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

7180

I N S E N A T E

May 1, 2012

Introduced by Sen. AVELLA -- 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 coverage for single source 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 29 to read as follows:

(29) EVERY INDIVIDUAL OR BLANKET POLICY DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE PROVIDING COVERAGE FOR PRESCRIPTION DRUGS THROUGH THE USE OF A DRUG FORMULARY SHALL INCLUDE A PROVISION WHICH, IN THE EVENT OF A CHANGE TO SUCH FORMULARY, ALLOWS A COVERED PERSON WHO IS TAKING A SINGLE SOURCE DRUG COVERED UNDER SUCH POLICY THAT IS NO LONGER INCLUDED IN OR PREFERRED UNDER SUCH FORMULARY AND HAS FILED A GRIEVANCE OR AN APPEAL OF THE DENIAL OF ACCESS TO THE DRUG WITH THE INSURER OR A STATE OR FEDERAL AGENCY OR DESIGNEE OF SUCH AGENCY, TO CONTINUE RECEIVING COVERAGE FOR SUCH DRUG UNDER THE SAME TERMS AND CONDITIONS AS WOULD APPLY UNDER THE POLICY WERE SUCH DRUG STILL INCLUDED IN OR PREFERRED UNDER THE FORMULARY, UNTIL A FINAL DECISION IS RENDERED ON THE APPEAL OR GRIEVANCE. FOR THE PURPOSE OF THIS PARAGRAPH, "SINGLE SOURCE DRUG" MEANS A BRANDNAME DRUG FOR WHICH THERE IS NO GENERIC EQUIVALENT.

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

(18) EVERY GROUP OR BLANKET POLICY DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE PROVIDING COVERAGE FOR PRESCRIPTION DRUGS THROUGH THE USE OF A DRUG FORMULARY SHALL INCLUDE A PROVISION WHICH, IN THE EVENT OF A CHANGE TO SUCH FORMULARY, ALLOWS A COVERED PERSON WHO IS TAKING A SINGLE SOURCE DRUG COVERED UNDER SUCH POLICY THAT IS NO LONGER INCLUDED IN OR PREFERRED UNDER SUCH FORMULARY AND HAS FILED A GRIEVANCE OR AN APPEAL OF THE DENIAL OF ACCESS TO THE DRUG WITH THE INSURER OR A STATE OR FEDERAL AGENCY OR DESIGNEE OF SUCH AGENCY, TO CONTINUE RECEIVING COVERAGE FOR SUCH DRUG UNDER THE SAME TERMS AND CONDITIONS AS WOULD APPLY UNDER THE POLICY WERE SUCH DRUG STILL INCLUDED IN OR PREFERRED UNDER THE FORMULARY, UNTIL A FINAL DECISION IS RENDERED ON THE APPEAL OR GRIEVANCE. FOR

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

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THE PURPOSE OF THIS PARAGRAPH, "SINGLE SOURCE DRUG" MEANS A BRANDNAME DRUG FOR WHICH THERE IS NO GENERIC EQUIVALENT.

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

(II) EVERY CONTRACT DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE PROVIDING COVERAGE FOR PRESCRIPTION DRUGS THROUGH THE USE OF A DRUG FORMULARY SHALL INCLUDE A PROVISION WHICH, IN THE EVENT OF A CHANGE TO SUCH FORMULARY, ALLOWS A COVERED PERSON WHO IS TAKING A SINGLE SOURCE DRUG COVERED UNDER SUCH CONTRACT THAT IS NO LONGER INCLUDED IN OR PREFERRED UNDER SUCH FORMULARY AND HAS FILED A GRIEVANCE OR AN APPEAL OF THE DENIAL OF ACCESS TO THE DRUG WITH THE INSURER CORPORATION OR ORGANIZATION CERTIFIED PURSUANT TO ARTICLE FORTY-FOUR OF THE PUBLIC HEALTH LAW OR A STATE OR FEDERAL AGENCY OR DESIGNEE OF SUCH AGENCY, TO CONTINUE RECEIVING COVERAGE FOR SUCH DRUG UNDER THE SAME TERMS AND CONDITIONS AS WOULD APPLY UNDER THE CONTRACT WERE SUCH DRUG STILL INCLUDED IN OR PREFERRED UNDER THE FORMULARY, UNTIL A FINAL DECISION IS RENDERED ON THE APPEAL OR GRIEVANCE. FOR THE PURPOSE OF THIS SUBSECTION, "SINGLE SOURCE DRUG" MEANS A BRANDNAME DRUG FOR WHICH THERE IS NO GENERIC EQUIVALENT.

S 4. This act shall take effect on the first of the calendar month next succeeding the sixtieth day after it shall have become a law; provided, however, that this act shall apply only to policies and contracts issued, renewed or amended on or after such effective date.