

# STATE OF NEW YORK

5022--A

2017-2018 Regular Sessions

## IN SENATE

March 6, 2017

Introduced by Sens. SERINO, CROCI, GRIFFO, LATIMER, MURPHY, SANDERS, SAVINO, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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

3 § 4909. Prescription drug formulary changes. (a) Except as otherwise  
4 provided in subsection (c) of this section, a health care plan shall  
5 not:

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

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

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

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

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

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

3 (ii) A health care plan may remove a prescription drug from a formu-  
4 lary if the federal food and drug administration determines that such  
5 drug should be removed from the market, including new utilization  
6 management restrictions issued pursuant to federal food and drug admin-  
7 istration safety concerns.

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

10 § 4909. Prescription drug formulary changes. 1. Except as otherwise  
11 provided in subdivision three of this section, a health care plan shall  
12 not:

13 (a) remove a prescription drug from a formulary if the formulary  
14 includes two or more tiers of benefits providing for different deduct-  
15 ibles, copayments or coinsurance applicable to the prescription drugs in  
16 each tier, move a drug to a tier with a larger deductible, copayment or  
17 coinsurance; or

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

21 2. Prohibition provided in subdivision one of this section shall apply  
22 beginning on the date on which open enrollment begins for a plan year  
23 and through the end of the plan year to which such open enrollment peri-  
24 od applies.

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

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

36 § 3. This act shall take effect on the sixtieth day after it shall  
37 have become a law; provided, however, that effective immediately, the  
38 addition, amendment and/or repeal of any rule or regulation necessary  
39 for the implementation of this act on its effective date are authorized  
40 to be made and completed by the superintendent of financial services on  
41 or before such date.