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

March 31, 2011

Introduced by M. of A. ZEBROWSKI, COLTON, COOK, DINOWITZ, GUNTHER, JAFFEE, KELLNER, LANCMAN, ORTIZ, PEOPLES-STOKES, PHEFFER -- Multi-Sponsored by -- M. of A. BROOK-KRASNY, MAISEL, MAYERSOHN, REILLY, ROBINSON, TITONE, TOWNS, WEISENBERG -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to insurance coverage for prescribed drugs

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

Section 1. Paragraph 27 of subsection (i) of section 3216 of the insurance law, as added by chapter 457 of the laws of 2010, is renumbered paragraph 28 and a new paragraph 29 is added to read as follows:

(29)(A) EVERY POLICY WHICH PROVIDES COVERAGE FOR PRESCRIBED DRUGS APPROVED BY THE FOOD AND DRUG ADMINISTRATION OF THE UNITED STATES GOVERNMENT SHALL PROVIDE COVERAGE TO ANY NAMED SUBSCRIBER OR OTHER PERSON COVERED THEREUNDER FOR ANY DRUG PRESCRIBED BY A PHYSICIAN OR OTHER LICENSED HEALTH CARE PROVIDER, LEGALLY AUTHORIZED TO PRESCRIBE UNDER TITLE EIGHT OF THE EDUCATION LAW, AS THE DRUG MOST LIKELY TO PROVIDE RELIEF TO SUCH PERSON. PROVIDED, HOWEVER, THAT SUCH DRUG MUST BE RECOGNIZED FOR TREATMENT OF THE SPECIFIC TYPE OF ILLNESS OR INJURY FOR WHICH THE DRUG HAS BEEN PRESCRIBED IN ONE OF THE FOLLOWING ESTABLISHED REFERENCE COMPENDIA:

(I) THE AMERICAN MEDICAL ASSOCIATION DRUG EVALUATIONS;

(II) THE AMERICAN HOSPITAL FORMULARY SERVICE DRUG INFORMATION; OR

(III) THE UNITED STATES PHARMACOPEIA DRUG INFORMATION; OR RECOMMENDED BY REVIEW ARTICLE OR EDITORIAL COMMENT IN A MAJOR PEER REVIEWED PROFESSIONAL JOURNAL.

(B) NOTWITHSTANDING THE PROVISIONS OF THIS PARAGRAPH, COVERAGE SHALL NOT BE REQUIRED FOR ANY EXPERIMENTAL OR INVESTIGATIONAL DRUGS OR ANY DRUG WHICH THE FOOD AND DRUG ADMINISTRATION HAS DETERMINED TO BE

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

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CONTRAINDICATED FOR TREATMENT OF THE SPECIFIC TYPE OF ILLNESS OR INJURY FOR WHICH THE DRUG HAS BEEN PRESCRIBED.

S 2. Subsection (k) of section 3221 of the insurance law is amended by adding a new paragraph 17 to read as follows:

(17)(A) EVERY POLICY WHICH PROVIDES COVERAGE FOR PRESCRIBED DRUGS APPROVED BY THE FOOD AND DRUG ADMINISTRATION OF THE UNITED STATES GOVERNMENT SHALL PROVIDE COVERAGE TO ANY NAMED SUBSCRIBER OR OTHER PERSON COVERED THEREUNDER FOR ANY DRUG PRESCRIBED BY A PHYSICIAN OR OTHER LICENSED HEALTH CARE PROVIDER, LEGALLY AUTHORIZED TO PRESCRIBE UNDER TITLE EIGHT OF THE EDUCATION LAW, AS THE DRUG MOST LIKELY TO PROVIDE RELIEF TO SUCH PERSON. PROVIDED, HOWEVER, THAT SUCH DRUG MUST BE RECOGNIZED FOR TREATMENT OF THE SPECIFIC TYPE OF ILLNESS OR INJURY FOR WHICH THE DRUG HAS BEEN PRESCRIBED IN ONE OF THE FOLLOWING ESTABLISHED REFERENCE COMPENDIA:

(I) THE AMERICAN MEDICAL ASSOCIATION DRUG EVALUATIONS;

(II) THE AMERICAN HOSPITAL FORMULARY SERVICE DRUG INFORMATION; OR

(III) THE UNITED STATES PHARMACOPEIA DRUG INFORMATION; OR RECOMMENDED BY REVIEW ARTICLE OR EDITORIAL COMMENT IN A MAJOR PEER REVIEWED PROFESSIONAL JOURNAL.

(B) NOTWITHSTANDING THE PROVISIONS OF THIS PARAGRAPH, COVERAGE SHALL NOT BE REQUIRED FOR ANY EXPERIMENTAL OR INVESTIGATIONAL DRUGS OR ANY DRUG WHICH THE FOOD AND DRUG ADMINISTRATION HAS DETERMINED TO BE CONTRAINDICATED FOR TREATMENT OF THE SPECIFIC TYPE OF ILLNESS OR INJURY FOR WHICH THE DRUG HAS BEEN PRESCRIBED.

S 3. Subsection (gg) of section 4303 of the insurance law, as added by chapter 536 of the laws of 2010, is relettered subsection (hh) and a new subsection (ii) is added to read as follows:

(II) (1) EVERY POLICY WHICH PROVIDES COVERAGE FOR PRESCRIBED DRUGS APPROVED BY THE FOOD AND DRUG ADMINISTRATION OF THE UNITED STATES GOVERNMENT SHALL PROVIDE COVERAGE TO ANY NAMED SUBSCRIBER OR OTHER PERSON COVERED THEREUNDER FOR ANY DRUG PRESCRIBED BY A PHYSICIAN OR OTHER LICENSED HEALTH CARE PROVIDER, LEGALLY AUTHORIZED TO PRESCRIBE UNDER TITLE EIGHT OF THE EDUCATION LAW, AS THE DRUG MOST LIKELY TO PROVIDE RELIEF TO SUCH PERSON. PROVIDED, HOWEVER, THAT SUCH DRUG MUST BE RECOGNIZED FOR TREATMENT OF THE SPECIFIC TYPE OF ILLNESS OR INJURY FOR WHICH THE DRUG HAS BEEN PRESCRIBED IN ONE OF THE FOLLOWING ESTABLISHED REFERENCE COMPENDIA:

(A) THE AMERICAN MEDICAL ASSOCIATION DRUG EVALUATIONS;

(B) THE AMERICAN HOSPITAL FORMULARY SERVICE DRUG INFORMATION; OR

(C) THE UNITED STATES PHARMACOPEIA DRUG INFORMATION; OR RECOMMENDED BY REVIEW ARTICLE OR EDITORIAL COMMENT IN A MAJOR PEER REVIEWED PROFESSIONAL JOURNAL.

(2) NOTWITHSTANDING THE PROVISIONS OF THIS SUBSECTION, COVERAGE SHALL NOT BE REQUIRED FOR ANY EXPERIMENTAL OR INVESTIGATIONAL DRUGS OR ANY DRUG WHICH THE FOOD AND DRUG ADMINISTRATION HAS DETERMINED TO BE CONTRAINDICATED FOR TREATMENT OF THE SPECIFIC TYPE OF ILLNESS OR INJURY FOR WHICH THE DRUG HAS BEEN PRESCRIBED.

S 4. This act shall take effect on the first of January next succeeding the date on which it shall have become a law, and shall apply to all policies and contracts issued, renewed, modified, altered or amended on or after such effective date; provided that any rule or regulation necessary for the timely implementation of this act on its effective date is authorized and directed to be promulgated on or before such date.