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

5502--B

2011-2012 Regular Sessions

I N A S S E M B L Y

February 22, 2011

Introduced by M. of A. HEASTIE, GOTTFRIED, COLTON, ROSENTHAL, M. MILLER, CYMBROWITZ, MOYA, O'DONNELL, THIELE, GALEF, CASTRO, DenDEKKER, BENEDETTO, GUNTHER, SCHROEDER, MAISEL, SPANO, SCHIMEL, V. LOPEZ, WEISENBERG, LAVINE, WEPRIN, ENGLEBRIGHT, SWEENEY, PAULIN, DINOWITZ, MENG, RODRIGUEZ, HOYT, GABRYSZAK, TITONE -- Multi-Sponsored by -- M. of A. ABBATE, ABINANTI, BOYLE, BURLING, CASTELLI, CERETTO, CORWIN, CRESPO, CROUCH, DUPREY, GIGLIO, GRAF, HAYES, JACOBS, KATZ, LATIMER, P. LOPEZ, LOSQUADRO, MALLIOTAKIS, J. MILLER, MONTESANO, MURRAY, PALMESANO, PEOPLES-STOKES, RA, RAIA, P. RIVERA, ROBERTS, SALADINO, SAYWARD, SMARDZ -- read once and referred to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

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) ANY POLICY WHICH PROVIDES COVERAGE FOR PRESCRIPTION DRUGS SHALL PERMIT EACH PARTICIPANT TO FILL ANY MAIL ORDER COVERED PRESCRIPTION, AT HIS OR HER OPTION, AT ANY MAIL ORDER PHARMACY OR NETWORK PARTICIPATING NON-MAIL ORDER RETAIL PHARMACY IF THE NETWORK PARTICIPATING NON-MAIL ORDER RETAIL PHARMACY OFFERS TO ACCEPT A PRICE THAT IS COMPARABLE TO THAT OF THE MAIL ORDER PHARMACY. ANY POLICY WHICH PROVIDES COVERAGE FOR PRESCRIPTION DRUGS SHALL NOT IMPOSE A CO-PAYMENT FEE OR OTHER CONDITION ON ANY INSURED WHO ELECTS TO PURCHASE DRUGS FROM A NETWORK PARTICIPATING NON-MAIL ORDER RETAIL 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 SUPER-

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

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SEDE 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.

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

(18) ANY INSURER DELIVERING A GROUP OR BLANKET POLICY OR ISSUING A GROUP OR BLANKET POLICY FOR DELIVERY IN THIS STATE WHICH PROVIDES COVERAGE FOR PRESCRIPTION DRUGS SHALL PERMIT EACH PARTICIPANT TO FILL ANY MAIL ORDER COVERED PRESCRIPTION, AT HIS OR HER OPTION, AT ANY MAIL ORDER PHARMACY OR NETWORK PARTICIPATING NON-MAIL ORDER RETAIL PHARMACY IF THE NETWORK PARTICIPATING NON-MAIL ORDER RETAIL PHARMACY OFFERS TO ACCEPT A PRICE THAT IS COMPARABLE TO THAT OF THE MAIL ORDER PHARMACY. ANY POLICY WHICH PROVIDES COVERAGE FOR PRESCRIPTION DRUGS SHALL NOT IMPOSE A CO-PAYMENT FEE OR OTHER CONDITION ON ANY INSURED WHO ELECTS TO PURCHASE DRUGS FROM A NETWORK PARTICIPATING NON-MAIL ORDER RETAIL 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.

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

(HH) ANY POLICY ISSUED BY A MEDICAL EXPENSE INDEMNITY CORPORATION, A HOSPITAL SERVICE CORPORATION OR A HEALTH SERVICES CORPORATION WHICH PROVIDES COVERAGE FOR PRESCRIPTION DRUGS SHALL PERMIT EACH PARTICIPANT TO FILL ANY MAIL ORDER COVERED PRESCRIPTION, AT HIS OR HER OPTION, AT ANY MAIL ORDER PHARMACY OR NETWORK PARTICIPATING NON-MAIL ORDER RETAIL PHARMACY IF THE NETWORK PARTICIPATING NON-MAIL ORDER RETAIL PHARMACY OFFERS TO ACCEPT A PRICE THAT IS COMPARABLE TO THAT OF THE MAIL ORDER PHARMACY. ANY POLICY WHICH PROVIDES COVERAGE FOR PRESCRIPTION DRUGS SHALL NOT IMPOSE A COPAYMENT FEE OR OTHER CONDITION ON ANY INSURED WHO ELECTS TO PURCHASE DRUGS FROM A NETWORK PARTICIPATING NON-MAIL ORDER RETAIL 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.

S 4. 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 5. 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.