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2011-2012 Regular Sessions

I N S E N A T E

(PREFILED)

January 5, 2011

Introduced by Sens. KLEIN, ADAMS, HASSELL-THOMPSON, OPPENHEIMER, PARKER,
STAVISKY -- read twice and ordered printed, and when printed to be
committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to health insurance poli-
cies and prescription drug coverage

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

1 Section 1. Section 3221 of the insurance law is amended by adding a
2 new subsection (s) to read as follows:
3 (S) EVERY GROUP OR BLANKET POLICY DELIVERED OR ISSUED FOR DELIVERY IN
4 THIS STATE WHICH PROVIDES PRESCRIPTION DRUG COVERAGE SHALL:
5 (1) LIMIT THE MAXIMUM CO-PAYMENT AND CO-INSURANCE AMOUNTS FOR SUCH
6 PRESCRIPTION DRUGS SO THEY SHALL NOT EXCEED TEN TIMES THE DOLLAR VALUE
7 OF THE LOWEST CO-PAYMENT AND CO-INSURANCE AMOUNT WHOSE COST IS ABOVE
8 ZERO DOLLARS.
9 (2) SUCH PRESCRIPTION DRUG COVERAGE SHALL BE SUBJECT TO THE FOLLOWING
10 PROVISIONS:
11 (I) WHEN AN INSURER HAS REQUIRED THAT A MEMBER INSURED BY A HEALTH
12 POLICY ISSUED UNDER THIS SECTION TAKE A GENERIC ALTERNATIVE TO A BRAND-
13 NAME PATENTED DRUG PRESCRIBED BY THEIR DOCTOR, AND THE ALTERNATIVE IS
14 NOT DEEMED AS HAVING AN EQUIVALENT IMPACT ON THE MEMBER BY THE MEMBER'S
15 PRESCRIBING PHYSICIAN AND IS NOT DEEMED AN A-RATED GENERICALLY AND THER-
16 APEUTICALLY EQUIVALENT PRODUCT AS DETERMINED BY THE FDA, THE INSURER
17 SHALL PAY FOR AND MAKE AVAILABLE THE BRAND-NAME PATENTED DRUG ORIGINALLY
18 PRESCRIBED BY THE MEMBER'S DOCTOR.
19 (II) IN CASES WHERE STEP THERAPY IS REQUIRED PRIOR TO A PATIENT
20 ACCESSING A BRAND-NAME PATENTED PRESCRIPTION DRUG, THE PATIENT CAN
21 RECEIVE THE BRAND-NAME PATENTED PRESCRIPTION DRUG PRESCRIBED BY THEIR
22 DOCTOR IF THE PATIENT TRIES ONE ALTERNATIVE MEDICATION AND THE PATIENT'S

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

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1 DOCTOR DETERMINES THAT THE SINGLE SOURCE THERAPY REMAINS MEDICALLY
2 NECESSARY.

3 (3) ENSURE THAT THERE IS CONTINUOUS COVERAGE OF A SINGLE SOURCE
4 PRESCRIPTION DRUG THAT IS PART OF A PRESCRIBED THERAPY UNTIL SUCH
5 PRESCRIBED THERAPY IS NO LONGER MEDICALLY NECESSARY FOR ANY COVERED
6 PERSON UNDER SUCH POLICY.

7 (4) NO SUCH POLICY PROVIDED UNDER THIS SUBSECTION SHALL IMPOSE AN
8 ADDITIONAL FEE OR CO-PAY REQUIREMENT ON ANY INSURED WHO ELECTS TO
9 PURCHASE PRESCRIBED DRUGS FROM OTHER THAN A MAIL ORDER PROVIDER IF SUCH
10 FEE OR CO-PAY IS NOT OTHERWISE IMPOSED. NOR SHALL ANY SUCH POLICY
11 REQUIRE THAT ONLY MAIL ORDER PROVIDERS BE UTILIZED AS A CONDITION OF
12 COVERAGE FOR PRESCRIBED DRUGS.

