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

7182--A

2015-2016 Regular Sessions

I N A S S E M B L Y

April 27, 2015

Introduced by M. of A. CYMBROWITZ -- read once and referred to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to the designation of third parties to receive notification of cancellation

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

Section 1. Paragraph 6 of subsection (b) of section 1117 of the insurance law, as added by chapter 572 of the laws of 2008, is amended to read as follows:

(6) prior to the earlier of the execution of a policy or certificate in connection with a plan providing a home care benefit and/or a nursing home benefit, or the payment of any premium or fee related to such a policy or certificate, the authorized insurer, corporation, health maintenance organization or fraternal benefit society shall provide the prospective insured or his or her representative with a disclosure statement, which contains the following:

(A) The maximum daily and lifetime benefit levels, if applicable, provided by the policy or certificate for home care services and nursing home services;

(B) The percentage of coverage provided for home care services and nursing home services, if applicable, and an explanation of the methodology on which the reasonable charge used in conjunction with such percentage amount is based;

(C) A description of any inflation protection feature included in or available for purchase under the policy or certificate and the additional premium required to purchase such option or options;

(D) (i) If available and accessible by the insurer or other entity from the department of health, the most recently-published average, statewide rate for care in a nursing home, as well as the average rates

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

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for care in nursing homes for both the New York city-metropolitan and upstate regions of the state; or

(ii) If available and accessible by the insurer or other entity from the department of health, the most recently-published map of the estimated average regional rates in New York state for nursing home care; [and]

(E) A graphic demonstration of the maximum daily nursing home benefit level provided by the policy or certificate, and the impact that the selection of any inflation protection options would have on such maximum daily nursing home benefit level[.];

(F) THE RIGHT OF THE PROSPECTIVE INSURED, UPON ATTAINING THE AGE OF SIXTY-FIVE YEARS, TO DESIGNATE A THIRD PARTY WHO WILL RECEIVE A COPY OF ANY NOTICES OF NONPAYMENT OF PREMIUMS DUE OR NOTICE OF CANCELLATION FOR NONPAYMENT OF PREMIUMS THAT IS SENT TO THE PROSPECTIVE INSURED; AND

(G) A LONG-TERM CARE INSURANCE POLICY OR CERTIFICATE SHALL INCLUDE A PROVISION THAT PROVIDES FOR REINSTATEMENT OF COVERAGE, IN THE EVENT OF LAPSE, IF THE INSURER IS PROVIDED PROOF THAT THE POLICY HOLDER OR CERTIFICATEHOLDER WAS COGNITIVELY IMPAIRED OR HAD A LOSS OF FUNCTIONAL CAPACITY BEFORE THE GRACE PERIOD CONTAINED IN THE POLICY EXPIRED. THIS OPTION SHALL BE AVAILABLE TO THE INSURED, IF REQUESTED, WITHIN FIVE MONTHS AFTER TERMINATION AND SHALL ALLOW FOR THE COLLECTION OF PAST DUE PREMIUM, WHERE APPROPRIATE. THE STANDARD OF PROOF OF COGNITIVE IMPAIRMENT OR LOSS OF FUNCTIONAL CAPACITY SHALL NOT BE MORE STRINGENT THAN THE BENEFIT ELIGIBILITY CRITERIA ON COGNITIVE IMPAIRMENT OR THE LOSS OF FUNCTIONAL CAPACITY CONTAINED IN THE POLICY AND CERTIFICATE.

For the purpose of this paragraph, "home care services" shall have the same meaning as defined in subdivision one of section thirty-six hundred two of the public health law. The prospective insured, or his or her representative, shall acknowledge that the required disclosure has been made by signing the disclosure statement prior to or contemporaneously with the effective date of the policy or certificate.

Failure to provide information required by subparagraph (D) of this paragraph shall not be construed as a violation of this section if such information has not been made available by the department of health.

S 2. Subsection (e) of section 3111 of the insurance law, as added by section 30 of part B of chapter 58 of the laws of 2004, is amended to read as follows:

(e) Every insurer that has in force a long-term care insurance policy as defined in section one thousand one hundred seventeen of this chapter the premiums for which are paid directly to the insurer by the senior citizen insured, except a policy that qualifies as a long-term care insurance contract as defined in Section 7702B of the Internal Revenue Code, shall permit senior citizen insureds to designate a third party to whom the insurer shall transmit notices of nonpayment of premiums due or notice of cancellation for nonpayment of premiums[, as determined by the insurer]; PROVIDED THAT NOTICE OF CANCELLATION FOR NONPAYMENT OF PREMIUM SHALL BE SENT NO LATER THAN THIRTY DAYS BEFORE THE EFFECTIVE DATE OF SUCH CANCELLATION. The senior [citizens] CITIZEN INSURED shall notify the insurer that a third party has been so designated. Such notification shall be delivered to the insurer [by certified mail, return receipt requested,] IN THE SAME ENVELOPE AS THE SENIOR CITIZEN INSURED'S PREMIUM PAYMENT and shall be effective not later than ten business days from the date of receipt by the insurer. The notification must contain, in writing, an acceptance by the third party designee to receive such notices of cancellation. Should the third party designee desire to terminate his or her status as a third party designee, such designee shall provide

written notice to both the insurer and the senior citizen insured. Should the senior citizen insured desire to terminate the third party designation, the insured shall provide written notice to the insurer. The transmission to the third party designee of any such notice of cancellation shall be in addition to a copy of such document transmitted to the senior citizen insured and when a third party is so designated all such notices shall be mailed in an envelope clearly marked on its face with the following: "IMPORTANT INSURANCE POLICY INFORMATION: OPEN IMMEDIATELY". Designation as a third party shall not constitute acceptance of any liability on the third party for services provided to such senior citizen. The insurer shall notify its senior citizen insureds NOT LESS THAN annually in writing of the availability of the third party designee notice procedure and [provide] INCLUDE information on how the insured can commence this procedure[; however, such notice need not be provided once a senior citizen has made a designation]. THE INSURER SHOULD ALSO INCLUDE A COPY OF THE THIRD PARTY DESIGNATION FORM WHEN PROVIDING SUCH INFORMATION.

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