STATE OF NEW YORK

4191

2021-2022 Regular Sessions

IN SENATE

February 2, 2021

Introduced by Sen. COMRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to requiring health and motor vehicle insurance policies to notify policyholders of cancellation, discontinuance or major changes to their policy via email and to offer paperless notification upon the issuance of such policies

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

Section 1. The opening paragraph of subparagraph (H) of paragraph 2 of subsection (d) of section 3216 of the insurance law, as amended by chapter 344 of the laws of 1994, is amended to read as follows:

CANCELLATION: Within the first ninety days after the date of issue, the insurer may cancel this policy by written notice delivered to the insured, or sent by first class mail to his **or her** last address as shown by the records of the insurer, **and shall also give such notice by email if the insurer has the insured's email address on file** stating when, not less than ten days thereafter, such cancellation shall be effective. In the event of cancellation, the insurer will return promptly the pro-rata unearned portion of any premium paid. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation.

§ 2. Subsection (c) of section 3216 of the insurance law is amended by adding a new paragraph 15 to read as follows:

(15) That the insurer offers the person applying for such policy the option to receive all notifications required by this section electronically.

§ 3. Subparagraph (A) of paragraph 1 of subsection (d) of section 3216 of the insurance law, as amended by chapter 13 of the laws of 2002, is amended to read as follows:

(A) ENTIRE CONTRACT; CHANGES: This policy, including the endorsements and the attached papers, if any, constitutes the entire contract of

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

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insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No agent or broker has authority to change this policy or to waive any of its provisions. **The insurer shall notify the insured of any major change made to this policy via email if the insurer has the insured's email address on file.**

§ 4. Subparagraph (B) of paragraph 3 of subsection (g) of section 3216 of the insurance law, as added by chapter 661 of the laws of 1997, is amended to read as follows:

(B) the insurer provides written notice of such discontinuance**, and notice via email if the insurer has the insured's email address on file,** to each covered individual at least one hundred eighty days prior to the date of termination of such coverage;

§ 5. Subparagraph (B) of paragraph 2 of subsection (g) of section 3216 of the insurance law, as added by chapter 661 of the laws of 1997, is amended to read as follows:

(B) the insurer provides written notice of such discontinuance**, and notice via email if the insurer has the insured's email address on file,** to each covered individual at least ninety days prior to the date of discontinuance of such coverage;

§ 6. Paragraph 2 of subsection (a) of section 3221 of the insurance law is amended to read as follows:

(2) That no agent has authority to change the policy or waive any of its provisions and that no change in the policy shall be valid unless approved by an officer of the insurer and evidenced by endorsement on the policy, or by amendment to the policy signed by the policyholder and the insurer. **The insurer shall notify the insured of any significant change made to the policy via email if the insurer has the insured's email address on file.**

§ 7. The opening paragraph of item (i) of subparagraph (A) of paragraph 3 of subsection (p) of section 3221 of the insurance law, as amended by chapter 398 of the laws of 2010, is amended to read as follows:

the insurer provides written notice to each policyholder provided coverage of this class in such market (and to all employees and member insureds covered under such coverage) of such discontinuance at least ninety days prior to the date of discontinuance of such coverage**, provided, however, the insurer shall also provide such notice via email if the insurer has the email addresses of the policyholders on file**. In addition to any other information required of notices by the superintendent, this written notice shall conspicuously include an explanation, in plain language, of the policyholder's and covered employee's or member insured's rights under this subparagraph and (B) of this paragraph, including:

§ 8. Item (i) of subparagraph (E) of paragraph 3 of subsection (p) of section 3221 of the insurance law, as amended by chapter 398 of the laws of 2010, is amended to read as follows:

(i) the insurer provides written notice to the superintendent and to each policyholder (and all employees and member insureds covered under such coverage) of such discontinuance at least one hundred eighty days prior to the date of the discontinuance of such coverage**, provided, however, the insurer shall also provide such notice via email if the insurer has the email addresses of the policyholders on file**;

§ 9. Subsection (a) of section 3221 of the insurance law is amended by adding a new paragraph 17 to read as follows:

(17) That the insurer offers the person applying for such policy the option to receive all notifications required by this section electronically.