13 S 2. Section 4303 of the insurance law is amended by adding a new
14 subsection (hh) to read as follows:

15 (HH) EVERY CONTRACT ISSUED BY A HOSPITAL SERVICE CORPORATION, HEALTH
16 SERVICE CORPORATION OR MEDICAL EXPENSE INDEMNITY CORPORATION WHICH
17 PROVIDES PRESCRIPTION DRUG COVERAGE SHALL:

18 (1) LIMIT THE MAXIMUM CO-PAYMENT AND CO-INSURANCE AMOUNTS FOR SUCH
19 PRESCRIPTION DRUGS SO THEY SHALL NOT EXCEED TEN TIMES THE DOLLAR VALUE
20 OF THE LOWEST CO-PAYMENT AND CO-INSURANCE AMOUNT WHOSE COST IS ABOVE
21 ZERO DOLLARS.

22 (2) SUCH PRESCRIPTION DRUG COVERAGE SHALL BE SUBJECT TO THE FOLLOWING
23 PROVISIONS:

24 (I) WHEN AN INSURER HAS REQUIRED THAT A MEMBER INSURED BY A HEALTH
25 CONTRACT ISSUED UNDER THIS SECTION TAKE A GENERIC ALTERNATIVE TO A
26 BRAND-NAME PATENTED DRUG PRESCRIBED BY THEIR DOCTOR, AND THE ALTERNATIVE
27 IS NOT DEEMED AS HAVING AN EQUIVALENT IMPACT ON THE MEMBER BY THE
28 MEMBER'S PRESCRIBING PHYSICIAN AND IS NOT DEEMED AN A-RATED GENERICALLY
29 AND THERAPEUTICALLY EQUIVALENT PRODUCT AS DETERMINED BY THE FDA, THE
30 INSURER SHALL PAY FOR AND MAKE AVAILABLE THE BRAND-NAME PATENTED DRUG
31 ORIGINALLY PRESCRIBED BY THE MEMBER'S DOCTOR.

32 (II) IN CASES WHERE STEP THERAPY IS REQUIRED PRIOR TO A PATIENT
33 ACCESSING A BRAND-NAME PATENTED PRESCRIPTION DRUG, THE PATIENT CAN
34 RECEIVE THE BRAND-NAME PATENTED PRESCRIPTION DRUG PRESCRIBED BY THEIR
35 DOCTOR IF THE PATIENT TRIES ONE ALTERNATIVE MEDICATION AND THE PATIENT'S
36 DOCTOR DETERMINES THAT THE SINGLE SOURCE THERAPY REMAINS MEDICALLY
37 NECESSARY.

38 (3) ENSURE THAT THERE IS CONTINUOUS COVERAGE OF A SINGLE SOURCE
39 PRESCRIPTION DRUG THAT IS PART OF A PRESCRIBED THERAPY UNTIL SUCH
40 PRESCRIBED THERAPY IS NO LONGER MEDICALLY NECESSARY FOR ANY COVERED
41 PERSON UNDER SUCH POLICY.

42 (4) NO SUCH POLICY PROVIDED UNDER THIS SUBSECTION SHALL IMPOSE AN
43 ADDITIONAL FEE OR CO-PAY REQUIREMENT ON ANY INSURED WHO ELECTS TO
44 PURCHASE PRESCRIBED DRUGS FROM OTHER THAN A MAIL ORDER PROVIDER IF SUCH
45 FEE OR CO-PAY IS NOT OTHERWISE IMPOSED. NOR SHALL ANY SUCH POLICY
46 REQUIRE THAT ONLY MAIL ORDER PROVIDERS BE UTILIZED AS A CONDITION OF
47 COVERAGE FOR PRESCRIBED DRUGS.

48 S 4. This act shall take effect on the first of January next succeed-
49 ing the date on which it shall have become a law; provided that it shall
50 apply to all new policies and contracts issued, renewed, modified or
51 revised on or after such date.