

2339

2011-2012 Regular Sessions

I N   A S S E M B L Y

January 18, 2011

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Introduced by M. of A. SCHIMMINGER, GABRYSZAK -- Multi-Sponsored by --  
M. of A. HAWLEY, HOOPER, MAGEE, N. RIVERA -- read once and referred to  
the Committee on Health

AN ACT to amend the social services law, in relation to medicaid co-pay-  
ments for prescription drugs and other services

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

1     Section 1. Paragraph (b) of subdivision 6 of section 367-a of the  
2     social services law, as added by chapter 41 of the laws of 1992, subpar-  
3     agraph (iii) as amended by chapter 843 of the laws of 1992 and subpara-  
4     graph (iv) as amended by section 40 of part C of chapter 58 of the laws  
5     of 2005, is amended to read as follows:  
6     (b) Co-payments shall apply to all eligible persons for the services  
7     defined in paragraph (d) of this subdivision with the exception of:  
8     (i) [individuals under twenty-one years of age;  
9     (ii) pregnant women;  
10    (iii)] individuals who are inpatients in a medical facility who have  
11    been required to spend all of their income for medical care, except  
12    their personal needs allowance or residents of community based residen-  
13    tial facilities licensed by the office of mental health or the office of  
14    mental retardation and developmental disabilities who have been required  
15    to spend all of their income, except their personal needs allowance;  
16    [(iv) individuals enrolled in health maintenance organizations or  
17    other entities which provide comprehensive health services, or other  
18    managed care programs for services covered by such programs, except that  
19    such persons, other than persons otherwise exempted from co-payments  
20    pursuant to subparagraphs (i), (ii), (iii) and (v) of this paragraph,  
21    and other than those persons enrolled in a managed long term care  
22    program, shall be subject to co-payments as described in subparagraph  
23    (v) of paragraph (d) of this subdivision;] and

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

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1 [(v)] (II) any other individuals required to be excluded by federal  
2 law or regulations.

3 S 2. The opening paragraph of paragraph (d) of subdivision 6 of  
4 section 367-a of the social services law, as added by chapter 41 of the  
5 laws of 1992, is amended to read as follows:

6 Co-payments shall apply to [the following] ALL services COVERED BY  
7 THIS TITLE, EXCEPT DIAGNOSTIC SERVICES, AND SHALL BE PRE-PAID AT THE  
8 TIME WHEN SUCH SERVICES ARE RENDERED, subject to such exceptions for  
9 subcategories of these services as recognized by the commissioner OF  
10 HEALTH in regulations, provided in accordance with section three hundred  
11 sixty-five-a of this [article] TITLE and the regulations of the depart-  
12 ment, to the extent permitted by title XIX of the federal social securi-  
13 ty act:

14 S 3. The commissioner of health is authorized to promulgate or adopt  
15 any rules or regulations necessary to implement the provisions of this  
16 act and any co-payments, procedures, forms, or instructions necessary  
17 for such implementation may be adopted and issued on or after the effec-  
18 tive date of this act. Notwithstanding any inconsistent provision of the  
19 state administrative procedure act or any other provision of law, rule  
20 or regulation, the commissioner of health and the superintendent of  
21 insurance and any appropriate council are authorized to adopt or amend  
22 or promulgate on an emergency basis any regulation he or she or such  
23 council determines necessary to implement any provision of this act on  
24 its effective date.

25 S 4. This act shall take effect immediately; provided, however, that  
26 the amendments to paragraphs (b) and (d) of subdivision 6 of section  
27 367-a of the social services law made by sections one and two of this  
28 act shall not affect the repeal of such paragraphs and shall be deemed  
29 repealed therewith.