

# STATE OF NEW YORK

3231--A

2021-2022 Regular Sessions

## IN SENATE

January 28, 2021

Introduced by Sen. SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law and the insurance law, in relation to certain contracts or agreements by health maintenance organizations

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

1 Section 1. Subdivision 7 of section 4406-c of the public health law,  
2 as added by chapter 705 of the laws of 1996 and as renumbered by chapter  
3 487 of the laws of 2010, is renumbered subdivision 14 and three new  
4 subdivisions 11, 12 and 13 are added to read as follows:

5 11. No contract or agreement between a health care plan and a health  
6 care provider shall contain any clause which entitles such health care  
7 plan to reimburse the health care provider at the lowest price or rate  
8 that such health care provider has charged another person or entity for  
9 rendering the same treatment or performing the same procedure.

10 12. No health care plan shall by contract, written policy or written  
11 procedure prohibit any health care provider from referring a patient or  
12 enrollee to a health care provider based solely upon such health care  
13 provider's participation status with the managed care product subscribed  
14 to by the patient or enrollee.

15 13. No health care plan shall by contract, written policy or procedure  
16 provide for or allow the substitution of a pharmaceutical drug or agent  
17 (other than a generic substitution) by any person other than the  
18 prescribing health care professional or by a pharmacist under section  
19 sixty-eight hundred one-a of the education law.

20 § 2. Subsection (h) of section 3217-b of the insurance law, as relet-  
21 tered by chapter 237 of the laws of 2009, is relettered subsection (o)  
22 and three new subsections (h), (m) and (n) are added to read as follows:

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

LBD00253-03-1

1 (h) No contract or agreement between an insurer and a health care  
2 provider shall contain any clause which entitles such insurer to reim-  
3 burse the health care provider at the lowest price or rate that such  
4 health care provider has charged another person or entity for rendering  
5 the same treatment or performing the same procedure.

6 (m) No insurer shall by contract, written policy or written procedure  
7 prohibit any health care provider from referring an insured to a physi-  
8 cian based solely upon such physician's participation status with the  
9 insurance product subscribed to by the insured.

10 (n) No insurer which maintains a drug formulary, or which contracts  
11 with another entity to maintain a drug formulary, shall by contract,  
12 written policy or procedure provide for or allow the substitution of a  
13 pharmaceutical drug or agent (other than a generic substitution) by any  
14 person other than the prescribing health care professional or by a phar-  
15 macist under section sixty-eight hundred one-a of the education law.

16 § 3. Subsection (i) of section 4325 of the insurance law, as relet-  
17 tered by chapter 487 of the laws of 2010, is relettered subsection (p)  
18 and three new subsections (i), (n) and (o) are added to read as follows:

19 (i) No contract or agreement between an insurer and a health care  
20 provider shall contain any clause which entitles such insurer to reim-  
21 burse the health care provider at the lowest price or rate that such  
22 health care provider has charged another person or entity for rendering  
23 the same treatment or performing the same procedure.

24 (n) No insurer shall by contract, written policy or written procedure  
25 prohibit any health care provider from referring an insured to a physi-  
26 cian based solely upon such physician's participation status with the  
27 insurance product subscribed to by the insured.

28 (o) No insurer which maintains a drug formulary, or which contracts  
29 with another entity to maintain a drug formulary, shall by contract,  
30 written policy or procedure provide for or allow the substitution of a  
31 pharmaceutical drug or agent (other than a generic substitution) by any  
32 person other than the prescribing health care professional or by a phar-  
33 macist under section sixty-eight hundred one-a of the education law.

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