

# STATE OF NEW YORK

10430

## IN ASSEMBLY

May 24, 2024

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Bichotte Hermelyn) -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law and the public health law, in relation to making actuarially appropriate reductions in health insurance premiums in return for an enrollee's or insured's participation in a qualified wellness program

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

1 Section 1. Section 3231 of the insurance law, as added by chapter 501  
2 of the laws of 1992, is amended by adding a new subsection (c-1) to read  
3 as follows:

4 (c-1) Subject to the approval of the superintendent, an insurer or  
5 health maintenance organization issuing an individual or group health  
6 insurance policy pursuant to this section may provide for an actuarially  
7 appropriate reduction in premium rates or other benefits or enhancements  
8 approved by the superintendent to encourage an enrollee's or insured's  
9 active participation in a qualified wellness program. A qualified well-  
10 ness program can be a risk management system that identifies at-risk  
11 populations or any other systematic program or course of medical conduct  
12 which helps to promote physical and mental fitness, health and well-be-  
13 ing, helps to prevent or mitigate the conditions of acute or chronic  
14 sickness, disease or pain, or which minimizes adverse health conse-  
15 quences due to lifestyle. Such a wellness program may have some or all  
16 of the following elements to advance the physical health and mental  
17 well-being of its participants:

18 (1) an education program to increase the awareness of and dissem-  
19 ination of information about pursuing healthier lifestyles, and which  
20 warns about risks of pursuing environmental or behavioral activities  
21 that are detrimental to human health. In addition, information on the  
22 availability of health screening tests to assist in the early identifi-  
23 cation and treatment of diseases such as cancer, heart disease, hyper-  
24 tension, diabetes, asthma, obesity or other adverse health afflictions;

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

LBD08825-03-4

1 (2) a program that encourages behavioral practices that either encour-  
2 age healthy living activities or discourage unhealthy living activities.  
3 Such activities or practices may include wellness programs, as provided  
4 under section three thousand two hundred thirty-nine of this article;  
5 and

6 (3) the monitoring of the progress of each covered person to track  
7 such person's adherence to such wellness program and to provide assist-  
8 ance and moral support to such covered person to assist them to attain  
9 the goals of the covered person's wellness program.

10 Such wellness program shall demonstrate actuarially that it encourages  
11 the general good health and well-being of the covered population. The  
12 insurer or health maintenance organization shall not require specific  
13 outcomes as a result of an enrollee's or insured's adherence to the  
14 approved wellness program.

15 § 2. Subsections (a), (b) and (c) of section 3239 of the insurance  
16 law, as amended by chapter 3 of the laws of 2024, are amended to read as  
17 follows:

18 (a) An insurer licensed to write life insurance may establish a well-  
19 ness program in conjunction with its issuance of life insurance policies  
20 and an insurer licensed to write accident and health insurance, a corpo-  
21 ration organized pursuant to article forty-three of this chapter, a  
22 health maintenance organization certified pursuant to article forty-four  
23 of the public health law and a municipal cooperative health benefits  
24 plan may establish a wellness program in conjunction with its issuance  
25 of a group accident and health insurance policy or group subscriber  
26 contract. A "wellness program" is a program designed to promote health,  
27 longevity or prevent disease that may contain rewards and incentives for  
28 participation. A "wellness program" shall not include limited benefits  
29 health insurance. Participation in the wellness program shall be avail-  
30 able to similarly-situated members of the group or with regard to life  
31 insurance, to all insureds within the same class and equal expectation  
32 of life and shall be voluntary on the part of the member or insured.  
33 With regard to life insurance, an insurer is prohibited from increasing  
34 premiums or charges stated in the policy as a result of participation or  
35 non-participation in the program. The specific terms of the wellness  
36 program shall be set forth in the policy or contract, or in a separate  
37 document provided to insureds and members which shall be consistent with  
38 the provisions of this section. With regard to a wellness program estab-  
39 lished in connection with life insurance, an insurer shall provide a  
40 prominent disclosure to an applicant at or prior to the time of applica-  
41 tion that the program is not health insurance and participants should  
42 not view the program as a substitute for the purchase of health insur-  
43 ance.

