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

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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:

Section 1. Subparagraph 2 of paragraph (a) of subdivision 1 of section 250 of the elder law, as amended by section 6-a of part A of chapter 58 of the laws of 2008, is amended to read as follows:

(2) The upper limit, if any, set by the centers for medicare and medicaid services for such multiple source drug AND THE DEPARTMENT OF HEALTH TOGETHER WITH THE PHARMACY ADVISORY COMMITTEE SHALL DETERMINE THE IMPACT OF SUCH UPPER LIMIT PAYMENTS FOR DRUGS IMPLEMENTED UNDER THE DEFICIT REDUCTION ACT OF 2005 AND SHALL REPORT TO THE DIRECTOR OF THE DIVISION OF THE BUDGET, SECRETARY OF THE SENATE FINANCE COMMITTEE AND SECRETARY OF THE ASSEMBLY WAYS AND MEANS COMMITTEE ON SUCH IMPACT AND SHALL ADJUST PHARMACY DISPENSING FEES FOR MULTIPLE SOURCE PRESCRIPTION DRUGS TO COMPENSATE FOR ANY REDUCTION AS A RESULT OF THE UPPER LIMITS IMPLEMENTED UNDER THE DEFICIT REDUCTION ACT OF 2005 AT SUCH TIME THAT THE NEW UPPER LIMITS ARE IMPLEMENTED, or

S 2. Subparagraph (i) of paragraph (b) of subdivision 9 of section 367-a of the social services law, as amended by section 10 of part C of chapter 58 of the laws of 2008, is amended to read as follows:

(i) if the drug dispensed is a multiple source prescription drug for which an upper limit has been set by the federal centers for medicare 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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upper limit set by such federal agency for the multiple source prescription drug; (B) the estimated acquisition cost of such drug to pharmacies which, for purposes of this subparagraph, shall mean the average wholesale price of a prescription drug based on the package size dispensed from, as reported by the prescription drug pricing service used by the department, less twenty-five percent thereof; (C) the maximum acquisition cost, if any, established pursuant to paragraph (e) of this subdivision; or (D) the dispensing pharmacy's usual and customary price charged to the general public, and THE DEPARTMENT OF HEALTH TOGETHER WITH THE PHARMACY ADVISORY COMMITTEE SHALL DETERMINE THE IMPACT OF SUCH UPPER LIMIT PAYMENTS FOR DRUGS IMPLEMENTED UNDER THE DEFICIT REDUCTION ACT OF 2005 AND SHALL REPORT TO THE DIRECTOR OF THE DIVISION OF THE BUDGET, SECRETARY OF THE SENATE FINANCE COMMITTEE AND SECRETARY OF THE ASSEMBLY WAYS AND MEANS COMMITTEE ON SUCH IMPACT AND SHALL ADJUST PHARMACY DISPENSING FEES FOR MULTIPLE SOURCE PRESCRIPTION DRUGS TO COMPENSATE FOR ANY REDUCTION AS A RESULT OF THE UPPER LIMITS IMPLEMENTED UNDER THE DEFICIT REDUCTION ACT OF 2005 AT SUCH TIME THAT THE NEW UPPER LIMITS ARE IMPLEMENTED, AND

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