AN ACT to amend the insurance law and the public health law, in relation to making actuarially appropriate reductions in health insurance premiums in return for an enrollee's or insured's participation in a qualified wellness program

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

Section 1. Section 3231 of the insurance law, as added by chapter 501 of the laws of 1992, is amended by adding a new subsection (c-1) to read as follows:

(c-1) Subject to the approval of the superintendent, an insurer or health maintenance organization issuing an individual or group health insurance policy pursuant to this section may provide for an actuarially appropriate reduction in premium rates or other benefits or enhancements approved by the superintendent to encourage an enrollee's or insured's active participation in a qualified wellness program. A qualified wellness program can be a risk management system that identifies at-risk populations or any other systematic program or course of medical conduct which helps to promote physical and mental fitness, health and well-being, helps to prevent or mitigate the conditions of acute or chronic sickness, disease or pain, or which minimizes adverse health consequences due to lifestyle. Such a wellness program may have some or all of the following elements to advance the physical health and mental well-being of its participants:

(1) an education program to increase the awareness of and dissemination of information about pursuing healthier lifestyles, and which warns about risks of pursuing environmental or behavioral activities

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

LBD09863-01-9
that are detrimental to human health. In addition, information on the
availability of health screening tests to assist in the early identifi-
cation and treatment of diseases such as cancer, heart disease, hyper-
tension, diabetes, asthma, obesity or other adverse health afflictions.
(2) a program that encourages behavioral practices that either encour-
age healthy living activities or discourage unhealthy living activities.
Such activities or practices may include wellness programs, as provided
under section three thousand two hundred thirty-nine of this article;
and
(3) the monitoring of the progress of each covered person to track his
or her adherence to such wellness program and to provide assistance and
moral support to such covered person to assist him or her to attain the
goals of the covered person's wellness program.
Such wellness program shall demonstrate actuarially that it encourages
the general good health and well-being of the covered population. The
insurer or health maintenance organization shall not require specific
outcomes as a result of an enrollee's or insured's adherence to the
approved wellness program.
§ 2. Subsections (a), (b) and (c) of section 3239 of the insurance
law, subsection (a) as added by chapter 592 of the laws of 2008, and
subsections (b) and (c) as amended by chapter 180 of the laws of 2016,
are amended to read as follows:
(a) An insurer licensed to write accident and health insurance, a
health maintenance organization certified pursuant to article forty-four
of the public health law and a municipal cooperative health benefits
plan may establish a wellness program in conjunction with its issuance
of a group accident and health insurance policy or group subscriber
contract. A "wellness program" is a program designed to promote health
and prevent disease that may contain rewards and incentives for partic-
ipation. Participation in the wellness program shall be available to
similarly-situated members of the group and shall be voluntary on the
part of the member. The specific terms of the wellness program shall be
set forth in the policy or contract, or in a separate document provided
to insureds and members which shall be consistent with the provisions of
this section.
(b) A wellness program may include, but is not limited to, the follow-
ing programs or services:
(1) the use of a health risk assessment tool;
(2) a smoking cessation program;
(3) a weight management program;
(4) a stress and/or hypertension management program;
(5) a worker injury prevention program;
(6) a nutrition education program;
(7) health or fitness incentive programs;
(8) a coordinated weight management, nutrition, stress management and
physical fitness program to combat the high incidence of adult and
childhood obesity, asthma and other chronic respiratory conditions;
(9) a substance or alcohol abuse cessation program; [and]
(10) a program to manage and cope with chronic pain;[3]
(11) assistance, financial or otherwise, provided to an employer for
health promotion and disease prevention; and
(12) incentives for insureds or members to access preventive services,
such as mammography screening.
(c)(1) A wellness program may use rewards and incentives for partic-
ipation provided that where the group health insurance policy or
subscriber contract is required to be community-rated, the rewards and
incentives shall not include a discounted premium rate or a rebate or
refund of premium, **except as provided in section three thousand two
hundred thirty-one of this article, or section four thousand two hundred
thirty-five, four thousand three hundred seventeen or four thousand
three hundred twenty-six of this chapter, or section forty-four hundred
five of the public health law.**

(2) Permissible rewards and incentives may include:

