

2545--D

Cal. No. 1137

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 -- 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 -- 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 -- 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

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] SIXTY days of receiving a health care professional's
13 completed application to participate in the health care plan's network,

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

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1 notify the health care professional as to: (i) whether he or she is
2 credentialed; or (ii) whether additional time is necessary to make a
3 determination [in spite of the health care plan's best efforts or]
4 because of a failure of a third party to provide necessary documenta-
5 tion[, or non-routine or unusual circumstances require additional time
6 for review]. In such instances where additional time is necessary
7 because of a lack of necessary documentation, a health plan shall make
8 every effort to obtain such information as soon as possible AND SHALL
9 MAKE A FINAL DETERMINATION WITHIN TWENTY-ONE DAYS OF RECEIVING THE
10 NECESSARY DOCUMENTATION.

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

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

50 (a) (1) An insurer which offers a managed care product shall, upon
51 request, make available and disclose to health care professionals writ-
52 ten application procedures and minimum qualification requirements which
53 a health care professional must meet in order to be considered by the
54 insurer for participation in the in-network benefits portion of the
55 insurer's network for the managed care product. The insurer shall
56 consult with appropriately qualified health care professionals in devel-

1 oping its qualification requirements for participation in the in-network
2 benefits portion of the insurer's network for the managed care product.
3 An insurer shall complete review of the health care professional's
4 application to participate in the in-network portion of the insurer's
5 network and, within [ninety] SIXTY days of receiving a health care
6 professional's completed application to participate in the insurer's
7 network, will notify the health care professional as to: (A) whether he
8 or she is credentialed; or (B) whether additional time is necessary to
9 make a determination [in spite of the insurer's best efforts or] because
10 of a failure of a third party to provide necessary documentation[, or
11 non-routine or unusual circumstances require additional time for
12 review]. In such instances where additional time is necessary because
13 of a lack of necessary documentation, an insurer shall make every effort
14 to obtain such information as soon as possible AND SHALL MAKE A FINAL
15 DETERMINATION WITHIN TWENTY-ONE DAYS OF RECEIVING THE NECESSARY DOCUMEN-
16 TATION.

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

53 S 3. This act shall take effect on April 1, 2017 and shall apply to
54 all applications submitted on or after such date.