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

7408--A

Cal. No. 482

I N S E N A T E

April 8, 2010

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the insurance law, in relation to insurance coverage for drugs used in cancer treatment

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

Section 1. Paragraph 12 of subsection (i) of section 3216 of the insurance law, as added by chapter 853 of the laws of 1990, is amended to read as follows:

(12) (A) Every policy which provides coverage for prescribed drugs approved by the food and drug administration of the United States government for the treatment of certain types of cancer shall not exclude coverage of any such drug on the basis that such drug has been prescribed for the treatment of a type of cancer for which the drug has not been approved by the food and drug administration. Provided, however, that such drug must be recognized for treatment of the specific type of cancer for which the drug has been prescribed in one of the following established reference compendia:

[(i) the American Medical Association Drug Evaluations;

(ii) the American Hospital Formulary Service Drug Information; or

(iii) the United States Pharmacopeia Drug Information; or recommended by review article or editorial comment in a major peer reviewed professional journal.]

(I) THE AMERICAN HOSPITAL FORMULARY SERVICE-DRUG INFORMATION (AHFS-DI);

(II) NATIONAL COMPREHENSIVE CANCER NETWORKS DRUGS AND BIOLOGICS COMPENDIUM;

(III) THOMSON MICROMEDEX DRUGDEX;

(IV) ELSEVIER GOLD STANDARD'S CLINICAL PHARMACOLOGY; OR OTHER AUTHORITATIVE COMPENDIA AS IDENTIFIED BY THE FEDERAL SECRETARY OF HEALTH AND HUMAN SERVICES OR THE CENTERS FOR MEDICARE & MEDICAID SERVICES (CMS); OR

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

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RECOMMENDED BY REVIEW ARTICLE OR EDITORIAL COMMENT IN A MAJOR PEER REVIEWED PROFESSIONAL JOURNAL.

(B) Notwithstanding the provisions of this paragraph, coverage shall not be required for any experimental or investigational drugs or any drug which the food and drug administration has determined to be contraindicated for treatment of the specific type of cancer for which the drug has been prescribed. The provisions of this paragraph shall apply to cancer drugs only and nothing herein shall be construed to create, impair, alter, limit, modify, enlarge, abrogate or prohibit reimbursement for drugs used in the treatment of any other disease or condition.

S 2. Paragraph 12 of subsection (1) of section 3221 of the insurance law, as added by chapter 853 of the laws of 1990, is amended to read as follows:

(12) (A) Every insurer delivering a group or blanket policy or issuing a group or blanket policy for delivery in this state which provides coverage for prescribed drugs approved by the food and drug administration of the United States government for the treatment of certain types of cancer shall not exclude coverage of any such drug on the basis that such drug has been prescribed for the treatment of a type of cancer for which the drug has not been approved by the food and drug administration. Provided, however, that such drug must be recognized for treatment of the specific type of cancer for which the drug has been prescribed in one of the following established reference compendia:

[(i) the American Medical Association Drug Evaluations;

(ii) the American Hospital Formulary Service Drug Information; or

(iii) the United States Pharmacopeia Drug Information; or recommended by review article or editorial comment in a major peer reviewed professional journal.]

(I) THE AMERICAN HOSPITAL FORMULARY SERVICE-DRUG INFORMATION (AHFS-DI);

(II) NATIONAL COMPREHENSIVE CANCER NETWORKS DRUGS AND BIOLOGICS COMPENDIUM;

(III) THOMSON MICROMEDEX DRUGDEX;

(IV) ELSEVIER GOLD STANDARD'S CLINICAL PHARMACOLOGY; OR OTHER AUTHORITATIVE COMPENDIA AS IDENTIFIED BY THE FEDERAL SECRETARY OF HEALTH AND HUMAN SERVICES OR THE CENTERS FOR MEDICARE & MEDICAID SERVICES (CMS); OR RECOMMENDED BY REVIEW ARTICLE OR EDITORIAL COMMENT IN A MAJOR PEER REVIEWED PROFESSIONAL JOURNAL.

(B) Notwithstanding the provisions of this paragraph, coverage shall not be required for any experimental or investigational drugs or any drug which the food and drug administration has determined to be contraindicated for treatment of the specific type of cancer for which the drug has been prescribed. The provisions of this paragraph shall apply to cancer drugs only and nothing herein shall be construed to create, impair, alter, limit, modify, enlarge, abrogate or prohibit reimbursement for drugs used in the treatment of any other disease or condition.

