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

5043--A

2011-2012 Regular Sessions

I N S E N A T E

May 3, 2011

Introduced by Sen. HANNON -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to establishing a medicaid drug rebate remittance demonstration program

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

Section 1. The public health law is amended by adding a new section 276-b to read as follows:

S 276-B. MEDICAID DRUG REBATE REMITTANCE DEMONSTRATION PROGRAM. 1. THE DEPARTMENT SHALL ESTABLISH A MEDICAID DRUG REBATE REMITTANCE DEMONSTRATION PROGRAM FOR THE PURPOSE OF WORKING COLLABORATIVELY WITH THIRD PARTY VENDORS TO VALIDATE THE EXISTING MEDICAID DRUG REBATE CLAIMS AND DETERMINE WHETHER THE DATA CONTAINS DUPLICATE CLAIMS OR CLAIMS ON WHICH REBATES MAY ALREADY HAVE BEEN PAID ALL OR IN PART TO MEDICARE PART D PLANS OR SOME OTHER THIRD PARTIES IN ORDER TO RECTIFY DISPUTED CLAIMS.

2. FOR THE PURPOSES OF THIS DEMONSTRATION PROGRAM, THE DEPARTMENT SHALL PROVIDE UTILIZATION INFORMATION TYING TO INVOICES SENT TO PHARMACEUTICAL MANUFACTURERS, WHICH HAVE ENTERED INTO A REBATE AGREEMENT WITH THE DEPARTMENT OR WITH THE FEDERAL SECRETARY OF HEALTH AND HUMAN SERVICES ON BEHALF OF THE DEPARTMENT UNDER SECTION 1927 OF THE FEDERAL SOCIAL SECURITY ACT, AND TO THIRD PARTY DATA VENDORS, FOR THE PURPOSE OF VALIDATING CLAIMS SUBMITTED UNDER SUCH REBATE AGREEMENT OR PROGRAM INCLUDING BUT NOT LIMITED TO, THE PROGRAM FOR ELDERLY PHARMACEUTICAL INSURANCE COVERAGE, AND THE MEDICAID DRUG REBATE PROGRAM IN GENERAL FOR THE PERIOD FROM JANUARY FIRST, TWO THOUSAND NINE THROUGH JUNE THIRTIETH, TWO THOUSAND TWELVE. SUCH UTILIZATION INFORMATION SHALL INCLUDE, BUT NOT BE LIMITED TO: PRESCRIPTION NUMBERS, NATIONAL DRUG CODES, NUMBER OF UNITS DISPENSED, CLAIMS PAID DATE, DATE OF SERVICE, PRESCRIBING PHYSICIAN STATE IDENTIFICATION NUMBER, AMOUNT BILLED FOR EACH PRESCRIPTION,

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

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AMOUNT OF REIMBURSEMENT RECEIVED FOR EACH PRESCRIPTION (INCLUDING ANY ADJUSTMENT CODES), DISPENSING PHARMACY'S STATE IDENTIFICATION NUMBER, DISPENSING FEE, ANY APPLICABLE THIRD-PARTY PAYMENTS, APPLICABLE CO-PAYMENTS, REFILL CODE, INTERNAL CLAIM NUMBER OF THE SCRIPT, DAYS SUPPLY, J-CODE CLAIMS INCLUDING SINGLE SOURCE AND MULTISOURCE PHYSICIAN ADMINISTERED DRUGS, NPI NUMBERS, MCO PLAN IDENTIFIER, MCO PLAN NAME, AND THE NAME, ADDRESS, CITY, STATE AND ZIP CODE OF THE PRESCRIBING PRACTITIONER AND PHARMACY. THE PRESCRIPTION DRUG UTILIZATION INFORMATION SHALL BE PROVIDED TO THE THIRD PARTY DATA VENDORS AS SOON AS PRACTICABLE FOLLOWING ESTABLISHMENT OF THIS PROGRAM. THERE SHALL BE NO COST TO THE DEPARTMENT FOR SERVICES PERFORMED BY THIRD PARTY DATA VENDORS. ANY PRESCRIPTION DRUG UTILIZATION DATA PROVIDED TO THIRD PARTY DATA VENDORS UNDER THIS DEMONSTRATION PROGRAM SHALL NOT BE SHARED WITH OTHER PARTIES, EXCEPT PARTICIPATING DRUG MANUFACTURERS WHO HAVE ENTERED INTO A REBATE AGREEMENT WITH THE DEPARTMENT OR WITH THE FEDERAL SECRETARY OF HEALTH AND HUMAN SERVICES ON BEHALF OF THE DEPARTMENT UNDER SECTION 1927 OF THE FEDERAL SOCIAL SECURITY ACT. UTILIZATION DATA PROVIDED UNDER THIS SECTION SHALL BE USED FOR THE FOLLOWING PURPOSE: REBATE VALIDATION SERVICES FOR THE BENEFIT OF DRUG COMPANIES AND STATE/FEDERAL AGENCIES INCLUDING DRUG USE TREND REVIEW. INDIVIDUAL PATIENT IDENTIFYING INFORMATION SHALL BE KEPT CONFIDENTIAL BY ANY PERSON OR ENTITY TO WHOM OR TO WHICH IT IS PROVIDED UNDER THIS SECTION. THE DISCLOSURE OF THE FOREGOING DATA BY THE DEPARTMENT SHALL BE CONSIDERED, FOR PURPOSES OF SECTION THREE HUNDRED SIXTY-NINE OF THE SOCIAL SERVICES LAW, TO BE DIRECTLY CONNECTED WITH THE ADMINISTRATION OF MEDICAL ASSISTANCE FOR NEEDY PERSONS.

3. THE DEPARTMENT SHALL PROVIDE A REPORT ON THE RESULTS OF THE DEMONSTRATION PROGRAM, WITH INPUT FROM STAKEHOLDERS, TO THE GOVERNOR, THE DIRECTOR OF THE DIVISION OF BUDGET, THE STATE COMPTROLLER AND THE LEGISLATURE ON OR BEFORE DECEMBER THIRTY-FIRST, TWO THOUSAND TWELVE. THE REPORT SHALL INCLUDE FINDINGS AS TO THE DEMONSTRATION PROGRAM'S CONTRIBUTION TO IMPROVING THE ABILITY OF THE DEPARTMENT TO VALIDATE DRUG REBATE CLAIMS AND RECTIFY DISPUTED CLAIMS. IN THE REPORT, THE DEPARTMENT SHALL OFFER RECOMMENDATIONS AS TO WHETHER THE DEMONSTRATION PROGRAM SHOULD BE EXTENDED, MODIFIED, ELIMINATED OR MADE PERMANENT.

S 2. This act shall take effect immediately, provided, however, that the amendments to article 2-A of the public health law made by section one of this act shall survive the repeal of such article as provided in section 79 of part C of chapter 58 of the laws of 2005, as amended.