STATE OF NEW YORK

4811

2023-2024 Regular Sessions

IN ASSEMBLY

February 23, 2023

Introduced by M. of A. PRETLOW -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to requiring coverage for genetic testing in accident and health insurance policies

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

Section 1. Section 3216 of the insurance law is amended by adding a new subsection (n) to read as follows:

(n) (1) (A) For purposes of this subsection: "Predisposing genetic characteristic" shall mean any inherited gene or chromosome, or alteration thereof, and determined by a genetic test or inferred from information derived from an individual or family member that is scientifically or medically believed to predispose an individual or the offspring of that individual to a disease or disability, or to be associated with a statistically significant increased risk of the development of a physical or mental disease or disability; and

(B) "Genetic testing" shall mean a test for determining the presence or absence of an inherited genetic characteristic in an individual, including tests of nucleic acids such as DNA, RNA and mitochondrial DNA, chromosomes or proteins in order to identify a predisposing genetic characteristic.

(2) On and after September first, two thousand twenty-three every policy delivered or issued for delivery in this state which provides medical coverage that includes coverage for physician services in a physician's office and every policy which provides major medical or similar comprehensive-type coverage shall provide coverage for genetic testing, and any subsequent treatment resulting from the results of such test, of persons who, in the opinion of an attending physician are persons with a significant risk of contracting cancer. For purposes of this section, a person shall be deemed to have a significant risk if there is a family history of cancer, more than one generation in such

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

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family has had cancer, a family member has had more than one occurrence of cancer or a family member less than forty-five years of age has been diagnosed with cancer. Nothing in this subsection shall be deemed to authorize an insurer to utilize or release the results of such test for any other purpose. No policy delivered or issued for delivery in this state pursuant to this article, shall be denied or cancelled on the basis of a predisposing genetic characteristic.

§ 2. Subsection (l) of section 3221 of the insurance law is amended by adding a new paragraph 11-c to read as follows:

(11-c) (A) (i) For purposes of this paragraph: "Predisposing genetic characteristic" shall mean any inherited gene or chromosome, or alteration thereof, and determined by a genetic test or inferred from information derived from an individual or family member that is scientifically or medically believed to predispose an individual or the offspring of that individual to a disease or disability, or to be associated with a statistically significant increased risk of the development of a physical or mental disease or disability; and

(ii) "Genetic testing" shall mean a test for determining the presence or absence of an inherited genetic characteristic in an individual, including tests of nucleic acids such as DNA, RNA and mitochondrial DNA, chromosomes or proteins in order to identify a predisposing genetic characteristic.

(B) On and after September first, two thousand twenty-three every policy delivered or issued for delivery in this state which provides medical coverage that includes coverage for physician services in a physician's office and major medical or similar comprehensive-type coverage shall provide coverage for genetic testing, and any subsequent treatment resulting from the results of such test, of persons who, in the opinion of an attending physician are persons with a significant risk of contracting cancer. For purposes of this section, a person shall be deemed to have a significant risk if there is a family history of cancer, more than one generation in such family has had cancer, a family member has had more than one occurrence of cancer or a family member less than forty-five years of age has been diagnosed with cancer. Nothing in this paragraph shall be deemed to authorize an insurer to utilize or release the results of such test for any other purpose. No policy delivered or issued for delivery in this state pursuant to this article, shall be denied or cancelled on the basis of a predisposing genetic characteristic.

§ 3. Section 4303 of the insurance law is amended by adding a new subsection (uu) to read as follows:

(uu) (1) (A) For purposes of this subsection: "Predisposing genetic characteristic" shall mean any inherited gene or chromosome, or alteration thereof, and determined by a genetic test or inferred from information derived from an individual or family member that is scientifically or medically believed to predispose an individual or the offspring of that individual to a disease or disability, or to be associated with a statistically significant increased risk of the development of a physical or mental disease or disability; and

(B) "Genetic testing" shall mean a test for determining the presence or absence of an inherited genetic characteristic in an individual, including tests of nucleic acids such as DNA, RNA and mitochondrial DNA, chromosomes or proteins in order to identify a predisposing genetic characteristic.

(2) On and after September first, two thousand twenty-three every policy delivered or issued for delivery in this state which provides

medical coverage that includes coverage for physician services in a physician's office or major medical or similar comprehensive-type coverage shall provide coverage for genetic testing, and any subsequent treatment resulting from the results of such test, of persons who, in the opinion of an attending physician are persons with a significant risk of contracting cancer. For purposes of this section, a person shall be deemed to have a significant risk if there is a family history of cancer, more than one generation in such family has had cancer, a family member has had more than one occurrence of cancer or a family member less than forty-five years of age has been diagnosed with cancer. Nothing in this subsection shall be deemed to authorize an insurer to utilize or release the results of such test for any other purpose. No policy delivered or issued for delivery in this state pursuant to this article, shall be denied or cancelled on the basis of a predisposing genetic characteristic.

§ 4. This act shall take effect immediately.