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

5502

2011-2012 Regular Sessions

I N A S S E M B L Y

February 22, 2011

Introduced by M. of A. HEASTIE, COLTON, ROSENTHAL -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to the purchase of prescription drugs

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

Section 1. Subsection (i) of section 3216 of the insurance law is amended by adding a new paragraph 28 to read as follows:

(28) NO POLICY WHICH PROVIDES COVERAGE FOR PRESCRIBED DRUGS SHALL MANDATE THAT THE SAME BE PURCHASED BY THE INSURED FROM A MAIL ORDER PHARMACY, NOR MAY SUCH POLICY IMPOSE A CO-PAYMENT FEE OR OTHER CONDITION ON ANY INSURED WHO ELECTS TO PURCHASE DRUGS FROM OTHER THAN A MAIL ORDER PHARMACY WHICH IS NOT ALSO IMPOSED ON INSUREDS ELECTING TO PURCHASE DRUGS FROM A DESIGNATED MAIL ORDER PHARMACY; PROVIDED, HOWEVER, THAT THE PROVISIONS OF THIS SECTION SHALL NOT SUPERSEDE THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT OR APPLY TO A POLICY THAT IS THE RESULT OF A COLLECTIVE BARGAINING AGREEMENT BETWEEN AN EMPLOYER AND A RECOGNIZED OR CERTIFIED EMPLOYEE ORGANIZATION. NOTHING IN THIS PARAGRAPH SHALL ALTER ANY PROVISIONS OF SECTIONS THIRTEEN AND THIRTEEN-O OF THE WORKERS' COMPENSATION LAW REGARDING THE PURCHASE OF PRESCRIPTION DRUGS AND THE USE OF MAIL ORDER PHARMACY.

S 2. Subsection (1) of section 3221 of the insurance law is amended by adding a new paragraph 18 to read as follows:

(18) NO 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 SHALL MANDATE THAT THE SAME BE PURCHASED BY THE INSURED FROM A MAIL ORDER PHARMACY, NOR MAY SUCH POLICY IMPOSE A CO-PAYMENT FEE OR OTHER CONDITION ON ANY INSURED WHO ELECTS TO PURCHASE DRUGS FROM OTHER THAN A MAIL ORDER PHARMACY WHICH IS NOT ALSO IMPOSED ON INSUREDS ELECTING TO PURCHASE DRUGS FROM A DESIGNATED MAIL ORDER PHARMACY; PROVIDED, HOWEVER, THAT THE PROVISIONS OF THIS SECTION SHALL NOT

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

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SUPERSEDE THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT OR APPLY TO A POLICY THAT IS THE RESULT OF A COLLECTIVE BARGAINING AGREEMENT BETWEEN AN EMPLOYER AND A RECOGNIZED OR CERTIFIED EMPLOYEE ORGANIZATION. NOTHING IN THIS PARAGRAPH SHALL ALTER ANY PROVISIONS OF SECTIONS THIRTEEN AND THIRTEEN-O OF THE WORKERS' COMPENSATION LAW REGARDING THE PURCHASE OF PRESCRIPTION DRUGS AND THE USE OF MAIL ORDER PHARMACY.

S 3. Section 4303 of the insurance law is amended by adding a new subsection (hh) to read as follows:

(HH) NO POLICY ISSUED BY A MEDICAL EXPENSE INDEMNITY CORPORATION, A HOSPITAL SERVICE CORPORATION OR A HEALTH SERVICES CORPORATION WHICH PROVIDES COVERAGE FOR PRESCRIBED DRUGS SHALL MANDATE THAT THE SAME BE PURCHASED BY THE INSURED FROM A MAIL ORDER PHARMACY, NOR MAY SUCH POLICY IMPOSE A CO-PAYMENT FEE OR OTHER CONDITION ON ANY INSURED WHO ELECTS TO PURCHASE DRUGS FROM OTHER THAN A MAIL ORDER PHARMACY WHICH IS NOT ALSO IMPOSED ON INSUREDS ELECTING TO PURCHASE DRUGS FROM A DESIGNATED MAIL ORDER PHARMACY; PROVIDED, HOWEVER, THAT THE PROVISIONS OF THIS SECTION SHALL NOT SUPERSEDE THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT OR APPLY TO A POLICY THAT IS THE RESULT OF A COLLECTIVE BARGAINING AGREEMENT BETWEEN AN EMPLOYER AND A RECOGNIZED OR CERTIFIED EMPLOYEE ORGANIZATION. NOTHING IN THIS SUBSECTION SHALL ALTER ANY PROVISIONS OF SECTIONS THIRTEEN AND THIRTEEN-O OF THE WORKERS' COMPENSATION LAW REGARDING THE PURCHASE OF PRESCRIPTION DRUGS AND THE USE OF MAIL ORDER PHARMACY.

S 4. The opening paragraph of paragraph 25 of subsection (b) of section 4322 of the insurance law, as amended by chapter 554 of the laws of 2002, is amended to read as follows:

Prescription drugs, including contraceptive drugs or devices approved by the federal food and drug administration or generic equivalents approved as substitutes by such food and drug administration and nutritional supplements (formulas) for the therapeutic treatment of phenylketonuria, branched-chain ketonuria, galactosemia and homocystinuria, obtained at a participating pharmacy under a prescription written by an in-plan or out-of-plan provider. Health maintenance organizations, in addition to providing coverage for prescription drugs at a participating pharmacy, may utilize a mail order prescription drug program. HOWEVER, NO HEALTH MAINTENANCE ORGANIZATION SHALL MANDATE THAT PRESCRIPTION DRUGS BE PURCHASED BY THE INSURED FROM A MAIL ORDER PHARMACY; PROVIDED, HOWEVER, THAT THE PROVISIONS OF THIS SECTION SHALL NOT SUPERSEDE THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT OR APPLY TO A POLICY THAT IS THE RESULT OF A COLLECTIVE BARGAINING AGREEMENT BETWEEN AN EMPLOYER AND A RECOGNIZED OR CERTIFIED EMPLOYEE ORGANIZATION. NOTHING IN THIS PARAGRAPH SHALL ALTER ANY PROVISIONS OF SECTIONS THIRTEEN AND THIRTEEN-O OF THE WORKERS' COMPENSATION LAW REGARDING THE PURCHASE OF PRESCRIPTION DRUGS AND THE USE OF MAIL ORDER PHARMACY. Health maintenance organizations may provide prescription drugs pursuant to a drug formulary; however, health maintenance organizations must implement an appeals process so that the use of non-formulary prescription drugs may be requested by a physician or other provider.

S 5. If any clause, subparagraph, subsection, section or other part of this act, or the application thereof be held to be invalid, such holding shall not affect, impair or invalidate the remainder of this act, or the application of such section or part of a section held invalid.

S 6. This act shall take effect on the thirtieth day after 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.