S T A T E O F N E W Y O R K

5182

2009-2010 Regular Sessions

I N A S S E M B L Y

February 10, 2009

Introduced by M. of A. P. RIVERA -- Multi-Sponsored by -- M. of A. EDDINGTON -- read once and referred to the Committee on Health

AN ACT to amend the public health law and the education law, in relation to the dispensing of three month supplies of drugs to treat chronic illnesses and conditions; and to amend the insurance law, in relation to requiring insurers to provide coverage of such three months supplies in the same manner coverage is provided for other prescriptions

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 5 of section 3331 of the public health law, as amended by chapter 965 of the laws of 1974, is amended to read as follows:

5. No more than a thirty day supply [or, pursuant to regulations of the commissioner enumerating conditions warranting specified greater supplies,] AND no more than a three month supply of a schedule II, III or IV substance USED TO TREAT OR ALLEVIATE ANY CHRONIC ILLNESS OR CONDITION DESIGNATED BY THE COMMISSIONER, as determined by the directed dosage and frequency of dosage, may be dispensed by an authorized practitioner at one time.

S 2. Subdivision 3 of section 3332 of the public health law, as amended by section 7 of part A of chapter 58 of the laws of 2004, is amended to read as follows:

3. No such prescription shall be made for a quantity of controlled substances which would exceed a thirty day supply if the controlled substance were used in accordance with the directions for use specified on the prescription. A practitioner may, however, issue a prescription for up to a three month supply of a controlled substance provided that the controlled substance has been prescribed to treat [one] OR ALLEVIATE ANY of the CHRONIC ILLNESSES OR conditions that [have] HAS been [enumerated] DESIGNATED by the commissioner pursuant to regulations [as

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

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warranting the prescribing of greater than a thirty day supply of a controlled substance] and that the practitioner specifies the condition on the face of the prescription. No additional prescriptions for a controlled substance may be issued by a practitioner to an ultimate user within thirty days of the date of any prescription previously issued unless and until the ultimate user has exhausted all but a seven day supply of the controlled substance provided by any previously issued prescription. A practitioner may, however, issue a prescription for up to a six month supply of any substance listed in subdivision (h) of Schedule II of section three thousand three hundred six of this article provided that such substance has been prescribed to treat one of the conditions that have been enumerated by the commissioner pursuant to regulations as warranting the prescribing of a six month supply and that the practitioner specifies the condition on the face of the prescription.

S 3. Subdivision 1 of section 3333 of the public health law, as amended by section 8 of part A of chapter 58 of the laws of 2004, is amended to read as follows:

1. A licensed pharmacist may, in good faith and in the course of his or her professional practice, sell and dispense to an ultimate user controlled substances only upon the delivery of an official New York state prescription to such pharmacist, within thirty days of the date such prescription was signed by an authorized practitioner; provided, however, a pharmacist may dispense a part or portion of such prescription in accordance with regulations of the commissioner in consultation with the commissioner of education. No pharmacy or pharmacist [may] SHALL sell or dispense greater than a thirty day supply of a controlled substance to an ultimate user unless and until the ultimate user has exhausted all but a seven day supply of the controlled substance provided pursuant to any previously issued prescription, except that a pharmacy or pharmacist may sell or dispense up to a three month supply of a controlled substance if there appears, on the face of the official New York state prescription, a statement that the controlled substance has been prescribed to treat [one] ANY of the CHRONIC ILLNESSES OR conditions that [have] HAS been [enumerated] DESIGNATED by the regulations of the commissioner [as warranting the prescribing of greater than a thirty day supply of a controlled substance]. A pharmacy or pharmacist may sell or dispense up to a six month supply of any substance listed in subdivision (h) of Schedule II of section three thousand three hundred six of this article if there appears, on the face of the official New York state prescription, a statement that the substance has been prescribed to treat one of the conditions that have been enumerated by the regulations of the commissioner as warranting the prescribing of a specified greater supply.

S 4. Subdivision 2 of section 3339 of the public health law, as amended by section 13 of part A of chapter 58 of the laws of 2004, is amended to read as follows:

2. A prescription, except for a schedule II controlled substance or those schedule III or schedule IV controlled substances which the commissioner may require by regulation may be refilled not more than the number of times specifically authorized by the prescriber upon the prescription, provided however no such authorization shall be effective for a period greater than six months from the date the prescription is signed. In the event that the prescription authorizes the dispensing of more than a thirty day supply of schedule III, schedule IV or schedule V substances pursuant to regulations of the commissioner [enumerating]

DESIGNATING CHRONIC ILLNESSES OR conditions warranting specified greater supplies, the prescription may be refilled only once.

