

STATE OF NEW YORK

8772

IN SENATE

January 8, 2026

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

AN ACT to amend the insurance law, in relation to high deductible health plans and health savings accounts; and to amend a chapter of the laws of 2025 amending the insurance law relating to high deductible health plans and health savings accounts, as proposed in legislative bills numbers S. 6895-A and A. 5367-A, 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. Subsection (n) of section 3216 of the insurance law, as
2 added by a chapter of the laws of 2025 amending the insurance law relat-
3 ing to high deductible health plans and health savings accounts, as
4 proposed in legislative bills numbers S. 6895-A and A. 5367-A, is
5 amended to read as follows:

6 (n) With respect to high deductible health plans offered in conjunc-
7 tion with a [~~health reimbursement account or a~~] health savings account,
8 if application of any cost sharing requirements would result in health
9 savings account ineligibility under section two hundred twenty-three of
10 the internal revenue code, such [~~cost sharing requirement shall apply~~
11 ~~for health savings account qualified high deductible health plans with~~
12 ~~respect to the deductible of such a plan, only after the enrollee has~~
13 ~~satisfied the minimum deductible under section two hundred twenty-three~~
14 ~~of the internal revenue code, except with respect to items or services~~
15 ~~that are considered preventive care pursuant to subparagraph (C) of~~
16 ~~paragraph two of subsection e of section two hundred twenty-three of the~~
17 ~~internal revenue code, in which case the cost sharing requirements of~~
18 ~~this section shall apply regardless of whether the minimum deductible~~
19 ~~required under section two hundred twenty-three of the internal revenue~~
20 ~~code has been satisfied]~~ coverage may be subject to the plan's annual
21 deductible.

22 § 2. Subparagraph (B) of paragraph 11 of subsection (i) of section
23 3216 of the insurance law, as amended by chapter 424 of the laws of
24 2024, is amended to read as follows:

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

LBD07833-06-6

1 (B) Such coverage required pursuant to subparagraph (A) or (C) of this
2 paragraph shall not be subject to annual deductibles or coinsurance. If
3 under federal law, application of this requirement would result in
4 health savings account ineligibility under 26 USC 223, this requirement
5 shall apply for health savings account-qualified high deductible health
6 plans with respect to the deductible of such a plan after the enrollee
7 has satisfied the ~~[minimum] plan deductible [under 26 USC 223]~~, except
8 for with respect to items or services that are preventive care pursuant
9 to 26 USC 223(c)(2)(C), in which case the requirements of this paragraph
10 shall apply regardless of whether the ~~[minimum] plan deductible [under~~
11 ~~26 USC 223]~~ has been satisfied.

12 § 3. Paragraph 37 of subsection (i) of section 3216 of the insurance
13 law, as amended by chapter 117 of the laws of 2023, is amended to read
14 as follows:

15 (37) Any policy that provides coverage for prescription drugs shall
16 apply any third-party payments, financial assistance, discount, voucher
17 or other price reduction instrument for out-of-pocket expenses made on
18 behalf of an insured individual for the cost of a prescription drug to
19 the insured's deductible, copayment, coinsurance, out-of-pocket maximum,
20 or any other cost-sharing requirement when calculating such insured
21 individual's overall contribution to any out-of-pocket maximum or any
22 cost-sharing requirement. If under federal law, application of this
23 requirement would result in health savings account ineligibility under
24 26 USC 223, this requirement shall apply for health savings account-qua-
25 lified high deductible health plans with respect to the deductible of
26 such a plan after the enrollee has satisfied the ~~[minimum] plan deduct-~~
27 ~~ible [under 26 USC 223]~~, except for with respect to items or services
28 that are preventive care pursuant to 26 USC 223(c)(2)(C), in which case
29 the requirements of this paragraph shall apply regardless of whether the
30 ~~[minimum] plan deductible [under 26 USC 223]~~ has been satisfied. This
31 paragraph only applies to a prescription drug that is either (A) a
32 brand-name drug without an AB rated generic equivalent, as determined by
33 the United States Food and Drug Administration; or (B) a brand-name drug
34 with an AB rated generic equivalent, as determined by the United States
35 Food and Drug Administration, and the insured has access to the brand-
36 name drug through prior authorization by the insurer or through the
37 insurer's appeal process, including any step-therapy process; or (C) a
38 generic drug the insurer will cover, with or without prior authorization
39 or an appeal process.

