

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

3510--B

2011-2012 Regular Sessions

I N S E N A T E

February 24, 2011

Introduced by Sens. MAZIARZ, BRESLIN, ADDABBO, AVELLA, BALL, BONACIC, DUANE, GALLIVAN, GOLDEN, GRIFFO, HANNON, HUNTLEY, JOHNSON, KLEIN, KRUEGER, KRUGER, LANZA, LARKIN, LAVALLE, LIBOUS, MARCELLINO, MARTINS, MONTGOMERY, OPPENHEIMER, PERALTA, PERKINS, RANZENHOFER, STAVISKY, ZELDIN -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, 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:

1 Section 1. Subsection (i) of section 3216 of the insurance law is
2 amended by adding a new paragraph 28 to read as follows:
3 (28) ANY POLICY WHICH PROVIDES COVERAGE FOR PRESCRIPTION DRUGS SHALL
4 PERMIT EACH PARTICIPANT TO FILL ANY MAIL ORDER COVERED PRESCRIPTION, AT
5 HIS OR HER OPTION, AT ANY MAIL ORDER PHARMACY OR NETWORK PARTICIPATING
6 NON-MAIL ORDER RETAIL PHARMACY IF THE NETWORK PARTICIPATING NON-MAIL
7 ORDER RETAIL PHARMACY OFFERS TO ACCEPT A PRICE THAT IS COMPARABLE TO
8 THAT OF THE MAIL ORDER PHARMACY. ANY POLICY WHICH PROVIDES COVERAGE FOR
9 PRESCRIPTION DRUGS SHALL NOT IMPOSE A CO-PAYMENT FEE OR OTHER CONDITION
10 ON ANY INSURED WHO ELECTS TO PURCHASE DRUGS FROM A NETWORK PARTICIPATING
11 NON-MAIL ORDER RETAIL PHARMACY WHICH IS NOT ALSO IMPOSED ON INSURED
12 ELECTING TO PURCHASE DRUGS FROM A DESIGNATED MAIL ORDER PHARMACY;
13 PROVIDED, HOWEVER, THAT THE PROVISIONS OF THIS SECTION SHALL NOT SUPER-
14 SEDE THE TERMS OF A COLLECTIVE BARGAINING AGREEMENT OR APPLY TO A POLICY
15 THAT IS THE RESULT OF A COLLECTIVE BARGAINING AGREEMENT BETWEEN AN
16 EMPLOYER AND A RECOGNIZED OR CERTIFIED EMPLOYEE ORGANIZATION.
17 S 2. Subsection (1) of section 3221 of the insurance law is amended by
18 adding a new paragraph 18 to read as follows:

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

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1 (18) ANY INSURER DELIVERING A GROUP OR BLANKET POLICY OR ISSUING A
2 GROUP OR BLANKET POLICY FOR DELIVERY IN THIS STATE WHICH PROVIDES COVER-
3 AGE FOR PRESCRIPTION DRUGS SHALL PERMIT EACH PARTICIPANT TO FILL ANY
4 MAIL ORDER COVERED PRESCRIPTION, AT HIS OR HER OPTION, AT ANY MAIL ORDER
5 PHARMACY OR NETWORK PARTICIPATING NON-MAIL ORDER RETAIL PHARMACY IF THE
6 NETWORK PARTICIPATING NON-MAIL ORDER RETAIL PHARMACY OFFERS TO ACCEPT A
7 PRICE THAT IS COMPARABLE TO THAT OF THE MAIL ORDER PHARMACY. ANY POLICY
8 WHICH PROVIDES COVERAGE FOR PRESCRIPTION DRUGS SHALL NOT IMPOSE A
9 CO-PAYMENT FEE OR OTHER CONDITION ON ANY INSURED WHO ELECTS TO PURCHASE
10 DRUGS FROM A NETWORK PARTICIPATING NON-MAIL ORDER RETAIL PHARMACY WHICH
11 IS NOT ALSO IMPOSED ON INSUREDS ELECTING TO PURCHASE DRUGS FROM A DESIG-
12 NATED MAIL ORDER PHARMACY; PROVIDED, HOWEVER, THAT THE PROVISIONS OF
13 THIS SECTION SHALL NOT SUPERSEDE THE TERMS OF A COLLECTIVE BARGAINING
14 AGREEMENT OR APPLY TO A POLICY THAT IS THE RESULT OF A COLLECTIVE
15 BARGAINING AGREEMENT BETWEEN AN EMPLOYER AND A RECOGNIZED OR CERTIFIED
16 EMPLOYEE ORGANIZATION.

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

19 (HH) ANY POLICY ISSUED BY A MEDICAL EXPENSE INDEMNITY CORPORATION, A
20 HOSPITAL SERVICE CORPORATION OR A HEALTH SERVICES CORPORATION WHICH
21 PROVIDES COVERAGE FOR PRESCRIPTION DRUGS SHALL PERMIT EACH PARTICIPANT
22 TO FILL ANY MAIL ORDER COVERED PRESCRIPTION, AT HIS OR HER OPTION, AT
23 ANY MAIL ORDER PHARMACY OR NETWORK PARTICIPATING NON-MAIL ORDER RETAIL
24 PHARMACY IF THE NETWORK PARTICIPATING NON-MAIL ORDER RETAIL PHARMACY
25 OFFERS TO ACCEPT A PRICE THAT IS COMPARABLE TO THAT OF THE MAIL ORDER
26 PHARMACY. ANY POLICY WHICH PROVIDES COVERAGE FOR PRESCRIPTION DRUGS
27 SHALL NOT IMPOSE A COPAYMENT FEE OR OTHER CONDITION ON ANY INSURED WHO
28 ELECTS TO PURCHASE DRUGS FROM A NETWORK PARTICIPATING NON-MAIL ORDER
29 RETAIL PHARMACY WHICH IS NOT ALSO IMPOSED ON INSUREDS ELECTING TO
30 PURCHASE DRUGS FROM A DESIGNATED MAIL ORDER PHARMACY; PROVIDED, HOWEVER,
31 THAT THE PROVISIONS OF THIS SECTION SHALL NOT SUPERSEDE THE TERMS OF A
32 COLLECTIVE BARGAINING AGREEMENT OR APPLY TO A POLICY THAT IS THE RESULT
33 OF A COLLECTIVE BARGAINING AGREEMENT BETWEEN AN EMPLOYER AND A RECOG-
34 NIZED OR CERTIFIED EMPLOYEE ORGANIZATION.

35 S 4. If any clause, subparagraph, subsection, section or other part
36 of this act, or the application thereof be held to be invalid, such
37 holding shall not affect, impair or invalidate the remainder of this
38 act, or the application of such section or part of a section held inval-
39 id.

40 S 5. This act shall take effect on the thirtieth day after it shall
41 have become a law and shall apply to all policies and contracts issued,
42 renewed, modified, altered or amended on or after such effective date.