

2545

2015-2016 Regular Sessions

I N   S E N A T E

January 26, 2015

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

(b) If the completed application of a newly-licensed health care professional or a health care professional who has recently relocated to this state from another state and has not previously practiced in this state, who joins a group practice of health care professionals each of whom participates in the in-network portion of a health care plan's network, is neither approved nor declined within ninety days pursuant to paragraph (a) of this subdivision, the health care professional shall be deemed "provisionally credentialed" and may participate in the in-network portion of the health care plan's network[; provided, however, that a provisionally credentialed physician may not be designated as an enrollee's primary care physician until such time as the physician has been fully credentialed]. The network participation for a HEALTH CARE PROFESSIONAL DEEMED provisionally credentialed [health care professional] PURSUANT TO THIS PARAGRAPH shall begin on the day following the ninetieth day of receipt of the completed application and shall last until the final credentialing determination is made by the health care plan. [A health care professional shall only be eligible for provisional credentialing if the group practice of health care professionals notifies the health care plan in writing that, should the application ultimately be denied, the health care professional or the group practice: (i) shall refund any payments made by the health care plan for in-network services provided by the provisionally credentialed health care professional that exceed any out-of-network benefits payable under the enrollee's contract with the health care plan; and (ii)] IT SHALL BE UNDERSTOOD THAT PROVISIONALLY CREDENTIALLED PROVIDERS' REIMBURSEMENT WILL BE APPROVED BUT HELD BY THE HEALTH CARE PLAN UNTIL FINAL APPROVAL; PROVIDED, HOWEVER, THAT IF REIMBURSEMENT IS DENIED, THE PROVISIONALLY CREDENTIALLED PROVIDER shall not pursue reimbursement from the enrollee, except to collect the copayment that otherwise would have been payable had the enrollee received services from a health care professional participating in the in-network portion of a health care plan's network. Interest and penalties pursuant to section three thousand two hundred twenty-four-a of the insurance law shall not be assessed based on the denial of a claim submitted during the period when the health care professional was provisionally credentialed; provided, however, that nothing herein shall prevent a health care plan from paying a claim from a health care professional who is provisionally credentialed upon submission of such claim. A health care plan shall not deny, after appeal, a claim for services provided by a provisionally credentialed health care professional solely on the ground that the claim was not timely filed.

(C) IF THE APPLICANT IS A HEALTH CARE PROFESSIONAL WHO IS JOINING A GROUP PRACTICE OF HEALTH CARE PROFESSIONALS, OR NEW EMPLOYEE OF A FACILITY OPERATING UNDER ARTICLE TWENTY-EIGHT OF THIS CHAPTER OR ARTICLE THIRTY-ONE OF THE MENTAL HYGIENE LAW THAT IS A PARTICIPATING PROVIDER IN THE HEALTH PLAN, AT LEAST ONE OF WHOM PARTICIPATES IN THE IN-NETWORK 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.