

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3     amended, paragraph (b) is REPEALED and three new paragraphs (b), (c) and  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.