

3988--B

2011-2012 Regular Sessions

I N S E N A T E

March 11, 2011

Introduced by Sens. LANZA, HASSELL-THOMPSON, ALESI, ADAMS, ADDABBO, AVELLA, DeFRANCISCO, DIAZ, GOLDEN, GRISANTI, KENNEDY, KLEIN, KRUEGER, LARKIN, MARTINS, MAZIARZ, OPPENHEIMER -- 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 policy coverage of chemotherapy treatment

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

1 Section 1. Legislative findings. The legislature finds that advances
2 in medical research have led to significant new developments of various
3 medical treatments. These treatments offer patients a wide range of new
4 choices to combat very serious diseases. The area of cancer treatment
5 has been one of the fields that has seen these significant new medical
6 advancements. In recent years, oral chemotherapy treatments have been
7 developed that provide viable alternatives to traditional intravenous
8 cancer treatments for patients. This oral chemotherapy treatment offers
9 the treating physician and the patient a choice in relation to treatment
10 options. However, this choice is sometimes limited as the oral chemoth-
11 erapy treatments are, in most cases, covered under the prescription drug
12 benefit of an insurance plan rather than under the major medical insur-
13 ance benefit of an insurance plan. This discrepancy in coverage can
14 limit a patient's ability to choose the oral chemotherapy treatment
15 because of the cost associated with the disparate treatment.

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

18 (12-A) (A) EVERY POLICY DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE
19 THAT PROVIDES MEDICAL, MAJOR MEDICAL, OR SIMILAR COMPREHENSIVE-TYPE
20 COVERAGE AND PROVIDES COVERAGE FOR PRESCRIPTION DRUGS AND ALSO PROVIDE

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

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1 COVERAGE FOR CANCER CHEMOTHERAPY TREATMENT SHALL PROVIDE COVERAGE FOR A
2 PRESCRIBED, ORALLY ADMINISTERED ANTICANCER MEDICATION USED TO KILL OR
3 SLOW THE GROWTH OF CANCEROUS CELLS AND SHALL APPLY THE LOWER COST SHAR-
4 ING OF EITHER (I) ANTICANCER MEDICATION UNDER THE PRESCRIPTION DRUG
5 BENEFIT OR (II) INTRAVENOUS OR INJECTED ANTICANCER MEDICATIONS. FOR THE
6 PURPOSES OF THIS SECTION "COST SHARING" SHALL INCLUDE CO-PAYS, COINSU-
7 RANCE, AND DEDUCTIBLES AS DEEMED APPROPRIATE BY THE SUPERINTENDENT.

8 (B) AN INSURER PROVIDING COVERAGE UNDER THIS PARAGRAPH AND ANY PARTIC-
9 IPATING ENTITY THROUGH WHICH THE INSURER OFFERS HEALTH SERVICES SHALL
10 NOT:

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

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

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

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

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

26 S 3. Subsection (1) of section 3221 of the insurance law is amended by
27 adding a new paragraph 12-a to read as follows:

28 (12-A) (A) EVERY POLICY DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE
29 THAT PROVIDES MEDICAL, MAJOR MEDICAL, OR SIMILAR COMPREHENSIVE-TYPE
30 COVERAGE AND PROVIDES COVERAGE FOR PRESCRIPTION DRUGS AND ALSO PROVIDES
31 COVERAGE FOR CANCER CHEMOTHERAPY TREATMENT SHALL PROVIDE COVERAGE FOR A
32 PRESCRIBED, ORALLY ADMINISTERED ANTICANCER MEDICATION USED TO KILL OR
33 SLOW THE GROWTH OF CANCEROUS CELLS AND SHALL APPLY THE LOWER COST SHAR-
34 ING OF EITHER (I) ANTICANCER MEDICATION UNDER THE PRESCRIPTION DRUG
35 BENEFIT OR (II) INTRAVENOUS OR INJECTED ANTICANCER MEDICATIONS. FOR THE
36 PURPOSES OF THIS SECTION "COST SHARING" SHALL INCLUDE CO-PAYS, COINSU-
37 RANCE, AND DEDUCTIBLES AS DEEMED APPROPRIATE BY THE SUPERINTENDENT.