44 (b) A wellness program may include, but is not limited to, the follow-  
45 ing programs or services:

- 46 (1) the use of a health risk assessment tool;
- 47 (2) a smoking cessation program;
- 48 (3) a weight management program;
- 49 (4) a stress and/or hypertension management program;
- 50 (5) a worker injury prevention program;
- 51 (6) a nutrition education program;
- 52 (7) health or fitness incentive programs;
- 53 (8) a coordinated weight management, nutrition, stress management and  
54 physical fitness program to combat the high incidence of adult and  
55 childhood obesity, asthma and other chronic respiratory conditions;
- 56 (9) a substance or alcohol abuse cessation program;

1 (10) a program to manage and cope with chronic pain;

2 (11) a preventive care program, screenings (including biometric  
3 screenings), or chronic disease management program; [~~and~~]

4 (12) a stress management program, including participation in a medi-  
5 tation or sleep improvement program[~~+~~];

6 (13) assistance, financial or otherwise, provided to an employer for  
7 health promotion and disease prevention; and

8 (14) incentives for insureds or members to access preventive services,  
9 such as mammography screening.

10 (c)(1) A wellness program may use rewards and incentives for partic-  
11 ipation provided that where the group health insurance policy or  
12 subscriber contract is required to be community-rated, the rewards and  
13 incentives shall not include a discounted premium rate or a rebate or  
14 refund of premium, except as provided in section three thousand two  
15 hundred thirty-one of this article, or section four thousand two hundred  
16 thirty-five, four thousand three hundred seventeen or four thousand  
17 three hundred twenty-six of this chapter, or section forty-four hundred  
18 five of the public health law.

19 (2) Permissible rewards and incentives may include:

20 (A) full or partial reimbursement of the cost of participating in  
21 smoking cessation, weight management, stress and/or hypertension, worker  
22 injury prevention, nutrition education, substance or alcohol abuse  
23 cessation, preventive care programs, screenings, chronic disease manage-  
24 ment programs, or chronic pain management and coping programs;

25 (B) full or partial reimbursement of the cost of membership in a  
26 health club or fitness center;

27 (C) (1) the waiver or reduction of copayments, coinsurance and deduct-  
28 ibles for preventive services covered under the group health insurance  
29 policy or subscriber contract;

30 (2) a premium refund, discount, or policy value credit, or other  
31 increase in benefits or decrease in charges under a life insurance poli-  
32 cy;

33 (D) monetary rewards in the form of gift cards, gift certificates,  
34 vouchers or discounts on products or services in return for engaging in  
35 healthy behaviors;

36 (E) full or partial reimbursement of the cost of participating in a  
37 stress management program or activity, including participation in a  
38 meditation or sleep improvement program, provided that such program or  
39 activity shall be based on data and research that the program or service  
40 can be reasonably expected to result in overall good health, well being,  
41 or improved mortality risk;

42 (F) full or partial reimbursement of the cost of participating in a  
43 health or fitness program; and

44 (G) full or partial reimbursement of the cost of a wearable device and  
45 any associated subscription membership to track physical activity or  
46 biometric data, and which incents behavioral changes to improve health  
47 or mortality risk.

48 (3) Where the reward involves a group member's meeting a specified  
49 standard based on a health condition, the wellness program under a  
50 health insurance policy shall meet the requirements of 45 CFR Part 146.

51 (4) A reward or incentive that involves a discounted premium rate or a  
52 rebate or refund of premium under accident and health insurance policies  
53 shall be based on actuarial demonstration that the wellness program can  
54 reasonably be expected to result in the overall good health and well  
55 being of the group as provided in section three thousand two hundred  
56 thirty-one of this article, sections four thousand two hundred thir-

1 ty-five, four thousand three hundred seventeen and four thousand three  
2 hundred twenty-six of this chapter, and section forty-four hundred five  
3 of the public health law. A premium refund, discount, or policy value  
4 credit, or other increase in benefits or decrease in charges under life  
5 insurance policies in connection with a wellness program shall be based  
6 on sound actuarial principles related to actual or reasonably antic-  
7 ipated experience.

