

# STATE OF NEW YORK

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1007

2021-2022 Regular Sessions

## IN SENATE

(Prefiled)

January 6, 2021

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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:

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 with any health  
6 care provider that:

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

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

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

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

18 (E) Contains a most-favored-nation provision; provided, however, noth-  
19 ing in this section shall be construed to prohibit a health insurer and  
20 a provider from negotiating payment rates and performance-based contract  
21 terms that would result in the insurer receiving a rate that is as  
22 favorable, or more favorable, than the rates negotiated between a health  
23 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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1 (F) Limits the ability of the insurer or health care provider from  
2 disclosing fees for services or the allowed amounts to an insured or  
3 insured's health care provider.

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

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

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

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

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

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

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

26 (v) Contains a most-favored-nation provision; provided, however, noth-  
27 ing in this section shall be construed to prohibit a health insurer and  
28 a provider from negotiating payment rates and performance-based contract  
29 terms that would result in the insurer receiving a rate that is as  
30 favorable, or more favorable, than the rates negotiated between a health  
31 care provider and another entity; and

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

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

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