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

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2011-2012 Regular Sessions

I N A S S E M B L Y

February 8, 2011

Introduced by M. of A. P. RIVERA -- read once and referred to the Committee on Health

AN ACT to amend the social services law and the public health law, in relation to drug utilization review and the preferred drug program

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

Section 1. Subdivision 4 of section 369-cc of the social services law, as added by section 39 of part C of chapter 58 of the laws of 2009, is amended to read as follows:

4. (a) The commissioner, through the prospective DUR program, may require step therapy when there is more than one drug appropriate to treat a medical condition. The purpose of step therapy is to encourage the use of medically appropriate, cost effective drugs when clinically indicated and to limit use of alternative drug therapies unless certain clinical requirements are met. The DUR board shall recommend guidelines for specific diagnoses and therapy regimens within which practitioners may prescribe drugs without the requirement for prior authorization of those drugs. In establishing these guidelines, the board shall consider clinical effectiveness, safety, and cost effectiveness. Prior authorization under this paragraph shall be obtained under section two hundred seventy-three of the public health law. IN ADDITION, THE AUTHORITY TO REQUIRE STEP THERAPY AS AUTHORIZED BY THIS PARAGRAPH SHALL NOT APPLY TO:

(I) ATYPICAL ANTI-PSYCHOTICS;

(II) ANTI-DEPRESSANTS;

(III) ANTI-RETROVIRALS USED IN THE TREATMENT OF HIV/AIDS;

(IV) ANTI-REJECTION DRUGS USED FOR THE TREATMENT OF ORGAN AND TISSUE TRANSPLANTS; AND

(V) ANY OTHER THERAPEUTIC CLASS FOR THE TREATMENT OF MENTAL ILLNESS OR HIV/AIDS, RECOMMENDED BY THE DUR BOARD AND APPROVED BY THE COMMISSIONER.

(b) The commissioner, through the prospective DUR program, may from time to time limit the quantity, frequency, and duration of drug therapy, using guidelines developed by the DUR board. The DUR board shall develop clinical prescribing guidelines relating to quantity, frequency, and duration of drug therapy for the commissioner's use under this para-

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

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graph. In establishing these guidelines, the board shall consider clinical effectiveness, safety, and cost effectiveness. Prior authorization under this paragraph shall be obtained under section two hundred seventy-three of the public health law. Exceptions to any prior authorization imposed as a result of these guidelines shall include, but need not be limited to, provision for emergency circumstances where a medical condition requires alleviation of severe pain or which threatens to cause disability or to take a life if not promptly treated. PRIOR AUTHORIZATION UNDER THIS PARAGRAPH SHALL BE OBTAINED PURSUANT TO SECTION TWO HUNDRED SEVENTY-THREE OF THE PUBLIC HEALTH LAW. IN ADDITION, THE AUTHORITY TO LIMIT THE QUANTITY, FREQUENCY AND DURATION OF DRUG THERAPY AS AUTHORIZED BY THIS PARAGRAPH SHALL NOT APPLY TO:

(I) ATYPICAL ANTI-PSYCHOTICS;

(II) ANTI-DEPRESSANTS;

(III) ANTI-RETROVIRALS USED IN THE TREATMENT OF HIV/AIDS;

(IV) ANTI-REJECTION DRUGS USED FOR THE TREATMENT OF ORGAN AND TISSUE TRANSPLANTS; AND

(V) ANY OTHER THERAPEUTIC CLASS FOR THE TREATMENT OF MENTAL ILLNESS OR HIV/AIDS, RECOMMENDED BY THE DUR BOARD AND APPROVED BY THE COMMISSIONER.

S 2. Paragraph (b) of subdivision 11 of section 272 of the public health law, as added by section 36 of part C of chapter 58 of the laws of 2009, is amended to read as follows:

(b) (I) The commissioner may designate a pharmaceutical manufacturer as one with whom the commissioner is negotiating or has negotiated a manufacturer agreement, and all of the drugs it manufactures or markets shall be included in the preferred drug program. The commissioner may negotiate directly with a pharmaceutical manufacturer for rebates relating to any or all of the drugs it manufactures or markets. A manufacturer agreement shall designate any or all of the drugs manufactured or marketed by the pharmaceutical manufacturer as being preferred or non preferred drugs. When a pharmaceutical manufacturer has been designated by the commissioner under this paragraph but has not reached a manufacturer agreement with the pharmaceutical manufacturer, then all of the drugs manufactured or marketed by the pharmaceutical manufacturer shall be non preferred drugs. However, notwithstanding this paragraph, any drug that is selected to be on the preferred drug list under paragraph (b) of subdivision ten of this section on grounds that it is significantly more clinically effective and safer than other drugs in its therapeutic class shall be a preferred drug.

(II) PRIOR AUTHORIZATION UNDER THIS PARAGRAPH SHALL BE OBTAINED PURSUANT TO THIS SECTION. IN ADDITION, THE AUTHORITY TO DESIGNATE DRUGS AS PREFERRED OR NON PREFERRED PURSUANT TO AN AGREEMENT AUTHORIZED BY THIS PARAGRAPH SHALL NOT APPLY TO:

(A) ATYPICAL ANTI-PSYCHOTICS;

(B) ANTI-DEPRESSANTS;

(C) ANTI-RETROVIRALS USED IN THE TREATMENT OF HIV/AIDS;

(D) ANTI-REJECTION DRUGS USED FOR THE TREATMENT OF ORGAN AND TISSUE TRANSPLANTS; AND

(E) ANY OTHER THERAPEUTIC CLASS FOR THE TREATMENT OF MENTAL ILLNESS OR HIV/AIDS, RECOMMENDED BY THE DUR BOARD AND APPROVED BY THE COMMISSIONER.

S 3. This act shall take effect immediately, provided that the amendments to section 272 of the public health law, made by section two of this act, shall not affect the repeal of such section and shall expire and be deemed repealed therewith.