(A) full or partial reimbursement of the cost of participating in
smoking cessation, weight management, stress and/or hypertension, worker
injury prevention, nutrition education, substance or alcohol abuse
cessation, or chronic pain management and coping programs;

(B) full or partial reimbursement of the cost of membership in a
health club or fitness center;

(C) the waiver or reduction of copayments, coinsurance and deductibles
for preventive services covered under the group policy or subscriber
contract;

(D) monetary rewards in the form of gift cards or gift certificates,
so long as the recipient of the reward is encouraged to use the reward
for a product or a service that promotes good health, such as healthy
cook books, over the counter vitamins or exercise equipment;

(E) full or partial reimbursement of the cost of participating in a
stress management program or activity; and

(F) full or partial reimbursement of the cost of participating in a
health or fitness program.

(3) Where the reward involves a group member's meeting a specified
standard based on a health condition, the wellness program must meet the
requirements of 45 CFR Part 146.

(4) A reward or incentive which involves a discounted premium rate or
a rebate or refund of premium shall be based on actuarial demonstration
that the wellness program can reasonably be expected to result in the
overall good health and well being of the group **as provided in section
three thousand two hundred thirty-one of this article, sections four
thousand two hundred thirty-five, four thousand three hundred seventeen
and four thousand three hundred twenty-six of this chapter, and section
forty-four hundred five of the public health law.**

§ 3. Subsection (h) of section 4235 of the insurance law is amended by
adding a new paragraph 5 to read as follows:

(5) Each insurer doing business in this state, when filing with the
superintendent its schedules of premium rates, rules and classification
of risks for use in connection with the issuance of its policies of
group accident, group health or group accident and health insurance, may
provide for an actuarially appropriate reduction in premium rates or
other benefits or enhancements approved by the superintendent to encour-
age an enrollee's or insured's active participation in a qualified well-
ness program. A qualified wellness program can be a risk management
system that identifies at-risk populations or any other systematic
program or course of medical conduct which helps to promote physical and
mental fitness, health and well-being, helps to prevent or mitigate the
conditions of acute or chronic sickness, disease or pain, or which mini-
mizes adverse health consequences due to lifestyle. Such a wellness
program may have some or all of the following elements to advance the
physical health and mental well-being of its participants:

(A) an education program to increase the awareness of and dissem-
ination of information about pursuing healthier lifestyles, and which
warns about risks of pursuing environmental or behavioral activities
that are detrimental to human health. In addition, information on the availability of health screening tests to assist in the early identification and treatment of diseases such as cancer, heart disease, hypertension, diabetes, asthma, obesity or other adverse health afflictions; (B) a program that encourages behavioral practices that either encourage healthy living activities or discourage unhealthy living activities. Such activities or practices may include wellness programs, as provided under section three thousand two hundred thirty-nine of this chapter; (C) the monitoring of the progress of each covered person to track his or her adherence to such wellness program and to provide assistance and moral support to such covered person to assist him or her to attain the goals of the covered person's wellness program.

Such wellness program shall demonstrate actuarially that it encourages the general good health and well-being of the covered population. The insurer or health maintenance organization shall not require specific outcomes as a result of an enrollee's or insured's adherence to the approved wellness program.

§ 4. Section 4317 of the insurance law is amended by adding a new subsection (c-1) to read as follows:

(c-1) Subject to the approval of the superintendent, an insurer or health maintenance organization issuing an individual or group health insurance contract pursuant to this section may provide for an actuarially appropriate reduction in premium rates or other benefits or enhancements approved by the superintendent to encourage an enrollee's or insured's active participation in a qualified wellness program. A qualified wellness program can be a risk management system that identifies at-risk populations or any other systematic program or course of medical conduct which helps to promote physical and mental fitness, health and well-being, helps to prevent or mitigate the conditions of acute or chronic sickness, disease or pain, or which minimizes adverse health consequences due to lifestyle. Such a wellness program may have some or all of the following elements to advance the physical health and mental well-being of its participants:

(1) an education program to increase the awareness of and dissemination of information about pursuing healthier lifestyles, and which warns about risks of pursuing environmental or behavioral activities that are detrimental to human health. In addition, information on the availability of health screening tests to assist in the early identification and treatment of diseases such as cancer, heart disease, hypertension, diabetes, asthma, obesity or other adverse health afflictions; (2) a program that encourages behavioral practices that either encourage healthy living activities or discourage unhealthy living activities. Such activities or practices may include wellness programs, as provided under section three thousand two hundred thirty-nine of this chapter; and (3) the monitoring of the progress of each covered person to track his or her adherence to such wellness program and to provide assistance and moral support to such covered person to assist him or her to attain the goals of the covered person's wellness program.

