

7632

I N S E N A T E

June 8, 2012

Introduced by Sen. HANNON -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the social services law and the public health law, in relation to prescription drugs in Medicaid managed care programs; and to repeal certain provisions of the social services law and chapter 56 of the laws of 2012 enacting the health and mental hygiene budget for the 2012-2013 state fiscal plan, relating to payments for prescription drugs

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

- 1 Section 1. The social services law is amended by adding a new section
2 365-i to read as follows:
3 S 365-I. PRESCRIPTION DRUGS IN MEDICAID MANAGED CARE PROGRAMS. 1.
4 DEFINITIONS. AS USED IN THIS SECTION, UNLESS THE CONTEXT CLEARLY
5 REQUIRES OTHERWISE:
6 (A) "ARTICLE" MEANS TITLE ELEVEN OF ARTICLE FIVE OF THIS CHAPTER WITH
7 RESPECT TO THE MEDICAL ASSISTANCE PROGRAM, TITLE ELEVEN-D OF ARTICLE
8 FIVE OF THIS CHAPTER WITH RESPECT TO THE FAMILY HEALTH PLUS PROGRAM, AND
9 TITLE ONE-A OF ARTICLE TWENTY-FIVE OF THE PUBLIC HEALTH LAW WITH RESPECT
10 TO THE CHILD HEALTH INSURANCE PROGRAM.
11 (B) "CLINICAL DRUG REVIEW PROGRAM" MEANS THE CLINICAL DRUG REVIEW
12 PROGRAM CREATED BY SECTION TWO HUNDRED SEVENTY-FOUR OF THE PUBLIC HEALTH
13 LAW.
14 (C) "EMERGENCY CONDITION" MEANS A MEDICAL OR BEHAVIORAL CONDITION AS
15 DETERMINED BY THE PRESCRIBER OR PHARMACIST, THE ONSET OF WHICH IS
16 SUDDEN, THAT MANIFESTS ITSELF BY SYMPTOMS OF SUFFICIENT SEVERITY,
17 INCLUDING SEVERE PAIN, AND FOR WHICH DELAY IN BEGINNING TREATMENT
18 PRESCRIBED BY THE PATIENT'S HEALTH CARE PRACTITIONER WOULD RESULT IN:
19 (I) PLACING THE HEALTH OR SAFETY OF THE PERSON AFFLICTED WITH SUCH
20 CONDITION OR OTHER PERSON OR PERSONS IN SERIOUS JEOPARDY;
21 (II) SERIOUS IMPAIRMENT TO SUCH PERSON'S BODILY FUNCTIONS;
22 (III) SERIOUS DYSFUNCTION OF ANY BODILY ORGAN OR PART OF SUCH PERSON;
23 (IV) SERIOUS DISFIGUREMENT OF SUCH PERSON; OR
24 (V) SEVERE DISCOMFORT.

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

LBD15455-01-2

1 (D) "MANAGED CARE PROVIDER" MEANS A MANAGED CARE PROVIDER UNDER
2 SECTION THREE HUNDRED SIXTY-FOUR-J OF THIS TITLE, A MANAGED LONG TERM
3 CARE PLAN UNDER SECTION FORTY-FOUR HUNDRED THREE-F OF THE PUBLIC HEALTH
4 LAW, A FAMILY HEALTH INSURANCE PLAN UNDER SECTION THREE HUNDRED
5 SIXTY-NINE-EE OF THIS ARTICLE OR AN EMPLOYER PARTNERSHIP FOR FAMILY
6 HEALTH PLUS PLAN UNDER SECTION THREE HUNDRED SIXTY-NINE-FF OF THIS ARTI-
7 CLE (FAMILY HEALTH PLUS PROGRAM), AN APPROVED ORGANIZATION UNDER TITLE
8 ONE-A OF ARTICLE TWENTY-FIVE OF THE PUBLIC HEALTH LAW (CHILD HEALTH
9 INSURANCE PROGRAM), OR ANY OTHER ENTITY THAT PROVIDES OR ARRANGES FOR
10 THE PROVISION OF MEDICAL ASSISTANCE SERVICES AND SUPPLIES TO PARTICI-
11 IPANTS DIRECTLY OR INDIRECTLY (INCLUDING BY REFERRAL), INCLUDING CASE
12 MANAGEMENT, INCLUDING THE MANAGED CARE PROVIDER'S AUTHORIZED AGENTS.

