

5851

2013-2014 Regular Sessions

I N S E N A T E

June 18, 2013

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

AN ACT to amend the insurance law, in relation to the purchase of fertility drugs through mail order pharmacies

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph 13-a of subsection (i) of section 3216 of the  
2 insurance law, as amended by chapter 10 of the laws of 2012, is amended  
3 to read as follows:  
4 (13-a) Every policy that provides coverage for prescription fertility  
5 drugs and requires or permits prescription drugs to be purchased through  
6 a network participating mail order or other non-retail pharmacy shall  
7 provide the same coverage for prescription fertility drugs when such  
8 drugs are purchased from a network participating non-mail order retail  
9 pharmacy provided that the network participating non-mail order retail  
10 pharmacy agrees in advance through a contractual network agreement, to  
11 the same reimbursement amount, [as well as the same applicable terms and  
12 conditions,] that the insurer has established for a network participat-  
13 ing mail order or other non-retail pharmacy. PROVIDED, HOWEVER, THAT  
14 THE TERMS AND CONDITIONS OF SUCH AGREEMENT SHALL NOT BE INCONSISTENT  
15 WITH THE TERMS AND CONDITIONS OF AGREEMENTS MADE BY THE INSURER WITH  
16 NETWORK PARTICIPATING MAIL ORDER OR OTHER NON-RETAIL PHARMACY PROVIDERS  
17 FOR THE FIVE YEAR PERIOD PRIOR TO THE EFFECTIVE DATE OF THE CHAPTER OF  
18 THE LAWS OF TWO THOUSAND THIRTEEN WHICH AMENDED THIS PARAGRAPH. THIS  
19 PARAGRAPH SHALL NOT BE CONSTRUED AS PROHIBITING THE UPDATING OF POLICIES  
20 AND PROCEDURES (A) AS THEY RELATE TO NEW PRODUCTS ENTERING THE MARKET  
21 THAT ARE DISTRIBUTED BY THE MAIL ORDER, OTHER NON-RETAIL, AND NON-MAIL  
22 ORDER RETAIL PHARMACIES, (B) AS NECESSARY TO COMPLY WITH UPDATED  
23 MANUFACTURER GUIDELINES, OR UPDATED MEDICAL GUIDELINES, OR (C) AS  
24 REQUIRED BY STATE OR FEDERAL LAW. In such case, the policy shall not  
25 impose any fee, co-payment, co-insurance, deductible or other condition

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

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1 on any insured who elects to purchase prescription fertility drugs  
2 through a network participating non-mail order retail pharmacy that it  
3 does not impose on any insured who purchases prescription fertility  
4 drugs through a network participating mail order or other non-retail  
5 pharmacy.

6 S 2. Subparagraph (D) of paragraph 6 of subsection (k) of section 3221  
7 of the insurance law, as amended by chapter 10 of the laws of 2012, is  
8 amended to read as follows:

9 (D) Every policy that provides coverage for prescription fertility  
10 drugs and requires or permits prescription drugs to be purchased through  
11 a network participating mail order or other non-retail pharmacy shall  
12 provide the same coverage for prescription fertility drugs when such  
13 drugs are purchased from a network participating non-mail order retail  
14 pharmacy provided that the network participating non-mail order retail  
15 pharmacy agrees in advance through a contractual network agreement, to  
16 the same reimbursement amount, [as well as the same applicable terms and  
17 conditions,] that the insurer has established for a network participat-  
18 ing mail order or other non-retail pharmacy. PROVIDED, HOWEVER, THAT  
19 THE TERMS AND CONDITIONS OF SUCH AGREEMENT SHALL NOT BE INCONSISTENT  
20 WITH THE TERMS AND CONDITIONS OF AGREEMENTS MADE BY THE INSURER WITH  
21 NETWORK PARTICIPATING MAIL ORDER OR OTHER NON-RETAIL PHARMACY PROVIDERS  
22 FOR THE FIVE YEAR PERIOD PRIOR TO THE EFFECTIVE DATE OF THE CHAPTER OF  
23 THE LAWS OF TWO THOUSAND THIRTEEN WHICH AMENDED THIS SUBPARAGRAPH. THIS  
24 PARAGRAPH SHALL NOT BE CONSTRUED AS PROHIBITING THE UPDATING OF POLICIES  
25 AND PROCEDURES (I) AS THEY RELATE TO NEW PRODUCTS ENTERING THE MARKET  
26 THAT ARE DISTRIBUTED BY THE MAIL ORDER, OTHER NON-RETAIL, AND NON-MAIL  
27 ORDER RETAIL PHARMACIES, (II) AS NECESSARY TO COMPLY WITH UPDATED  
28 MANUFACTURER GUIDELINES, OR UPDATED MEDICAL GUIDELINES, OR (III) AS  
29 REQUIRED BY STATE OR FEDERAL LAW. In such case, the policy shall not  
30 impose any fee, co-payment, co-insurance, deductible or other condition  
31 on any covered person who elects to purchase prescription fertility  
32 drugs through a network participating non-mail order retail pharmacy  
33 that it does not impose on any covered person who purchases prescription  
34 fertility drugs through a network participating mail order or other  
35 non-retail pharmacy; provided, however, that the provisions of this  
36 section shall not supersede the terms of a collective bargaining agree-  
37 ment or apply to a policy that is the result of a collective bargaining  
38 agreement between an employer and a recognized or certified employee  
39 organization.

40 S 3. Paragraph 4 of subsection (s) of section 4303 of the insurance  
41 law, as amended by chapter 10 of the laws of 2012, is amended to read as  
42 follows:

43 (4) Every contract issued by a medical expense indemnity corporation,  
44 a hospital service corporation or a health services corporation that  
45 provides coverage for prescription fertility drugs and requires or  
46 permits prescription drugs to be purchased through a network participat-  
47 ing mail order or other non-retail pharmacy shall provide the same  
48 coverage for prescription fertility drugs when such drugs are purchased  
49 from a network participating non-mail order retail pharmacy provided  
50 that the network participating non-mail order retail pharmacy agrees in  
51 advance, through a contractual network agreement, to the same reimburse-  
52 ment amount, [as well as the same applicable terms and conditions,] that  
53 the corporation has established for the network participating mail order  
54 or other non-retail pharmacy. PROVIDED, HOWEVER, THAT THE TERMS AND  
55 CONDITIONS OF SUCH AGREEMENT SHALL NOT BE INCONSISTENT WITH THE TERMS  
56 AND CONDITIONS OF AGREEMENTS MADE BY THE INSURER WITH NETWORK PARTIC-

1 IPATING MAIL ORDER OR OTHER NON-RETAIL PHARMACY PROVIDERS FOR THE FIVE  
2 YEAR PERIOD PRIOR TO THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF  
3 TWO THOUSAND THIRTEEN WHICH AMENDED THIS PARAGRAPH. THIS PARAGRAPH SHALL  
4 NOT BE CONSTRUED AS PROHIBITING THE UPDATING OF POLICIES AND PROCEDURES  
5 (A) AS THEY RELATE TO NEW PRODUCTS ENTERING THE MARKET THAT ARE DISTRIB-  
6 UTED BY THE MAIL ORDER, OTHER NON-RETAIL, AND NON-MAIL ORDER RETAIL  
7 PHARMACIES, (B) AS NECESSARY TO COMPLY WITH UPDATED MANUFACTURER GUIDE-  
8 LINES, OR UPDATED MEDICAL GUIDELINES, OR (C) AS REQUIRED BY STATE OR  
9 FEDERAL LAW. In such case, the contract shall not impose any fee,  
10 co-payment, co-insurance, deductible or other condition on any covered  
11 person who does not elect to purchase prescription fertility drugs  
12 through a network participating mail order or other non-retail pharmacy;  
13 provided, however, that the provisions of this section shall not super-  
14 sede the terms of a collective bargaining agreement or apply to a  
15 contract that is the result of a collective bargaining agreement between  
16 an employer and a recognized or certified employee organization.  
17 S 4. This act shall take effect immediately.