

2902

2015-2016 Regular Sessions

I N S E N A T E

January 30, 2015

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

AN ACT to amend the public health law, in relation to enacting the "home care stabilization act"

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "home care stabilization act".

3 S 2. The public health law is amended by adding a new section 3614-d
4 to read as follows:

5 S 3614-D. STANDARDS FOR PROMPT, FAIR AND EQUITABLE SETTLEMENT OF
6 CLAIMS FOR PAYMENTS FOR PERSONAL CARE, HOME HEALTH CARE SERVICES OR
7 OTHER LONG TERM CARE SERVICES. 1. IN THE PROCESSING OF CLAIMS SUBMITTED
8 UNDER CONTRACTS OR AGREEMENTS ISSUED OR ENTERED INTO OR BETWEEN CERTI-
9 FIED HOME HEALTH AGENCIES, LONG TERM HOME HEALTH CARE PROGRAMS, LICENSED
10 HOME CARE SERVICES PROGRAMS, FISCAL INTERMEDIARIES OPERATING PURSUANT TO
11 SECTION THREE HUNDRED SIXTY-FIVE-F OF THE SOCIAL SERVICES LAW, INSURERS,
12 MANAGED LONG TERM CARE PLANS, MANAGED CARE PLANS OR ORGANIZATIONS
13 LICENSED OR OPERATED PURSUANT TO THE PROVISIONS OF THIS CHAPTER, THE
14 SOCIAL SERVICES LAW OR THE INSURANCE LAW AND FOR ALL BILLS FOR PERSONAL
15 CARE, HOME HEALTH CARE SERVICES, CONSUMER DIRECTED PERSONAL ASSISTANCE
16 SERVICES OPERATING PURSUANT TO SECTION THREE HUNDRED SIXTY-FIVE-F OF THE
17 SOCIAL SERVICES LAW OR OTHER LONG TERM CARE SERVICES RENDERED BY
18 LICENSED HOME CARE SERVICES PROGRAMS, CERTIFIED HOME HEALTH AGENCIES,
19 LONG TERM HOME HEALTH CARE PROGRAMS OR A FISCAL INTERMEDIARY OPERATING
20 PURSUANT TO SECTION THREE HUNDRED SIXTY-FIVE-F OF THE SOCIAL SERVICES
21 LAW PURSUANT TO SUCH CONTRACTS OR AGREEMENTS, ANY CERTIFIED HOME HEALTH
22 CARE AGENCY, LONG TERM HOME HEALTH CARE PROGRAM, INSURER, MANAGED LONG
23 TERM CARE PLAN, MANAGED CARE PLAN OR ORGANIZATION LICENSED OR OPERATED
24 PURSUANT TO THE PROVISIONS OF THIS CHAPTER, THE SOCIAL SERVICES LAW, THE

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

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1 EXECUTIVE LAW OR THE INSURANCE LAW, SHALL ADHERE TO THE FOLLOWING STAND-
2 ARDS:

3 (A) SHALL PAY A CLEAN CLAIM SUBMITTED BY A LICENSED HOME CARE SERVICES
4 PROGRAM, CERTIFIED HOME HEALTH AGENCY, LONG TERM HOME HEALTH CARE
5 PROGRAM OR A FISCAL INTERMEDIARY OPERATING PURSUANT TO SECTION THREE
6 HUNDRED SIXTY-FIVE-F OF THE SOCIAL SERVICES LAW WITHIN THIRTY DAYS OF
7 RECEIPT OF THE CLEAN CLAIM FOR SERVICES RENDERED THAT IS TRANSMITTED VIA
8 THE INTERNET OR ELECTRONIC MAIL, OR FORTY-FIVE DAYS OF RECEIPT OF THE
9 CLEAN CLAIM FOR SERVICES RENDERED THAT IS SUBMITTED BY OTHER MEANS, SUCH
10 AS PAPER OR FACSIMILE;

11 (B) SHALL PAY ANY UNDISPUTED PORTION OF A CLAIM AS A CLEAN CLAIM AS
12 SET FORTH IN PARAGRAPH (A) OF THIS SUBDIVISION SUBMITTED BY A LICENSED
13 HOME CARE SERVICES PROGRAM, CERTIFIED HOME HEALTH AGENCY, LONG TERM HOME
14 HEALTH CARE PROGRAM OR FISCAL INTERMEDIARY OPERATING PURSUANT TO SECTION
15 THREE HUNDRED SIXTY-FIVE-F OF THE SOCIAL SERVICES LAW;

16 (C) NOTIFY ANY SUCH AGENCY, PROGRAM OR FISCAL INTERMEDIARY IN WRITING
17 WITHIN FIFTEEN CALENDAR DAYS OF THE RECEIPT OF AN INITIAL CLAIM OF ALL
18 SPECIFIC DEFECTS OR DISPUTES OF SUCH CLAIM AND SPECIFICALLY REQUEST IN
19 WRITING THE ADDITIONAL INFORMATION OR REMEDY NEEDED TO PROCESS ANY
20 DISPUTED PORTIONS OF THE CLAIM; AND

21 (D) ANY DISPUTED CLAIM REMEDIED SHALL BE PAID AS A CLEAN CLAIM AS SET
22 FORTH IN PARAGRAPH (A) OF THIS SUBDIVISION.