13 (E) "NON-PREFERRED DRUG" MEANS A PRESCRIPTION DRUG THAT REQUIRES PRIOR
14 AUTHORIZATION UNDER THE PARTICIPANT'S MANAGED CARE PROVIDER.

15 (F) "PARTICIPANT" MEANS A MEDICAL ASSISTANCE RECIPIENT WHO RECEIVES,
16 IS REQUIRED TO RECEIVE OR ELECTS TO RECEIVE HIS OR HER MEDICAL ASSIST-
17 ANCE SERVICES FROM A MANAGED CARE PROVIDER.

18 (G) "PREFERRED DRUG" MEANS A PRESCRIPTION DRUG THAT IS NOT A NON-PRE-
19 FERRED DRUG UNDER THE PATIENT'S MANAGED CARE PROVIDER. "PREFERRED DRUG
20 LIST" MEANS A LIST OF A MANAGED CARE PROVIDER'S PREFERRED DRUGS.

21 (H) "PREFERRED DRUG PROGRAM" MEANS THE PREFERRED DRUG PROGRAM ESTAB-
22 LISHED UNDER SECTION TWO HUNDRED SEVENTY-TWO OF THE PUBLIC HEALTH LAW.

23 (I) "PRESCRIPTION DRUG" OR "DRUG" MEANS A DRUG DEFINED IN SUBDIVISION
24 SEVEN OF SECTION SIXTY-EIGHT HUNDRED TWO OF THE EDUCATION LAW, FOR WHICH
25 A PRESCRIPTION IS REQUIRED UNDER THE FEDERAL FOOD, DRUG AND COSMETIC
26 ACT. ANY DRUG THAT DOES NOT REQUIRE A PRESCRIPTION UNDER SUCH ACT, BUT
27 WHICH WOULD OTHERWISE BE ELIGIBLE FOR REIMBURSEMENT UNDER THIS ARTICLE
28 WHEN ORDERED BY A PRESCRIBER AND THE PRESCRIPTION IS SUBJECT TO THE
29 APPLICABLE PROVISIONS OF THIS ARTICLE AND PARAGRAPH (A) OF SUBDIVISION
30 FOUR OF SECTION THREE HUNDRED SIXTY-FIVE-A OF THIS TITLE.

31 (J) "PRIOR AUTHORIZATION" MEANS A PROCESS REQUIRING THE PRESCRIBER OR
32 THE DISPENSER TO VERIFY WITH THE PARTICIPANT'S MANAGED CARE PROVIDER
33 THAT THE DRUG IS APPROPRIATE FOR THE NEEDS OF THE SPECIFIC PATIENT.

34 (K) "QUALIFIED PRESCRIPTION DRUG SYSTEM" OR "SYSTEM" MEANS A PROCESS
35 UNDER THIS SECTION, APPROVED BY THE COMMISSIONER, THROUGH WHICH A
36 MANAGED CARE PROVIDER APPROVES PAYMENT FOR A NON-PREFERRED DRUG FOR A
37 PARTICIPANT BASED ON PRIOR AUTHORIZATION.

