's network,

1 will notify the health care professional as to: (A) whether he or she is
2 credentialed; or (B) whether additional time is necessary to make a
3 determination in spite of the insurer's best efforts or because of a
4 failure of a third party to provide necessary documentation, or non-
5 routine or unusual circumstances require additional time for review. In
6 such instances where additional time is necessary because of a lack of
7 necessary documentation, an insurer shall make every effort to obtain
8 such information as soon as possible. PROVIDED, HOWEVER, THAT IF THE
9 APPLICANT IS A HEALTH CARE PROFESSIONAL WHO IS JOINING A GROUP PRACTICE
10 OF HEALTH CARE PROFESSIONALS, OR NEW EMPLOYEE OF A FACILITY OPERATING
11 UNDER ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW OR ARTICLE
12 THIRTY-ONE OF THE MENTAL HYGIENE LAW THAT IS A PARTICIPATING PROVIDER IN
13 THE HEALTH PLAN, AT LEAST ONE OF WHOM PARTICIPATES IN THE IN-NETWORK
14 PORTION OF AN INSURER'S NETWORK, AN INSURER SHALL, WITHIN THIRTY DAYS OF
15 RECEIVING SUCH A HEALTH CARE PROFESSIONAL'S COMPLETE APPLICATION TO
16 PARTICIPATE IN AN INSURER'S NETWORK, INCLUDING SUBMISSION OF ALL NECES-
17 SARY DOCUMENTATION FROM THE APPLICANT AND THIRD PARTIES, COMPLETE REVIEW
18 AND NOTIFY THE HEALTH CARE PROFESSIONAL AS TO WHETHER HE OR SHE IS
19 CREDENTIALLED.

20 (2) If the completed application of a newly-licensed health care
21 professional or a health care professional who has recently relocated to
22 this state from another state and has not previously practiced in this
23 state, who joins a group practice of health care professionals each of
24 whom participates in the in-network portion of an insurer's network, is
25 neither approved nor declined within ninety days pursuant to paragraph
26 one of this subsection, such health care professional shall be deemed
27 "provisionally credentialed" and may participate in the in-network
28 portion of an insurer's network[; provided, however, that a provi-
29 sionally credentialed physician may not be designated as an insured's
30 primary care physician until such time as the physician has been fully
31 credentialed]. The network participation for a HEALTH CARE PROFESSIONAL
32 DEEMED provisionally credentialed [health care professional] PURSUANT TO
33 THIS PARAGRAPH shall begin on the day following the ninetieth day of
34 receipt of the completed application and shall last until the final
35 credentialing determination is made by the insurer. [A health care
36 professional shall only be eligible for provisional credentialing if the
37 group practice of health care professionals notifies the insurer in
38 writing that, should the application ultimately be denied, the health
39 care professional or the group practice: (A) shall refund any payments
40 made by the insurer for in-network services provided by the provi-
41 sionally credentialed health care professional that exceed any out-of-
42 network benefits payable under the insured's contract with the insurer;
43 and (B)] IT SHALL BE UNDERSTOOD THAT PROVISIONALLY CREDENTIALLED PROVID-
44 ERS' REIMBURSEMENT WILL BE APPROVED BUT HELD BY THE HEALTH CARE PLAN
45 UNTIL FINAL APPROVAL; PROVIDED, HOWEVER, THAT IF REIMBURSEMENT IS
46 DENIED, THE PROVISIONALLY CREDENTIALLED PROVIDER shall not pursue
47 reimbursement from the insured, except to collect the copayment or coin-
48 surance that otherwise would have been payable had the insured received
49 services from a health care professional participating in the in-network
50 portion of an insurer's network. Interest and penalties pursuant to
51 section three thousand two hundred twenty-four-a of this chapter shall
52 not be assessed based on the denial of a claim submitted during the
53 period when the health care professional was provisionally credentialed;
54 provided, however, that nothing herein shall prevent an insurer from
55 paying a claim from a health care professional who is provisionally
56 credentialed upon submission of such claim. An insurer shall not deny,

1 after appeal, a claim for services provided by a provisionally creden-
2 tialed health care professional solely on the ground that the claim was
3 not timely filed.

