

# STATE OF NEW YORK

6576

2023-2024 Regular Sessions

## IN SENATE

April 27, 2023

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

AN ACT to amend the insurance law and the public health law, in relation to access to health care providers in managed care plans

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

1 Section 1. Subsection (e) of section 4803 of the insurance law, as  
2 added by chapter 705 of the laws of 1996, is amended to read as follows:

3 (e) No insurer shall terminate or refuse to renew a contract for  
4 participation in the in-network benefits portion of an insurer's network  
5 for a managed care product solely because the health care professional  
6 has: (1) advocated on behalf of an insured; (2) ~~has~~ filed a complaint  
7 against the insurer; (3) ~~has~~ appealed a decision of the insurer; (4)  
8 provided information or filed a report pursuant to section forty-four  
9 hundred six-c of the public health law; ~~or~~ (5) requested a hearing or  
10 review pursuant to this section; or (6) rendered an opinion regarding  
11 whether an insured's illness is terminal pursuant to section four thou-  
12 sand eight hundred four of this article.

13 § 2. Subsections (e) and (f) of section 4804 of the insurance law,  
14 subsection (e) as amended by section 9 of subpart B of part AA of chap-  
15 ter 57 of the laws of 2022 and subsection (f) as added by chapter 705 of  
16 the laws of 1996, are amended to read as follows:

17 (e) (1) If an insured's health care provider leaves the insurer's  
18 in-network benefits portion of its network of providers for a managed  
19 care product for reasons other than those for which the provider would  
20 not be eligible to receive a hearing pursuant to paragraph one of  
21 subsection (b) of section ~~forty-eight~~ four thousand eight hundred  
22 three of this ~~chapter~~ article, the insurer shall provide written  
23 notice to the insured of the provider's disaffiliation and permit the  
24 insured to continue ~~an ongoing course of treatment with~~ to receive  
25 health care procedures, treatments, and services from the insured's

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

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1 current health care provider during a transitional period of: (A) [~~nine-~~  
2 ~~ty days~~] one year from the later of the date of the notice to the  
3 insured of the provider's disaffiliation from the insurer's network or  
4 the effective date of the provider's disaffiliation from the insurer's  
5 network; [~~or~~] (B) if the insured is pregnant at the time of the provid-  
6 er's disaffiliation, the duration of the pregnancy and post-partum care  
7 directly related to the delivery; or (C) a terminal illness or condi-  
8 tion, until the time of such insured's death.

9 (2) During the transitional period the health care provider shall: (A)  
10 continue to accept reimbursement from the insurer at the rates applica-  
11 ble prior to the start of the transitional period, and continue to  
12 accept the in-network cost-sharing from the insured, if any, as payment  
13 in full; (B) adhere to the insurer's quality assurance requirements and  
14 provide to the insurer necessary medical information related to such  
15 care; and (C) otherwise adhere to the insurer's policies and procedures  
16 including, but not limited to, procedures regarding referrals and  
17 obtaining pre-authorization and a treatment plan approved by the insur-  
18 er.

19 (f) If a new insured whose health care provider is not a member of the  
20 insurer's in-network benefits portion of the provider network enrolls in  
21 the managed care product, the insurer shall permit the insured to  
22 continue [~~an ongoing course of treatment with~~] to receive health care  
23 procedures, treatments, and services from the insured's current health  
24 care provider during a transitional period of up to [~~sixty days~~] one  
25 year from the effective date of enrollment or, if (1) the insured has a  
26 [~~life-threatening disease or condition or a degenerative and disabling~~  
27 ~~disease or condition~~] terminal illness or condition, until the time of  
28 such insured's death, or (2) the insured has entered the second trimester  
29 of pregnancy at the time of enrollment, in which case the transi-  
30 tional period shall include the provision of post-partum care directly  
31 related to the delivery. If an insured elects to continue to receive  
32 care from such health care provider pursuant to this [~~paragraph~~]  
33 subsection, such care shall be authorized by the insurer for the transi-  
34 tional period only if the health care provider agrees (A) to accept  
35 reimbursement from the insurer at rates established by the insurer as  
36 payment in full, which rates shall be no more than the level of  
37 reimbursement applicable to similar providers within the in-network  
38 benefits portion of the insurer's network for such services; (B) to  
39 adhere to the insurer's quality assurance requirements and agrees to  
40 provide to the insurer necessary medical information related to such  
41 care; and (C) to otherwise adhere to the insurer's policies and proce-  
42 dures, including, but not limited to, procedures regarding referrals and  
43 obtaining pre-authorization and a treatment plan approved by the insur-  
44 er. In no event shall this subsection be construed to require an insur-  
45 er to provide coverage for benefits not otherwise covered or to diminish  
46 or impair pre-existing condition limitations contained within the  
47 insured's contract.

48 § 3. Section 4804 of the insurance law is amended by adding two new  
49 subsections (g) and (h) to read as follows:

50 (g) For the purposes of this section, the term "terminal illness or  
51 condition" shall mean an illness or condition which, in the opinion of  
52 the physician of the patient suffering from such terminal illness or  
53 condition, is likely to cause or be a major contributing factor in caus-  
54 ing such patient's death within three years.

55 (h) Provider incentives (monetary or otherwise) to a health care  
56 provider relating to procedures, treatments, or services pursuant to

1 this section, which are intended to have the effect of inducing such  
2 provider to provide care to an insured in a manner inconsistent with  
3 this section, are prohibited.