38 2. PAYMENT FOR PRESCRIPTION DRUGS UNDER CAPITATION. PAYMENT FOR
39 PRESCRIPTION DRUGS SHALL BE INCLUDED IN THE CAPITATION PAYMENTS FOR
40 SERVICES OR SUPPLIES PROVIDED TO A MANAGED CARE PROVIDER'S PARTICIPANTS,
41 PROVIDED THAT THE MANAGED CARE PROVIDER PAYS FOR PRESCRIPTION DRUGS
42 UNDER A QUALIFIED PRESCRIPTION DRUG SYSTEM. EVERY PRESCRIPTION DRUG
43 ELIGIBLE FOR REIMBURSEMENT UNDER THIS ARTICLE PRESCRIBED IN RELATION TO
44 A SERVICE PROVIDED BY THE MANAGED CARE PROVIDER SHALL BE EITHER A
45 PREFERRED OR NON-PREFERRED DRUG UNDER THE QUALIFIED PRESCRIPTION DRUG
46 SYSTEM. IF THE MANAGED CARE PROVIDER DOES NOT PAY FOR PRESCRIPTION DRUGS
47 UNDER A QUALIFIED PRESCRIPTION DRUG SYSTEM, THEN PAYMENT FOR
48 PRESCRIPTION DRUGS FOR THE MANAGED CARE PROVIDER'S PATIENTS SHALL NOT BE
49 INCLUDED IN SUCH CAPITATION PAYMENTS AND PRESCRIPTION DRUGS SHALL BE
50 PROVIDED FOR THE MANAGED CARE PROVIDER'S PARTICIPANTS UNDER THE
51 PREFERRED DRUG PROGRAM. THE COMMISSIONER SHALL APPROVE A MANAGED CARE
52 PROVIDER'S QUALIFIED PRESCRIPTION DRUG SYSTEM IF IT CONFORMS TO THE
53 PROVISIONS OF THIS SECTION.

54 3. QUALIFIED PRESCRIPTION DRUG SYSTEM; CRITERIA. (A) A QUALIFIED
55 PRESCRIPTION DRUG SYSTEM SHALL PROMOTE ACCESS TO THE MOST EFFECTIVE
56 PRESCRIPTION DRUGS WHILE REDUCING THE COST OF PRESCRIPTION DRUGS UNDER

1 THIS ARTICLE. THIS SUBDIVISION AND SUBDIVISION FOUR OF THIS SECTION
2 APPLY TO QUALIFIED PRESCRIPTION DRUG SYSTEMS.

3 (B) WHEN A PRESCRIBER PRESCRIBES A NON-PREFERRED DRUG, REIMBURSEMENT
4 MAY BE DENIED UNLESS PRIOR AUTHORIZATION IS OBTAINED, UNLESS NO PRIOR
5 AUTHORIZATION IS REQUIRED UNDER THIS SECTION.

6 (C) THE COMMISSIONER SHALL ESTABLISH PERFORMANCE STANDARDS FOR SYSTEMS
7 THAT, AT A MINIMUM, ENSURE THAT SYSTEMS PROVIDE SUFFICIENT TECHNICAL
8 SUPPORT AND TIMELY RESPONSES TO CONSUMERS, PRESCRIBERS AND PHARMACISTS.

9 (D) THE COMMISSIONER SHALL ADOPT CRITERIA FOR QUALIFIED PRESCRIPTION
10 DRUG SYSTEMS AFTER CONSIDERING RECOMMENDATIONS AND COMMENTS RECEIVED
11 FROM PRESCRIBERS, PHARMACISTS, PARTICIPANTS, AND ORGANIZATIONS REPRESENTING THEM.

