

5483

2013-2014 Regular Sessions

I N A S S E M B L Y

February 28, 2013

Introduced by M. of A. ENGLEBRIGHT, CAHILL, JAFFEE, MILLMAN, ROSENTHAL, DINOWITZ, GABRYSZAK, BENEDETTO, PERRY, GUNTHER, ROBINSON, COLTON, GALEF, V. LOPEZ, MAISEL -- Multi-Sponsored by -- M. of A. ABBATE, BOYLAND, BRENNAN, COOK, JACOBS, PEOPLES-STOKES, SWEENEY, WEISENBERG -- read once and referred to the Committee on Health

AN ACT to amend the elder law and the social services law, in relation to payments for multiple source prescription drugs

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

1 Section 1. Subparagraph 2 of paragraph (a) of subdivision 1 of
2 section 250 of the elder law, as amended by section 18 of part T of
3 chapter 56 of the laws of 2012, is amended to read as follows:
4 (2) The upper limit, if any, set by the centers for medicare and medi-
5 caid services for such multiple source drug AND THE DEPARTMENT OF HEALTH
6 TOGETHER WITH THE PHARMACY ADVISORY COMMITTEE SHALL DETERMINE THE IMPACT
7 OF SUCH UPPER LIMIT PAYMENTS FOR DRUGS IMPLEMENTED UNDER THE DEFICIT
8 REDUCTION ACT OF 2005 AND SHALL REPORT TO THE DIRECTOR OF THE DIVISION
9 OF THE BUDGET, SECRETARY OF THE SENATE FINANCE COMMITTEE AND SECRETARY
10 OF THE ASSEMBLY WAYS AND MEANS COMMITTEE ON SUCH IMPACT AND SHALL ADJUST
11 PHARMACY DISPENSING FEES FOR MULTIPLE SOURCE PRESCRIPTION DRUGS TO
12 COMPENSATE FOR ANY REDUCTION AS A RESULT OF THE UPPER LIMITS IMPLEMENTED
13 UNDER THE DEFICIT REDUCTION ACT OF 2005 AT SUCH TIME THAT THE NEW UPPER
14 LIMITS ARE IMPLEMENTED, or
15 S 2. Subparagraph (i) of paragraph (b) of subdivision 9 of section
16 367-a of the social services law, as amended by section 10 of part H of
17 chapter 59 of the laws of 2011, is amended to read as follows:
18 (i) if the drug dispensed is a multiple source prescription drug for
19 which an upper limit has been set by the federal centers for medicare
20 and medicaid services, the lower of: (A) an amount equal to the specific
21 upper limit set by such federal agency for the multiple source
22 prescription drug; (B) the estimated acquisition cost of such drug to

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

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1 pharmacies which, for purposes of this subparagraph, shall mean the
2 average wholesale price of a prescription drug based on the package size
3 dispensed from, as reported by the prescription drug pricing service
4 used by the department, less twenty-five percent thereof; (C) the maxi-
5 mum acquisition cost, if any, established pursuant to paragraph (e) of
6 this subdivision; (D) the dispensing pharmacy's usual and customary
7 price charged to the general public; or (E) the average acquisition cost
8 if available, AND THE DEPARTMENT OF HEALTH TOGETHER WITH THE PHARMACY
9 ADVISORY COMMITTEE SHALL DETERMINE THE IMPACT OF SUCH UPPER LIMIT
10 PAYMENTS FOR DRUGS IMPLEMENTED UNDER THE DEFICIT REDUCTION ACT OF 2005
11 AND SHALL REPORT TO THE DIRECTOR OF THE DIVISION OF THE BUDGET, SECRE-
12 TARY OF THE SENATE FINANCE COMMITTEE AND SECRETARY OF THE ASSEMBLY WAYS
13 AND MEANS COMMITTEE ON SUCH IMPACT AND SHALL ADJUST PHARMACY DISPENSING
14 FEES FOR MULTIPLE SOURCE PRESCRIPTION DRUGS TO COMPENSATE FOR ANY
15 REDUCTION AS A RESULT OF THE UPPER LIMITS IMPLEMENTED UNDER THE DEFICIT
16 REDUCTION ACT OF 2005 AT SUCH TIME THAT THE NEW UPPER LIMITS ARE IMPLE-
17 MENTED; and

18 S 3. This act shall take effect immediately provided, however, that
19 the amendments to subdivision 9 of section 367-a of the social services
20 law, made by section two of this act, shall not affect the expiration
21 and reversion of such subdivision pursuant to section 4 of chapter 19 of
22 the laws of 1998, as amended, and shall be deemed to expire therewith.