

6446

I N S E N A T E

January 24, 2014

Introduced by Sen. RIVERA -- 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 social services law, in relation to medicaid payment for co-payments due under Medicare Part D

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

1 Section 1. Subdivision 7 of section 273 of the public health law, as
2 amended by section 7 of part C of chapter 58 of the laws of 2008, is
3 amended to read as follows:

4 7. No prior authorization under the preferred drug program shall be
5 required when a prescriber prescribes a drug on the preferred drug list,
6 OR WHEN MEDICAL ASSISTANCE PAYMENT IS MADE, UNDER PARAGRAPH (G) OF
7 SUBDIVISION TWO OF SECTION THREE HUNDRED SIXTY-FIVE-A OF THE SOCIAL
8 SERVICES LAW SOLELY FOR THE CO-PAYMENT FOR PRESCRIPTIONS PROVIDED UNDER
9 PART D OF TITLE XVIII OF THE FEDERAL SOCIAL SECURITY ACT; provided,
10 however, that the commissioner may identify [such] a drug for which
11 prior authorization is required pursuant to the provisions of the clin-
12 ical drug review program established under section two hundred seventy-
13 four of this article.

14 S 2. Subparagraph (ii) of paragraph (f) of subdivision 6 of section
15 367-a of the social services law, as amended by section 42 of part C of
16 chapter 58 of the laws of 2005, is amended to read as follows:

17 (ii) In the year commencing April first, two thousand five and for
18 each year thereafter, no recipient shall be required to pay more than a
19 total of two hundred dollars in co-payments, INCLUDING THOSE required by
20 this subdivision[, nor] AND, FOR RECIPIENTS ELIGIBLE FOR COVERAGE UNDER
21 PART D OF TITLE XVIII OF THE FEDERAL SOCIAL SECURITY ACT (REFERRED TO IN
22 THIS SECTION AS "MEDICARE PART D"), THOSE CO-PAYMENTS REQUIRED BY MEDI-
23 CARE PART D. NOR shall reductions in payments as a result of such
24 co-payments exceed two hundred dollars for any recipient. THE COMMIS-
25 SIONER OF HEALTH SHALL CREATE A SYSTEM TO INCORPORATE CO-PAYMENTS BILLED
26 TO A RECIPIENT UNDER MEDICARE PART D TOWARDS THE RECIPIENT'S TOTAL ANNU-
27 AL CO-PAYMENTS UNDER MEDICAL ASSISTANCE. AS PART OF THIS SYSTEM, PHAR-
28 MACISTS SHALL RECORD ALL CO-PAYMENTS DUE UNDER MEDICARE PART D FROM SUCH

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

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1 RECIPIENTS WITH THE MEDICAL ASSISTANCE PROGRAM, THROUGH THE MEDICAL
2 ASSISTANCE ELECTRONIC BILLING SYSTEM. THE COMMISSIONER OF HEALTH SHALL
3 INCLUDE THE CO-PAYMENTS BILLED UNDER MEDICARE PART D ALONG WITH THE
4 CO-PAYMENTS REQUIRED UNDER THIS SUBDIVISION IN DETERMINING WHEN THE
5 RECIPIENT'S TOTAL ANNUAL CO-PAYMENTS HAVE REACHED TWO HUNDRED DOLLARS.

6 S 3. Paragraph (g-1) of subdivision 2 of section 365-a of the social
7 services law, as amended by section 23 of part H of chapter 59 of the
8 laws of 2011, is amended to read as follows:

9 (g-1) drugs provided on an in-patient basis, those drugs contained on
10 the list established by regulation of the commissioner of health pursu-
11 ant to subdivision four of this section, AND, FOR RECIPIENTS ELIGIBLE
12 FOR COVERAGE UNDER PART D OF TITLE XVIII OF THE FEDERAL SOCIAL SECURITY
13 ACT (REFERRED TO IN THIS SECTION AS "MEDICARE PART D"), PAYMENT OF THE
14 CO-PAYMENT FOR DRUGS PROVIDED BY A MEDICARE PART D PLAN, AFTER THE INDI-
15 VIDUAL HAS REACHED THE ANNUAL CAP ON CO-PAYMENTS AS DEFINED IN SUBPARA-
16 GRAPH (II) OF PARAGRAPH (F) OF SUBDIVISION SIX OF SECTION THREE HUNDRED
17 SIXTY-SEVEN-A OF THIS TITLE, and those drugs which may not be dispensed
18 without a prescription as required by section sixty-eight hundred ten of
19 the education law and which the commissioner of health shall determine
20 to be reimbursable based upon such factors as the availability of such
21 drugs or alternatives at low cost if purchased by a medicaid recipient,
22 or the essential nature of such drugs as described by such commissioner
23 in regulations, provided, however, that such drugs, exclusive of long-
24 term maintenance drugs, shall be dispensed in quantities no greater than
25 a thirty day supply or one hundred doses, whichever is greater; provided
26 further that the commissioner of health is authorized to require prior
27 authorization for any refill of a prescription when less than seventy-
28 five percent of the previously dispensed amount per fill should have
29 been used were the product used as normally indicated; provided further
30 that the commissioner of health is authorized to require prior authori-
31 zation of prescriptions of opioid analgesics in excess of four
32 prescriptions in a thirty-day period in accordance with section two
33 hundred seventy-three of the public health law; medical assistance shall
34 not include any drug provided on other than an in-patient basis for
35 which a recipient is charged or a claim is made in the case of a
36 prescription drug, in excess of the maximum reimbursable amounts to be
37 established by department regulations in accordance with standards
38 established by the secretary of the United States department of health
39 and human services, or, in the case of a drug not requiring a
40 prescription, in excess of the maximum reimbursable amount established
41 by the commissioner of health pursuant to paragraph (a) of subdivision
42 four of this section;

43 S 4. This act shall take effect on the first of April next succeeding
44 the date on which it shall have become a law.