12 (E) THE MANAGED CARE PROVIDER SHALL DEVELOP ITS PREFERRED DRUG LIST
13 BASED INITIALLY ON AN EVALUATION OF THE CLINICAL EFFECTIVENESS, SAFETY,
14 AND PATIENT OUTCOMES, FOLLOWED BY CONSIDERATION OF THE COST-EFFECTIVENESS
15 OF THE DRUGS. IN EACH THERAPEUTIC CLASS, THE MANAGED CARE PROVIDER
16 SHALL DETERMINE WHETHER THERE IS ONE DRUG THAT IS SIGNIFICANTLY MORE
17 CLINICALLY EFFECTIVE AND SAFE, AND THAT DRUG SHALL BE INCLUDED ON THE
18 PREFERRED DRUG LIST WITHOUT CONSIDERATION OF COST. IF, AMONG TWO OR MORE
19 DRUGS IN A THERAPEUTIC CLASS, THE DIFFERENCE IN CLINICAL EFFECTIVENESS
20 AND SAFETY IS NOT CLINICALLY SIGNIFICANT, THEN COST-EFFECTIVENESS MAY
21 ALSO BE CONSIDERED IN DETERMINING WHICH DRUG OR DRUGS SHALL BE INCLUDED
22 ON THE PREFERRED DRUG LIST.

23 4. PRIOR AUTHORIZATION. (A) A QUALIFIED PRESCRIPTION DRUG SYSTEM SHALL
24 MAKE AVAILABLE A TWENTY-FOUR HOUR PER DAY, SEVEN DAYS PER WEEK TELEPHONE
25 CALL CENTER THAT INCLUDES A TOLLFREE TELEPHONE LINE AND DEDICATED
26 FACSIMILE LINE TO RESPOND TO REQUESTS FOR PRIOR AUTHORIZATION. THE CALL
27 CENTER SHALL INCLUDE QUALIFIED HEALTH CARE PROFESSIONALS WHO SHALL BE
28 AVAILABLE TO CONSULT WITH PRESCRIBERS CONCERNING PRESCRIPTION DRUGS THAT
29 ARE NON-PREFERRED DRUGS. A PRESCRIBER SEEKING PRIOR AUTHORIZATION SHALL
30 CONSULT WITH THE PROGRAM CALL LINE TO REASONABLY PRESENT HIS OR HER
31 JUSTIFICATION FOR THE PRESCRIPTION AND GIVE THE PROGRAM'S QUALIFIED
32 HEALTH CARE PROFESSIONAL A REASONABLE OPPORTUNITY TO RESPOND.

33 (B) WHEN A PATIENT'S HEALTH CARE PROVIDER PRESCRIBES A NON-PREFERRED
34 DRUG, THE PRESCRIBER SHALL CONSULT WITH THE PROGRAM TO CONFIRM THAT IN
35 HIS OR HER REASONABLE PROFESSIONAL JUDGMENT, THE PATIENT'S CLINICAL
36 CONDITION IS CONSISTENT WITH THE CRITERIA FOR APPROVAL OF THE NON-PREFERRED
37 DRUG. SUCH CRITERIA SHALL INCLUDE:

38 (I) THE PREFERRED DRUG HAS BEEN TRIED BY THE PATIENT AND HAS FAILED TO
39 PRODUCE THE DESIRED HEALTH OUTCOMES;

40 (II) THE PATIENT HAS TRIED THE PREFERRED DRUG AND HAS EXPERIENCED
41 UNACCEPTABLE SIDE EFFECTS;

42 (III) THE PATIENT HAS BEEN STABILIZED ON A NON-PREFERRED DRUG AND
43 TRANSITION TO THE PREFERRED DRUG WOULD BE MEDICALLY CONTRAINDICATED; OR

44 (IV) OTHER CLINICAL INDICATIONS IDENTIFIED BY THE COMMISSIONER OR THE
45 MANAGED CARE PROVIDER FOR THE PATIENT'S USE OF THE NON-PREFERRED DRUG,
46 WHICH SHALL INCLUDE CONSIDERATION OF THE MEDICAL NEEDS OF SPECIAL POPU-
47 LATIONS, INCLUDING CHILDREN, ELDERLY, CHRONICALLY ILL, PERSONS WITH
48 MENTAL HEALTH CONDITIONS, AND PERSONS AFFECTED BY HIV/AIDS.

