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

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2011-2012 Regular Sessions

I N A S S E M B L Y

March 10, 2011

Introduced by M. of A. V. LOPEZ, SCHROEDER, KELLNER, GUNTHER, COLTON, TITONE, SPANO, ROSENTHAL, JAFFEE, GIBSON, CASTRO, N. RIVERA, LAVINE, PERRY, BRONSON, ABINANTI, HEVESI, ENGLEBRIGHT, DINOWITZ, DenDEKKER, CYMBROWITZ, MAISEL, M. MILLER, GOTTFRIED, BENEDETTO, P. RIVERA, SCARBOROUGH, REILLY, ROBERTS, PEOPLES-STOKES, SCHIMMINGER, WEPRIN, MOYA, HOOPER, MILLMAN, MURRAY -- Multi-Sponsored by -- M. of A. ABBATE, BARRON, BING, BOYLAND, BRENNAN, BURLING, CAHILL, CALHOUN, CERETTO, COOK, CRESPO, CROUCH, GABRYSZAK, GALEF, GLICK, JACOBS, JOHNS, JORDAN, LANCMAN, LATIMER, LIFTON, LOSQUADRO, LUPARDO, MAGEE, MARKEY, McENENY, McKEVITT, McLAUGHLIN, MENG, J. MILLER, MONTESANO, NOLAN, PAULIN, PRETLOW, RAIA, RUSSELL, SCHIMEL, SWEENEY, WEISENBERG -- 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 policy coverage of chemotherapy treatment

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

Section 1. Legislative findings. The legislature finds that advances in medical research have led to significant new developments of various medical treatments. These treatments offer patients a wide range of new choices to combat very serious diseases. The area of cancer treatment has been one of the fields that has seen these significant new medical advancements. In recent years, oral chemotherapy treatments have been developed that provide viable alternatives to traditional intravenous cancer treatments for patients. This oral chemotherapy treatment offers the treating physician and the patient a choice in relation to treatment options. However, this choice is sometimes limited as the oral chemotherapy treatments are, in most cases, covered under the prescription drug benefit of an insurance plan rather than under the major medical insur-

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

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ance benefit of an insurance plan. This discrepancy in coverage can limit a patient's ability to choose the oral chemotherapy treatment because of the cost associated with the disparate treatment.

S 2. Subsection (i) of section 3216 of the insurance law is amended by adding a new paragraph 12-a to read as follows:

(12-A) (A) EVERY POLICY DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE THAT PROVIDES MEDICAL, MAJOR MEDICAL, OR SIMILAR COMPREHENSIVE-TYPE COVERAGE AND PROVIDES COVERAGE FOR PRESCRIPTION DRUGS AND ALSO PROVIDE COVERAGE FOR CANCER CHEMOTHERAPY TREATMENT SHALL PROVIDE COVERAGE FOR A PRESCRIBED, ORALLY ADMINISTERED ANTICANCER MEDICATION USED TO KILL OR SLOW THE GROWTH OF CANCEROUS CELLS AND SHALL APPLY THE LOWER COST SHARING OF EITHER (I) ANTICANCER MEDICATION UNDER THE PRESCRIPTION DRUG BENEFIT OR (II) INTRAVENOUS OR INJECTED ANTICANCER MEDICATIONS. FOR THE PURPOSES OF THIS SECTION "COST SHARING" SHALL INCLUDE CO-PAYS, COINSURANCE, AND DEDUCTIBLES AS DEEMED APPROPRIATE BY THE SUPERINTENDENT.

(B) AN INSURER PROVIDING COVERAGE UNDER THIS PARAGRAPH AND ANY PARTICIPATING ENTITY THROUGH WHICH THE INSURER OFFERS HEALTH SERVICES SHALL NOT:

(I) VARY THE TERMS OF THE POLICY FOR THE PURPOSE OR WITH THE EFFECT OF AVOIDING COMPLIANCE WITH THIS PARAGRAPH;

(II) PROVIDE INCENTIVES (MONETARY OR OTHERWISE) TO ENCOURAGE A COVERED PERSON TO ACCEPT LESS THAN THE MINIMUM PROTECTIONS AVAILABLE UNDER THIS PARAGRAPH;

(III) PENALIZE IN ANY WAY OR REDUCE OR LIMIT THE COMPENSATION OF A HEALTH CARE PRACTITIONER FOR RECOMMENDING OR PROVIDING CARE TO A COVERED PERSON IN ACCORDANCE WITH THIS PARAGRAPH;

(IV) PROVIDE INCENTIVES (MONETARY OR OTHERWISE) TO A HEALTH CARE PRACTITIONER RELATING TO THE SERVICES PROVIDED PURSUANT TO THIS PARAGRAPH INTENDED TO INDUCE OR HAVE THE EFFECT OF INDUCING SUCH PRACTITIONER TO PROVIDE CARE TO A COVERED PERSON IN A MANNER INCONSISTENT WITH THIS PARAGRAPH; OR

(V) ACHIEVE COMPLIANCE WITH THIS PARAGRAPH BY IMPOSING AN INCREASE IN COST SHARING FOR AN INTRAVENOUS OR INJECTED ANTICANCER MEDICATION.

