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

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2013-2014 Regular Sessions

I N S E N A T E

May 2, 2013

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

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:

Section 1. Subdivision 1 of section 4406-d of the public health law, as amended by chapter 237 of the laws of 2009, is amended to read as follows:

1. (a) A health care plan shall, upon request, make available and disclose to health care professionals written application procedures and minimum qualification requirements which a health care professional must meet in order to be considered by the health care plan. The plan shall consult with appropriately qualified health care professionals in developing its qualification requirements. A health care plan shall complete review of the health care professional's application to participate in the in-network portion of the health care plan's network and shall, within ninety days of receiving a health care professional's completed application to participate in the health care plan's network, notify the health care professional as to: (i) whether he or she is credentialed; or (ii) whether additional time is necessary to make a determination in spite of the health care plan's best efforts or because of a failure of a third party to provide necessary documentation, or non-routine or unusual circumstances require additional time for review. In such 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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sary documentation, a health plan shall make every effort to obtain such information as soon as possible. PROVIDED, HOWEVER, THAT IF THE APPLICANT IS A HEALTH CARE PROFESSIONAL WHO IS JOINING A GROUP PRACTICE OF HEALTH CARE PROFESSIONALS, OR NEW EMPLOYEE OF A FACILITY OPERATING UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER OR ARTICLE THIRTY-ONE OF THE MENTAL HYGIENE LAW THAT IS A PARTICIPATING PROVIDER IN THE HEALTH PLAN, AT LEAST ONE OF WHOM PARTICIPATES IN THE IN-NETWORK PORTION OF A HEALTH CARE PLAN'S NETWORK, A HEALTH CARE PLAN SHALL, WITHIN THIRTY DAYS OF RECEIVING SUCH A HEALTH CARE PROFESSIONAL'S COMPLETE APPLICATION TO PARTICIPATE IN THE HEALTH CARE PLAN'S NETWORK, INCLUDING SUBMISSION OF ALL NECESSARY DOCUMENTATION FROM THE APPLICANT AND THIRD PARTIES, COMPLETE REVIEW AND NOTIFY THE HEALTH CARE PROFESSIONAL AS TO WHETHER HE OR SHE IS CREDENTIALED.

(b) If the completed application of a newly-licensed health care professional or a health care professional who has recently relocated to this state from another state and has not previously practiced in this state, who joins a group practice of health care professionals each of whom participates in the in-network portion of a health care plan's network, is neither approved nor declined within ninety days pursuant to paragraph (a) of this subdivision, the health care professional shall be deemed "provisionally credentialed" and may participate in the in-network portion of the health care plan's network[; provided, however, that a provisionally credentialed physician may not be designated as an enrollee's primary care physician until such time as the physician has been fully credentialed]. The network participation for a HEALTH CARE PROFESSIONAL DEEMED provisionally credentialed [health care professional] PURSUANT TO THIS PARAGRAPH shall begin on the day following the ninetieth day of receipt of the completed application and shall last until the final credentialing determination is made by the health care plan. [A health care professional shall only be eligible for provisional credentialing if the group practice of health care professionals notifies the health care plan in writing that, should the application ultimately be denied, the health care professional or the group practice: (i) shall refund any payments made by the health care plan for in-network services provided by the provisionally credentialed health care professional that exceed any out-of-network benefits payable under the enrollee's contract with the health care plan; and (ii)] IT SHALL BE UNDERSTOOD THAT PROVISIONALLY CREDENTIALED PROVIDERS' REIMBURSEMENT WILL BE APPROVED BUT HELD BY THE HEALTH CARE PLAN UNTIL FINAL APPROVAL; PROVIDED, HOWEVER, THAT IF REIMBURSEMENT IS DENIED, THE PROVISIONALLY CREDENTIALED PROVIDER shall not pursue reimbursement from the enrollee, except to collect the copayment that otherwise would have been payable had the enrollee received services from a health care professional participating in the in-network portion of a health care plan's network. Interest and penalties pursuant to section three thousand two hundred twenty-four-a of the insurance law shall not be assessed based on the denial of a claim submitted during the period when the health care professional was provisionally credentialed; provided, however, that nothing herein shall prevent a health care plan from paying a claim from a health care professional who is provisionally credentialed upon submission of such claim. A health care plan shall not deny, after appeal, a claim for services provided by a provisionally credentialed health care professional solely on the ground that the claim was not timely filed.

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

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

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

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

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

(a) (1) An insurer which offers a managed care product shall, upon request, make available and disclose to health care professionals written application procedures and minimum qualification requirements which a health care professional must meet in order to be considered by the insurer for participation in the in-network benefits portion of the insurer's network for the managed care product. The insurer shall consult with appropriately qualified health care professionals in developing its qualification requirements for participation in the in-network benefits portion of the insurer's network for the managed care product. An insurer shall complete review of the health care professional's application to participate in the in-network portion of the insurer's network and, within ninety days of receiving a health care professional's completed application to participate in the insurer's network,

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

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

after appeal, a claim for services provided by a provisionally credentialed health care professional solely on the ground that the claim was not timely filed.

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

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

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

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