

STATE OF NEW YORK

3485

2025-2026 Regular Sessions

IN SENATE

January 27, 2025

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

AN ACT to amend the insurance law, in relation to prescription drug formulary coverage for interchangeable biologics and biosimilars

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

1 Section 1. Paragraph 4 of subsection (c-1) of section 4903 of the
2 insurance law, as added by chapter 512 of the laws of 2016, is amended
3 to read as follows:

4 (4) The insured is stable on a prescription drug or drugs selected by
5 their health care professional for the medical condition under consider-
6 ation, provided that this shall not prevent a utilization review agent
7 from [~~requiring an insured to try an AB-rated generic equivalent prior~~
8 ~~to providing coverage for the equivalent brand name prescription drug or~~
9 ~~drugs, or~~].

10 (i) requiring an insured to try an AB-rated generic equivalent or an
11 interchangeable biological product prior to providing coverage for the
12 equivalent brand name prescription drug or drugs, or

13 (ii) requiring an insured to try a biosimilar prior to providing
14 coverage for the brand name prescription reference product drug or
15 drugs.

16 § 2. Subparagraph (A) of paragraph 3 of subsection (c) of section 3242
17 of the insurance law, as added by chapter 99 of the laws of 2022, is
18 amended to read as follows:

19 (A) An insurer with a formulary that includes two or more tiers of
20 benefits providing for different deductibles, copayments or coinsurance
21 applicable to prescription drugs in each tier may move a prescription
22 drug to a tier with a larger deductible, copayment or coinsurance if an
23 AB-rated generic equivalent [~~or~~], an interchangeable biological product,
24 or biosimilar for such prescription drug is added to the formulary at
25 the same time; provided the change is not applicable to an insured who

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

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1 is already receiving such prescription drug or has been diagnosed with
2 or presented with a condition on or prior to the start of the plan year
3 that is treated by such prescription drug or is a prescription drug that
4 is or would be part of the insured's treatment plan for such condition.

5 § 3. Subparagraph (A) of paragraph 3 of subsection (c) of section
6 4329 of the insurance law, as added by chapter 99 of the laws of 2022,
7 is amended to read as follows:

8 (A) A corporation with a formulary that includes two or more tiers of
9 benefits providing for different deductibles, copayments or coinsurance
10 applicable to prescription drugs in each tier may move a prescription
11 drug to a tier with a larger deductible, copayment or coinsurance if an
12 AB-rated generic equivalent ~~[or]~~, an interchangeable biological product,
13 or biosimilar for such prescription drug is added to the formulary at
14 the same time; provided the change is not applicable to an insured who
15 is already receiving such prescription drug or has been diagnosed with
16 or presented with a condition on or prior to the start of the plan year
17 that is treated by such prescription drug or is a prescription drug that
18 is or would be part of the insured's treatment regimen for such condi-
19 tion.

20 § 4. Subsection (c) of section 3242 of the insurance law, as added
21 by chapter 99 of the laws of 2022, is redesignated subsection (d).

22 § 5. Subsection (c) of section 4329 of the insurance law, as added by
23 chapter 99 of the laws of 2022, is redesignated subsection (d).

24 § 6. This act shall take effect immediately.