23 2. FOR THE PURPOSES OF THIS SECTION, A "CLEAN CLAIM" SHALL:

24 (A) IDENTIFY THE LICENSED HOME CARE SERVICES PROGRAM, CERTIFIED HOME
25 HEALTH AGENCY, LONG TERM HOME HEALTH CARE PROGRAM OR FISCAL INTERMEDIARY
26 OPERATING PURSUANT TO SECTION THREE HUNDRED SIXTY-FIVE-F OF THE SOCIAL
27 SERVICES LAW;

28 (B) SUFFICIENTLY IDENTIFY THE ELIGIBLE COVERED PERSON;

29 (C) LIST THE DATE AND PLACE OF SERVICE;

30 (D) SUBSTANTIATE THE APPROPRIATENESS OF THE SERVICE PROVIDED;

31 (E) STATE IF PRIOR AUTHORIZATION IS REQUIRED FOR SUCH ELIGIBLE COVERED
32 PERSON AND SERVICE; AND

33 (F) STATE ANY DOCUMENTATION AS REASONABLY REQUIRED BY ANY ENTITY
34 REFERENCED IN THIS SECTION.

35 3. EACH CLEAN CLAIM OR PAYMENT FOR SERVICES PROCESSED IN VIOLATION OF
36 THIS SECTION SHALL CONSTITUTE A SEPARATE VIOLATION. IN ADDITION TO THE
37 PENALTIES PROVIDED IN THIS CHAPTER, ANY ORGANIZATION OR CORPORATION THAT
38 FAILS TO ADHERE TO THE STANDARDS CONTAINED IN THIS SECTION SHALL BE
39 OBLIGATED TO PAY TO CERTIFIED HOME HEALTH AGENCIES, LONG TERM HOME
40 HEALTH CARE PROGRAMS, LICENSED HOME HEALTH CARE PROGRAMS OR FISCAL
41 INTERMEDIARIES OPERATING PURSUANT TO SECTION THREE HUNDRED SIXTY-FIVE-F
42 OF THE SOCIAL SERVICES LAW IN FULL SETTLEMENT OF THE BILL, CLAIM OR
43 PAYMENT PLUS INTEREST ON THE AMOUNT OF SUCH BILL, CLAIM OR PAYMENT OF
44 THE GREATER OF THE RATE EQUAL TO THE RATE SET BY THE COMMISSIONER OF
45 TAXATION AND FINANCE FOR CORPORATE TAXES PURSUANT TO PARAGRAPH ONE OF
46 SUBSECTION (E) OF SECTION ONE THOUSAND NINETY-SIX OF THE TAX LAW OR
47 TWELVE PERCENT PER ANNUM, TO BE COMPUTED FROM THE DATE THE BILL, CLAIM
48 OR PAYMENT WAS REQUIRED TO BE MADE.

49 S 3. Section 4406-c of the public health law is amended by adding a
50 new subdivision 9 to read as follows:

51 9. NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, CONTRACTS WITH
52 CERTIFIED HOME HEALTH AGENCIES, LONG TERM HOME HEALTH CARE PROGRAMS,
53 LICENSED HOME CARE SERVICES PROGRAMS OR FISCAL INTERMEDIARIES OPERATING
54 PURSUANT TO SECTION THREE HUNDRED SIXTY-FIVE-F OF THE SOCIAL SERVICES
55 LAW TO PROVIDE HOME CARE AIDE SERVICES AS DEFINED IN SECTION THIRTY-SIX
56 HUNDRED FOURTEEN-C OF THIS CHAPTER OR CONSUMER DIRECTED PERSONAL ASSIST-

1 ANCE SERVICES AS AUTHORIZED PURSUANT TO SECTION THREE HUNDRED
2 SIXTY-FIVE-F OF THE SOCIAL SERVICES LAW SHALL AT A MINIMUM ENSURE THAT
3 THE RESOURCES MADE AVAILABLE BY SUCH CONTRACTS SHALL SUPPORT COMPEN-
4 SATION FOR PERSONS PROVIDING SUCH HOME CARE AIDE SERVICES AND CONSUMER
5 DIRECTED PERSONAL ASSISTANCE SERVICES TO ENSURE THE RETENTION OF A QUAL-
6 IFIED WORKFORCE CAPABLE OF PROVIDING HIGH QUALITY CARE TO RECIPIENTS OF
7 SUCH SERVICES CONSISTENT WITH THE PROVISIONS OF SUCH SECTION.

8 S 4. This act shall take effect immediately.