STATE OF NEW YORK

1007

2021-2022 Regular Sessions

IN SENATE

(Prefiled)

January 6, 2021

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

AN ACT to amend the insurance law and the public health law, in relation to prohibiting certain requirements in insurance contracts

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

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

(m)(1) No insurer that offers a managed care product or a comprehensive policy that utilizes a network of providers shall enter into a contract, written policy, written procedure or agreement with any health care provider that:

(A) Requires an insurer to include all members of a provider group, including medical practice groups and facilities, in its network of participating providers;

(B) Requires an insurer to place all members of a provider group, including medical practice groups and facilities, in the same network tier;

(C) Requires an insurer to include all members of a provider group, including medical practice groups and facilities, in all products offered by the insurer;

(D) Prohibits insurers from using benefit designs to encourage members to seek services from higher-value health care providers;

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

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

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(F) Limits the ability of the insurer or health care provider from disclosing fees for services or the allowed amounts to an insured or insured's health care provider.

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

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

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

(i) Requires an insurer to include all members of a provider group, including medical practice groups and facilities, in its network of participating providers;

(ii) Requires an insurer to place all members of a provider group, including medical practice groups and facilities, in the same network tier;

(iii) Requires an insurer to include all members of a provider group, including medical practice groups and facilities, in all products offered by the insurer;

(iv) Prohibits insurers from using benefit designs to encourage members to seek services from higher-value health care providers;

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

(vi) Limits the ability of the insurer or health care provider from disclosing fees for services or the allowed amounts to an insured or insured's health care provider.

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

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