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2011-2012 Regular Sessions

I N A S S E M B L Y

February 4, 2011

Introduced by M. of A. DESTITO, GOTTFRIED, PHEFFER, REILLY, CASTRO, JAFFEE, GIBSON, GUNTHER, GALEF, ROSENTHAL, PERRY, ORTIZ -- Multi-Sponsored by -- M. of A. BRENNAN, HOOPER, MAYERSOHN, MENG, SCHIMEL, WEISENBERG -- read once and referred to the Committee on Health

AN ACT to direct the department of health to evaluate and report on Medicaid prescription drug reimbursement to retail pharmacies

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

1 Section 1. The commissioner of health shall establish in the depart-
2 ment of health a Medicaid pharmacy reimbursement workgroup (referred to
3 in this act as the "workgroup") for the purpose of assisting the commis-
4 sioner of health in studying Medicaid prescription drug reimbursement to
5 retail pharmacies. The workgroup shall consist of 16 members, to be
6 appointed as follows: 4 members shall be appointed by the governor, 3
7 members shall be appointed by the speaker of the assembly, 3 members
8 shall be appointed by the temporary president of the senate, 1 member
9 shall be appointed by the minority leader of the senate, and 1 member
10 shall be appointed by the minority leader of the assembly. The chairs of
11 the assembly and senate fiscal and health committees, or their designees
12 shall serve as ex-officio members. The work group shall include: (a) 3
13 representatives of organizations of chain and independent retail pharma-
14 cies, 3 prescription drug manufacturers and wholesalers, 2 advocates for
15 Medicaid recipients, and other stakeholders; (b) 2 appropriate officials
16 of the department of health; and (c) 2 academic or other professional
17 experts on prescription drug reimbursement.

18 S 2. 1. The workgroup's study shall include but need not be limited to
19 an analysis of:

20 (a) how the current reimbursement methodology relates to pharmacies'
21 actual costs for wholesale purchasing of drugs and dispensing Medicaid
22 prescriptions, including but not limited to inventory acquisition and
23 management, payroll costs, employee benefits, professional liability

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

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1 insurance, licenses and other fees, professional services such as coor-
2 dination of benefits, patient counseling and prescription verifications,
3 facility costs including rent, mortgage interest, insurance, real estate
4 taxes, utilities, maintenance, permits and delivery expenses, contain-
5 ers, labels and supplies, specialized packaging, transaction fees, tele-
6 phone, data management, computer systems and support, bad debt including
7 uncollected co-pays, and payment lag times;

8 (b) the comparative merits of reimbursement methodologies used in
9 other states or allowed by the Federal government;

10 (c) the effect of New York's current and possible alternative method-
11 ologies on the financial viability of pharmacies, access to prescription
12 drugs for Medicaid recipients, controlling wholesale prices, and costs
13 to the Medicaid system;

14 (d) the actual cost to New York of the pharmacy benefit considering
15 the total amount paid to pharmacies after federal participation, minus
16 the total amount collected by New York in rebates from pharmaceutical
17 manufacturers, and separately identifying product costs and dispensing
18 fees.

19 2. The department of health and other state agencies shall provide
20 assistance to the workgroup in conducting its work. Members of the work-
21 group shall receive no compensation for their service as members of the
22 workgroup but may receive reimbursement for their reasonable and neces-
23 sary expenses incurred in connection with their participation in the
24 workgroup. A public official or employee may serve as a member of the
25 workgroup.

26 S 3. The commissioner of health shall report his or her preliminary
27 findings and recommendations relating to Medicaid prescription drug
28 reimbursement to retail pharmacies to the governor and the legislature
29 no later than January first after this act shall have become a law and
30 may provide further findings and recommendations thereafter.

31 S 4. This act shall take effect immediately.