49 (C) IN THE EVENT THAT THE PATIENT DOES NOT MEET THE CRITERIA IN PARA-
50 GRAPH (B) OF THIS SUBDIVISION, THE PRESCRIBER MAY PROVIDE ADDITIONAL
51 INFORMATION TO THE MANAGED CARE PROVIDER TO JUSTIFY THE USE OF A
52 NON-PREFERRED DRUG. THE SYSTEM SHALL PROVIDE A REASONABLE OPPORTUNITY
53 FOR A PRESCRIBER TO REASONABLY PRESENT HIS OR HER JUSTIFICATION OF PRIOR
54 AUTHORIZATION. IF, AFTER CONSULTATION WITH THE MANAGED CARE PROVIDER,
55 THE PRESCRIBER, IN HIS OR HER REASONABLE PROFESSIONAL JUDGMENT, DETER-

1 MINES THAT THE USE OF A NON-PREFERRED DRUG IS WARRANTED, THE
2 PRESCRIBER'S DETERMINATION SHALL BE FINAL.

3 (D) IF A PRESCRIBER MEETS THE REQUIREMENTS OF PARAGRAPH (B) OR (C) OF
4 THIS SUBDIVISION, THE PRESCRIBER SHALL BE GRANTED PRIOR AUTHORIZATION
5 UNDER THIS SECTION.

6 (E) IN THE INSTANCE WHERE A PRIOR AUTHORIZATION DETERMINATION IS NOT
7 COMPLETED WITHIN TWENTY-FOUR HOURS OF THE ORIGINAL REQUEST, SOLELY AS
8 THE RESULT OF A FAILURE OF THE SYSTEM (WHETHER BY ACTION OR INACTION),
9 PRIOR AUTHORIZATION SHALL BE IMMEDIATELY AND AUTOMATICALLY GRANTED WITH
10 NO FURTHER ACTION BY THE PRESCRIBER AND THE PRESCRIBER SHALL BE NOTIFIED
11 OF THIS DETERMINATION. IN THE INSTANCE WHERE A PRIOR AUTHORIZATION
12 DETERMINATION IS NOT COMPLETED WITHIN TWENTY-FOUR HOURS OF THE ORIGINAL
13 REQUEST FOR ANY OTHER REASON, A SEVENTY-TWO HOUR SUPPLY OF THE MEDICA-
14 TION SHALL BE APPROVED BY THE SYSTEM AND THE PRESCRIBER SHALL BE NOTI-
15 FIED OF THIS DETERMINATION.

16 (F) WHEN, IN THE JUDGMENT OF THE PRESCRIBER OR THE PHARMACIST, AN
17 EMERGENCY CONDITION EXISTS, AND THE PRESCRIBER OR PHARMACIST NOTIFIES
18 THE MANAGED CARE PROVIDER THAT AN EMERGENCY CONDITION EXISTS, A SEVEN-
19 TY-TWO HOUR EMERGENCY SUPPLY OF THE DRUG PRESCRIBED SHALL BE IMMEDIATELY
20 AUTHORIZED BY THE MANAGED CARE PROVIDER.

21 (G) IN THE EVENT THAT A PATIENT PRESENTS A PRESCRIPTION TO A PHARMA-
22 CIST FOR A PRESCRIPTION DRUG THAT IS A NON-PREFERRED DRUG AND FOR WHICH
23 THE PRESCRIBER HAS NOT OBTAINED A PRIOR AUTHORIZATION, THE PHARMACIST
24 SHALL, WITHIN A PROMPT PERIOD BASED ON PROFESSIONAL JUDGMENT, NOTIFY THE
25 PRESCRIBER. THE PRESCRIBER SHALL, WITHIN A PROMPT PERIOD BASED ON
26 PROFESSIONAL JUDGMENT, EITHER SEEK PRIOR AUTHORIZATION OR SHALL CONTACT
27 THE PHARMACIST AND AMEND OR CANCEL THE PRESCRIPTION. THE PHARMACIST
28 SHALL, WITHIN A PROMPT PERIOD BASED ON PROFESSIONAL JUDGMENT, NOTIFY THE
29 PATIENT WHEN PRIOR AUTHORIZATION HAS BEEN OBTAINED OR DENIED OR WHEN THE
30 PRESCRIPTION HAS BEEN AMENDED OR CANCELLED.

