

STATE OF NEW YORK

1003

2023-2024 Regular Sessions

IN SENATE

January 9, 2023

Introduced by Sens. HINCHEY, BRESLIN, HARCKHAM, HOYLMAN, MAY, MYRIE, RIVERA, SALAZAR, SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law and the insurance law, in relation to providing information to patients and the public on policy-based exclusions

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

1 Section 1. Legislative findings. The legislature finds that since 2003
2 more than 40 community hospitals in New York state have closed.

3 The legislature additionally finds that as a result of hospital
4 consolidation, large health care systems now control more than 70
5 percent of acute hospital beds in the state and that these systems some-
6 times remove categories of care from local hospitals, leaving patients
7 in regions of the state without access to particular types of care,
8 including some types of emergency care.

9 The legislature further finds that patients do not have the ability to
10 determine whether health care facilities in their area provide the care
11 they seek, because information about how facility restrictions impact
12 options for care is too difficult to obtain.

13 The legislature also finds that denials and poor access to care can
14 lead to serious adverse health impacts that jeopardize individuals'
15 lives and wellbeing and that New York needs to understand health care
16 gaps and their impact statewide.

17 Finally, the legislature finds that some denials of care violate state
18 and federal law.

19 § 2. The public health law is amended by adding a new section 2803-bb
20 to read as follows:

21 § 2803-bb. Policy-based exclusions.

22 1. Definitions. As used in this section: (a) "Health care facility"
23 means a general hospital as defined in subdivision ten of section twen-

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

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1 ty-eight hundred one of this article, public health center, diagnostic
2 treatment center, treatment center, maternity hospital, midwifery birth
3 center, and limited services pregnancy center as defined by section one
4 of chapter two hundred seventeen of the laws of two thousand twenty-two.

5 (b) "Policy-based exclusions" means any criteria, rules, or policies,
6 whether written or unwritten, formally adopted or drafted, endorsed by
7 the health care facility or followed from an external source, that
8 restrict medical personnel at that health care facility from providing
9 types of care that the medical personnel is licensed to provide and that
10 the health care facility is licensed to provide or that restrict the
11 provision of care to categories of patients on the basis of any charac-
12 teristic protected under section two hundred ninety-six of the executive
13 law that the health care facility is licensed to provide. "Policy-based
14 exclusions" shall not include restrictions based on lack of equipment,
15 available bed space in the facility, or insurance denial.

16 2. (a) The commissioner shall collect from each health care facility a
17 list of its policy-based exclusions on an annual basis.

18 (b) The commissioner shall publish on the department's website a
19 current list of all of the health care facilities with policy-based
20 exclusions and the policy-based exclusions for each health care facility
21 not later than six months after the effective date of this section. The
22 commissioner shall update this list on an annual basis. The commission-
23 er, in consultation with experts in health care access, patient advoca-
24 cy, types of health care that are frequently inaccessible, and hospital
25 administration shall promulgate rules and regulations creating standard-
26 ized language for this list to ensure that it is readily understandable
27 to patients, prospective patients, and members of the public.

28 (c) Within one year of the effective date of this section and every
29 five years thereafter, the commissioner shall submit a report to the
30 temporary president of the senate and the speaker of the assembly
31 regarding policy-based exclusions in the state and the impact of such
32 policy-based exclusions on patients' ability to access quality, compre-
33 hensive, affordable care near their residences and whether and how
34 access to care varies by community, as well as by race, gender, ethnici-
35 ty, sexual orientation, gender identity or gender expression, and
36 socioeconomic status, across the state. The report shall be made public-
37 ly available on the department's website.

38 (d) The commissioner shall evaluate and ensure community awareness of
39 policy-based exclusions and the website required pursuant to paragraph
40 (b) of this subdivision.

41 (e) The commissioner may promulgate additional rules and regulations
42 as may be necessary and proper to carry out effectively the provisions
43 of this section.

44 § 3. Subdivision 1 of section 2803 of the public health law is amended
45 by adding a new paragraph (m) to read as follows:

46 (m) The statement regarding patient rights and responsibilities,
47 required pursuant to paragraph (g) of this subdivision, shall include a
48 link to the section of the department's website required in paragraph
49 (b) of subdivision two of section twenty-eight hundred three-bb of this
50 article. Each health care facility's website shall prominently link to
51 the department's website required in paragraph (b) of subdivision two of
52 section twenty-eight hundred three-bb of this article. The commissioner
53 may promulgate rules and regulations as may be necessary and proper to
54 carry out effectively the provisions of this paragraph.

55 § 4. Subsection (a) of section 3217-a of the insurance law is amended
56 by adding a new paragraph 22 to read as follows:

1 (22)(A) an explanation of policy-based exclusions and the fact that
2 some health care facilities may have policy-based exclusions, along with
3 a link to the website required pursuant to subdivision two of section
4 twenty-eight hundred three-bb of the public health law.

5 (B) for the purposes of this paragraph, "policy-based exclusions"
6 shall have the same meaning as in section twenty-eight hundred three-bb
7 of the public health law.

8 § 5. Subsection (a) of section 4324 of the insurance law is amended by
9 adding a new paragraph 23 to read as follows:

10 (23)(A) an explanation of policy-based exclusions and the fact that
11 some health care facilities may have policy-based exclusions, along with
12 a link to the website required pursuant to subdivision two of section
13 twenty-eight hundred three-bb of the public health law.

14 (B) for the purposes of this paragraph, "policy-based exclusions"
15 shall have the same meaning as in section twenty-eight hundred three-bb
16 of the public health law.

17 § 6. Nothing in this act shall be construed to permit or authorize
18 denials of care or discrimination in the provision of health care or
19 health insurance. Compliance with this act does not reduce or limit any
20 liability for health care facilities in connection with policy-based
21 exclusions, including violations of state or federal law.

22 § 7. Severability clause. If any provision of this act, or any appli-
23 cation of any provision of this act, is held to be invalid, or ruled to
24 violate or be inconsistent with any applicable federal law or regu-
25 lation, that shall not affect the validity or effectiveness of any other
26 provision of this act, or of any other application of any provision of
27 this act. It is hereby declared to be the intent of the legislature
28 that this act would have been enacted even if such invalid provisions
29 had not been included herein.

30 § 8. This act shall take effect one year after it shall have become a
31 law. Effective immediately, the addition, amendment and/or repeal of any
32 rule or regulation necessary for the implementation of this act on its
33 effective date are authorized to be made and completed on or before such
34 effective date.