

2545--B

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I N S E N A T E

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Introduced by Sen. LANZA -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- again amended and ordered reprinted, retaining its place in 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; and to repeal certain provisions of the public health law and the insurance law relating thereto

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

1 Section 1. Paragraph (a) of subdivision 1 of section 4406-d of the
2 public health law, as amended by chapter 237 of the laws of 2009, is
3 amended, paragraph (b) is REPEALED and three new paragraphs (b), (c) and
4 (d) are added to read as follows:
5 (a) A health care plan shall, upon request, make available and
6 disclose to health care professionals written application procedures and
7 minimum qualification requirements which a health care professional must
8 meet in order to be considered by the health care plan. The plan shall
9 consult with appropriately qualified health care professionals in devel-
10 oping its qualification requirements. A health care plan shall complete
11 review of the health care professional's application to participate in
12 the in-network portion of the health care plan's network and shall,
13 within ninety days of receiving a health care professional's completed
14 application to participate in the health care plan's network, notify the
15 health care professional as to: (i) whether he or she is credentialed;
16 or (ii) whether additional time is necessary to make a determination in
17 spite of the health care plan's best efforts or because of a failure of

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

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

17 (B) IF THE APPLICANT IS A HEALTH CARE PROFESSIONAL WHO IS JOINING A
18 GROUP PRACTICE OF HEALTH CARE PROFESSIONALS, OR NEW EMPLOYEE OF A FACIL-
19 ITY OPERATING UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER OR ARTICLE
20 THIRTY-ONE OF THE MENTAL HYGIENE LAW THAT IS A PARTICIPATING PROVIDER IN
21 THE HEALTH PLAN, AT LEAST ONE OF WHOM PARTICIPATES IN THE IN-NETWORK
22 PORTION OF A HEALTH CARE PLAN'S NETWORK, UPON HIS OR HER SUBMISSION OF A
23 COMPLETE APPLICATION TO PARTICIPATE IN THE HEALTH CARE PLAN'S NETWORK,
24 INCLUDING SUBMISSION OF ALL NECESSARY DOCUMENTATION FROM THE APPLICANT
25 AND THIRD PARTIES, HE OR SHE SHALL BE DEEMED "PROVISIONALLY CREDEN-
26 TIALED" AND MAY PARTICIPATE IN THE IN-NETWORK PORTION OF THE HEALTH CARE
27 PLAN'S NETWORK. THE NETWORK PARTICIPATION FOR A HEALTH CARE PROFESSIONAL
28 DEEMED PROVISIONALLY CREDENTIALLED PURSUANT TO THIS PARAGRAPH SHALL BEGIN
29 ON THE DAY FOLLOWING NOTIFICATION BY THE HEALTH CARE PLAN THAT THE
30 COMPLETED APPLICATION WAS RECEIVED AND SHALL LAST UNTIL THE FINAL
31 CREDENTIALING DETERMINATION IS MADE BY THE HEALTH CARE PLAN.

32 (C) IF A HEALTH CARE PROFESSIONAL IS DEEMED "PROVISIONALLY CREDEN-
33 TIALED" PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION, HE OR SHE MAY NOT
34 BE DESIGNATED AS AN ENROLLEE'S PRIMARY CARE PHYSICIAN UNTIL SUCH TIME AS
35 THE PHYSICIAN HAS BEEN FULLY CREDENTIALLED. IT SHALL BE UNDERSTOOD THAT
36 A PROVISIONALLY CREDENTIALLED PROVIDER'S REIMBURSEMENT WILL BE APPROVED
37 BUT HELD BY THE HEALTH CARE PLAN UNTIL FINAL APPROVAL; PROVIDED, HOWEV-
38 ER, THAT IF SUCH APPROVAL IS DENIED, THE PROVISIONALLY CREDENTIALLED
39 PROVIDER SHALL NOT PURSUE REIMBURSEMENT FROM THE ENROLLEE, EXCEPT TO
40 COLLECT THE COPAYMENT THAT OTHERWISE WOULD HAVE BEEN PAYABLE HAD THE
41 ENROLLEE RECEIVED SERVICES FROM A HEALTH CARE PROFESSIONAL PARTICIPATING
42 IN THE IN-NETWORK PORTION OF A HEALTH CARE PLAN'S NETWORK; AND PROVIDED
43 FURTHER THAT THE HEALTH CARE PLAN SHALL REIMBURSE SUCH HEALTH CARE
44 PROFESSIONAL FOR ANY OUT OF NETWORK BENEFITS PAYABLE UNDER THE
45 ENROLLEE'S CONTRACT WITH THE HEALTH CARE PLAN. INTEREST AND PENALTIES
46 PURSUANT TO SECTION THREE THOUSAND TWO HUNDRED TWENTY-FOUR-A OF THE
47 INSURANCE LAW SHALL NOT BE ASSESSED BASED ON THE DENIAL OF A CLAIM
48 SUBMITTED DURING THE PERIOD WHEN THE HEALTH CARE PROFESSIONAL WAS PROVI-
49 SIONALLY CREDENTIALLED; PROVIDED, HOWEVER, THAT NOTHING HEREIN SHALL
50 PREVENT A HEALTH CARE PLAN FROM PAYING A CLAIM FROM A HEALTH CARE
51 PROFESSIONAL WHO IS PROVISIONALLY CREDENTIALLED UPON SUBMISSION OF SUCH
52 CLAIM. A HEALTH CARE PLAN SHALL NOT DENY, AFTER APPEAL, A CLAIM FOR
53 SERVICES PROVIDED BY A PROVISIONALLY CREDENTIALLED HEALTH CARE PROFES-
54 SIONAL SOLELY ON THE GROUND THAT THE CLAIM WAS NOT TIMELY FILED.

