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

2339

2011-2012 Regular Sessions

I N A S S E M B L Y

January 18, 2011

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-payments for prescription drugs and other services

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

Section 1. Paragraph (b) of subdivision 6 of section 367-a of the social services law, as added by chapter 41 of the laws of 1992, subparagraph (iii) as amended by chapter 843 of the laws of 1992 and subparagraph (iv) as amended by section 40 of part C of chapter 58 of the laws of 2005, is amended to read as follows:

(b) Co-payments shall apply to all eligible persons for the services defined in paragraph (d) of this subdivision with the exception of:

(i) [individuals under twenty-one years of age;

(ii) pregnant women;

(iii)] individuals who are inpatients in a medical facility who have been required to spend all of their income for medical care, except their personal needs allowance or residents of community based residential facilities licensed by the office of mental health or the office of mental retardation and developmental disabilities who have been required to spend all of their income, except their personal needs allowance;

[(iv) individuals enrolled in health maintenance organizations or other entities which provide comprehensive health services, or other managed care programs for services covered by such programs, except that such persons, other than persons otherwise exempted from co-payments pursuant to subparagraphs (i), (ii), (iii) and (v) of this paragraph, and other than those persons enrolled in a managed long term care program, shall be subject to co-payments as described in subparagraph (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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[(v)] (II) any other individuals required to be excluded by federal law or regulations.

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

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

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

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