

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

4131

2009-2010 Regular Sessions

I N A S S E M B L Y

January 30, 2009

Introduced by M. of A. RAMOS -- Multi-Sponsored by -- M. of A. BENEDET-
TO, COOK, DIAZ, FIELDS, GREENE, LAVINE, MCENENY, PHEFFER, WEISENBERG
-- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to coverage for single
source drugs

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

1 Section 1. Subsection (i) of section 3216 of the insurance law is
2 amended by adding a new paragraph 26 to read as follows:
3 (26) EVERY INDIVIDUAL OR BLANKET POLICY DELIVERED OR ISSUED FOR DELIV-
4 ERY IN THIS STATE PROVIDING COVERAGE FOR PRESCRIPTION DRUGS THROUGH THE
5 USE OF A DRUG FORMULARY SHALL INCLUDE A PROVISION WHICH, IN THE EVENT OF
6 A CHANGE TO SUCH FORMULARY, ALLOWS A COVERED PERSON WHO IS TAKING A
7 SINGLE SOURCE DRUG COVERED UNDER SUCH POLICY THAT IS NO LONGER INCLUDED
8 IN OR PREFERRED UNDER SUCH FORMULARY AND HAS FILED A GRIEVANCE OR AN
9 APPEAL OF THE DENIAL OF ACCESS TO THE DRUG WITH THE INSURER OR A STATE
10 OR FEDERAL AGENCY OR DESIGNEE OF SUCH AGENCY, TO CONTINUE RECEIVING
11 COVERAGE FOR SUCH DRUG UNDER THE SAME TERMS AND CONDITIONS AS WOULD
12 APPLY UNDER THE POLICY WERE SUCH DRUG STILL INCLUDED IN OR PREFERRED
13 UNDER THE FORMULARY, UNTIL A FINAL DECISION IS RENDERED ON THE APPEAL OR
14 GRIEVANCE. FOR THE PURPOSE OF THIS PARAGRAPH, "SINGLE SOURCE DRUG" MEANS
15 A BRANDNAME DRUG FOR WHICH THERE IS NO GENERIC EQUIVALENT.
16 S 2. Subsection (k) of section 3221 of the insurance law is amended by
17 adding a new paragraph 15 to read as follows:
18 (15) EVERY GROUP OR BLANKET POLICY DELIVERED OR ISSUED FOR DELIVERY IN
19 THIS STATE PROVIDING COVERAGE FOR PRESCRIPTION DRUGS THROUGH THE USE OF
20 A DRUG FORMULARY SHALL INCLUDE A PROVISION WHICH, IN THE EVENT OF A
21 CHANGE TO SUCH FORMULARY, ALLOWS A COVERED PERSON WHO IS TAKING A SINGLE
22 SOURCE DRUG COVERED UNDER SUCH POLICY THAT IS NO LONGER INCLUDED IN OR
23 PREFERRED UNDER SUCH FORMULARY AND HAS FILED A GRIEVANCE OR AN APPEAL OF
24 THE DENIAL OF ACCESS TO THE DRUG WITH THE INSURER OR A STATE OR FEDERAL

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

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1 AGENCY OR DESIGNEE OF SUCH AGENCY, TO CONTINUE RECEIVING COVERAGE FOR
2 SUCH DRUG UNDER THE SAME TERMS AND CONDITIONS AS WOULD APPLY UNDER THE
3 POLICY WERE SUCH DRUG STILL INCLUDED IN OR PREFERRED UNDER THE FORMU-
4 LARY, UNTIL A FINAL DECISION IS RENDERED ON THE APPEAL OR GRIEVANCE. FOR
5 THE PURPOSE OF THIS PARAGRAPH, "SINGLE SOURCE DRUG" MEANS A BRANDNAME
6 DRUG FOR WHICH THERE IS NO GENERIC EQUIVALENT.

7 S 3. Section 4303 of the insurance law is amended by adding a new
8 subsection (ff) to read as follows:

9 (FF) EVERY CONTRACT DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE
10 PROVIDING COVERAGE FOR PRESCRIPTION DRUGS THROUGH THE USE OF A DRUG
11 FORMULARY SHALL INCLUDE A PROVISION WHICH, IN THE EVENT OF A CHANGE TO
12 SUCH FORMULARY, ALLOWS A COVERED PERSON WHO IS TAKING A SINGLE SOURCE
13 DRUG COVERED UNDER SUCH CONTRACT THAT IS NO LONGER INCLUDED IN OR
14 PREFERRED UNDER SUCH FORMULARY AND HAS FILED A GRIEVANCE OR AN APPEAL OF
15 THE DENIAL OF ACCESS TO THE DRUG WITH THE INSURER CORPORATION OR ORGAN-
16 IZATION CERTIFIED PURSUANT TO ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH
17 LAW OR A STATE OR FEDERAL AGENCY OR DESIGNEE OF SUCH AGENCY, TO CONTINUE
18 RECEIVING COVERAGE FOR SUCH DRUG UNDER THE SAME TERMS AND CONDITIONS AS
19 WOULD APPLY UNDER THE CONTRACT WERE SUCH DRUG STILL INCLUDED IN OR
20 PREFERRED UNDER THE FORMULARY, UNTIL A FINAL DECISION IS RENDERED ON THE
21 APPEAL OR GRIEVANCE. FOR THE PURPOSE OF THIS SUBSECTION, "SINGLE SOURCE
22 DRUG" MEANS A BRANDNAME DRUG FOR WHICH THERE IS NO GENERIC EQUIVALENT.

23 S 4. This act shall take effect on the first of the calendar month
24 next succeeding the sixtieth day after it shall have become a law;
25 provided, however, that this act shall apply only to policies and
26 contracts issued, renewed or amended on or after such effective date.