31 (H) ONCE PRIOR AUTHORIZATION OF A PRESCRIPTION FOR A DRUG THAT IS NOT
32 ON THE PREFERRED DRUG LIST IS OBTAINED, PRIOR AUTHORIZATION SHALL NOT BE
33 REQUIRED FOR ANY REFILL OF THE PRESCRIPTION.

34 (I) NO PRIOR AUTHORIZATION UNDER A QUALIFIED PRESCRIPTION DRUG SYSTEM
35 SHALL BE REQUIRED WHEN A PRESCRIBER PRESCRIBES A PREFERRED DRUG.

36 (J) NO PRIOR AUTHORIZATION UNDER A QUALIFIED PRESCRIPTION DRUG SYSTEM
37 SHALL BE REQUIRED FOR: (I) ATYPICAL ANTI-PSYCHOTICS; (II) ANTI-DEPRES-
38 SANTS; (III) ANTI-RETROVIRALS USED IN THE TREATMENT OF HIV/AIDS; (IV)
39 ANTI-REJECTION DRUGS USED IN THE TREATMENT OF ORGAN AND TISSUE TRANS-
40 PLANTS; AND (V) ANY OTHER THERAPEUTIC CLASS FOR THE TREATMENT OF MENTAL
41 ILLNESS OR HIV/AIDS, APPROVED BY THE COMMISSIONER.

42 5. CLINICAL DRUG REVIEW PROGRAM. IN THE CASE OF A DRUG FOR WHICH PRIOR
43 AUTHORIZATION IS REQUIRED UNDER THE CLINICAL DRUG REVIEW PROGRAM, PRIOR
44 AUTHORIZATION SHALL BE OBTAINED UNDER THE CLINICAL DRUG REVIEW PROGRAM
45 AND NOT UNDER THIS SECTION.

46 6. PRESCRIBER CONDUCT. THE MANAGED CARE PROVIDER AND THE DEPARTMENT
47 SHALL MONITOR THE PRIOR AUTHORIZATION PROCESS UNDER A QUALIFIED
48 PRESCRIPTION DRUG SYSTEM FOR PRESCRIBING PATTERNS WHICH ARE SUSPECTED OF
49 ENDANGERING THE HEALTH AND SAFETY OF THE PATIENT OR WHICH DEMONSTRATE A
50 LIKELIHOOD OF FRAUD OR ABUSE. THE MANAGED CARE PROVIDER AND THE DEPART-
51 MENT SHALL TAKE ANY AND ALL ACTIONS OTHERWISE PERMITTED BY LAW TO INVES-
52 TIGATE SUCH PRESCRIBING PATTERNS, TO TAKE REMEDIAL ACTION AND TO ENFORCE
53 APPLICABLE FEDERAL AND STATE LAWS.

54 7. USE OF PREFERRED DRUG PROGRAM. THE COMMISSIONER MAY CONTRACT WITH A
55 MANAGED CARE PROVIDER FOR THE PROVIDER TO USE THE PREFERRED DRUG PROGRAM
56 TO PROVIDE PRIOR AUTHORIZATION UNDER THE MANAGED CARE PROVIDER'S QUALI-

1 FIED PRESCRIPTION DRUG SYSTEM. THE CONTRACT SHALL INCLUDE TERMS REQUIRED
2 BY THE COMMISSIONER TO MAXIMIZE SAVINGS TO THE MEDICAID PROGRAM AND
3 PROTECT THE HEALTH AND INTERESTS OF THE MANAGED CARE PROVIDER'S PARTIC-
4 IPANTS. THE CONTRACT SHALL PROVIDE WHETHER THE PREFERRED DRUG PROGRAM
5 SHALL USE THE MANAGED CARE PROVIDER'S LISTS OF PREFERRED AND NON-PRE-
6 FERRED DRUGS OR THE PREFERRED DRUG LIST UNDER THE PREFERRED DRUG
7 PROGRAM, WITH RESPECT TO WHETHER PRIOR AUTHORIZATION IS REQUIRED.

