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

1034

2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. KLEIN, ADAMS, HASSELL-THOMPSON, OPPENHEIMER, PARKER, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to health insurance policies and prescription drug coverage

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

Section 1. Section 3221 of the insurance law is amended by adding a new subsection (s) to read as follows:

(S) EVERY GROUP OR BLANKET POLICY DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE WHICH PROVIDES PRESCRIPTION DRUG COVERAGE SHALL:

(1) LIMIT THE MAXIMUM CO-PAYMENT AND CO-INSURANCE AMOUNTS FOR SUCH PRESCRIPTION DRUGS SO THEY SHALL NOT EXCEED TEN TIMES THE DOLLAR VALUE OF THE LOWEST CO-PAYMENT AND CO-INSURANCE AMOUNT WHOSE COST IS ABOVE ZERO DOLLARS.

(2) SUCH PRESCRIPTION DRUG COVERAGE SHALL BE SUBJECT TO THE FOLLOWING PROVISIONS:

(I) WHEN AN INSURER HAS REQUIRED THAT A MEMBER INSURED BY A HEALTH POLICY ISSUED UNDER THIS SECTION TAKE A GENERIC ALTERNATIVE TO A BRAND-NAME PATENTED DRUG PRESCRIBED BY THEIR DOCTOR, AND THE ALTERNATIVE IS NOT DEEMED AS HAVING AN EQUIVALENT IMPACT ON THE MEMBER BY THE MEMBER'S PRESCRIBING PHYSICIAN AND IS NOT DEEMED AN A-RATED GENERICALLY AND THERAPEUTICALLY EQUIVALENT PRODUCT AS DETERMINED BY THE FDA, THE INSURER SHALL PAY FOR AND MAKE AVAILABLE THE BRAND-NAME PATENTED DRUG ORIGINALLY PRESCRIBED BY THE MEMBER'S DOCTOR.

(II) IN CASES WHERE STEP THERAPY IS REQUIRED PRIOR TO A PATIENT ACCESSING A BRAND-NAME PATENTED PRESCRIPTION DRUG, THE PATIENT CAN RECEIVE THE BRAND-NAME PATENTED PRESCRIPTION DRUG PRESCRIBED BY THEIR DOCTOR IF THE PATIENT TRIES ONE ALTERNATIVE MEDICATION AND THE PATIENT'S

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

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DOCTOR DETERMINES THAT THE SINGLE SOURCE THERAPY REMAINS MEDICALLY NECESSARY.

(3) ENSURE THAT THERE IS CONTINUOUS COVERAGE OF A SINGLE SOURCE PRESCRIPTION DRUG THAT IS PART OF A PRESCRIBED THERAPY UNTIL SUCH PRESCRIBED THERAPY IS NO LONGER MEDICALLY NECESSARY FOR ANY COVERED PERSON UNDER SUCH POLICY.

(4) NO SUCH POLICY PROVIDED UNDER THIS SUBSECTION SHALL IMPOSE AN ADDITIONAL FEE OR CO-PAY REQUIREMENT ON ANY INSURED WHO ELECTS TO PURCHASE PRESCRIBED DRUGS FROM OTHER THAN A MAIL ORDER PROVIDER IF SUCH FEE OR CO-PAY IS NOT OTHERWISE IMPOSED. NOR SHALL ANY SUCH POLICY REQUIRE THAT ONLY MAIL ORDER PROVIDERS BE UTILIZED AS A CONDITION OF COVERAGE FOR PRESCRIBED DRUGS.

S 2. Section 4303 of the insurance law is amended by adding a new subsection (hh) to read as follows:

(HH) EVERY CONTRACT ISSUED BY A HOSPITAL SERVICE CORPORATION, HEALTH SERVICE CORPORATION OR MEDICAL EXPENSE INDEMNITY CORPORATION WHICH PROVIDES PRESCRIPTION DRUG COVERAGE SHALL:

(1) LIMIT THE MAXIMUM CO-PAYMENT AND CO-INSURANCE AMOUNTS FOR SUCH PRESCRIPTION DRUGS SO THEY SHALL NOT EXCEED TEN TIMES THE DOLLAR VALUE OF THE LOWEST CO-PAYMENT AND CO-INSURANCE AMOUNT WHOSE COST IS ABOVE ZERO DOLLARS.

(2) SUCH PRESCRIPTION DRUG COVERAGE SHALL BE SUBJECT TO THE FOLLOWING PROVISIONS:

(I) WHEN AN INSURER HAS REQUIRED THAT A MEMBER INSURED BY A HEALTH CONTRACT ISSUED UNDER THIS SECTION TAKE A GENERIC ALTERNATIVE TO A BRAND-NAME PATENTED DRUG PRESCRIBED BY THEIR DOCTOR, AND THE ALTERNATIVE IS NOT DEEMED AS HAVING AN EQUIVALENT IMPACT ON THE MEMBER BY THE MEMBER'S PRESCRIBING PHYSICIAN AND IS NOT DEEMED AN A-RATED GENERICALLY AND THERAPEUTICALLY EQUIVALENT PRODUCT AS DETERMINED BY THE FDA, THE INSURER SHALL PAY FOR AND MAKE AVAILABLE THE BRAND-NAME PATENTED DRUG ORIGINALLY PRESCRIBED BY THE MEMBER'S DOCTOR.

(II) IN CASES WHERE STEP THERAPY IS REQUIRED PRIOR TO A PATIENT ACCESSING A BRAND-NAME PATENTED PRESCRIPTION DRUG, THE PATIENT CAN RECEIVE THE BRAND-NAME PATENTED PRESCRIPTION DRUG PRESCRIBED BY THEIR DOCTOR IF THE PATIENT TRIES ONE ALTERNATIVE MEDICATION AND THE PATIENT'S DOCTOR DETERMINES THAT THE SINGLE SOURCE THERAPY REMAINS MEDICALLY NECESSARY.

(3) ENSURE THAT THERE IS CONTINUOUS COVERAGE OF A SINGLE SOURCE PRESCRIPTION DRUG THAT IS PART OF A PRESCRIBED THERAPY UNTIL SUCH PRESCRIBED THERAPY IS NO LONGER MEDICALLY NECESSARY FOR ANY COVERED PERSON UNDER SUCH POLICY.

(4) NO SUCH POLICY PROVIDED UNDER THIS SUBSECTION SHALL IMPOSE AN ADDITIONAL FEE OR CO-PAY REQUIREMENT ON ANY INSURED WHO ELECTS TO PURCHASE PRESCRIBED DRUGS FROM OTHER THAN A MAIL ORDER PROVIDER IF SUCH FEE OR CO-PAY IS NOT OTHERWISE IMPOSED. NOR SHALL ANY SUCH POLICY REQUIRE THAT ONLY MAIL ORDER PROVIDERS BE UTILIZED AS A CONDITION OF COVERAGE FOR PRESCRIBED DRUGS.

S 4. This act shall take effect on the first of January next succeeding the date on which it shall have become a law; provided that it shall apply to all new policies and contracts issued, renewed, modified or revised on or after such date.