STATE OF NEW YORK

10664

IN ASSEMBLY

August 12, 2022

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Zebrowski) -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to establishing the New York state public health care option program; and to amend the state finance law, in relation to establishing the New York state public health care option program fund

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

Section 1. Article 2 of the public health law is amended by adding a new title 3-A to read as follows:

TITLE III-A

NEW YORK STATE PUBLIC HEALTH CARE OPTION PROGRAM

Section 245. Definitions.
245-a. Public option program established.
245-b. Powers of the commissioner.
245-c. Member costs; limitations.
245-d. Board of trustees.

§ 245. Definitions. As used in this title the terms shall have the following meanings:

1. "Board" means the board of trustees of the New York state public health care option program.

2. "Cost sharing expense" means deductibles, co-insurance, co-payments, or any other required similar expense incurred by a member. "Cost sharing expense" shall not include premiums or any expenses related to services or providers that are out of the program's network.

3. "Health care provider" means any individual or entity authorized to provide medical and/or health care services to members of the program.

4. "Health care service" means any health care service, including care coordination, included as a benefit under the program.

5. "Member" means an individual who is enrolled in the program.

6. "New York state public health care option program", "public option program", and "program" mean the New York state public health care option program created by section two hundred forty-five-a of this title.

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

LBD15361-01-2

7. "New York state public health care option program fund" means the New York state public health care option program fund established under section ninety-nine-pp of the state finance law.

8. "Participating provider" means any individual or entity that is a health care provider qualified and approved by the programs to provide health care services to members under the program, or a health care organization.

§ 245-a. Public option program established. The New York state public health care option program is hereby established. The commissioner shall establish and implement the program pursuant to this title. The program shall provide a comprehensive and affordable health care insurance option for all residents of this state who choose to enroll in the program. The commissioner shall ensure that coverage provided through the program is competitive in terms of affordability, benefits and access to quality health care providers. Every resident of the state shall be eligible and entitled to enroll as a member under the program.

§ 245-b. Powers of the commissioner. In carrying out the provisions of this act, the commissioner shall have the power and authority to:

1. Establish premiums for which members are responsible and other charges for enrolling in or being a member under the program.

2. Ensure that the program's plans shall be available for enrollment on the Marketplace as provided in title seven of this article.

3. Establish criteria and standards for health care providers to be qualified for participation in the program and grounds for revocation of such participation.

4. Establish coverage for the program including all health care services that members would be eligible to receive and maintain an updated list of participating providers. Such coverage shall ensure that all plans meet the requirements of a qualified health plan by the Marketplace pursuant to section two hundred sixty-eight-c of this article.

5. Establish and maintain procedures and standards for recognizing health care providers located out of the state for purposes of providing coverage under the program for out-of-state health care services.

6. Develop payment methodologies and rates for health care services provided by participating providers including a methodology for reasonable and customary fees for out of network health care services incurred by members.

7. Create an enrollment process for employers with less than one hundred employees to participate in the program. Any participating employer shall meet standards established by the commissioner including but not limited to, establishing an annual limitation on employee contributions and provisions for compliance with applicable collective bargaining agreements. Notwithstanding any provision to the contrary, any employee of a participating employer may enroll as a member of the program regardless of whether they are a resident of the state.

8. Submit an implementation plan to the governor and state legislature no later than twelve months following the effective date of this section that will provide a detailed plan on timelines for enrollment, coverage, premium schedule, benefits and other relevant information related to the implementation of the program.

9. Seek all applicable federal waivers or other federal approvals for the operations of the program including federal approval to authorize the use of premium tax credits for applicable members for enrollment in the program.

10. Utilize any funds from the New York state public health care option program fund for purposes supporting the operations of the program.

§ 245-c. Member costs; limitations. 1. The commissioner shall establish a base rate for enrollment in the program. The rates for enrollment shall include a formula that adjusts premiums based on household size and income. The premium schedule and formula shall ensure that the program remains viable, but at the lowest possible cost to members. The commissioner shall establish benchmark goals for premiums that should seek to be below comparable commercially available plans.

2. The commissioner shall determine other deductibles, co-payments or co-insurance under the program in a manner that ensures the program remains viable but is affordable for members.

3. The commissioner shall establish an annual limitation for cost sharing expenses for members and annually update such limitation. Such limitation shall be based on cost growth factor established by the commissioner.

4. The commissioner shall ensure that eligible members can receive any applicable premium tax credits.

§ 245-d. Board of trustees. 1. The board of the New York State public health care option program is hereby established within the department.

2. The board shall, at the request of the commissioner, develop and submit recommendations related to the implementation of this title. The commissioner may propose regulations under this title for consideration by the board. The board shall have power to establish and amend regulations to effectuate the provisions of this title which shall be subject to approval by the commissioner.

3. The board shall be comprised of thirteen trustees to be appointed as follows:

a. the commissioner of health and the superintendent of the department of financial services shall serve as ex-officio trustees;

b. five trustees shall be appointed by the governor;

c. two trustees shall be appointed by the temporary president of the senate;

d. two trustees shall be appointed by the speaker of the assembly;

e. one trustee shall be appointed by the minority leader of the senate; and

f. one trustee shall be appointed by the minority leader of the assembly.

4. The board shall meet at least four times each calendar year. Meetings shall be held upon the call of the chair and as provided by the board. A majority of the appointed trustees shall constitute a quorum of the board. Actions may be taken, and motions and resolutions adopted by the board with the affirmative vote of at least seven trustees. The board may establish an executive committee to exercise any powers or duties of the board as it may provide, and other committees to assist the board or the executive committee. The chair of the board shall chair the executive committee and shall appoint the chair and trustees of all other committees. The board may appoint one or more advisory committees. Members of advisory committees need not be trustees of the board.

5. The trustees of the board shall serve terms of four years. Subsequent appointments upon the expiration of term shall be filled in the same manner as the original appointment.

6. The trustees of the board shall elect one of their trustees to serve as chairperson during his or her appointment term or for a period of four years, whichever is shorter.

7. Trustees of the board shall serve without compensation but shall be allowed their actual and necessary expenses incurred in the performance of their duties.

8. The board and its committees and advisory committees may request and receive the assistance of the department and any other state or local governmental entity in exercising its powers and duties.

9. The board, in consultation with the commissioner, may submit recommendations to the governor and legislature related to the provisions of this article.

10. Within twelve months from the enactment of this title, the board, in consultation with the commissioner, shall make a recommendation to the governor and legislature on whether any additional revenue, taxes or assessments are necessary to implement the program.

§ 2. The state finance law is amended by adding a new section 99-pp to read as follows:

§ 99-pp. New York state public health care option program fund. 1. There is hereby established in the joint custody of the comptroller and the commissioner of taxation and finance a debt service fund to be known as the "New York state public health care option program fund".

2. Such fund shall consist of all revenues received through premiums, co-insurance or other related fees from members enrolled in the New York state public health care option program pursuant to title three-A of article two of the public health law, any federal payments received for such purpose, state funds transferred to the fund for the purposes of support for the New York state public health care option program or any other revenue generated that is dedicated towards the purpose of supporting the New York state public health care option program. Nothing contained in this section shall prevent the state from receiving grants, gifts or bequests for the purposes of the fund as defined in this section and depositing them into the fund according to law.

3. The moneys in such fund shall be expended and transferred for the purposes of operating the New York state public health care option program and any reasonable expenses related thereto.

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