STATE OF NEW YORK

2317--A

Cal. No. 390

2017-2018 Regular Sessions

IN ASSEMBLY

January 17, 2017

Introduced by M. of A. PEOPLES-STOKES, HARRIS, SKOUFIS, BARRETT, NIOU, ORTIZ -- Multi-Sponsored by -- M. of A. ENGLEBRIGHT -- read once and referred to the Committee on Insurance -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the insurance law and the public health law, in relation to prescription drug formulary changes during a contract year

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

Section 1. The insurance law is amended by adding a new section 4909 to read as follows:

§ 4909. Prescription drug formulary changes. (a) Except as otherwise provided in subsection (c) of this section, a health care plan shall not:

(i) remove a prescription drug from a formulary if the formulary includes two or more tiers of benefits providing for different deductibles, copayments or coinsurance applicable to the prescription drugs in each tier, move a drug to a tier with a larger deductible, copayment or coinsurance; or

(ii) add utilization management restrictions to a formulary drug, unless such changes occur at the time of enrollment or issuance of coverage.

(b) Prohibitions provided in subsection (a) of this section shall apply beginning on the date on which open enrollment begins for a plan year and through the end of the plan year to which such open enrollment period applies.

(c) (i) A health care plan with a formulary that includes two or more tiers of benefits providing for different deductibles, copayments or coinsurance applicable to prescription drugs in each tier may move a prescription drug to a tier with a larger deducible, copayment or coin-

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

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surance if an AB-rated generic drug for such prescription drug is added to the formulary at the same time.

(ii) A health care plan may remove a prescription drug from a formulary if the federal food and drug administration determines that such drug should be removed from the market, including new utilization management restrictions issued pursuant to federal food and drug administration safety concerns.

§ 2. The public health law is amended by adding a new section 4909 to read as follows:

§ 4909. Prescription drug formulary changes. 1. Except as otherwise provided in subdivision three of this section, a health care plan shall not:

(a) remove a prescription drug from a formulary if the formulary includes two or more tiers of benefits providing for different deductibles, copayments or coinsurance applicable to the prescription drugs in each tier, move a drug to a tier with a larger deductible, copayment or coinsurance; or

(b) add utilization management restrictions to a formulary drug, unless such changes occur at the time of enrollment or issuance of coverage.

2. Prohibition provided in subdivision one of this section shall apply beginning on the date on which open enrollment begins for a plan year and through the end of the plan year to which such open enrollment period applies.

3. (a) A health care plan with a formulary that includes two or more tiers of benefits providing for different deductibles, copayments or coinsurance applicable to prescription drugs in each tier may move a prescription drug to a tier with a larger deductible, copayment or coinsurance if an AB-rated generic drug for such prescription drug is added to the formulary at the same time.

(b) A health care plan may remove a prescription drug from a formulary if the federal food and drug administration determines that such drug should be removed from the market, including new utilization management restrictions issued pursuant to federal food and drug administration safety concerns.

§ 3. This act shall take effect on the sixtieth day after it shall have become a law; provided, however, that 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 by the superintendent of financial services on or before such date.