55 (D) IF A HEALTH CARE PROFESSIONAL HAS BEEN CREDENTIALLED BY A HEALTH
56 CARE PLAN PURSUANT TO THIS SUBDIVISION, AND SUBSEQUENT THERETO BUT PRIOR

1 TO EXPIRATION OR TERMINATION OF HIS OR HER CONTRACT WITH THE HEALTH CARE
2 PLAN, THE HEALTH CARE PROFESSIONAL OR THE GROUP PRACTICE CHANGES THE
3 ADDRESS OF OR ADDS AN ADDITIONAL LOCATION TO THE PRACTICE, HE OR SHE
4 SHALL NOT BE REQUIRED TO REAPPLY FOR CERTIFICATION BUT SHALL BE REQUIRED
5 TO FILE NOTICE OF SUCH CHANGE OR ADDITION WITH THE HEALTH CARE PLAN.

6 S 2. Paragraph 1 of subsection (a) of section 4803 of the insurance
7 law, as amended by chapter 237 of the laws of 2009, is amended, para-
8 graph 2 is REPEALED and three new paragraphs 2, 3 and 4 are added to
9 read as follows:

10 (1) An insurer which offers a managed care product shall, upon
11 request, make available and disclose to health care professionals writ-
12 ten application procedures and minimum qualification requirements which
13 a health care professional must meet in order to be considered by the
14 insurer for participation in the in-network benefits portion of the
15 insurer's network for the managed care product. The insurer shall
16 consult with appropriately qualified health care professionals in devel-
17 oping its qualification requirements for participation in the in-network
18 benefits portion of the insurer's network for the managed care product.
19 An insurer shall complete review of the health care professional's
20 application to participate in the in-network portion of the insurer's
21 network and, within ninety days of receiving a health care profes-
22 sional's completed application to participate in the insurer's network,
23 will notify the health care professional as to: (A) whether he or she is
24 credentialed; or (B) whether additional time is necessary to make a
25 determination in spite of the insurer's best efforts or because of a
26 failure of a third party to provide necessary documentation, or non-
27 routine or unusual circumstances require additional time for review. In
28 such instances where additional time is necessary because of a lack of
29 necessary documentation, an insurer shall make every effort to obtain
30 such information as soon as possible. PROVIDED, HOWEVER, THAT IF THE
31 APPLICANT IS A HEALTH CARE PROFESSIONAL WHO IS JOINING A GROUP PRACTICE
32 OF HEALTH CARE PROFESSIONALS, OR NEW EMPLOYEE OF A FACILITY OPERATING
33 UNDER ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW OR ARTICLE
34 THIRTY-ONE OF THE MENTAL HYGIENE LAW THAT IS A PARTICIPATING PROVIDER IN
35 THE HEALTH PLAN, AT LEAST ONE OF WHOM PARTICIPATES IN THE IN-NETWORK
36 PORTION OF AN INSURER'S NETWORK, AN INSURER SHALL, WITHIN THIRTY DAYS OF
37 RECEIVING SUCH A HEALTH CARE PROFESSIONAL'S COMPLETE APPLICATION TO
38 PARTICIPATE IN AN INSURER'S NETWORK, INCLUDING SUBMISSION OF ALL NECES-
39 SARY DOCUMENTATION FROM THE APPLICANT AND THIRD PARTIES, COMPLETE REVIEW
40 AND NOTIFY THE HEALTH CARE PROFESSIONAL AS TO WHETHER HE OR SHE IS
41 CREDENTIALLED.