S 3. Subsection (q) of section 4303 of the insurance law, as added by chapter 853 of the laws of 1990, is amended to read as follows:

(q) (1) Every policy issued by a medical expense indemnity corporation, a hospital service corporation or a health service corporation which provides coverage for prescribed drugs approved by the food and drug administration of the United States government for the treatment of certain types of cancer shall not exclude coverage of any such drug on the basis that such drug has been prescribed for the treatment of a type

of cancer for which the drug has not been approved by the food and drug administration. Provided, however, that such drug must be recognized for treatment of the specific type of cancer for which the drug has been prescribed in one of the following established reference compendia:

[(i) the American Medical Association Drug Evaluations;

(ii) the American Hospital Formulary Service Drug Information; or

(iii) the United States Pharmacopeia Drug Information; or recommended by review article or editorial comment in a major peer reviewed professional journal.]

(I) THE AMERICAN HOSPITAL FORMULARY SERVICE-DRUG INFORMATION (AHFS-DI);

(II) NATIONAL COMPREHENSIVE CANCER NETWORKS DRUGS AND BIOLOGICS COMPENDIUM;

(III) THOMSON MICROMEDEX DRUGDEX;

(IV) ELSEVIER GOLD STANDARD'S CLINICAL PHARMACOLOGY; OR OTHER AUTHORITATIVE COMPENDIA AS IDENTIFIED BY THE FEDERAL SECRETARY OF HEALTH AND HUMAN SERVICES OR THE CENTERS FOR MEDICARE & MEDICAID SERVICES (CMS); OR RECOMMENDED BY REVIEW ARTICLE OR EDITORIAL COMMENT IN A MAJOR PEER REVIEWED PROFESSIONAL JOURNAL.

(2) Notwithstanding the provisions of this subsection, coverage shall not be required for any experimental or investigational drugs or any drug which the food and drug administration has determined to be contraindicated for treatment of the specific type of cancer for which the drug has been prescribed. The provisions of this subsection shall apply to cancer drugs only and nothing herein shall be construed to create, impair, alter, limit, modify, enlarge, abrogate or prohibit reimbursement for drugs used in the treatment of any other disease or condition.

S 4. Subsection (g-5) of section 4900 of the insurance law, as added by chapter 586 of the laws of 1998, is amended to read as follows:

(g-5) "Medical and scientific evidence" means the following sources:

(1) peer-reviewed scientific studies published in, or accepted for publication by, medical journals that meet nationally recognized requirements for scientific manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff;

(2) peer-reviewed medical literature, including literature relating to therapies reviewed and approved by a qualified institutional review board, biomedical compendia and other medical literature that meet the criteria of the National Institute of Health's National Library of Medicine for indexing in Index Medicus, Excerpta Medicus, Medline and MEDLARS database Health Services Technology Assessment Research;

(3) peer-reviewed abstracts accepted for presentation at major medical association meetings;

(4) peer-reviewed literature shall not include publications or supplements to publications sponsored to a significant extent by a pharmaceutical manufacturing company or medical device manufacturer;

(5) medical journals recognized by the secretary of Health and Human Services, under section 1861 (t)(2) of the federal Social Security Act;

(6) the following standard reference compendia:

(A) the American Hospital Formulary Service - Drug Information;

(B) [the American Medical Association Drug Evaluation;] THE NATIONAL COMPREHENSIVE CANCER NETWORK'S DRUGS AND BIOLOGICS COMPENDIUM;

(C) the American Dental Association Accepted Dental Therapeutics; [and

(D) the United States Pharmacopeia - Drug Information;] (D) THOMSON MICROMEDEX DRUGDEX;

(E) ELSEVIER GOLD STANDARD'S CLINICAL PHARMACOLOGY; OR OTHER AUTHORITATIVE COMPENDIA AS IDENTIFIED BY THE FEDERAL SECRETARY OF HEALTH AND HUMAN SERVICES OR THE CENTERS FOR MEDICARE & MEDICAID SERVICES (CMS); OR RECOMMENDED BY REVIEW ARTICLE OR EDITORIAL COMMENT IN A MAJOR PEER REVIEWED PROFESSIONAL JOURNAL;

(7) findings, studies, or research conducted by or under the auspices of federal government agencies and nationally recognized federal research institutes including the federal Agency for Health Care Policy and Research, National Institutes of Health, National Cancer Institute, National Academy of Sciences, Health Care Financing Administration, Congressional Office of Technology Assessment, and any national board recognized by the National Institutes of Health for the purpose of evaluating the medical value of health services.

S 5. This act shall take effect on the first of January next succeeding the date on which it shall have become a law, and shall apply to all policies and contracts issued, renewed, modified, altered or amended on or after such effective date.