38 (B) AN INSURER PROVIDING COVERAGE UNDER THIS PARAGRAPH AND ANY PARTIC-
39 IPATING ENTITY THROUGH WHICH THE INSURER OFFERS HEALTH SERVICES SHALL
40 NOT:

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

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

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

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

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

1 S 4. Section 4303 of the insurance law is amended by adding a new
2 subsection (q-1) to read as follows:
3 (Q-1) (1) EVERY POLICY ISSUED BY A MEDICAL EXPENSE INDEMNITY CORPO-
4 RATION, A HOSPITAL SERVICE CORPORATION OR A HEALTH SERVICE CORPORATION
5 FOR DELIVERY IN THIS STATE THAT PROVIDES MEDICAL, MAJOR MEDICAL OR SIMI-
6 LAR COMPREHENSIVE-TYPE COVERAGE AND PROVIDES COVERAGE FOR PRESCRIPTION
7 DRUGS AND FOR CANCER CHEMOTHERAPY TREATMENT SHALL PROVIDE COVERAGE FOR A
8 PRESCRIBED, ORALLY ADMINISTERED ANTICANCER MEDICATION USED TO KILL OR
9 SLOW THE GROWTH OF CANCEROUS CELLS AND SHALL APPLY THE LOWER COST SHAR-
10 ING OF EITHER (A) ANTICANCER MEDICATION UNDER THE PRESCRIPTION DRUG
11 BENEFIT OR (B) INTRAVENOUS OR INJECTED ANTICANCER MEDICATIONS. FOR THE
12 PURPOSES OF THIS SECTION "COST SHARING" SHALL INCLUDE CO-PAYMENTS, COIN-
13 SURANCE, AND DEDUCTIBLES AS DEEMED APPROPRIATE BY THE SUPERINTENDENT.
14 (2) AN INSURER PROVIDING COVERAGE UNDER THIS PARAGRAPH AND ANY PARTIC-
15 IPATING ENTITY THROUGH WHICH THE INSURER OFFERS HEALTH SERVICES SHALL
16 NOT:
17 (A) VARY THE TERMS OF THE POLICY FOR THE PURPOSE OR WITH THE EFFECT OF
18 AVOIDING COMPLIANCE WITH THIS PARAGRAPH;
19 (B) PROVIDE INCENTIVES (MONETARY OR OTHERWISE) TO ENCOURAGE A COVERED
20 PERSON TO ACCEPT LESS THAN THE MINIMUM PROTECTIONS AVAILABLE UNDER THIS
21 PARAGRAPH;
22 (C) PENALIZE IN ANY WAY OR REDUCE OR LIMIT THE COMPENSATION OF A
23 HEALTH CARE PRACTITIONER FOR RECOMMENDING OR PROVIDING CARE TO A COVERED
24 PERSON IN ACCORDANCE WITH THIS PARAGRAPH;
25 (D) PROVIDE INCENTIVES (MONETARY OR OTHERWISE) TO A HEALTH CARE PRAC-
26 TITIONER RELATING TO THE SERVICES PROVIDED PURSUANT TO THIS PARAGRAPH
27 INTENDED TO INDUCE OR HAVE THE EFFECT OF INDUCING SUCH PRACTITIONER TO
28 PROVIDE CARE TO A COVERED PERSON IN A MANNER INCONSISTENT WITH THIS
29 PARAGRAPH; OR
30 (E) ACHIEVE COMPLIANCE WITH THIS PARAGRAPH BY IMPOSING AN INCREASE IN
31 COST SHARING FOR AN INTRAVENOUS OR INJECTED ANTICANCER MEDICATION.
32 S 5. This act shall take effect on the first of January next succeed-
33 ing the date on which it shall have become a law and shall apply to all
34 policies and contracts issued, renewed, modified, altered or amended on
35 or after such effective date.