STATE OF NEW YORK

1330

2023-2024 Regular Sessions

IN SENATE

January 11, 2023

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

AN ACT to amend the insurance law and the public health law, in relation to certain health care contracts or agreements; and to amend a chapter of the laws of 2022 amending the insurance law relating to certain prohibited contract provisions, as proposed in legislative bills numbers S. 7199-A and A. 8169-A, in relation to the effectiveness thereof

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

Section 1. Section 4235 of the insurance law is amended by adding a new subsection (o) to read as follows:

(o) (1) No contract or agreement between a health plan subject to this article and a health care provider, other than a residential health care facility as defined by section twenty-eight hundred one of the public health law, shall include a provision that:

(A) contains a most-favored-nation provision; or

(B) restricts the ability of a corporation, an entity that contracts with a corporation for a provider network, or a health care provider to disclose: (i) actual claims costs; or (ii) price or quality information required to be disclosed under federal law, including the allowed amount, negotiated rates or discounts, or any other claim-related financial obligations, including, but not limited to, patient cost-sharing covered by the provider contract to any subscriber, enrollee, group, or other entity receiving health care services pursuant to the contract, or to any public compilation of reimbursement data such as the New York all payer database required by law or regulation, provided that no disclosure shall include protected health information or other information covered by statutory or other privilege.

(2) For purposes of this subsection, the term "health plan" shall include: (A) an insurer licensed pursuant to this chapter or a health

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

LBD04298-01-3

maintenance organization certified pursuant to article forty-four of the public health law; and

(B) a third-party administrator, affiliated with an insurer or health maintenance organization, who administers a health benefit plan.

§ 2. Section 4406-c of the public health law is amended by adding a new subdivision 13 to read as follows:

13. (a) No contract or agreement between a health plan subject to this article and a health care provider, other than a residential health care facility as defined by section twenty-eight hundred one of this chapter, shall include a provision that:

(i) contains a most-favored-nation provision; or

(ii) restricts the ability of a health plan, an entity that contracts with a health care plan for a provider network, or a health care provider to disclose: (A) actual claims costs; or (B) price or quality information required to be disclosed under federal law, including the allowed amount, negotiated rates or discounts, or any other claim-related financial obligations, including, but not limited to, patient cost-sharing covered by the provider contract to any subscriber, enrollee, group, or other entity receiving health care services pursuant to the contract, or to any public compilation of reimbursement data such as the New York all payer database required by law or regulation, provided that no disclosure shall include protected health information or other information covered by statutory or other privilege.

(b) For purposes of this subdivision, the term "health plan" shall include:

(i) an insurer licensed pursuant to the insurance law or a health maintenance organization certified pursuant to this article; and

(ii) a third-party administrator, affiliated with an insurer or health maintenance organization, who administers a health benefit plan.

§ 3. Section 2 of a chapter of the laws of 2022 amending the insurance law relating to certain prohibited contract provisions, as proposed in legislative bills numbers S. 7199-A and A. 8169-A, is amended to read as follows:

§ 2. This act shall take effect [~~January~~] July 1, 2023.

§ 4. This act shall take effect immediately, provided, however, that sections one and two of this act shall take effect on the same date and in the same manner as a chapter of the laws of 2022 amending the insurance law relating to certain prohibited contract provisions, as proposed in legislative bills numbers S. 7199-A and A. 8169-A, takes effect.