S 5. Section 6810 of the education law is amended by adding a new subdivision 5-a to read as follows:

5-A. A PRESCRIPTION MAY BE WRITTEN FOR A QUANTITY OF A DRUG NECESSARY FOR A THREE MONTH SUPPLY THEREOF IF SUCH DRUG WAS USED IN ACCORDANCE WITH THE DIRECTIONS FOR USE SPECIFIED ON THE PRESCRIPTION, WHEN SUCH DRUG HAS BEEN PRESCRIBED TO TREAT OR ALLEVIATE ANY OF THE CHRONIC ILLNESSES OR CONDITIONS THAT HAVE BEEN DESIGNATED BY THE COMMISSIONER OF HEALTH PURSUANT TO REGULATIONS.

S 6. Subsection (i) of section 3216 of the insurance law is amended by adding a new paragraph 26 to read as follows:

(26) NO POLICY WHICH PROVIDES COVERAGE FOR PRESCRIPTION DRUGS SHALL PROVIDE FOR A LOWER RATE OF REIMBURSEMENT, IMPOSE A HIGHER DEDUCTIBLE OR IMPOSE A HIGHER CO-PAYMENT FOR COVERAGE OF THE FILLING OF ANY PRESCRIPTION FOR A THREE MONTH SUPPLY OF ANY PRESCRIPTION DRUG PRESCRIBED TO TREAT OR ALLEVIATE ANY CHRONIC ILLNESS OR CONDITION DESIGNATED BY THE COMMISSIONER OF HEALTH AS AN ILLNESS OR CONDITION FOR WHICH A THREE MONTH SUPPLY OF DRUGS MAY BE PRESCRIBED.

S 7. Subsection (k) of section 3221 of the insurance law is amended by adding a new paragraph 15 to read as follows:

(15) NO POLICY WHICH PROVIDES COVERAGE FOR PRESCRIPTION DRUGS SHALL PROVIDE FOR A LOWER RATE OF REIMBURSEMENT, IMPOSE A HIGHER DEDUCTIBLE OR IMPOSE A HIGHER CO-PAYMENT FOR COVERAGE OF THE FILLING OF ANY PRESCRIPTION FOR A THREE MONTH SUPPLY OF ANY PRESCRIPTION DRUG PRESCRIBED TO TREAT OR ALLEVIATE ANY CHRONIC ILLNESS OR CONDITION DESIGNATED BY THE COMMISSIONER OF HEALTH AS AN ILLNESS OR CONDITION FOR WHICH A THREE MONTH SUPPLY OF DRUGS MAY BE PRESCRIBED.

S 8. Section 4303 of the insurance law is amended by adding a new subsection (ff) to read as follows:

(FF) NO CONTRACT ISSUED BY A MEDICAL EXPENSE INDEMNITY CORPORATION, A HOSPITAL SERVICE CORPORATION OR A HEALTH SERVICE CORPORATION WHICH PROVIDES COVERAGE FOR PRESCRIPTION DRUGS SHALL PROVIDE FOR A LOWER RATE OF REIMBURSEMENT, IMPOSE A HIGHER DEDUCTIBLE OR IMPOSE A HIGHER CO-PAYMENT FOR COVERAGE OF THE FILLING OF ANY PRESCRIPTION FOR A THREE MONTH SUPPLY OF ANY PRESCRIPTION DRUG PRESCRIBED TO TREAT OR ALLEVIATE ANY CHRONIC ILLNESS OR CONDITION DESIGNATED BY THE COMMISSIONER OF HEALTH AS AN ILLNESS OR CONDITION FOR WHICH A THREE MONTH SUPPLY OF DRUGS MAY BE PRESCRIBED.

S 9. This act shall take effect on the one hundred eightieth day after it shall have become a law, and sections six, seven and eight of this act shall apply to policies issued, renewed or amended on or after such effective date; provided that any rules and regulations necessary to implement the provisions of this act on its effective date are authorized and directed to be promulgated, amended and/or rescinded on or before such date.