Such wellness program shall demonstrate actuarially that it encourages the general good health and well-being of the covered population. The insurer or health maintenance organization shall not require specific outcomes as a result of an enrollee's or insured's adherence to the approved wellness program.

§ 5. Subsection (m) of section 4326 of the insurance law is amended by adding a new paragraph 4 to read as follows:
(4) approval of the superintendent, an insurer or health maintenance organization issuing a contract for qualifying small employers or individuals pursuant to this section may provide for an actuarially appropriate reduction in premium rates or other benefits or enhancements approved by the superintendent to encourage an enrollee's or insured's active participation in a qualified wellness program. A qualified wellness program can be a risk management system that identifies at-risk populations or any other systematic program or course of medical conduct which helps to promote physical and mental fitness, health and well-being, helps to prevent or mitigate the conditions of acute or chronic sickness, disease or pain, or which minimizes adverse health consequences due to lifestyle. Such a wellness program may have some or all of the following elements to advance the physical health and mental well-being of its participants:

(A) an education program to increase the awareness of and dissemination of information about pursuing healthier lifestyles, and which warns about risks of pursuing environmental or behavioral activities that are detrimental to human health. In addition, information on the availability of health screening tests to assist in the early identification and treatment of diseases such as cancer, heart disease, hypertension, diabetes, asthma, obesity or other adverse health afflictions;

(B) a program that encourages behavioral practices that either encourage healthy living activities or discourage unhealthy living activities. Such activities or practices may include wellness programs, as provided under section three thousand two hundred thirty-nine of this chapter; and

(C) the monitoring of the progress of each covered person to track his or her adherence to such wellness program and to provide assistance and moral support to such covered person to assist him or her to attain the goals of the covered person's wellness program.

Such wellness program shall demonstrate actuarially that it encourages the general good health and well-being of the covered population. The insurer or health maintenance organization shall not require specific outcomes as a result of an enrollee's or insured's adherence to the approved wellness program.

§ 6. Section 4405 of the public health law is amended by adding a new subdivision 5-a to read as follows:

5-a. subject to the approval of the superintendent of financial services, the possible providing of an actuarially appropriate reduction in premium rates or other benefits or enhancements approved by the superintendent of financial services to encourage an enrollee's active participation in a qualified wellness program. A qualified wellness program can be a risk management system that identifies at-risk populations or any other systematic program or course of medical conduct which helps to promote physical and mental fitness, health and well-being, helps to prevent or mitigate the conditions of acute or chronic sickness, disease or pain, or which minimizes adverse health consequences due to lifestyle. Such a wellness program may have some or all of the following elements to advance the physical health and mental well-being of its participants:

(1) an education program to increase the awareness of and dissemination of information about pursuing healthier lifestyles, and which warns about risks of pursuing environmental or behavioral activities that are detrimental to human health. In addition, information on the availability of health screening tests to assist in the early identifi-
cation and treatment of diseases such as cancer, heart disease, hypertension, diabetes, asthma, obesity or other adverse health afflictions;

(2) a program that encourages behavioral practices that either encourage healthy living activities or discourage unhealthy living activities. Such activities or practices may include wellness programs, as provided under section three thousand two hundred thirty-nine of the insurance law; and

(3) the monitoring of the progress of each covered person to track his or her adherence to such wellness program and to provide assistance and moral support to such covered person to assist him or her to attain the goals of the covered person's wellness program.

Such wellness program shall demonstrate actuarially that it encourages the general good health and well-being of the covered population. The health maintenance organization shall not require specific outcomes as a result of an enrollee's adherence to the approved wellness program;

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