

# STATE OF NEW YORK

3218

2019-2020 Regular Sessions

## IN ASSEMBLY

January 29, 2019

Introduced by M. of A. ORTIZ -- Multi-Sponsored by -- M. of A. CRESPO --  
read once and referred to the Committee on Health

AN ACT to amend the public health law and the insurance law, in relation  
to providing access to diagnostic laboratories by patients in health  
maintenance organizations

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

1 Section 1. Section 4406 of the public health law is amended by adding  
2 a new subdivision 6 to read as follows:

3 6. Notwithstanding any other provision of law, if an enrollee is  
4 referred by an in-plan provider to a provider of clinical laboratory  
5 services not participating in the plan (a "non-participating provider"),  
6 any service provided by a non-participating provider that would other-  
7 wise be paid for by the plan to other non-participating providers shall  
8 be paid for by the plan, and the plan shall be responsible for payment  
9 directly to the non-participating provider for that service in accord-  
10 ance with the time frame for such payments set forth in section three  
11 thousand two hundred twenty-four-a of the insurance law; provided,  
12 however, that the enrollee shall be responsible for any applicable  
13 copay, coinsurance or deductible for such services. Clinical laborato-  
14 ries seeking reimbursement pursuant to this article for services  
15 rendered shall directly bill the plan whose enrollee received the  
16 services. Any payment made by a plan directly to the enrollee rather  
17 than to the clinical laboratory seeking reimbursement shall not satisfy  
18 the plan's payment obligation to the clinical laboratory.

19 § 2. Section 4406-c of the public health law is amended by adding two  
20 new subdivisions 4-a and 4-b to read as follows:

21 4-a. No health care plan, not-for-profit or for-profit health mainte-  
22 nance organization, preferred provider organization, point of service  
23 plan, government subsidized health care plan or self insured plan  
24 (collectively, "plan") shall exclude from participating within its

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

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1 network any provider of clinical laboratory services that meets the  
2 following requirements: (a) such provider is licensed as a Medicare  
3 provider by the United States department of health and human services;  
4 (b) such provider is either accredited by the college of American  
5 pathologists, or licensed by the New York state department of health;  
6 and (c) such provider submits electronic claims to the plan for the  
7 payment of clinical laboratory services rendered to enrollees. Each plan  
8 shall directly pay for clinical laboratory services rendered to enrol-  
9 lees by any provider of clinical laboratory services practicing within  
10 its network in accordance with the time frame for such payments set  
11 forth in section three thousand two hundred twenty-four-a of the insur-  
12 ance law; provided, however, that the enrollee shall be responsible for  
13 any applicable copay, coinsurance or deductible for such services.

14 4-b. Notwithstanding any other provision of law, in no event shall any  
15 plan: (a) reimburse any in-plan provider of clinical laboratory services  
16 for a particular laboratory test but not reimburse another in-plan  
17 provider of clinical laboratory services for that laboratory test; (b)  
18 assign preferential status nor provide preferential treatment to a  
19 provider of clinical laboratory services practicing within its network.  
20 Such prohibited preferential treatment shall include, but is not limited  
21 to, maintaining a substantially different rate of payment or fees for  
22 similar products and services provided by one in-plan provider over  
23 those of other in-plan providers, or establishing a payment procedure  
24 with one in-plan provider as opposed to other in-plan providers known to  
25 likely result in the loss of payment for such in-plan providers; (c)  
26 establish different performance measures or requirements for one in-plan  
27 provider over those of other in-plan providers of clinical laboratory  
28 services, including but not limited to, the number of patient service  
29 centers required to be operated in a covered area or fluctuating report-  
30 ing guidelines and requirements; (d) subcontract the management of the  
31 network to an in-plan laboratory that collects a management fee for such  
32 management services; or (e) treat any enrollee utilizing the services of  
33 any provider of clinical laboratory services practicing within its  
34 network in a manner which is not the same as or similar in all material  
35 respects to the manner in which all other enrollees utilizing the  
36 services of any provider of clinical laboratory services practicing  
37 within its network are treated.

38 § 3. Section 4804 of the insurance law is amended by adding a new  
39 subsection (g) to read as follows:

40 (g) Notwithstanding any other provision of law, if an insured is  
41 referred by an in-plan provider to a provider of clinical laboratory  
42 services not participating in the plan (a "non-participating provider"),  
43 any service that would otherwise be covered as an in-plan service under  
44 the plan that is provided by the non-participating provider shall be  
45 covered, and the organization shall be responsible for payment directly  
46 to the non-participating provider for those services in accordance with  
47 the time frame for such payments set forth in section three thousand two  
48 hundred twenty-four-a of this chapter; provided, however, that the  
49 insured shall be responsible for any applicable copay, coinsurance or  
50 deductible for such services. Clinical laboratories seeking reimburse-  
51 ment pursuant to this article for services rendered shall directly bill  
52 the organization whose insured received the services. Any payment made  
53 by an organization directly to the insured rather than to the clinical  
54 laboratory seeking reimbursement shall not satisfy the organization's  
55 payment obligation to the clinical laboratory.

56 § 4. This act shall take effect immediately.