

4724

2011-2012 Regular Sessions

I N   A S S E M B L Y

February 7, 2011

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Introduced by M. of A. RAMOS -- read once and referred 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 ASSEM-  
BLY, DO ENACT AS FOLLOWS:

1     Section 1. Subsection (i) of section 3216 of the insurance law is  
2     amended by adding a new paragraph 28 to read as follows:  
3     (28) 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 17 to read as follows:  
18    (17) 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

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

LBD08466-01-1

1 SUCH DRUG UNDER THE SAME TERMS AND CONDITIONS AS WOULD APPLY UNDER THE  
2 POLICY WERE SUCH DRUG STILL INCLUDED IN OR PREFERRED UNDER THE FORMU-  
3 LARY, UNTIL A FINAL DECISION IS RENDERED ON THE APPEAL OR GRIEVANCE. FOR  
4 THE PURPOSE OF THIS PARAGRAPH, "SINGLE SOURCE DRUG" MEANS A BRANDNAME  
5 DRUG FOR WHICH THERE IS NO GENERIC EQUIVALENT.

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

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

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