

STATE OF NEW YORK

8509

IN SENATE

March 8, 2022

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

AN ACT to amend part FFF of chapter 56 of the laws of 2020 relating to directing the department of health to remove the pharmacy benefit from the managed care benefit package and to provide the pharmacy benefit under the fee for service program, in relation to the effectiveness thereof

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

1 Section 1. Section 1 of part FFF of chapter 56 of the laws of 2020
2 relating to directing the department of health to remove the pharmacy
3 benefit from the managed care benefit package and to provide the pharma-
4 cy benefit under the fee for service program, as amended by section 1 of
5 part C of chapter 57 of the laws of 2021, is amended to read as follows:
6 Section 1. The Legislature hereby finds and declares that medical
7 assistance for needy persons is a matter of public concern and a neces-
8 sity in promoting the public health and welfare and for promoting the
9 state's goal of making available to everyone, regardless of race, age,
10 gender, national origin or economic standing, uniform, high-quality
11 medical care. As the department of health is the single state agency
12 responsible for supervising the administration of the state's medical
13 assistance program (Medicaid), it is tasked with ensuring efficiency,
14 economy, and quality of care in providing benefits to the state's needy
15 persons. To this end and with the fiscal constraints facing our state in
16 mind, the department of health continues to analyze the Medicaid program
17 in search of ways to ensure Medicaid spending is held to the standard of
18 efficiency, economy, and quality of care. In consideration of this stan-
19 dard, the department of health is hereby directed to exercise its exist-
20 ing administrative authority to remove the pharmacy benefit from managed
21 care benefit package and instead provide the pharmacy benefit under the
22 fee for service program, except where otherwise required by federal law,
23 to ensure transparency and that the benefit is provided to the fullest
24 extent and as efficiently as possible; provided, however, that the
25 department of health shall not implement the transition of the pharmacy

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

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1 benefit from the managed care benefit package to the fee for service
2 program sooner than April 1, [~~2023~~] ~~2021~~, and until it is satisfied that
3 all necessary and appropriate transition planning has occurred, in its
4 sole discretion, and federal approvals have been obtained and prepara-
5 tions have been made. Furthermore, to ensure an orderly transition,
6 continued access to medications, and appropriate patient education and
7 support, the department may establish uniform standards, payment poli-
8 cies and reimbursement methodologies for any sites where drugs may be
9 administered or dispensed under the fee for service program; provided
10 that, subject to the availability of federal financial participation,
11 when reimbursing covered entities, as defined under section 340B of the
12 public health service act (42 U.S.C. §256b), for drugs that would other-
13 wise be eligible for pricing under section 340B of the public health
14 service act, the department shall examine all reasonably available meth-
15 ods for determining actual acquisition cost and the professional
16 dispensing fee and, beginning in the fiscal year starting April 1,
17 [~~2023~~] ~~2021~~, review and adjust reimbursement for such drugs such that no
18 sooner than April 1, [~~2025~~] ~~2023~~, reimbursement shall be determined
19 based on a method that the commissioner determines that utilizes the
20 actual acquisition costs and professional dispensing fee.

21 § 2. This act shall take effect immediately and shall be deemed to
22 have been in full force and effect on and after April 1, 2021.