40 § 4. Subsection (v) of section 3221 of the insurance law, as added by
41 a chapter of the laws of 2025 amending the insurance law relating to
42 high deductible health plans and health savings accounts, as proposed in
43 legislative bills numbers S. 6895-A and A. 5367-A, is amended to read as
44 follows:

45 (v) With respect to high deductible health plans offered in conjunc-
46 tion with a ~~[health reimbursement account or a]~~ health savings account,
47 if application of any cost sharing requirements would result in health
48 savings account ineligibility under section two hundred twenty-three of
49 the internal revenue code, such ~~[cost sharing requirement shall apply~~
50 ~~for health savings account-qualified high deductible health plans with~~
51 ~~respect to the deductible of such a plan, only after the enrollee has~~
52 ~~satisfied the minimum deductible under section two hundred twenty three~~
53 ~~of the internal revenue code, except with respect to items or services~~
54 ~~that are considered preventive care pursuant to subparagraph (C) of~~
55 ~~paragraph two of subsection c of section two hundred twenty three of the~~
56 ~~internal revenue code, in which case the cost sharing requirements of~~

~~this section shall apply regardless of whether the minimum deductible required under section two hundred twenty three of the internal revenue code has been satisfied~~ coverage may be subject to the plan's annual deductible.

§ 5. Subparagraph (B) of paragraph 11 of subsection (1) of section 3221 of the insurance law, as amended by chapter 424 of the laws of 2024, is amended to read as follows:

(B) Such coverage required pursuant to subparagraph (A) or (C) of this paragraph shall not be subject to annual deductibles or coinsurance. If under federal law, application of this requirement would result in health savings account ineligibility under 26 USC 223, this requirement shall apply for health savings account-qualified high deductible health plans with respect to the deductible of such a plan after the enrollee has satisfied the [minimum] plan deductible ~~[under 26 USC 223]~~, except for with respect to items or services that are preventive care pursuant to 26 USC 223(c)(2)(C), in which case the requirements of this paragraph shall apply regardless of whether the [minimum] plan deductible ~~[under 26 USC 223]~~ has been satisfied.

§ 6. Paragraph 21 of subsection (1) of section 3221 of the insurance law, as amended by chapter 117 of the laws of 2023, is amended to read as follows:

(21) Every group or blanket policy delivered or issued for delivery in this state that provides coverage for a prescription drug shall apply any third-party payments, financial assistance, discount, voucher or other price reduction instrument for out-of-pocket expenses made on behalf of an insured individual for the cost of prescription drugs to the insured's deductible, copayment, coinsurance, out-of-pocket maximum, or any other cost-sharing requirement when calculating such insured individual's overall contribution to any out-of-pocket maximum or any cost-sharing requirement. If under federal law, application of this requirement would result in health savings account ineligibility under 26 USC 223, this requirement shall apply for health savings account-qualified high deductible health plans with respect to the deductible of such a plan after the enrollee has satisfied the [minimum] plan deductible ~~[under 26 USC 223]~~, except for with respect to items or services that are preventive care pursuant to 26 USC 223(c)(2)(C), in which case the requirements of this paragraph shall apply regardless of whether the [minimum] plan deductible ~~[under 26 USC 223]~~ has been satisfied. This paragraph only applies to a prescription drug that is either (A) a brand-name drug without an AB rated generic equivalent, as determined by the United States Food and Drug Administration; or (B) a brand-name drug with an AB rated generic equivalent, as determined by the United States Food and Drug Administration, and the insured has access to the brand-name drug through prior authorization by the insurer or through the insurer's appeal process, including any step-therapy process; or (C) a generic drug the insurer will cover, with or without prior authorization or an appeal process.

