

S T A T E   O F   N E W   Y O R K

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1962

2011-2012 Regular Sessions

I N   A S S E M B L Y

January 12, 2011

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Introduced by M. of A. GUNTHER, PEOPLES-STOKES, JACOBS, MILLMAN, ROBIN-  
SON, PERRY, LAVINE -- Multi-Sponsored by -- M. of A. COOK, FARRELL,  
HOOPER, McENENY, N. RIVERA, SCARBOROUGH, TITUS, TOWNS, WEISENBERG --  
read once and referred to the Committee on Social Services

AN ACT to amend the social services law, in relation to establishing a  
prohibition on prior approval or preferred drug list requirements for  
certain drugs used to treat AIDS, HIV infection or hepatitis C

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

1     Section 1. The opening paragraph of subdivision 2 of section 365-a of  
2     the social services law, as amended by chapter 41 of the laws of 1992,  
3     is amended and a new subdivision 10 is added to read as follows:  
4     "Medical assistance" shall mean payment of part or all of the cost of  
5     medically necessary medical, dental and remedial care, services and  
6     supplies, as authorized in this title or the regulations of the depart-  
7     ment, which are necessary to prevent, diagnose, correct or cure condi-  
8     tions in the person that cause acute suffering, endanger life, result in  
9     illness or infirmity, interfere with such person's capacity for normal  
10    activity, or threaten some significant handicap and which are furnished  
11    an eligible person in accordance with this title and the regulations of  
12    the department. Such care, services and supplies shall include the  
13    following medical care, services and supplies, together with such  
14    medical care, services and supplies provided for in subdivisions three,  
15    four and five of this section, and such medical care, services and  
16    supplies as are authorized in the regulations of the department,  
17    NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, SUBJECT TO THE  
18    PROVISIONS OF SUBDIVISION TEN OF THIS SECTION:  
19    10. (A) UNLESS REQUIRED BY FEDERAL LAW AND REGULATION AS A CONDITION  
20    OF QUALIFYING FOR FEDERAL FINANCIAL PARTICIPATION IN THE MEDICAID  
21    PROGRAM, THE DEPARTMENT OTHERWISE NOTWITHSTANDING ANY INCONSISTENT  
22    PROVISION OF LAW, SHALL NOT RESTRICT BY PRIOR AUTHORIZATION OR PREFERRED

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

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1 DRUG LIST PROGRAM REQUIREMENT ANY PRESCRIPTION DRUG, INCLUDED IN CERTAIN  
2 THERAPEUTIC DRUG CLASSES, AS PRESCRIBED AND DETERMINED BY A PRESCRIBING  
3 PRACTITIONER LICENSED BY THE STATE, TO BE MEDICALLY NECESSARY FOR THE  
4 TREATMENT AND PREVENTION OF AIDS, HIV INFECTION, AND HEPATITIS C.

5 (B) THERAPEUTIC CLASSES CONTAINING PRESCRIPTION DRUGS WHICH SHALL BE  
6 EXCLUDED FROM ANY PRIOR AUTHORIZATION OR PREFERRED DRUG LIST PROGRAM  
7 REQUIREMENT PROVISIONS SHALL INCLUDE THE FOLLOWING:

8 (1) ANTI-RETROVIRAL MEDICATIONS, INCLUDING BUT NOT LIMITED TO PROTEASE  
9 INHIBITORS, NON-NUCLEOSIDE REVERSE TRANSCRIPTASE INHIBITORS, NUCLEOSIDE  
10 REVERSE TRANSCRIPTASE INHIBITORS, ANTI-VIRALS, AND FUSION INHIBITORS  
11 PRESCRIBED FOR THE TREATMENT OF AIDS OR HIV INFECTION.

12 (2) IMMUNOMODULATORS AND HEPATITIS C-SPECIFIC ANTIVIRAL DRUGS  
13 PRESCRIBED FOR THE TREATMENT OF HEPATITIS C.

14 S 2. Severability. If any clause, sentence, paragraph, section or part  
15 of this act shall be adjudged by any court of competent jurisdiction to  
16 be invalid and after exhaustion of all further judicial review, the  
17 judgment shall not affect, impair or invalidate the remainder thereof,  
18 but shall be confined in its operation to the clause, sentence, para-  
19 graph, section or part of this act directly involved in the controversy  
20 in which the judgment shall have been rendered.

21 S 3. This act shall take effect on the first of January next succeed-  
22 ing the date on which it shall have become a law; provided that the  
23 state commissioner of health is authorized to promulgate any and all  
24 rules and regulations and take any other measures necessary to implement  
25 this act on its effective date on or before such date.