8 8. A MANAGED CARE PROVIDER FOR WHICH PAYMENT FOR PRESCRIPTION DRUGS IS
9 INCLUDED IN ITS CAPITATION PAYMENT SHALL PERMIT EACH PARTICIPANT TO FILL
10 ANY MAIL ORDER COVERED PRESCRIPTION, AT HIS OR HER OPTION, AT ANY MAIL
11 ORDER PHARMACY OR NON-MAIL-ORDER RETAIL PHARMACY IN THE MANAGED CARE
12 PROVIDER NETWORK, IF THE NON-MAIL-ORDER RETAIL PHARMACY OFFERS TO ACCEPT
13 A PRICE THAT IS COMPARABLE TO THAT OF THE MAIL ORDER PHARMACY. EVERY
14 NON-MAIL-ORDER RETAIL PHARMACY IN THE MANAGED CARE PROVIDER'S NETWORK
15 WITH RESPECT TO ANY PRESCRIPTION DRUG SHALL BE DEEMED TO BE IN THE
16 MANAGED CARE PROVIDER'S NETWORK FOR EVERY COVERED PRESCRIPTION DRUG;
17 PROVIDED, HOWEVER, THAT THE MANAGED CARE PROVIDER MAY LIMIT ITS NETWORK
18 OF PHARMACIES FOR SPECIFIED DRUGS, APPROVED BY THE COMMISSIONER, BASED
19 ON CLINICAL, PROFESSIONAL OR COST CRITERIA. SUCH LIMITATION SHALL NOT BE
20 BASED SOLELY ON COST.

21 S 2. Section 55 of part D of chapter 56 of the laws of 2012 enacting
22 the health and mental hygiene budget for the 2012-2013 state fiscal plan
23 is REPEALED.

24 S 3. Subdivision 2-b of section 369-ee of the social services law is
25 REPEALED, and a new subdivision 2-b is added to read as follows:

26 2-B. PAYMENT FOR PRESCRIPTION DRUGS. PAYMENT FOR PRESCRIPTION DRUGS
27 SHALL BE INCLUDED IN THE CAPITATED PAYMENTS FOR SERVICES OR SUPPLIES
28 PROVIDED UNDER A FAMILY HEALTH INSURANCE PLAN OR PROVIDED BY AN EMPLOYER
29 PARTNERSHIP FOR FAMILY HEALTH PLUS PLAN AUTHORIZED BY SECTION THREE
30 HUNDRED SIXTY-NINE-FF OF THIS TITLE, PROVIDED THAT THE PLAN PAYS FOR
31 PRESCRIPTION DRUGS UNDER A QUALIFIED PRESCRIPTION DRUG SYSTEM UNDER
32 SECTION THREE HUNDRED SIXTY-FIVE-I OF THIS ARTICLE. EVERY PRESCRIPTION
33 DRUG ELIGIBLE FOR REIMBURSEMENT UNDER THIS ARTICLE PRESCRIBED IN
34 RELATION TO A SERVICE PROVIDED BY THE PLAN SHALL BE EITHER A PREFERRED
35 OR NON-PREFERRED DRUG UNDER THE QUALIFIED PRESCRIPTION DRUG SYSTEM. IF
36 THE PLAN DOES NOT PAY FOR PRESCRIPTION DRUGS UNDER A QUALIFIED
37 PRESCRIPTION DRUG SYSTEM, THEN PAYMENT FOR PRESCRIPTION DRUGS FOR THE
38 PLAN'S PATIENTS SHALL NOT BE INCLUDED IN SUCH CAPITATION PAYMENTS AND
39 PRESCRIPTION DRUGS SHALL BE PROVIDED FOR THE APPROVED ORGANIZATION'S
40 PARTICIPANTS UNDER THE PREFERRED DRUG PROGRAM.