§ 7. Subsection (ww) of section 4303 of the insurance law, as added by a chapter of the laws of 2025 amending the insurance law relating to high deductible health plans and health savings accounts, as proposed in legislative bills numbers S. 6895-A and A. 5367-A, is amended to read as follows:

~~(ww)~~ (xx) With respect to high deductible health plans offered in conjunction with a ~~[health reimbursement account or a]~~ health savings account, if application of any cost sharing requirements would result in health savings account ineligibility under section two hundred twenty-

1 three of the internal revenue code, such [~~cost sharing requirement shall~~
2 ~~apply for health savings account-qualified high deductible health plans~~
3 ~~with respect to the deductible of such a plan, only after the enrollee~~
4 ~~has satisfied the minimum deductible under section two hundred twenty-~~
5 ~~three of the internal revenue code, except with respect to items or~~
6 ~~services that are considered preventive care pursuant to subparagraph~~
7 ~~(C) of paragraph two of subsection e of section two hundred twenty-three~~
8 ~~of the internal revenue code, in which case the cost sharing require-~~
9 ~~ments of this section shall apply regardless of whether the minimum~~
10 ~~deductible required under section two hundred twenty-three of the inter-~~
11 ~~nal revenue code has been satisfied]~~ coverage may be subject to the
12 plan's annual deductible.

13 § 8. Subparagraph (F) of paragraph 1 of subsection (p) of section 4303
14 of the insurance law, as amended by chapter 424 of the laws of 2024, is
15 amended to read as follows:

16 (F) The coverage required in this paragraph or paragraph two of this
17 subsection shall not be subject to annual deductibles or coinsurance. If
18 under federal law, application of this requirement would result in
19 health savings account ineligibility under 26 USC 223, this requirement
20 shall apply for health savings account-qualified high deductible health
21 plans with respect to the deductible of such a plan after the enrollee
22 has satisfied the [minimum] plan deductible [~~under 26 USC 223~~], except
23 for with respect to items or services that are preventive care pursuant
24 to 26 USC 223(c)(2)(C), in which case the requirements of this paragraph
25 shall apply regardless of whether the [minimum] plan deductible [~~under~~
26 ~~26 USC 223~~] has been satisfied.

27 § 9. Subsection (tt) of section 4303 of the insurance law, as amended
28 by chapter 117 of the laws of 2023, is amended to read as follows:

29 (tt) Every contract issued by a medical expense indemnity corporation,
30 hospital service corporation, or health service corporation that
31 provides coverage for a prescription drug shall apply any third-party
32 payments, financial assistance, discount, voucher or other price
33 reduction instrument for out-of-pocket expenses made on behalf of an
34 insured individual for the cost of prescription drugs to the insured's
35 deductible, copayment, coinsurance, out-of-pocket maximum, or any other
36 cost-sharing requirement when calculating such insured individual's
37 overall contribution to any out-of-pocket maximum or any cost-sharing
38 requirement. If under federal law, application of this requirement would
39 result in health savings account ineligibility under 26 USC 223, this
40 requirement shall apply for health savings account-qualified high deduc-
41 tible health plans with respect to the deductible of such a plan after
42 the enrollee has satisfied the [minimum] plan deductible [~~under 26 USC~~
43 ~~223~~], except for with respect to items or services that are preventive
44 care pursuant to 26 USC 223(c)(2)(C), in which case the requirements of
45 this paragraph shall apply regardless of whether the [minimum] plan
46 deductible [~~under 26 USC 223~~] has been satisfied. This subsection only
47 applies to a prescription drug that is either (A) a brand-name drug
48 without an AB rated generic equivalent, as determined by the United
49 States Food and Drug Administration; or (B) a brand-name drug with an AB
50 rated generic equivalent, as determined by the United States Food and
51 Drug Administration, and the insured has access to the brand-name drug
52 through prior authorization by the insurer or through the insurer's
53 appeal process, including any step-therapy process; or (C) a generic
54 drug the insurer will cover, with or without prior authorization or an
55 appeal process.

1 § 10. Section 4 of a chapter of the laws of 2025 amending the insur-
2 ance law relating to high deductible health plans and health savings
3 accounts, as proposed in legislative bills numbers S. 6895-A and A.
4 5367-A, is amended to read as follows:

5 § 4. This act shall take effect [~~immediately~~] January 1, 2027 and
6 apply to all policies and contracts issued, renewed, modified, altered,
7 or amended on or after such date.

8 § 11. This act shall take effect immediately; provided, however,
9 sections one, two, three, four, five, six, seven, eight, and nine of
10 this act shall take effect on the same date and in the same manner as a
11 chapter of the laws of 2025 amending the insurance law relating to high
12 deductible health plans and health savings accounts, as proposed in
13 legislative bills numbers S. 6895-A and A. 5367-A, takes effect.