4 (3) IF THE APPLICANT IS A HEALTH CARE PROFESSIONAL WHO IS JOINING A
5 GROUP PRACTICE OF HEALTH CARE PROFESSIONALS, OR NEW EMPLOYEE OF A FACIL-
6 ITY OPERATING UNDER ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW OR
7 ARTICLE THIRTY-ONE OF THE MENTAL HYGIENE LAW THAT IS A PARTICIPATING
8 PROVIDER IN THE HEALTH PLAN, AT LEAST ONE OF WHOM PARTICIPATES IN THE
9 IN-NETWORK PORTION OF AN INSURER'S NETWORK, UPON HIS OR HER SUBMISSION
10 OF A COMPLETE APPLICATION TO PARTICIPATE IN THE INSURER'S NETWORK,
11 INCLUDING SUBMISSION OF ALL NECESSARY DOCUMENTATION FROM THE APPLICANT
12 AND THIRD PARTIES, HE OR SHE SHALL BE DEEMED "PROVISIONALLY CREDEN-
13 TIALED" AND MAY PARTICIPATE IN THE IN-NETWORK PORTION OF THE INSURER'S
14 NETWORK. THE NETWORK PARTICIPATION FOR A HEALTH CARE PROFESSIONAL DEEMED
15 PROVISIONALLY CREDENTIALLED PURSUANT TO THIS PARAGRAPH SHALL BEGIN ON THE
16 DAY FOLLOWING NOTIFICATION BY THE INSURER THAT THE COMPLETED APPLICATION
17 WAS RECEIVED AND SHALL LAST UNTIL THE FINAL CREDENTIALING DETERMINATION
18 IS MADE BY THE INSURER.

19 (4) IF A HEALTH CARE PROFESSIONAL IS DEEMED "PROVISIONALLY CREDEN-
20 TIALED" PURSUANT TO PARAGRAPH TWO OR THREE OF THIS SUBSECTION, HE OR SHE
21 MAY NOT BE DESIGNATED AS AN ENROLLEE'S PRIMARY CARE PHYSICIAN UNTIL SUCH
22 TIME AS THE PHYSICIAN HAS BEEN FULLY CREDENTIALLED. IT SHALL BE UNDER-
23 STOOD THAT PROVISIONALLY CREDENTIALLED PROVIDERS' REIMBURSEMENT WILL BE
24 APPROVED BUT HELD BY THE HEALTH CARE PLAN UNTIL FINAL APPROVAL;
25 PROVIDED, HOWEVER, THAT IF REIMBURSEMENT IS DENIED, THE PROVISIONALLY
26 CREDENTIALLED PROVIDER SHALL NOT PURSUE REIMBURSEMENT FROM THE INSURED,
27 EXCEPT TO COLLECT THE COPAYMENT OR COINSURANCE THAT OTHERWISE WOULD HAVE
28 BEEN PAYABLE HAD THE INSURED RECEIVED SERVICES FROM A HEALTH CARE
29 PROFESSIONAL PARTICIPATING IN THE IN-NETWORK PORTION OF AN INSURER'S
30 NETWORK. INTEREST AND PENALTIES PURSUANT TO SECTION THREE THOUSAND TWO
31 HUNDRED TWENTY-FOUR-A OF THIS CHAPTER SHALL NOT BE ASSESSED BASED ON THE
32 DENIAL OF A CLAIM SUBMITTED DURING THE PERIOD WHEN THE HEALTH CARE
33 PROFESSIONAL WAS PROVISIONALLY CREDENTIALLED; PROVIDED, HOWEVER, THAT
34 NOTHING HEREIN SHALL PREVENT AN INSURER FROM PAYING A CLAIM FROM A
35 HEALTH CARE PROFESSIONAL WHO IS PROVISIONALLY CREDENTIALLED UPON
36 SUBMISSION OF SUCH CLAIM. AN INSURER SHALL NOT DENY, AFTER APPEAL, A
37 CLAIM FOR SERVICES PROVIDED BY A PROVISIONALLY CREDENTIALLED HEALTH CARE
38 PROFESSIONAL SOLELY ON THE GROUND THAT THE CLAIM WAS NOT TIMELY FILED.

39 (5) IF A HEALTH CARE PROFESSIONAL HAS BEEN CREDENTIALLED BY AN INSURER
40 PURSUANT TO THIS SUBDIVISION, AND SUBSEQUENT THERETO BUT PRIOR TO EXPI-
41 RATION OR TERMINATION OF HIS OR HER CONTRACT WITH THE INSURER FOR
42 PARTICIPATION IN THE IN-NETWORK BENEFITS PORTION OF THE INSURER'S
43 NETWORK FOR A MANAGED CARE PRODUCT, THE HEALTH CARE PROFESSIONAL OR THE
44 GROUP PRACTICE CHANGES THE ADDRESS OF OR ADDS AN ADDITIONAL LOCATION TO
45 THE PRACTICE, SUCH HEALTH CARE PROFESSIONAL SHALL NOT BE REQUIRED TO
46 REAPPLY FOR CERTIFICATION BUT SHALL BE REQUIRED TO FILE NOTICE OF SUCH
47 CHANGE OR ADDITION WITH THE INSURER.

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