

STATE OF NEW YORK

7049--A

2023-2024 Regular Sessions

IN SENATE

May 17, 2023

Introduced by Sen. SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to prior authorization and payments from the medical indemnity fund

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

1 Section 1. Paragraph (b) of subdivision 2 of section 2999-j of the
2 public health law, as amended by section 3 of part K of chapter 57 of
3 the laws of 2019, is amended and a new paragraph (b-1) is added to read
4 as follows:

5 (b) if any prior authorization is required by such regulation, the
6 regulation shall require that requests for prior authorization be proc-
7 essed within a reasonably prompt period of time and shall identify a
8 process for prompt administrative review of any denial of a request for
9 prior authorization; [~~and~~]

10 (b-1) if any prior authorization is required by such regulation, the
11 regulation shall require establishing a mechanism for submission of
12 requests for prior authorization by health care providers directly to
13 the fund; and

14 § 2. Paragraph (b) of subdivision 8 of section 2999-j of the public
15 health law, as added by section 52 of part H of chapter 59 of the laws
16 of 2011, is amended and a new paragraph (c) is added to read as follows:

17 (b) thereupon certify to the commissioner of taxation and finance
18 those costs that have been determined to be qualifying health care costs
19 to be paid from the fund[~~-~~]; and

20 (c) notify the qualified plaintiff which of such costs are qualifying
21 health care costs to be paid from the fund along with which of such

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

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1 costs are not qualifying health care costs to be paid from the fund in a
2 reasonably prompt period of time.

3 § 3. Subdivision 5 and paragraph (a) of subdivision 6 of section
4 2999-i of the public health law, as amended by section 2 of part K of
5 chapter 57 of the laws of 2019, are amended to read as follows:

6 5. For the state fiscal year beginning April first, two thousand eleven
7 and ending March thirty-first, two thousand twelve, the state fiscal
8 year beginning April first, two thousand twelve and ending March thirty-
9 first, two thousand thirteen, and the state fiscal year beginning
10 April first, two thousand thirteen and ending March thirty-first, two
11 thousand fourteen, the superintendent of financial services shall cause
12 to be deposited into the fund for each such fiscal year the amount
13 appropriated for such purpose. Beginning April first, two thousand four-
14 teen and annually thereafter, the superintendent of financial services
15 or the commissioner, whoever is administering the fund for the applica-
16 ble period shall cause to be deposited into the fund, subject to avail-
17 able appropriations, an amount equal to the difference between the
18 amount appropriated to the fund in the preceding fiscal year[~~7~~]. Begin-
19 ning April first, two thousand twenty-five, the commissioner or whoever
20 is administering the fund for the applicable period shall cause to be
21 deposited into the fund an amount equal to the funding level necessary
22 to ensure the liabilities of the medical indemnity fund do not equal or
23 exceed eighty percent of the fund's assets as determined in the actuari-
24 al calculation set forth in paragraph (a) of subdivision six of this
25 section, as increased by the adjustment factor defined in subdivision
26 seven of this section[~~7~~, ~~and the assets of the fund at the conclusion of~~
27 ~~that fiscal year~~].

28 (a) [~~Following~~] No later than sixty days following the deposit refer-
29 enced in subdivision five of this section, the commissioner shall
30 conduct an actuarial calculation of the estimated liabilities of the
31 fund for the coming year resulting from the qualified plaintiffs
32 enrolled in the fund and shall also conduct quarterly actuarial calcu-
33 lations. The department shall publicly post on its website such actuari-
34 al calculations within thirty days of completion. The administrator
35 shall from time to time adjust such calculation in accordance with
36 subdivision seven of this section. If the total of all estimates of
37 current liabilities equals or exceeds eighty percent of the fund's
38 assets, then the fund shall not accept any new enrollments until a new
39 deposit has been made pursuant to subdivision five of this section,
40 provided however, the department shall provide sixty days' notice on its
41 website before the fund suspends enrollments. When, as a result of such
42 new deposit, the fund's liabilities no longer exceed eighty percent of
43 the fund's assets, the fund administrator shall enroll new qualified
44 plaintiffs in the order that an application for enrollment has been
45 submitted in accordance with subdivision seven of section twenty-nine
46 hundred ninety-nine-j of this title. Notwithstanding any other
47 provision of this section, for the state fiscal year beginning April
48 first, two thousand twenty-four and ending March thirty-first, two thou-
49 sand twenty-five, the fund shall continue to accept new enrollments.

50 § 4. This act shall take effect immediately; provided, however, that
51 sections one and two of this act shall take effect on the ninetieth day
52 after it shall have become a law.