

7065

I N S E N A T E

March 22, 2016

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

AN ACT to amend the insurance law, in relation to requiring long term care insurance carriers who propose to raise long term care insurance premiums to obtain prior approval of the superintendent of financial services

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

1 Section 1. Section 3229 of the insurance law, as amended by chapter
2 659 of the laws of 1997, paragraph 2 of subsection (a) as amended by
3 chapter 6 of the laws of 2015, paragraph 3 of subsection (a) as amended
4 by section 27 of part B of chapter 58 of the laws of 2004 and subsection
5 (b) as amended by chapter 572 of the laws of 2008, is amended to read as
6 follows:
7 S 3229. Minimum benefit standards for [certain] long term care plans.
8 (a) The minimum standards for an insurance plan, which may qualify under
9 the partnership for long term care program pursuant to section three
10 hundred sixty-seven-f of the social services law, shall be established
11 by regulations of the superintendent, in consultation with the commis-
12 sioner of health and the director of the state office for the aging, as
13 approved by the director of the budget, which shall require at a minimum
14 (1) a residential health care facility benefit in an amount to be deter-
15 mined by the regulations of the superintendent; (2) a home care benefit
16 with personal care, nursing care, adult day health care and respite care
17 services, which shall provide total benefits in an amount determined by
18 regulations of the superintendent; (3) a duration of benefits not less
19 than twelve months; and (4) arrangements through the insurance plan for
20 managed care including preauthorized assessment and referral programs,
21 utilization controls and use of approved providers.
22 (b) In establishing minimum benefit standards for insurance plans
23 pursuant to this section, the superintendent shall seek to ensure the
24 cost effectiveness of the partnership for long term care program estab-
25 lished pursuant to section three hundred sixty-seven-f of the social
26 services law, and may establish minimum permissible payments under such

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

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1 insurance plans. The superintendent shall not approve an insurance plan
2 which includes an exclusion for pre-existing conditions that exceeds six
3 months, or which does not comply with paragraph six of subsection (b) of
4 section one thousand one hundred seventeen of this chapter.

5 (C) AN INSURER DESIRING TO INCREASE OR DECREASE PREMIUMS FOR ANY POLI-
6 CY SUBJECT TO THIS SECTION SHALL SUBMIT A RATE FILING OR APPLICATION TO
7 THE SUPERINTENDENT. AN INSURER SHALL SEND WRITTEN NOTICE OF THE
8 PROPOSED RATE ADJUSTMENT, INCLUDING THE SPECIFIC CHANGE REQUESTED, TO
9 EACH POLICY HOLDER AND CERTIFICATE HOLDER AFFECTED BY THE ADJUSTMENT ON
10 OR BEFORE THE DATE THE RATE FILING OR APPLICATION IS SUBMITTED TO THE
11 SUPERINTENDENT. THE NOTICE SHALL PROMINENTLY INCLUDE MAILING AND WEBSITE
12 ADDRESSES FOR BOTH THE DEPARTMENT OF FINANCIAL SERVICES AND THE INSURER
13 THROUGH WHICH A PERSON MAY, WITHIN THIRTY DAYS FROM THE DATE THE RATE
14 FILING OR APPLICATION IS SUBMITTED TO THE SUPERINTENDENT, CONTACT THE
15 DEPARTMENT OF FINANCIAL SERVICES OR INSURER TO RECEIVE ADDITIONAL INFOR-
16 MATION OR TO SUBMIT WRITTEN COMMENTS TO THE DEPARTMENT OF FINANCIAL
17 SERVICES ON THE RATE FILING OR APPLICATION. THE SUPERINTENDENT SHALL
18 ESTABLISH A PROCESS TO POST ON SUCH DEPARTMENT'S WEBSITE, IN A TIMELY
19 MANNER, ALL RELEVANT WRITTEN COMMENTS RECEIVED PERTAINING TO RATE
20 FILINGS OR APPLICATIONS. THE INSURER SHALL PROVIDE A COPY OF THE NOTICE
21 TO THE SUPERINTENDENT WITH THE RATE FILING OR APPLICATION. THE SUPER-
22 INTENDENT SHALL IMMEDIATELY CAUSE THE NOTICE TO BE POSTED ON THE DEPART-
23 MENT OF FINANCIAL SERVICES' WEBSITE. THE SUPERINTENDENT SHALL DETERMINE
24 WHETHER THE FILING OR APPLICATION SHALL BECOME EFFECTIVE AS FILED, SHALL
25 BECOME EFFECTIVE AS MODIFIED, OR SHALL BE DISAPPROVED. THE SUPERINTEN-
26 DENT MAY MODIFY OR DISAPPROVE THE RATE FILING OR APPLICATION IF THE
27 SUPERINTENDENT FINDS THAT THE PREMIUMS ARE UNREASONABLE, EXCESSIVE,
28 INADEQUATE, OR UNFAIRLY DISCRIMINATORY, AND MAY CONSIDER THE FINANCIAL
29 CONDITION OF THE INSURER WHEN APPROVING, MODIFYING OR DISAPPROVING ANY
30 PREMIUM ADJUSTMENT. THE DETERMINATION OF THE SUPERINTENDENT SHALL BE
31 SUPPORTED BY SOUND ACTUARIAL ASSUMPTIONS AND METHODS, AND SHALL BE
32 RENDERED IN WRITING BETWEEN THIRTY AND SIXTY DAYS FROM THE DATE THE RATE
33 FILING OR APPLICATION IS SUBMITTED TO THE SUPERINTENDENT. SHOULD THE
34 SUPERINTENDENT REQUIRE ADDITIONAL INFORMATION FROM THE INSURER IN ORDER
35 TO MAKE A DETERMINATION, THE SUPERINTENDENT SHALL REQUIRE THE INSURER TO
36 FURNISH SUCH INFORMATION, AND IN SUCH EVENT, THE SIXTY DAYS SHALL BE
37 TOLLED AND SHALL RESUME AS OF THE DATE THE INSURER FURNISHES THE INFOR-
38 MATION TO THE SUPERINTENDENT. IF THE SUPERINTENDENT REQUESTS ADDITIONAL
39 INFORMATION LESS THAN TEN DAYS FROM THE EXPIRATION OF THE SIXTY DAYS
40 (EXCLUSIVE OF TOLLING), THE SUPERINTENDENT MAY EXTEND THE SIXTY DAY
41 PERIOD AN ADDITIONAL TWENTY DAYS TO MAKE A DETERMINATION. THE APPLICA-
42 TION OR RATE FILING WILL BE DEEMED APPROVED IF A DETERMINATION IS NOT
43 RENDERED WITHIN THE TIME ALLOTTED UNDER THIS SECTION. AN INSURER SHALL
44 NOT IMPLEMENT A RATE ADJUSTMENT UNLESS THE INSURER PROVIDES AT LEAST
45 SIXTY DAYS ADVANCE WRITTEN NOTICE OF THE PREMIUM RATE ADJUSTMENT
46 APPROVED BY THE SUPERINTENDENT TO EACH POLICY HOLDER AND CERTIFICATE
47 HOLDER AFFECTED BY THE RATE ADJUSTMENT.

48 S 2. This act shall take effect immediately.