

# STATE OF NEW YORK

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3077

2019-2020 Regular Sessions

## IN ASSEMBLY

January 28, 2019

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Introduced by M. of A. GOTTFRIED, CAHILL, ENGLEBRIGHT, GALEF, JAFFEE, OTIS, STECK, D'URSO -- Multi-Sponsored by -- M. of A. ABBATE, AUBRY, CARROLL, COLTON, COOK, CYMBROWITZ, DINOWITZ, ORTIZ, PAULIN, PERRY, PRETLOW, RAMOS, RIVERA, TITUS -- read once and referred to the Committee on Health

AN ACT to amend the public health law and the insurance law, in relation to certain application and referral forms for health care plans

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 425 of the laws of 2016, 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 universal health care profes-  
11 sional application [~~to participate~~] for participation in the in-network  
12 portion of the health care plan's network and shall, within sixty days  
13 of receiving a health care professional's completed universal applica-  
14 tion to participate in the health care plan's network, notify the health  
15 care professional as to: (i) whether he or she is credentialed; or (ii)  
16 whether additional time is necessary to make a determination because of  
17 a failure of a third party to provide necessary documentation. In such  
18 instances where additional time is necessary because of a lack of neces-  
19 sary documentation, a health plan shall make every effort to obtain such  
20 information as soon as possible and shall make a final determination  
21 within twenty-one days of receiving the necessary documentation.

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

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(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 sixty days of submission of a completed application 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 provisionally credentialed health care professional shall begin on the day following the sixtieth 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) 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) The commissioner, in consultation with the superintendent of financial services, and representatives of health care plans, hospitals and health care professionals shall adopt by regulation such universal health care professional application for participation form, and a form for the renewal of credentialing which shall be an abbreviated version of the universal application form, for use by health care plans which offer managed care products for the purpose of credentialing and re-credentialing health care professionals who seek to participate in a health care plan's provider network, including credentialing and re-credentialing health care professionals who are employed or have staff privileges at hospitals or other health care facilities which seek to participate in a provider network.

(d) The commissioner, in consultation with the superintendent of financial services, and representatives of health care plans, hospitals and health care professionals shall adopt by regulation a universal health care professional referral form for the purpose of simplifying the process of referral of patients to other health care professionals.

(e) The commissioner, in consultation with the superintendent of financial services, and representatives of health care plans, hospitals

1 and health care professionals shall revise the universal application,  
2 re-credentialing and universal health care professional referral forms  
3 as necessary, to conform with industry-wide, national standards of  
4 credentialing, re-credentialing and health care referral.

5 (f) In developing the universal health care professional application  
6 re-credentialing forms, the commissioner shall ensure that the creden-  
7 tialing and re-credentialing requirements for participation in the medi-  
8 caid program and the state child health plus program are adequately  
9 reflected on the health care professional application and re-credential-  
10 ing forms.

11 (g) All the credentialing and re-credentialing forms required for  
12 development under this subdivision shall be the only forms that may be  
13 used for credentialing and re-credentialing health care professionals by  
14 health care plans, hospitals, and other health care facilities.

15 (h) The professional referral form required for development under this  
16 subdivision shall be the only form that a health care plan may require a  
17 health care professional to use for the purposes of making a profes-  
18 sional referral; provided, however, that a health care plan may request  
19 additional patient information separately from the professional referral  
20 form for the purposes of reviewing such professional referral.

21 § 2. Subsection (a) of section 4803 of the insurance law, as amended  
22 by chapter 425 of the laws of 2016, is amended to read as follows:

23 (a) (1) An insurer which offers a managed care product shall, upon  
24 request, make available and disclose to health care professionals writ-  
25 ten application procedures and minimum qualification requirements which  
26 a health care professional must meet in order to be considered by the  
27 insurer for participation in the in-network benefits portion of the  
28 insurer's network for the managed care product. The insurer shall  
29 consult with appropriately qualified health care professionals in devel-  
30 oping its qualification requirements for participation in the in-network  
31 benefits portion of the insurer's network for the managed care product.  
32 An insurer shall complete review of the health care professional's  
33 application to participate in the in-network portion of the insurer's  
34 network and, within sixty days of receiving a health care professional's  
35 completed application to participate in the insurer's network, will  
36 notify the health care professional as to: (A) whether he or she is  
37 credentialed; or (B) whether additional time is necessary to make a  
38 determination because of a failure of a third party to provide necessary  
39 documentation. In such instances where additional time is necessary  
40 because of a lack of necessary documentation, an insurer shall make  
41 every effort to obtain such information as soon as possible and shall  
42 make a final determination within twenty-one days of receiving the  
43 necessary documentation. The plans shall also implement procedures to  
44 permit newly licensed health care professionals to render care and  
45 receive payment for care provided to enrollees on a provisional basis  
46 during the pendency of the application process of such newly licensed  
47 health care professionals.

48 (2) If the completed application of a newly-licensed health care  
49 professional or a health care professional who has recently relocated to  
50 this state from another state and has not previously practiced in this  
51 state, who joins a group practice of health care professionals each of  
52 whom participates in the in-network portion of an insurer's network, is  
53 neither approved nor declined within sixty days of submission of a  
54 completed application pursuant to paragraph one of this subsection, such  
55 health care professional shall be deemed "provisionally credentialed"  
56 and may participate in the in-network portion of an insurer's network;

provided, however, that a provisionally credentialed physician may not be designated as an insured's primary care physician until such time as the physician has been fully credentialed. The network participation for a provisionally credentialed health care professional shall begin on the day following the sixtieth day of receipt of the completed application and shall last until the final credentialing determination is made by the insurer. A health care professional shall only be eligible for provisional credentialing if the group practice of health care professionals notifies the insurer in writing that, should the application ultimately be denied, the health care professional or the group practice: (A) shall refund any payments made by the insurer for in-network services provided by the provisionally credentialed health care professional that exceed any out-of-network benefits payable under the insured's contract with the insurer; and (B) shall not pursue reimbursement from the insured, except to collect the copayment or coinsurance that otherwise would have been payable had the insured received services from a health care professional participating in the in-network portion of an insurer's network. Interest and penalties pursuant to section three thousand two hundred twenty-four-a of this chapter 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 an insurer from paying a claim from a health care professional who is provisionally credentialed upon submission of such claim. An insurer 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.

(3) The superintendent, in consultation with the commissioner of health, and representatives of health care plans, hospitals, and health care professionals shall adopt by regulation a universal health care professional application for participation form, and a form for the renewal of credentialing which shall be an abbreviated version of the universal application form for use by health care plans which offer managed care products for the purpose of credentialing and re-credentialing health care professionals who seek to participate in a health care plan's provider network, including credentialing and re-credentialing health care professionals who are employed or have staff privileges at hospitals or other health care facilities which seek to participate in a provider network.

(4) The superintendent, in consultation with the commissioner of health, and representatives of health care plans, hospitals and health care professionals shall adopt by regulation a universal health care professional referral form for the purpose of simplifying the process of referral of patients to other health care professionals.

(5) The superintendent, in consultation with the commissioner of health, and representatives of health care plans, hospitals and health care professionals shall revise the universal application, re-credentialing and universal health care professional referral forms as necessary, to conform with industry-wide, national standards of credentialing, re-credentialing and health care referral.

(6) In developing the universal health care professional application re-credentialing forms, the superintendent shall ensure that the credentialing and re-credentialing requirements for participation in the Medicaid program and the state child health plus program are adequately reflected on the health care professional application and re-credentialing forms.

1     (7) The credentialing and re-credentialing forms required for develop-  
2 ment under this subsection shall be the only forms that may be used for  
3 credentialing and re-credentialing health care professionals by insur-  
4 ers, hospitals and other health care facilities.

5     (8) The professional referral form required for development under this  
6 subsection shall be the only form that an insurer may require a health  
7 care professional to use for the purposes of making a professional  
8 referral; provided, however, that an insurer may request additional  
9 patient information separately from the professional referral form for  
10 the purposes of reviewing such professional referral.

11     § 3. This act shall take effect on the one hundred eightieth day after  
12 it shall have become a law.