4 § 4. Paragraphs (e) and (f) of subdivision 6 of section 4403 of the  
5 public health law, paragraph (e) as amended by section 10 of subpart B  
6 of part AA of chapter 57 of the laws of 2022 and paragraph (f) as added  
7 by chapter 705 of the laws of 1996, are amended to read as follows:

8 (e) (1) If an enrollee's health care provider leaves the health main-  
9 tenance organization's network of providers for reasons other than those  
10 for which the provider would not be eligible to receive a hearing pursu-  
11 ant to paragraph a of subdivision two of section forty-four hundred  
12 six-d of this ~~chapter~~ article, the health maintenance organization  
13 shall provide written notice to the enrollee of the provider's disaffil-  
14 iation and permit the enrollee to continue an ~~ongoing course of treat-~~  
15 ~~ment with~~ to receive health care procedures, treatments, and services  
16 from the enrollee's current health care provider during a transitional  
17 period of: (i) ~~ninety days~~ one year from the later of the date of the  
18 notice to the enrollee of the provider's disaffiliation from the organ-  
19 ization's network or the effective date of the provider's disaffiliation  
20 from the organization's network~~+~~ or (ii) if the enrollee is pregnant  
21 at the time of the provider's disaffiliation, the duration of the preg-  
22 nancy and post-partum care directly related to the delivery, or (iii) if  
23 the enrollee has a terminal illness or condition, until the time of such  
24 enrollee's death.

25 (2) During the transitional period the health care provider shall: (i)  
26 continue to accept reimbursement from the health maintenance organiza-  
27 tion at the rates applicable prior to the start of the transitional  
28 period, and continue to accept the in-network cost-sharing from the  
29 enrollee, if any, as payment in full; (ii) adhere to the organization's  
30 quality assurance requirements and to provide to the organization neces-  
31 sary medical information related to such care; and (iii) otherwise  
32 adhere to the organization's policies and procedures, including but not  
33 limited to procedures regarding referrals and obtaining pre-authorization  
34 and a treatment plan approved by the organization.

35 (f) If a new enrollee whose health care provider is not a member of  
36 the health maintenance organization's provider network enrolls in the  
37 health maintenance organization, the organization shall permit the  
38 enrollee to continue ~~an ongoing course of treatment with~~ to receive  
39 health care procedures, treatments, and services from the enrollee's  
40 current health care provider during a transitional period of up to  
41 ~~sixty days~~ one year from the effective date of enrollment, or if (i)  
42 the enrollee has a ~~life-threatening disease or condition or a degenera-~~  
43 ~~tive and disabling disease or condition~~ terminal illness or condition,  
44 until the time of such enrollee's death, or (ii) the enrollee has  
45 entered the second trimester of pregnancy at the effective date of  
46 enrollment, in which case the transitional period shall include the  
47 provision of post-partum care directly related to the delivery. If an  
48 enrollee elects to continue to receive care from such health care  
49 provider pursuant to this paragraph, such care shall be authorized by  
50 the health maintenance organization for the transitional period only if  
51 the health care provider agrees (A) to accept reimbursement from the  
52 health maintenance organization at rates established by the health main-  
53 tenance organization as payment in full, which rates shall be no more  
54 than the level of reimbursement applicable to similar providers within  
55 the health maintenance organization's network for such services; (B) to  
56 adhere to the organization's quality assurance requirements and agrees

1 to provide to the organization necessary medical information related to  
2 such care; and (C) to otherwise adhere to the organization's policies  
3 and procedures, including, but not limited to, procedures regarding  
4 referrals and obtaining pre-authorization and a treatment plan approved  
5 by the organization. In no event shall this paragraph be construed to  
6 require a health maintenance organization to provide coverage for bene-  
7 fits not otherwise covered or to diminish or impair pre-existing condi-  
8 tion limitations contained within the subscriber's contract.

9 § 5. Section 4403 of the public health law is amended by adding two  
10 new subdivisions 10 and 11 to read as follows:

11 10. For the purposes of this section, "terminal illness or condition"  
12 shall mean an illness or condition which, in the opinion of the physi-  
13 cian of the patient suffering from such terminal illness or condition,  
14 is likely to cause or be a major contributing factor in causing such  
15 patient's death within three years.

16 11. Provider incentives (monetary or otherwise) to a health care  
17 provider relating to procedures, treatments, or services provided pursu-  
18 ant to this section, which are intended to induce or have the effect of  
19 inducing such provider to provide care to an enrollee in a manner incon-  
20 sistent with this section, are prohibited.

21 § 6. Subdivision 5 of section 4406-d of the public health law, as  
22 added by chapter 705 of the laws of 1996, is amended to read as follows:

23 5. No health care plan shall terminate a contract or employment, or  
24 refuse to renew a contract, solely because a health care provider has:

- 25 (a) advocated on behalf of an enrollee;  
26 (b) filed a complaint against the health care plan;  
27 (c) appealed a decision of the health care plan;  
28 (d) provided information or filed a report pursuant to section forty-  
29 four hundred six-c of this article; [~~or~~]  
30 (e) requested a hearing or review pursuant to this section; or  
31 (f) rendered an opinion regarding whether a patient's illness is  
32 terminal pursuant to section forty-four hundred three of this article.

33 § 7. This act shall take effect on the one hundred twentieth day after  
34 it shall have become a law and shall apply to all contracts issued,  
35 renewed, modified or amended on and after such date.