S 3. Subsection (l) of section 3221 of the insurance law is amended by adding a new paragraph 12-a to read as follows:

(12-A) (A) EVERY POLICY DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE THAT PROVIDES MEDICAL, MAJOR MEDICAL, OR SIMILAR COMPREHENSIVE-TYPE COVERAGE AND PROVIDES COVERAGE FOR PRESCRIPTION DRUGS AND ALSO PROVIDES COVERAGE FOR CANCER CHEMOTHERAPY TREATMENT SHALL PROVIDE COVERAGE FOR A PRESCRIBED, ORALLY ADMINISTERED ANTICANCER MEDICATION USED TO KILL OR SLOW THE GROWTH OF CANCEROUS CELLS AND SHALL APPLY THE LOWER COST SHARING OF EITHER (I) ANTICANCER MEDICATION UNDER THE PRESCRIPTION DRUG BENEFIT OR (II) INTRAVENOUS OR INJECTED ANTICANCER MEDICATIONS. FOR THE PURPOSES OF THIS SECTION "COST SHARING" SHALL INCLUDE CO-PAYS, COINSURANCE, AND DEDUCTIBLES AS DEEMED APPROPRIATE BY THE SUPERINTENDENT.

(B) AN INSURER PROVIDING COVERAGE UNDER THIS PARAGRAPH AND ANY PARTICIPATING ENTITY THROUGH WHICH THE INSURER OFFERS HEALTH SERVICES SHALL NOT:

(I) VARY THE TERMS OF THE POLICY FOR THE PURPOSE OR WITH THE EFFECT OF AVOIDING COMPLIANCE WITH THIS PARAGRAPH;

(II) PROVIDE INCENTIVES (MONETARY OR OTHERWISE) TO ENCOURAGE A COVERED PERSON TO ACCEPT LESS THAN THE MINIMUM PROTECTIONS AVAILABLE UNDER THIS PARAGRAPH;

(III) PENALIZE IN ANY WAY OR REDUCE OR LIMIT THE COMPENSATION OF A HEALTH CARE PRACTITIONER FOR RECOMMENDING OR PROVIDING CARE TO A COVERED PERSON IN ACCORDANCE WITH THIS PARAGRAPH;

(IV) PROVIDE INCENTIVES (MONETARY OR OTHERWISE) TO A HEALTH CARE PRACTITIONER RELATING TO THE SERVICES PROVIDED PURSUANT TO THIS PARAGRAPH INTENDED TO INDUCE OR HAVE THE EFFECT OF INDUCING SUCH PRACTITIONER TO PROVIDE CARE TO A COVERED PERSON IN A MANNER INCONSISTENT WITH THIS PARAGRAPH; OR

(V) ACHIEVE COMPLIANCE WITH THIS PARAGRAPH BY IMPOSING AN INCREASE IN COST SHARING FOR AN INTRAVENOUS OR INJECTED ANTICANCER MEDICATION.

S 4. Section 4303 of the insurance law is amended by adding a new subsection (q-l) to read as follows:

(Q-1) (1) EVERY POLICY ISSUED BY A MEDICAL EXPENSE INDEMNITY CORPORATION, A HOSPITAL SERVICE CORPORATION OR A HEALTH SERVICE CORPORATION FOR DELIVERY IN THIS STATE THAT PROVIDES MEDICAL, MAJOR MEDICAL OR SIMILAR COMPREHENSIVE-TYPE COVERAGE AND PROVIDES COVERAGE FOR PRESCRIPTION DRUGS AND FOR CANCER CHEMOTHERAPY TREATMENT SHALL PROVIDE COVERAGE FOR A PRESCRIBED, ORALLY ADMINISTERED ANTICANCER MEDICATION USED TO KILL OR SLOW THE GROWTH OF CANCEROUS CELLS AND SHALL APPLY THE LOWER COST SHARING OF EITHER (A) ANTICANCER MEDICATION UNDER THE PRESCRIPTION DRUG BENEFIT OR (B) INTRAVENOUS OR INJECTED ANTICANCER MEDICATIONS. FOR THE PURPOSES OF THIS SECTION "COST SHARING" SHALL INCLUDE CO-PAYMENTS, COINSURANCE, AND DEDUCTIBLES AS DEEMED APPROPRIATE BY THE SUPERINTENDENT.

(2) AN INSURER PROVIDING COVERAGE UNDER THIS PARAGRAPH AND ANY PARTICIPATING ENTITY THROUGH WHICH THE INSURER OFFERS HEALTH SERVICES SHALL NOT:

(A) VARY THE TERMS OF THE POLICY FOR THE PURPOSE OR WITH THE EFFECT OF AVOIDING COMPLIANCE WITH THIS PARAGRAPH;

(B) PROVIDE INCENTIVES (MONETARY OR OTHERWISE) TO ENCOURAGE A COVERED PERSON TO ACCEPT LESS THAN THE MINIMUM PROTECTIONS AVAILABLE UNDER THIS PARAGRAPH;

(C) PENALIZE IN ANY WAY OR REDUCE OR LIMIT THE COMPENSATION OF A HEALTH CARE PRACTITIONER FOR RECOMMENDING OR PROVIDING CARE TO A COVERED PERSON IN ACCORDANCE WITH THIS PARAGRAPH;

(D) PROVIDE INCENTIVES (MONETARY OR OTHERWISE) TO A HEALTH CARE PRACTITIONER RELATING TO THE SERVICES PROVIDED PURSUANT TO THIS PARAGRAPH INTENDED TO INDUCE OR HAVE THE EFFECT OF INDUCING SUCH PRACTITIONER TO PROVIDE CARE TO A COVERED PERSON IN A MANNER INCONSISTENT WITH THIS PARAGRAPH; OR

(E) ACHIEVE COMPLIANCE WITH THIS PARAGRAPH BY IMPOSING AN INCREASE IN COST SHARING FOR AN INTRAVENOUS OR INJECTED ANTICANCER MEDICATION.

S 5. This act shall take effect on the first of January next succeeding the date on which 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.