42 (2) IF THE APPLICANT IS A HEALTH CARE PROFESSIONAL WHO IS JOINING A
43 GROUP PRACTICE OF HEALTH CARE PROFESSIONALS, OR NEW EMPLOYEE OF A FACIL-
44 ITY OPERATING UNDER ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW OR
45 ARTICLE THIRTY-ONE OF THE MENTAL HYGIENE LAW THAT IS A PARTICIPATING
46 PROVIDER IN THE HEALTH PLAN, AT LEAST ONE OF WHOM PARTICIPATES IN THE
47 IN-NETWORK PORTION OF AN INSURER'S NETWORK, UPON HIS OR HER SUBMISSION
48 OF A COMPLETE APPLICATION TO PARTICIPATE IN THE INSURER'S NETWORK,
49 INCLUDING SUBMISSION OF ALL NECESSARY DOCUMENTATION FROM THE APPLICANT
50 AND THIRD PARTIES, HE OR SHE SHALL BE DEEMED "PROVISIONALLY CREDEN-
51 TIALED" AND MAY PARTICIPATE IN THE IN-NETWORK PORTION OF THE INSURER'S
52 NETWORK. THE NETWORK PARTICIPATION FOR A HEALTH CARE PROFESSIONAL DEEMED
53 PROVISIONALLY CREDENTIALLED PURSUANT TO THIS PARAGRAPH SHALL BEGIN ON THE
54 DAY FOLLOWING NOTIFICATION BY THE INSURER THAT THE COMPLETED APPLICATION
55 WAS RECEIVED AND SHALL LAST UNTIL THE FINAL CREDENTIALING DETERMINATION
56 IS MADE BY THE INSURER.

1 (3) IF A HEALTH CARE PROFESSIONAL IS DEEMED "PROVISIONALLY CREDEN-
2 TIALED" PURSUANT TO PARAGRAPH TWO OF THIS SUBSECTION, HE OR SHE MAY NOT
3 BE DESIGNATED AS AN ENROLLEE'S PRIMARY CARE PHYSICIAN UNTIL SUCH TIME AS
4 THE PHYSICIAN HAS BEEN FULLY CREDENTIALLED. IT SHALL BE UNDERSTOOD THAT
5 A PROVISIONALLY CREDENTIALLED PROVIDER'S REIMBURSEMENT WILL BE APPROVED
6 BUT HELD BY THE HEALTH CARE PLAN UNTIL FINAL APPROVAL; PROVIDED, HOWEV-
7 ER, THAT IF SUCH APPROVAL IS DENIED, THE PROVISIONALLY CREDENTIALLED
8 PROVIDER SHALL NOT PURSUE REIMBURSEMENT FROM THE INSURED, EXCEPT TO
9 COLLECT THE COPAYMENT OR COINSURANCE THAT OTHERWISE WOULD HAVE BEEN
10 PAYABLE HAD THE INSURED RECEIVED SERVICES FROM A HEALTH CARE PROFES-
11 SIONAL PARTICIPATING IN THE IN-NETWORK PORTION OF AN INSURER'S NETWORK;
12 AND PROVIDED FURTHER THAT THE INSURER SHALL REIMBURSE SUCH HEALTH CARE
13 PROFESSIONAL FOR ANY OUT OF NETWORK BENEFITS PAYABLE UNDER THE INSURED'S
14 CONTRACT WITH THE INSURER. INTEREST AND PENALTIES PURSUANT TO SECTION
15 THREE THOUSAND TWO HUNDRED TWENTY-FOUR-A OF THIS CHAPTER SHALL NOT BE
16 ASSESSED BASED ON THE DENIAL OF A CLAIM SUBMITTED DURING THE PERIOD WHEN
17 THE HEALTH CARE PROFESSIONAL WAS PROVISIONALLY CREDENTIALLED; PROVIDED,
18 HOWEVER, THAT NOTHING HEREIN SHALL PREVENT AN INSURER FROM PAYING A
19 CLAIM FROM A HEALTH CARE PROFESSIONAL WHO IS PROVISIONALLY CREDENTIALLED
20 UPON SUBMISSION OF SUCH CLAIM. AN INSURER SHALL NOT DENY, AFTER APPEAL,
21 A CLAIM FOR SERVICES PROVIDED BY A PROVISIONALLY CREDENTIALLED HEALTH
22 CARE PROFESSIONAL SOLELY ON THE GROUND THAT THE CLAIM WAS NOT TIMELY
23 FILED.

24 (4) IF A HEALTH CARE PROFESSIONAL HAS BEEN CREDENTIALLED BY AN INSURER
25 PURSUANT TO THIS SUBDIVISION, AND SUBSEQUENT THERETO BUT PRIOR TO EXPI-
26 RATION OR TERMINATION OF HIS OR HER CONTRACT WITH THE INSURER FOR
27 PARTICIPATION IN THE IN-NETWORK BENEFITS PORTION OF THE INSURER'S
28 NETWORK FOR A MANAGED CARE PRODUCT, THE HEALTH CARE PROFESSIONAL OR THE
29 GROUP PRACTICE CHANGES THE ADDRESS OF OR ADDS AN ADDITIONAL LOCATION TO
30 THE PRACTICE, SUCH HEALTH CARE PROFESSIONAL SHALL NOT BE REQUIRED TO
31 REAPPLY FOR CERTIFICATION BUT SHALL BE REQUIRED TO FILE NOTICE OF SUCH
32 CHANGE OR ADDITION WITH THE INSURER.

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