

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:

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

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

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

16 (15) That the insurer offers the person applying for such policy the
17 option to receive all notifications required by this section electron-
18 ically.

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

22 (A) ENTIRE CONTRACT; CHANGES: This policy, including the endorsements
23 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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1 insurance. No change in this policy shall be valid until approved by an
2 executive officer of the insurer and unless such approval be endorsed
3 hereon or attached hereto. No agent or broker has authority to change
4 this policy or to waive any of its provisions. The insurer shall notify
5 the insured of any major change made to this policy via email if the
6 insurer has the insured's email address on file.

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

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

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

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

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

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

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

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

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

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

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

1 (17) That the insurer offers the person applying for such policy the
2 option to receive all notifications required by this section electron-
3 ically.

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

7 (1) Proof of mailing of a notice of cancellation, reduction of limits,
8 substitution of policy form, elimination of coverages, conditioned
9 renewal or of intention not to renew, or proof of the mailing of the
10 reasons therefor, to the named insured at the address shown in the poli-
11 cy, shall be sufficient proof of the giving of notice and the giving of
12 reasons required by this section. Provided, however, with respect to
13 automobile insurance if the insurer has the insured's email address on
14 file the insurer shall send a notice of cancellation, reduction of
15 limits, substitution of policy form, elimination of coverages, condi-
16 tional renewal or of intention not to renew, or notice of the reasons
17 therefor to the insured via email.

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

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

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

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

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

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

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

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

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