

STATE OF NEW YORK

8169

2021-2022 Regular Sessions

IN ASSEMBLY

July 7, 2021

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

AN ACT to amend the insurance law and the public health law, in relation to certain prohibited contract provisions

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

1 Section 1. Section 3217-b of the insurance law is amended by adding a
2 new subsection (m) to read as follows:

3 (m) (1) No insurer that offers a managed care product or a comprehen-
4 sive policy that utilizes a network of providers shall enter into a
5 contract, written policy, written procedure or agreement (hereinafter
6 and solely for purposes of this subsection collectively referred to as a
7 "contract") with any health care provider that:

8 (A) requires the insurer to include within the scope of the contract
9 all covered groups of the insurer, including groups or benefit funds
10 that contract with the insurer, or an affiliate of the insurer, for
11 access to the insurer's network of participating providers;

12 (B) requires an insurer to include all members of a provider system,
13 including medical practice groups and affiliated facilities, in its
14 network of participating providers;

15 (C) requires an insurer, or an affiliate of an insurer, to include all
16 members of a provider system, including medical practice groups and
17 affiliated facilities, in all products offered by the insurer or an
18 affiliate of the insurer;

19 (D) restricts the ability of an insurer to create or modify a tiered
20 network benefit plan or requires an insurer to place all members of a
21 provider system, including medical practice groups and affiliated facil-
22 ities, in the same network tier or otherwise limits the right of an
23 insurer to place a provider in a particular tier;

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

LBD11774-01-1

1 (E) prohibits insurers from using benefit designs, including wellness
2 programs and other benefits, to encourage members to seek services from
3 value-based health care providers;

4 (F) contains a most-favored-nation provision; provided, however, noth-
5 ing in this section shall be construed to prohibit a health insurer and
6 a provider from negotiating payment rates and performance-based contract
7 terms that would result in the insurer receiving a rate that is as
8 favorable, or more favorable, than the rates negotiated between a health
9 care provider and another entity; or

10 (G) restricts the ability of the insurer to disclose price or quality
11 information, including the allowed amount, negotiated rates or
12 discounts, or any other claim-related financial obligations covered by
13 the provider contract to any enrollee, group or other entity receiving
14 health care services pursuant to the contract.

15 (2) Beginning January first, two thousand twenty-two, any contract,
16 written policy, written procedure or agreement that contains a clause
17 contrary to the provisions set forth in this section shall be null and
18 void; provided, however, the remaining clauses of the contract shall
19 remain in effect for the duration of the contract term.

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

22 6. (a) No health maintenance organization that offers a managed care
23 product or a comprehensive policy that utilizes a network of providers
24 shall enter into a contract, written policy, written procedure or agree-
25 ment with any health care provider that:

26 (i) requires the insurer to include within the scope of the contract
27 all covered groups of the insurer, including groups or benefit funds
28 that contract with the insurer, or an affiliate of the insurer, for
29 access to the insurer's network of participating providers;

30 (ii) requires an insurer to include all members of a provider system,
31 including medical practice groups and affiliated facilities, in its
32 network of participating providers;

33 (iii) requires an insurer, or an affiliate of an insurer, to include
34 all members of a provider system, including medical practice groups and
35 affiliated facilities, in all products offered by the insurer or an
36 affiliate of the insurer;

37 (iv) restricts the ability of an insurer to create or modify a tiered
38 network benefit plan or requires an insurer to place all members of a
39 provider system, including medical practice groups and affiliated facil-
40 ities, in the same network tier or otherwise limits the right of an
41 insurer to place a provider in a particular tier;

42 (v) prohibits insurers from using benefit designs, including wellness
43 programs and other benefits, to encourage members to seek services from
44 value-based health care providers;

45 (vi) contains a most-favored-nation provision; provided, however,
46 nothing in this section shall be construed to prohibit a health insurer
47 and a provider from negotiating payment rates and performance-based
48 contract terms that would result in the insurer receiving a rate that is
49 as favorable, or more favorable, than the rates negotiated between a
50 health care provider and another entity; or

51 (vii) restricts the ability of the insurer to disclose price or quali-
52 ty information, including the allowed amount, negotiated rates or
53 discounts, or any other claim-related financial obligations covered by
54 the provider contract to any enrollee, group or other entity receiving
55 health care services pursuant to the contract.

1 (b) After January first, two thousand twenty-two, any contract, writ-
2 ten policy, written procedure or agreement that contains a clause
3 contrary to the provisions set forth in this section shall be null and
4 void; provided, however, the remaining clauses of the contract shall
5 remain in effect for the duration of the contract term.

6 § 3. This act shall take effect January 1, 2022.