41 S 4. Section 2511 of the public health law is amended by adding a new
42 subdivision 21 to read as follows:

43 21. PAYMENT FOR PRESCRIPTION DRUGS. PAYMENT FOR PRESCRIPTION DRUGS
44 SHALL BE INCLUDED IN THE PAYMENTS FOR SERVICES OR SUPPLIES PROVIDED BY
45 THE APPROVED ORGANIZATION, PROVIDED THAT THE PLAN PAYS FOR PRESCRIPTION
46 DRUGS UNDER A QUALIFIED PRESCRIPTION DRUG SYSTEM UNDER SECTION THREE
47 HUNDRED SIXTY-FIVE-I OF THE SOCIAL SERVICES LAW. EVERY PRESCRIPTION DRUG
48 ELIGIBLE FOR REIMBURSEMENT UNDER THIS ARTICLE PRESCRIBED IN RELATION TO
49 A SERVICE PROVIDED BY THE APPROVED ORGANIZATION SHALL BE EITHER A
50 PREFERRED OR NON-PREFERRED DRUG UNDER THE QUALIFIED PRESCRIPTION DRUG
51 SYSTEM. IF THE APPROVED ORGANIZATION DOES NOT PAY FOR PRESCRIPTION DRUGS
52 UNDER A QUALIFIED PRESCRIPTION DRUG SYSTEM, THEN PAYMENT FOR
53 PRESCRIPTION DRUGS FOR THE APPROVED ORGANIZATION'S PATIENTS SHALL NOT BE
54 INCLUDED IN SUCH PAYMENTS AND PRESCRIPTION DRUGS SHALL BE PROVIDED FOR
55 THE APPROVED ORGANIZATION'S PARTICIPANTS UNDER THE PREFERRED DRUG
56 PROGRAM.

1 S 5. Subdivision 11 of section 270 of the public health law, as
2 amended by section 2-a of part C of chapter 58 of the laws of 2008, is
3 amended to read as follows:

4 11. "State public health plan" means the medical assistance program
5 established by title eleven of article five of the social services law
6 (referred to in this article as "Medicaid"), the elderly pharmaceutical
7 insurance coverage program established by title three of article two of
8 the elder law (referred to in this article as "EPIC"), [and] the family
9 health plus program established by section three hundred sixty-nine-ee
10 of the social services law [to the extent that section provides that the
11 program shall be subject to this article], AND THE CHILD HEALTH INSUR-
12 ANCE PROGRAM UNDER TITLE ONE-A OF ARTICLE TWENTY-FIVE OF THE PUBLIC
13 HEALTH LAW.

14 S 6. Section 272 of the public health law is amended by adding a new
15 subdivision 12 to read as follows:

16 12. NO PRIOR AUTHORIZATION SHALL BE REQUIRED UNDER THE PREFERRED DRUG
17 PROGRAM FOR:

18 (A) ATYPICAL ANTI-PSYCHOTICS; (B) ANTI-DEPRESSANTS; (C) ANTI-RETROVI-
19 RALS USED IN THE TREATMENT OF HIV/AIDS; (D) ANTI-REJECTION DRUGS USED IN
20 THE TREATMENT OF ORGAN AND TISSUE TRANSPLANTS; AND (E) ANY OTHER THERA-
21 PEUTIC CLASS FOR THE TREATMENT OF MENTAL ILLNESS OR HIV/AIDS, RECOM-
22 MENDED BY THE COMMITTEE AND APPROVED BY THE COMMISSIONER UNDER THIS
23 SECTION.

24 S 7. This act shall take effect on the one hundred eightieth day after
25 it shall become a law; provided, however, that the commissioner of
26 health is immediately authorized and directed to take actions necessary
27 to implement this act when it takes effect.