

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:

1 Section 1. Subsection (i) of section 3216 of the insurance law is
2 amended by adding a new paragraph 29 to read as follows:
3 (29) EVERY INDIVIDUAL OR BLANKET POLICY DELIVERED OR ISSUED FOR DELIV-
4 ERY IN THIS STATE PROVIDING COVERAGE FOR PRESCRIPTION DRUGS THROUGH THE
5 USE OF A DRUG FORMULARY SHALL INCLUDE A PROVISION WHICH, IN THE EVENT OF
6 A CHANGE TO SUCH FORMULARY, ALLOWS A COVERED PERSON WHO IS TAKING A
7 SINGLE SOURCE DRUG COVERED UNDER SUCH POLICY THAT IS NO LONGER INCLUDED
8 IN OR PREFERRED UNDER SUCH FORMULARY AND HAS FILED A GRIEVANCE OR AN
9 APPEAL OF THE DENIAL OF ACCESS TO THE DRUG WITH THE INSURER OR A STATE
10 OR FEDERAL AGENCY OR DESIGNEE OF SUCH AGENCY, TO CONTINUE RECEIVING
11 COVERAGE FOR SUCH DRUG UNDER THE SAME TERMS AND CONDITIONS AS WOULD
12 APPLY UNDER THE POLICY WERE SUCH DRUG STILL INCLUDED IN OR PREFERRED
13 UNDER THE FORMULARY, UNTIL A FINAL DECISION IS RENDERED ON THE APPEAL OR
14 GRIEVANCE. FOR THE PURPOSE OF THIS PARAGRAPH, "SINGLE SOURCE DRUG" MEANS
15 A BRANDNAME DRUG FOR WHICH THERE IS NO GENERIC EQUIVALENT.
16 S 2. Subsection (k) of section 3221 of the insurance law is amended by
17 adding a new paragraph 18 to read as follows:
18 (18) EVERY GROUP OR BLANKET POLICY DELIVERED OR ISSUED FOR DELIVERY IN
19 THIS STATE PROVIDING COVERAGE FOR PRESCRIPTION DRUGS THROUGH THE USE OF
20 A DRUG FORMULARY SHALL INCLUDE A PROVISION WHICH, IN THE EVENT OF A
21 CHANGE TO SUCH FORMULARY, ALLOWS A COVERED PERSON WHO IS TAKING A SINGLE
22 SOURCE DRUG COVERED UNDER SUCH POLICY THAT IS NO LONGER INCLUDED IN OR
23 PREFERRED UNDER SUCH FORMULARY AND HAS FILED A GRIEVANCE OR AN APPEAL OF
24 THE DENIAL OF ACCESS TO THE DRUG WITH THE INSURER OR A STATE OR FEDERAL
25 AGENCY OR DESIGNEE OF SUCH AGENCY, TO CONTINUE RECEIVING COVERAGE FOR
26 SUCH DRUG UNDER THE SAME TERMS AND CONDITIONS AS WOULD APPLY UNDER THE
27 POLICY WERE SUCH DRUG STILL INCLUDED IN OR PREFERRED UNDER THE FORMU-
28 LARY, 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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1 THE PURPOSE OF THIS PARAGRAPH, "SINGLE SOURCE DRUG" MEANS A BRANDNAME
2 DRUG FOR WHICH THERE IS NO GENERIC EQUIVALENT.

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

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

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