

3835

2009-2010 Regular Sessions

I N   S E N A T E

April 2, 2009

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

AN ACT to amend the public health law and the social services law, in relation to medicaid payment for co-payments due under Medicare Part D

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

1     Section 1. Subdivision 7 of section 273 of the public health law, as  
2     amended by section 7 of part C of chapter 58 of the laws of 2008, is  
3     amended to read as follows:  
4     7. No prior authorization under the preferred drug program shall be  
5     required when a prescriber prescribes a drug on the preferred drug list,  
6     OR WHEN MEDICAL ASSISTANCE PAYMENT IS MADE, UNDER PARAGRAPH (G) OF  
7     SUBDIVISION TWO OF SECTION THREE HUNDRED SIXTY-FIVE-A OF THE SOCIAL  
8     SERVICES LAW SOLELY FOR THE CO-PAYMENT FOR PRESCRIPTIONS PROVIDED UNDER  
9     PART D OF TITLE XVIII OF THE FEDERAL SOCIAL SECURITY ACT; provided,  
10    however, that the commissioner may identify [such] a drug for which  
11    prior authorization is required pursuant to the provisions of the clinical  
12    drug review program established under section two hundred seventy-  
13    four of this article.  
14    S 2. Subparagraph (ii) of paragraph (f) of subdivision 6 of section  
15    367-a of the social services law, as amended by section 42 of part C of  
16    chapter 58 of the laws of 2005, is amended to read as follows:  
17    (ii) In the year commencing April first, two thousand five and for  
18    each year thereafter, no recipient shall be required to pay more than a  
19    total of two hundred dollars in co-payments, INCLUDING THOSE required by  
20    this subdivision[, nor] AND, FOR RECIPIENTS ELIGIBLE FOR COVERAGE UNDER  
21    PART D OF TITLE XVIII OF THE FEDERAL SOCIAL SECURITY ACT (REFERRED TO IN  
22    THIS SECTION AS "MEDICARE PART D"), THOSE CO-PAYMENTS REQUIRED BY MEDICARE  
23    PART D. NOR shall reductions in payments as a result of such  
24    co-payments exceed two hundred dollars for any recipient. THE COMMISSIONER  
25    OF HEALTH SHALL CREATE A SYSTEM TO INCORPORATE CO-PAYMENTS BILLED  
26    TO A RECIPIENT UNDER MEDICARE PART D TOWARDS THE RECIPIENT'S TOTAL ANNUAL  
27    CO-PAYMENTS UNDER MEDICAL ASSISTANCE. AS PART OF THIS SYSTEM, PHARMACISTS  
28    SHALL RECORD ALL CO-PAYMENTS DUE UNDER MEDICARE PART D FROM SUCH

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

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1 RECIPIENTS WITH THE MEDICAL ASSISTANCE PROGRAM, THROUGH THE MEDICAL  
2 ASSISTANCE ELECTRONIC BILLING SYSTEM. THE COMMISSIONER OF HEALTH SHALL  
3 INCLUDE THE CO-PAYMENTS BILLED UNDER MEDICARE PART D ALONG WITH THE  
4 CO-PAYMENTS REQUIRED UNDER THIS SUBDIVISION IN DETERMINING WHEN THE  
5 RECIPIENT'S TOTAL ANNUAL CO-PAYMENTS HAVE REACHED TWO HUNDRED DOLLARS.

6 S 3. Paragraph (g) of subdivision 2 of section 365-a of the social  
7 services law, as amended by section 1 of part F of chapter 497 of the  
8 laws of 2008, is amended to read as follows:

9 (g) sickroom supplies, eyeglasses, prosthetic appliances and dental  
10 prosthetic appliances furnished in accordance with the regulations of  
11 the department, provided that the commissioner of health is authorized  
12 to implement a preferred diabetic supply program wherein the department  
13 of health will receive enhanced rebates from preferred manufacturers of  
14 glucometers and test strips, and may subject non-preferred manufactur-  
15 ers' glucometers and test strips to prior authorization under section  
16 two hundred seventy-three of the public health law; drugs provided on an  
17 in-patient basis, those drugs contained on the list established by regu-  
18 lation of the commissioner of health pursuant to subdivision four of  
19 this section, AND, FOR RECIPIENTS ELIGIBLE FOR COVERAGE UNDER PART D OF  
20 TITLE XVIII OF THE FEDERAL SOCIAL SECURITY ACT (REFERRED TO IN THIS  
21 SECTION AS "MEDICARE PART D"), PAYMENT OF THE CO-PAYMENT FOR DRUGS  
22 PROVIDED BY A MEDICARE PART D PLAN, AFTER THE INDIVIDUAL HAS REACHED THE  
23 ANNUAL CAP ON CO-PAYMENTS AS DEFINED IN SUBPARAGRAPH (II) OF PARAGRAPH  
24 (F) OF SUBDIVISION SIX OF SECTION THREE HUNDRED SIXTY-SEVEN-A OF THIS  
25 TITLE, and those drugs which may not be dispensed without a prescription  
26 as required by section sixty-eight hundred ten of the education law and  
27 which the commissioner of health shall determine to be reimbursable  
28 based upon such factors as the availability of such drugs or alterna-  
29 tives at low cost if purchased by a medicaid recipient, or the essential  
30 nature of such drugs as described by such commissioner in regulations,  
31 provided, however, that such drugs, exclusive of long-term maintenance  
32 drugs, shall be dispensed in quantities no greater than a thirty day  
33 supply or one hundred doses, whichever is greater; provided further that  
34 the commissioner of health is authorized to require prior authorization  
35 for any refill of a prescription when less than seventy-five percent of  
36 the previously dispensed amount per fill should have been used were the  
37 product used as normally indicated; medical assistance shall not include  
38 any drug provided on other than an in-patient basis for which a recipi-  
39 ent is charged or a claim is made in the case of a prescription drug, in  
40 excess of the maximum reimbursable amounts to be established by depart-  
41 ment regulations in accordance with standards established by the secre-  
42 tary of the United States department of health and human services, or,  
43 in the case of a drug not requiring a prescription, in excess of the  
44 maximum reimbursable amount established by the commissioner of health  
45 pursuant to paragraph (a) of subdivision four of this section;

46 S 4. This act shall take effect on the first of April next succeeding  
47 the date on which it shall have become a law; provided, however, that  
48 the amendments to subdivision 7 of section 273 of the public health law  
49 made by section one of this act shall not affect the repeal of such  
50 section and shall be deemed repealed therewith; and provided, further,  
51 that the amendments to subparagraph (ii) of paragraph (f) of subdivision  
52 6 of section 367-a of the social services law made by section two of  
53 this act shall not affect the repeal of such paragraph and shall be  
54 deemed repealed therewith.