

# STATE OF NEW YORK

10327

## IN ASSEMBLY

April 22, 2020

Introduced by M. of A. L. ROSENTHAL -- read once and referred to the Committee on Insurance

AN ACT in relation to requiring certain perils be covered under business interruption insurance policies issued to certain human services and community-based health providers during the coronavirus disease 2019 (COVID-19) pandemic

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. (a) Notwithstanding any provisions of law, rule or regulation to the contrary, every policy of insurance insuring against loss  
2 or damage to property, which includes the loss of use and occupancy and  
3 business interruption, shall be construed to include among the covered  
4 perils under that policy, coverage for business interruption during a  
5 period of a declared state emergency due to the coronavirus disease 2019  
6 (COVID-19) pandemic.

7 (b) The coverage required by this section shall indemnify the insured,  
8 subject to the limits under the policy, for any loss of business or  
9 business interruption for the duration of a period of a declared state  
10 emergency due to the coronavirus disease 2019 (COVID-19) pandemic.

11 (c) This section shall apply to insureds with such coverage who operate  
12 programs and services including a mental health outpatient provider  
13 licensed or granted an operating certificate under article 31 of the  
14 mental hygiene law; a substance use disorder treatment provider licensed  
15 or granted an operating certificate under article 32 of the mental  
16 hygiene law; a provider dually licensed under article 28 of the public  
17 health law and article 31 or article 32 of the mental hygiene law, a  
18 diagnostic and treatment center licensed or granted an operating certificate  
19 under article 28 of the public health law; a clinic licensed or  
20 granted an operating certificate under article 16 of the mental hygiene  
21 law; a community-based program funded under the office of mental health,  
22 the office for people with developmental disabilities, the office of  
23 addiction services and supports or through a local government unit as  
24 defined under article 41 of the mental hygiene law; a home care provider  
25 certified or licensed pursuant to article 36 of the public health law; a  
26

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

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1 primary care physician or other provider including school based health  
2 centers; a provider of health home services authorized under section  
3 2703 of the federal protection and affordable care act; a hospice  
4 provider licensed or granted an operating certificate under article 40  
5 of the public health law; a family and child service provider licensed  
6 under article 29-I of the public health law, a provider licensed under  
7 the office of children and family services; or a provider licensed under  
8 the office of temporary and disability assistance.

9 § 2. (a) An insurer which indemnifies an insured who has filed a claim  
10 pursuant to section one of this act may apply to the superintendent of  
11 financial services for relief and reimbursement by the department from  
12 funds collected and made available for this purpose as provided in  
13 section three of this act.

14 (b) The superintendent of financial services shall establish proce-  
15 dures for the submission and qualification of claims by insurers which  
16 are eligible for reimbursement pursuant to this act. The superintendent  
17 of financial services shall incorporate in these procedures such stand-  
18 ards as are necessary to protect against the submission of fraudulent  
19 claims by insureds, and appropriate safeguards for insurers to employ in  
20 the review and payment of such claims.

21 § 3. (a) The superintendent of financial services is authorized to  
22 impose upon, distribute among, and collect from the companies engaged in  
23 business pursuant to the insurance law, such additional amounts as may  
24 be necessary to recover the amounts paid to insurers pursuant to section  
25 two of this act.

26 (b) The additional special purpose apportionment authorized pursuant  
27 to subdivision (a) of this section shall be distributed in the propor-  
28 tion that the net written premiums received by each company subject to  
29 the apportionment authorized by this section for insurance written or  
30 renewed on risks in this state during the calendar year immediately  
31 preceding, bears to the sum total of all such net written premiums  
32 received by all companies writing that insurance or coverage within the  
33 state during that calendar year, as reported.

34 (c) For the purposes of this section, "net written premiums received"  
35 means gross direct premiums written, less return premiums thereon and  
36 dividends credited or paid to policyholders, as reported on the compa-  
37 ny's annual financial statement.

38 § 4. This act shall take effect immediately, and shall be deemed to  
39 have been in full force and effect on and after March 7, 2020 and shall  
40 apply to insurance policies in force on that date.