

2545

2015-2016 Regular Sessions

I N S E N A T E

January 26, 2015

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

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-
20 sary documentation, a health plan shall make every effort to obtain such
21 information as soon as possible. PROVIDED, HOWEVER, THAT IF THE APPLI-
22 CANT IS A HEALTH CARE PROFESSIONAL WHO IS JOINING A GROUP PRACTICE OF
23 HEALTH CARE PROFESSIONALS, OR NEW EMPLOYEE OF A FACILITY OPERATING UNDER

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

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1 ARTICLE TWENTY-EIGHT OF THIS CHAPTER OR ARTICLE THIRTY-ONE OF THE MENTAL
2 HYGIENE LAW THAT IS A PARTICIPATING PROVIDER IN THE HEALTH PLAN, AT
3 LEAST ONE OF WHOM PARTICIPATES IN THE IN-NETWORK PORTION OF A HEALTH
4 CARE PLAN'S NETWORK, A HEALTH CARE PLAN SHALL, WITHIN THIRTY DAYS OF
5 RECEIVING SUCH A HEALTH CARE PROFESSIONAL'S COMPLETE APPLICATION TO
6 PARTICIPATE IN THE HEALTH CARE PLAN'S NETWORK, INCLUDING SUBMISSION OF
7 ALL NECESSARY DOCUMENTATION FROM THE APPLICANT AND THIRD PARTIES,
8 COMPLETE REVIEW AND NOTIFY THE HEALTH CARE PROFESSIONAL AS TO WHETHER HE
9 OR SHE IS CREDENTIALLED.

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

51 (C) IF THE APPLICANT IS A HEALTH CARE PROFESSIONAL WHO IS JOINING A
52 GROUP PRACTICE OF HEALTH CARE PROFESSIONALS, OR NEW EMPLOYEE OF A FACIL-
53 ITY OPERATING UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER OR ARTICLE
54 THIRTY-ONE OF THE MENTAL HYGIENE LAW THAT IS A PARTICIPATING PROVIDER IN
55 THE HEALTH PLAN, AT LEAST ONE OF WHOM PARTICIPATES IN THE IN-NETWORK
56 PORTION OF A HEALTH CARE PLAN'S NETWORK, UPON HIS OR HER SUBMISSION OF A

1 COMPLETE APPLICATION TO PARTICIPATE IN THE HEALTH CARE PLAN'S NETWORK,
2 INCLUDING SUBMISSION OF ALL NECESSARY DOCUMENTATION FROM THE APPLICANT
3 AND THIRD PARTIES, HE OR SHE SHALL BE DEEMED "PROVISIONALLY CREDEN-
4 TIALED" AND MAY PARTICIPATE IN THE IN-NETWORK PORTION OF THE HEALTH CARE
5 PLAN'S NETWORK. THE NETWORK PARTICIPATION FOR A HEALTH CARE PROFESSIONAL
6 DEEMED PROVISIONALLY CREDENTIALLED PURSUANT TO THIS PARAGRAPH SHALL BEGIN
7 ON THE DAY FOLLOWING NOTIFICATION BY THE HEALTH CARE PLAN THAT THE
8 COMPLETED APPLICATION WAS RECEIVED AND SHALL LAST UNTIL THE FINAL
9 CREDENTIALING DETERMINATION IS MADE BY THE HEALTH CARE PLAN.

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

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

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

40 (a) (1) An insurer which offers a managed care product shall, upon
41 request, make available and disclose to health care professionals writ-
42 ten application procedures and minimum qualification requirements which
43 a health care professional must meet in order to be considered by the
44 insurer for participation in the in-network benefits portion of the
45 insurer's network for the managed care product. The insurer shall
46 consult with appropriately qualified health care professionals in devel-
47 oping its qualification requirements for participation in the in-network
48 benefits portion of the insurer's network for the managed care product.
49 An insurer shall complete review of the health care professional's
50 application to participate in the in-network portion of the insurer's
51 network and, within ninety days of receiving a health care profes-
52 sional's completed application to participate in the insurer's network,
53 will notify the health care professional as to: (A) whether he or she is
54 credentialed; or (B) whether additional time is necessary to make a
55 determination in spite of the insurer's best efforts or because of a
56 failure of a third party to provide necessary documentation, or non-

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

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

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

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

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

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