§ 10. Paragraph 1 of subsection (h) of section 3425 of the insurance law, as amended by chapter 675 of the laws of 2003, is amended and a new paragraph 4 is added to read as follows:

(1) Proof of mailing of a notice of cancellation, reduction of limits, substitution of policy form, elimination of coverages, conditioned renewal or of intention not to renew, or proof of the mailing of the reasons therefor, to the named insured at the address shown in the policy, shall be sufficient proof of the giving of notice and the giving of reasons required by this section. **Provided, however, with respect to automobile insurance if the insurer has the insured's email address on file the insurer shall send a notice of cancellation, reduction of limits, substitution of policy form, elimination of coverages, conditional renewal or of intention not to renew, or notice of the reasons therefor to the insured via email.**

(4) The insurer of any automobile insurance shall, when issuing a covered policy, offer the insured the option of opting into paperless communication to receive all notification regarding any cancellation, reduction of limits, substitution of policy form, elimination of coverages, conditioned renewal or of intention not to renew, or notice of the reasons therefor.

§ 11. Items (i) and (ii) of subparagraph (C) of paragraph 2 of subsection (c) of section 4304 of the insurance law, item (i) as amended by section 31 of subpart B of part J of chapter 57 of the laws of 2019 and item (ii) as amended by chapter 661 of the laws of 1997, are amended to read as follows:

(i) Discontinuance of a class of contract upon not less than ninety days' prior written notice**, and notice via email if the corporation has the enrolled individual's email address on file**. In exercising the option to discontinue coverage pursuant to this item, the corporation must act uniformly without regard to any health status-related factor of enrolled individuals or individuals who may become eligible for such coverage and must offer to subscribers or group remitting agents, as may be appropriate, the option to purchase all other individual health insurance coverage currently being offered by the corporation to applicants in that market. Provided, however, the superintendent may, after giving due consideration to the public interest, approve a request made by a corporation for the corporation to satisfy the requirements of this item through the offering of contracts at each level of coverage as defined in subsection (b) of section four thousand three hundred six-h of this article that contains the essential health benefits package described in paragraph three of subsection (e) of section four thousand three hundred six-h of this article by another corporation, insurer or health maintenance organization within the corporation's same holding company system, as defined in article fifteen of this chapter.

(ii) Discontinuance of all hospital, surgical or medical expense coverage in the individual direct payment market in this state upon written notice to the superintendent and to each subscriber not less than one hundred eighty days prior to the date of the expiration of such coverage**, and notice via email if the corporation has the subscriber's email address on file**. In the event of such a withdrawal from the individual direct payment market, the corporation must also provide the superintendent with a written plan to minimize potential disruption in the marketplace occasioned by such withdrawal. In addition, the corpo-

ration may not provide for the issuance of any hospital, surgical or medical expense coverage in the individual direct payment market in this state during the five-year period beginning on the date of the discontinuance of the last health insurance coverage not so renewed.

§ 12. The opening paragraph of item (i) of subparagraph (A) and item (i) of subparagraph (E) of paragraph 3 of subsection (j) of section 4305 of the insurance law, as amended by chapter 398 of the laws of 2010, are amended to read as follows:

the corporation provides written notice to each contract holder**, and notice via email if the corporation has the contract holder's email address on file,** provided coverage of this class in such market (and to all employees and member insureds covered under such coverage) of such discontinuance at least ninety days prior to the date of discontinuance of such coverage. In addition to any other information required of notices by the superintendent, this written notice shall conspicuously include an explanation, in plain language, of the contract holder's and covered employee's or member insured's rights under this subparagraph and subparagraph (B) of this paragraph, including:

(i) the corporation provides written notice to the superintendent and to each contract holder (and all employees and member insureds covered under such coverage)**, and notice via email if the corporation has the contract holder's email address on file,** of such discontinuance at least one hundred eighty days prior to the date of the discontinuance of such coverage;

§ 13. This act shall take effect immediately and shall apply to all policies or contracts issued, renewed, modified, altered or amended on and after such effective date.