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2009-2010 Regular Sessions

I N A S S E M B L Y

February 19, 2009

Introduced by M. of A. ENGLEBRIGHT, CAHILL, JAFFEE, MILLMAN, PHEFFER, SCHROEDER, ROSENTHAL, DINOWITZ, GABRYSZAK, BENEDETTO, EDDINGTON, STIRPE, DeLMONTE, PERRY, GUNTHER, ROBINSON, COLTON, GALEF, JOHN, V. LOPEZ, CARROZZA, MAISEL -- Multi-Sponsored by -- M. of A. ABBATE, BOYLAND, BRENNAN, CHRISTENSEN, COOK, DESTITO, HYER-SPENCER, JACOBS, KOON, McENENY, PEOPLES, SWEENEY, TOWNS, WEISENBERG -- read once and referred to the Committee on Health

AN ACT to amend the elder law and the social services law, in relation to payments for multiple source prescription drugs

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

1 Section 1. Subparagraph 2 of paragraph (a) of subdivision 1 of
2 section 250 of the elder law, as amended by section 6-a of part A of
3 chapter 58 of the laws of 2008, is amended to read as follows:
4 (2) The upper limit, if any, set by the centers for medicare and medi-
5 caid services for such multiple source drug AND THE DEPARTMENT OF HEALTH
6 TOGETHER WITH THE PHARMACY ADVISORY COMMITTEE SHALL DETERMINE THE IMPACT
7 OF SUCH UPPER LIMIT PAYMENTS FOR DRUGS IMPLEMENTED UNDER THE DEFICIT
8 REDUCTION ACT OF 2005 AND SHALL REPORT TO THE DIRECTOR OF THE DIVISION
9 OF THE BUDGET, SECRETARY OF THE SENATE FINANCE COMMITTEE AND SECRETARY
10 OF THE ASSEMBLY WAYS AND MEANS COMMITTEE ON SUCH IMPACT AND SHALL ADJUST
11 PHARMACY DISPENSING FEES FOR MULTIPLE SOURCE PRESCRIPTION DRUGS TO
12 COMPENSATE FOR ANY REDUCTION AS A RESULT OF THE UPPER LIMITS IMPLEMENTED
13 UNDER THE DEFICIT REDUCTION ACT OF 2005 AT SUCH TIME THAT THE NEW UPPER
14 LIMITS ARE IMPLEMENTED, or
15 S 2. Subparagraph (i) of paragraph (b) of subdivision 9 of section
16 367-a of the social services law, as amended by section 10 of part C of
17 chapter 58 of the laws of 2008, is amended to read as follows:
18 (i) if the drug dispensed is a multiple source prescription drug for
19 which an upper limit has been set by the federal centers for medicare
20 and medicaid services, the lower of: (A) an amount equal to the specific

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

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1 upper limit set by such federal agency for the multiple source
2 prescription drug; (B) the estimated acquisition cost of such drug to
3 pharmacies which, for purposes of this subparagraph, shall mean the
4 average wholesale price of a prescription drug based on the package size
5 dispensed from, as reported by the prescription drug pricing service
6 used by the department, less twenty-five percent thereof; (C) the maxi-
7 mum acquisition cost, if any, established pursuant to paragraph (e) of
8 this subdivision; or (D) the dispensing pharmacy's usual and customary
9 price charged to the general public, and THE DEPARTMENT OF HEALTH
10 TOGETHER WITH THE PHARMACY ADVISORY COMMITTEE SHALL DETERMINE THE IMPACT
11 OF SUCH UPPER LIMIT PAYMENTS FOR DRUGS IMPLEMENTED UNDER THE DEFICIT
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17 UNDER THE DEFICIT REDUCTION ACT OF 2005 AT SUCH TIME THAT THE NEW UPPER
18 LIMITS ARE IMPLEMENTED, AND

19 S 3. This act shall take effect immediately provided, however, that
20 the amendments to subdivision 9 of section 367-a of the social services
21 law, made by section two of this act, shall not affect the expiration
22 and reversion of such subdivision pursuant to section 4 of chapter 19 of
23 the laws of 1998, as amended, and shall be deemed to expire therewith.