8 § 3. Subsection (h) of section 4235 of the insurance law is amended by  
9 adding a new paragraph 5 to read as follows:

10 (5) Each insurer doing business in this state, when filing with the  
11 superintendent its schedules of premium rates, rules and classification  
12 of risks for use in connection with the issuance of its policies of  
13 group accident, group health or group accident and health insurance, may  
14 provide for an actuarially appropriate reduction in premium rates or  
15 other benefits or enhancements approved by the superintendent to encour-  
16 age an enrollee's or insured's active participation in a qualified well-  
17 ness program. A qualified wellness program can be a risk management  
18 system that identifies at-risk populations or any other systematic  
19 program or course of medical conduct which helps to promote physical and  
20 mental fitness, health and well-being, helps to prevent or mitigate the  
21 conditions of acute or chronic sickness, disease or pain, or which mini-  
22 mizes adverse health consequences due to lifestyle. Such a wellness  
23 program may have some or all of the following elements to advance the  
24 physical health and mental well-being of its participants:

25 (A) an education program to increase the awareness of and dissem-  
26 ination of information about pursuing healthier lifestyles, and which  
27 warns about risks of pursuing environmental or behavioral activities  
28 that are detrimental to human health. In addition, information on the  
29 availability of health screening tests to assist in the early identifi-  
30 cation and treatment of diseases such as cancer, heart disease, hyper-  
31 tension, diabetes, asthma, obesity or other adverse health afflictions;

32 (B) a program that encourages behavioral practices that either encour-  
33 age healthy living activities or discourage unhealthy living activities.  
34 Such activities or practices may include wellness programs, as provided  
35 under section three thousand two hundred thirty-nine of this chapter;

36 (C) the monitoring of the progress of each covered person to track  
37 such person's adherence to such wellness program and to provide assist-  
38 ance and moral support to such covered person to assist them to attain  
39 the goals of the covered person's wellness program.

40 Such wellness program shall demonstrate actuarially that it encourages  
41 the general good health and well-being of the covered population. The  
42 insurer or health maintenance organization shall not require specific  
43 outcomes as a result of an enrollee's or insured's adherence to the  
44 approved wellness program.

45 § 4. Section 4317 of the insurance law is amended by adding a new  
46 subsection (c-1) to read as follows:

47 (c-1) Subject to the approval of the superintendent, an insurer or  
48 health maintenance organization issuing an individual or group health  
49 insurance contract pursuant to this section may provide for an actuari-  
50 ally appropriate reduction in premium rates or other benefits or  
51 enhancements approved by the superintendent to encourage an enrollee's  
52 or insured's active participation in a qualified wellness program. A  
53 qualified wellness program can be a risk management system that identi-  
54 fies at-risk populations or any other systematic program or course of  
55 medical conduct which helps to promote physical and mental fitness,  
56 health and well-being, helps to prevent or mitigate the conditions of

1 acute or chronic sickness, disease or pain, or which minimizes adverse  
2 health consequences due to lifestyle. Such a wellness program may have  
3 some or all of the following elements to advance the physical health and  
4 mental well-being of its participants:

5 (1) an education program to increase the awareness of and dissem-  
6 ination of information about pursuing healthier lifestyles, and which  
7 warns about risks of pursuing environmental or behavioral activities  
8 that are detrimental to human health. In addition, information on the  
9 availability of health screening tests to assist in the early identifi-  
10 cation and treatment of diseases such as cancer, heart disease, hyper-  
11 tension, diabetes, asthma, obesity or other adverse health afflictions;

12 (2) a program that encourages behavioral practices that either encour-  
13 age healthy living activities or discourage unhealthy living activities.  
14 Such activities or practices may include wellness programs, as provided  
15 under section three thousand two hundred thirty-nine of this chapter;  
16 and

17 (3) the monitoring of the progress of each covered person to track  
18 such person's adherence to such wellness program and to provide assist-  
19 ance and moral support to such covered person to assist them to attain  
20 the goals of the covered person's wellness program.

21 Such wellness program shall demonstrate actuarially that it encourages  
22 the general good health and well-being of the covered population. The  
23 insurer or health maintenance organization shall not require specific  
24 outcomes as a result of an enrollee's or insured's adherence to the  
25 approved wellness program.

