
Legislative Briefing: *Managed care reform act of 2009*
Prepared for the NASW-NYS Managed Care Task Force

Bill Number:

S.5472 – Breslin/A.8402 – Morelle
Governor Program Bill #13

Synopsis:

This bill makes extensive amendments to insurance and public health law, further expanding earlier efforts at managed care reform to address issues such as electronic billing, adverse reimbursement decisions, HMO look-alikes, rare disease treatment, out of network payments, and expanded title eight licensed health professional reimbursement under insurance policies.

Summary of provisions:

1. Gives providers more advance time and opportunity to cancel contracts in the event of adverse reimbursement changes (reimbursement cuts). Will require plans to notify providers in writing within 90 days of change and providers will be given 30 days after such notification to make contract decisions;
2. Expands to HMO look-alikes the mandate to follow the same insurance grievance procedures and access-to-care obligations currently applied to HMOs;
3. Requires MCOs to pay electronic claims more promptly (within 15 days of submission);
4. Prohibits MCOs from routinely sending “coordination of benefits questionnaires” to providers unless such plan has specific reason to believe that another payer is responsible for reimbursement of the treatment at issue;
5. Extends the 24 month overpayment recovery limitation to all “health care professionals” and provides greater recourse for challenging such recovery efforts;
6. Establishes new loss-ratio requirements;
7. Prohibits MCOs from treating network providers as non-network because only a portion of the treatment regime was provided by an non-network entity;
8. Establishes network adequacy obligations, including triennial review of network adequacy by the Insurance Department;
9. Allows for provisional credentialing by MCOs of new providers or providers new from out-of-state;
10. Shortens prospective utilization review timeframe for care provided immediately post-hospitalization from 3 business days to 1 business day;
11. Makes MCO payment of such service default to approval of payment in the absence of adverse determination in utilization review within the appropriate timeframe;
12. Allows concurrent adverse determination *external* appeals by providers;
13. Sets new standards for rare disease treatment external appeals.

Concerns:

- **“Health care professional” definition:** a “health care professional” shall mean a health care professional licensed, registered or certified pursuant to title eight of the education law.” *This still does not make clear what a health professional under title eight is...there are many professions under title eight and not all are remotely related to health, whereas some are in health-related professions...we may want a list of professions or a definition that is much more explicit.*
- **Network adequacy provisions:**
 - i. Triennial review by the Insurance Department of network adequacy may be too long a time period given the flux in health and mental health provider enrollment, particularly in provider deficit areas of New York State.
 - ii. “Network adequacy” is not redefined in this bill; this may still allow for panels to be full of providers taking no new patients or providers who are no longer practicing or licensed. This provision will require further research to determine best approach for ensuring true network adequacy for all areas of health care.
- **Prompt payment provisions:** Concern that regardless of time limit for reimbursement, that penalty for late payment is insufficient to make insurers pay on time. Requires further research on how penalties are set and how they can be changed (statute, regulation, administrative).

Chapter Position:

NASW-NYS supports this bill on the condition that social workers are included as “health care professionals” for the purposes of this legislation. We have issued a memorandum outlining all concerns and will continue to work with the Legislature, Executive Chamber, and the Insurance Department to ensure that this legislation achieves the greatest effect in regard to consumer and provider rights.