

7846--A

2015-2016 Regular Sessions

I N A S S E M B L Y

May 28, 2015

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

AN ACT to amend the social services law, the public health law and the insurance law, in relation to prohibiting a provider of health care coverage from requiring providers of behavioral health services to offer all products offered by the provider of health care coverage

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

1 Section 1. Section 365-m of the social services law is amended by
2 adding a new subdivision 6 to read as follows:
3 6. (A) NO MANAGED CARE PROVIDER UNDER SECTION THREE HUNDRED
4 SIXTY-FOUR-J OF THIS TITLE SHALL BY CONTRACT OR WRITTEN POLICY OR PROCEDURE, REQUIRE A BEHAVIORAL HEALTH SERVICES PROVIDER TO PARTICIPATE IN
5 THE IN-NETWORK PORTION OF ANY PRODUCT OFFERED BY SUCH MANAGED CARE
6 PROVIDER, OTHER THAN PRODUCTS UNDER SUCH SECTION. BEHAVIORAL HEALTH
7 SERVICES PROVIDERS SHALL HAVE THE RIGHT TO SELECT BY EXECUTION OF A
8 SEPARATE AGREEMENT THE PRODUCTS OF SUCH MANAGED CARE PROVIDER IN WHICH
9 THE PROVIDER AGREES TO PARTICIPATE IN THE IN-NETWORK PORTION.
10
11 (B) AS USED IN THIS SUBDIVISION, "BEHAVIORAL HEALTH SERVICES" MEANS
12 INPATIENT AND OUTPATIENT BEHAVIORAL HEALTH SERVICES PROVIDED BY THOSE
13 LICENSED OR CERTIFIED PURSUANT TO ARTICLE THIRTY-ONE OR THIRTY-TWO OF
14 THE MENTAL HYGIENE LAW, OR PROGRAMS THAT ARE LICENSED PURSUANT TO BOTH
15 ARTICLE THIRTY-ONE OF THE MENTAL HYGIENE LAW AND ARTICLE TWENTY-EIGHT OF
16 THE PUBLIC HEALTH LAW, OR CERTIFIED UNDER BOTH ARTICLE THIRTY-TWO OF THE
17 MENTAL HYGIENE LAW AND ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW.
18 S 2. Section 2511 of the public health law is amended by adding a new
19 subdivision 22 to read as follows:
20 22. (A) NO APPROVED ORGANIZATION SHALL BY CONTRACT OR WRITTEN POLICY
21 OR PROCEDURE, REQUIRE A BEHAVIORAL HEALTH SERVICES PROVIDER TO PARTICIPATE IN THE IN-NETWORK PORTION OF ANY PRODUCT OFFERED BY SUCH ORGANIZATION.

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

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1 TION, OTHER THAN PRODUCTS UNDER THIS TITLE. BEHAVIORAL HEALTH SERVICES
2 PROVIDERS SHALL HAVE THE RIGHT TO SELECT BY EXECUTION OF A SEPARATE
3 AGREEMENT THE PRODUCTS OF SUCH APPROVED ORGANIZATION IN WHICH THE
4 PROVIDER AGREES TO PARTICIPATE IN THE IN-NETWORK PORTION.

5 (B) AS USED IN THIS SUBDIVISION, "BEHAVIORAL HEALTH SERVICES" MEANS
6 INPATIENT AND OUTPATIENT BEHAVIORAL HEALTH SERVICES PROVIDED BY THOSE
7 LICENSED OR CERTIFIED PURSUANT TO ARTICLE THIRTY-ONE OR THIRTY-TWO OF
8 THE MENTAL HYGIENE LAW, OR PROGRAMS THAT ARE LICENSED PURSUANT TO BOTH
9 ARTICLE THIRTY-ONE OF THE MENTAL HYGIENE LAW AND ARTICLE TWENTY-EIGHT OF
10 THIS CHAPTER, OR CERTIFIED UNDER BOTH ARTICLE THIRTY-TWO OF THE MENTAL
11 HYGIENE LAW AND ARTICLE TWENTY-EIGHT OF THIS CHAPTER.

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

14 9. (A) NO HEALTH CARE PLAN LICENSED PURSUANT TO THIS ARTICLE SHALL BY
15 CONTRACT OR WRITTEN POLICY OR PROCEDURE, REQUIRE A BEHAVIORAL HEALTH
16 SERVICES PROVIDER TO PARTICIPATE IN THE IN-NETWORK PORTION OF ANY PROD-
17 UCT OFFERED BY SUCH PLAN. BEHAVIORAL HEALTH SERVICES PROVIDERS SHALL
18 HAVE THE RIGHT TO SELECT BY EXECUTION OF A SEPARATE AGREEMENT THE
19 PRODUCTS OF SUCH PLAN IN WHICH THE PROVIDER AGREES TO PARTICIPATE IN THE
20 IN-NETWORK PORTION.