26 § 5. Subsection (m) of section 4326 of the insurance law is amended by  
27 adding a new paragraph 4 to read as follows:

28 (4) approval of the superintendent, an insurer or health maintenance  
29 organization issuing a contract for qualifying small employers or indi-  
30 viduals pursuant to this section may provide for an actuarially appro-  
31 priate reduction in premium rates or other benefits or enhancements  
32 approved by the superintendent to encourage an enrollee's or insured's  
33 active participation in a qualified wellness program. A qualified well-  
34 ness program can be a risk management system that identifies at-risk  
35 populations or any other systematic program or course of medical conduct  
36 which helps to promote physical and mental fitness, health and well-be-  
37 ing, helps to prevent or mitigate the conditions of acute or chronic  
38 sickness, disease or pain, or which minimizes adverse health conse-  
39 quences due to lifestyle. Such a wellness program may have some or all  
40 of the following elements to advance the physical health and mental  
41 well-being of its participants:

42 (A) an education program to increase the awareness of and dissem-  
43 ination of information about pursuing healthier lifestyles, and which  
44 warns about risks of pursuing environmental or behavioral activities  
45 that are detrimental to human health. In addition, information on the  
46 availability of health screening tests to assist in the early identifi-  
47 cation and treatment of diseases such as cancer, heart disease, hyper-  
48 tension, diabetes, asthma, obesity or other adverse health afflictions;

49 (B) a program that encourages behavioral practices that either encour-  
50 age healthy living activities or discourage unhealthy living activities.  
51 Such activities or practices may include wellness programs, as provided  
52 under section three thousand two hundred thirty-nine of this chapter;  
53 and

54 (C) the monitoring of the progress of each covered person to track  
55 such person's adherence to such wellness program and to provide assist-

1 ance and moral support to such covered person to assist them to attain  
2 the goals of the covered person's wellness program.

3 Such wellness program shall demonstrate actuarially that it encourages  
4 the general good health and well-being of the covered population. The  
5 insurer or health maintenance organization shall not require specific  
6 outcomes as a result of an enrollee's or insured's adherence to the  
7 approved wellness program.

8 § 6. Section 4405 of the public health law is amended by adding a new  
9 subdivision 5-a to read as follows:

10 5-a. subject to the approval of the superintendent of financial  
11 services, the possible providing of an actuarially appropriate reduction  
12 in premium rates or other benefits or enhancements approved by the  
13 superintendent of financial services to encourage an enrollee's active  
14 participation in a qualified wellness program. A qualified wellness  
15 program can be a risk management system that identifies at-risk popu-  
16 lations or any other systematic program or course of medical conduct  
17 which helps to promote physical and mental fitness, health and well-be-  
18 ing, helps to prevent or mitigate the conditions of acute or chronic  
19 sickness, disease or pain, or which minimizes adverse health conse-  
20 quences due to lifestyle. Such a wellness program may have some or all  
21 of the following elements to advance the physical health and mental  
22 well-being of its participants:

23 (1) an education program to increase the awareness of and dissem-  
24 ination of information about pursuing healthier lifestyles, and which  
25 warns about risks of pursuing environmental or behavioral activities  
26 that are detrimental to human health. In addition, information on the  
27 availability of health screening tests to assist in the early identifi-  
28 cation and treatment of diseases such as cancer, heart disease, hyper-  
29 tension, diabetes, asthma, obesity or other adverse health afflictions;

30 (2) a program that encourages behavioral practices that either encour-  
31 age healthy living activities or discourage unhealthy living activities.  
32 Such activities or practices may include wellness programs, as provided  
33 under section three thousand two hundred thirty-nine of the insurance  
34 law; and

35 (3) the monitoring of the progress of each covered person to track  
36 such person's adherence to such wellness program and to provide assist-  
37 ance and moral support to such covered person to assist them to attain  
38 the goals of the covered person's wellness program.

39 Such wellness program shall demonstrate actuarially that it encourages  
40 the general good health and well-being of the covered population. The  
41 health maintenance organization shall not require specific outcomes as a  
42 result of an enrollee's adherence to the approved wellness program;

43 § 7. This act shall take effect on the one hundred eightieth day after  
44 it shall have become a law. Effective immediately, the addition, amend-  
45 ment and/or repeal of any rule or regulation necessary for the implemen-  
46 tation of this act on its effective date are authorized to be made and  
47 completed on or before such effective date.