21 (B) AS USED IN THIS SUBDIVISION, "BEHAVIORAL HEALTH SERVICES" MEANS
22 INPATIENT AND OUTPATIENT BEHAVIORAL HEALTH SERVICES PROVIDED BY THOSE
23 LICENSED OR CERTIFIED PURSUANT TO ARTICLE THIRTY-ONE OR THIRTY-TWO OF
24 THE MENTAL HYGIENE LAW, OR PROGRAMS THAT ARE LICENSED PURSUANT TO BOTH
25 ARTICLE THIRTY-ONE OF THE MENTAL HYGIENE LAW AND ARTICLE TWENTY-EIGHT OF
26 THIS CHAPTER, OR CERTIFIED UNDER BOTH ARTICLE THIRTY-TWO OF THE MENTAL
27 HYGIENE LAW AND ARTICLE TWENTY-EIGHT OF THIS CHAPTER.

28 S 4. Section 3217-b of the insurance law is amended by adding a new
29 subsection (k) to read as follows:

30 (K) (1) NO INSURER SUBJECT TO THE PROVISIONS OF THIS ARTICLE SHALL BY
31 CONTRACT, WRITTEN POLICY OR PROCEDURE, REQUIRE A BEHAVIORAL HEALTH
32 SERVICES PROVIDER TO PARTICIPATE IN THE IN-NETWORK PORTION OF ANY PROD-
33 UCT OFFERED BY SUCH INSURER. BEHAVIORAL HEALTH SERVICES PROVIDERS SHALL
34 HAVE THE RIGHT TO SELECT BY EXECUTION OF A SEPARATE AGREEMENT THE
35 PRODUCTS OF SUCH INSURERS IN WHICH THE PROVIDER AGREES TO PARTICIPATE IN
36 THE IN-NETWORK PORTION.

37 (2) AS USED IN THIS SUBSECTION, "BEHAVIORAL HEALTH SERVICES" MEANS
38 INPATIENT AND OUTPATIENT BEHAVIORAL HEALTH SERVICES PROVIDED BY THOSE
39 LICENSED OR CERTIFIED PURSUANT TO ARTICLE THIRTY-ONE OR THIRTY-TWO OF
40 THE MENTAL HYGIENE LAW, OR PROGRAMS THAT ARE LICENSED PURSUANT TO BOTH
41 ARTICLE THIRTY-ONE OF THE MENTAL HYGIENE LAW AND ARTICLE TWENTY-EIGHT OF
42 THE PUBLIC HEALTH LAW, OR CERTIFIED UNDER BOTH ARTICLE THIRTY-TWO OF THE
43 MENTAL HYGIENE LAW AND ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW.

44 S 5. Section 4325 of the insurance law is amended by adding a new
45 subsection (l) to read as follows:

46 (L) (1) NO CORPORATION ORGANIZED PURSUANT TO THIS ARTICLE SHALL BY
47 CONTRACT, WRITTEN POLICY OR PROCEDURE, REQUIRE A BEHAVIORAL HEALTH
48 SERVICES PROVIDER TO PARTICIPATE IN THE IN-NETWORK PORTION OF ANY PROD-
49 UCT OFFERED BY SUCH CORPORATION. BEHAVIORAL HEALTH SERVICES PROVIDERS
50 SHALL HAVE THE RIGHT TO SELECT BY EXECUTION OF A SEPARATE AGREEMENT THE
51 PRODUCTS OF SUCH CORPORATION IN WHICH THE PROVIDER AGREES TO PARTICIPATE
52 IN THE IN-NETWORK PORTION.

53 (2) AS USED IN THIS SUBSECTION, "BEHAVIORAL HEALTH SERVICES" MEANS
54 INPATIENT AND OUTPATIENT BEHAVIORAL HEALTH SERVICES PROVIDED BY THOSE
55 LICENSED OR CERTIFIED PURSUANT TO ARTICLE THIRTY-ONE OR THIRTY-TWO OF
56 THE MENTAL HYGIENE LAW, OR PROGRAMS THAT ARE LICENSED PURSUANT TO BOTH

1 ARTICLE THIRTY-ONE OF THE MENTAL HYGIENE LAW AND ARTICLE TWENTY-EIGHT OF
2 THE PUBLIC HEALTH LAW, OR CERTIFIED UNDER BOTH ARTICLE THIRTY-TWO OF THE
3 MENTAL HYGIENE LAW AND ARTICLE TWENTY-EIGHT OF THE PUBLIC HEALTH LAW.
4 S 6. This act shall take effect immediately.