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I N   A S S E M B L Y

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Introduced by M. of A. HEASTIE, BRINDISI, RAIA, KEARNS, COLTON, PAULIN, ABINANTI, PERRY, MALLIOTAKIS, CYMBROWITZ, RODRIGUEZ, HEVESI, LAVINE, MOYA, ROSENTHAL, THIELE, McDONALD, PEOPLES-STOKES, JACOBS, CUSICK, GOTTFRIED, BUCHWALD, ORTIZ, BENEDETTO, SEPULVEDA, AUBRY, WEPRIN, TITONE, GUNTHER, SIMOTAS, OTIS, ZEBROWSKI, LUPINACCI -- Multi-Sponsored by -- M. of A. ARROYO, FARRELL, GARBARINO, GIGLIO, HOOPER, LENTOL, O'DONNELL, RA, ROZIC, SCHIMEL, WEINSTEIN -- read once and referred to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- ordered to a third reading -- committed to Insurance -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the insurance law, in relation to the purchase of prescription drugs

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

1     Section 1. Paragraph 28 of subsection (i) of section 3216 of the  
2     insurance law, as amended by chapter 11 of the laws of 2012, is amended  
3     to read as follows:  
4     (28) (A) DEFINITIONS. FOR THE PURPOSE OF THIS PARAGRAPH:  
5     (1) "SAME REIMBURSEMENT AMOUNT" SHALL MEAN THAT ANY COVERAGE DESCRIBED  
6     UNDER SUBPARAGRAPH (B) OF THIS PARAGRAPH SHALL PROVIDE THE SAME BENCH-  
7     MARK INDEX, INCLUDING THE SAME AVERAGE WHOLESALE PRICE, MAXIMUM ALLOW-  
8     ABLE COST AND NATIONAL PRESCRIPTION DRUG CODES TO REIMBURSE ALL PHARMA-  
9     CIES PARTICIPATING IN THE INSURANCE NETWORK REGARDLESS OF WHETHER A  
10    PHARMACY IS A MAIL ORDER PHARMACY OR A NON-MAIL ORDER PHARMACY.  
11    (2) "MAIL ORDER PHARMACY" MEANS A PHARMACY WHOSE PRIMARY BUSINESS IS  
12    TO RECEIVE PRESCRIPTIONS BY MAIL, TELEFAX OR THROUGH ELECTRONIC  
13    SUBMISSIONS AND TO DISPENSE MEDICATION TO PATIENTS THROUGH THE USE OF  
14    THE UNITED STATES MAIL OR OTHER COMMON OR CONTRACT CARRIER SERVICES AND

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

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1 PROVIDES ANY CONSULTATION WITH PATIENTS ELECTRONICALLY RATHER THAN  
2 FACE-TO-FACE.

3 (B) Any policy that provides coverage for prescription drugs shall  
4 permit each insured to fill any covered prescription that may be  
5 obtained at a network participating mail order or other non-retail phar-  
6 macy, at the insured's option, at a network participating non-mail order  
7 retail pharmacy provided that the network participating non-mail order  
8 retail pharmacy agrees [in advance, through a contractual network agree-  
9 ment,] to the same reimbursement amount[, as well as the same applicable  
10 terms and conditions,] that the insurer has established for the network  
11 participating mail order or other non-retail pharmacy. In such a case,  
12 the policy shall not impose a co-payment fee or other condition on any  
13 insured who elects to purchase prescription drugs from a network partic-  
14 ipating non-mail order retail pharmacy which is not also imposed on  
15 insureds electing to purchase drugs from a network participating mail  
16 order or other non-retail pharmacy.

17 S 2. Paragraph 18 of subsection (l) of section 3221 of the insurance  
18 law, as amended by chapter 11 of the laws of 2012, is amended to read as  
19 follows:

20 (18) (A) DEFINITIONS. FOR THE PURPOSE OF THIS PARAGRAPH:

21 (1) "SAME REIMBURSEMENT AMOUNT" SHALL MEAN THAT ANY COVERAGE DESCRIBED  
22 UNDER SUBPARAGRAPH (B) OF THIS PARAGRAPH SHALL PROVIDE THE SAME BENCH-  
23 MARK INDEX, INCLUDING THE SAME AVERAGE WHOLESALE PRICE, MAXIMUM ALLOW-  
24 ABLE COST AND NATIONAL PRESCRIPTION DRUG CODES TO REIMBURSE ALL PHARMA-  
25 CIES PARTICIPATING IN THE INSURANCE NETWORK REGARDLESS OF WHETHER A  
26 PHARMACY IS A MAIL ORDER PHARMACY OR A NON-MAIL ORDER PHARMACY.

27 (2) "MAIL ORDER PHARMACY" MEANS A PHARMACY WHOSE PRIMARY BUSINESS IS  
28 TO RECEIVE PRESCRIPTIONS BY MAIL, TELEFAX OR THROUGH ELECTRONIC  
29 SUBMISSIONS AND TO DISPENSE MEDICATION TO PATIENTS THROUGH THE USE OF  
30 THE UNITED STATES MAIL OR OTHER COMMON OR CONTRACT CARRIER SERVICES AND  
31 PROVIDES ANY CONSULTATION WITH PATIENTS ELECTRONICALLY RATHER THAN  
32 FACE-TO-FACE.

33 (B) Any insurer delivering a group or blanket policy or issuing a  
34 group or blanket policy for delivery in this state that provides cover-  
35 age for prescription drugs shall permit each insured to fill any covered  
36 prescription that may be obtained at a network participating mail order  
37 or other non-retail pharmacy, at the insured's option, at a network  
38 participating non-mail order retail pharmacy provided that the network  
39 participating non-mail order retail pharmacy agrees [in advance, through  
40 a contractual network agreement,] to the same reimbursement amount[, as  
41 well as the same applicable terms and conditions,] that the insurer has  
42 established for the network participating mail order or other non-retail  
43 pharmacy. In such a case, the policy shall not impose a co-payment fee  
44 or other condition on any insured who elects to purchase drugs from a  
45 network participating non-mail order retail pharmacy which is not also  
46 imposed on insureds electing to purchase drugs from a network partic-  
47 ipating mail order or other non-retail pharmacy; provided, however, that  
48 the provisions of this section shall not supersede the terms of a  
49 collective bargaining agreement or apply to a policy that is the result  
50 of a collective bargaining agreement between an employer and a recog-  
51 nized or certified employee organization.

52 S 3. Subsection (kk) of section 4303 of the insurance law, as amended  
53 by chapter 11 of the laws of 2012 and as relettered by section 55 of  
54 part D of chapter 56 of the laws of 2013, is amended to read as follows:

55 (kk) (1) DEFINITIONS. FOR THE PURPOSE OF THIS SUBSECTION:

(A) "SAME REIMBURSEMENT AMOUNT" SHALL MEAN THAT ANY COVERAGE DESCRIBED UNDER PARAGRAPH TWO OF THIS SUBSECTION SHALL PROVIDE THE SAME BENCHMARK INDEX, INCLUDING THE SAME AVERAGE WHOLESALE PRICE, MAXIMUM ALLOWABLE COST AND NATIONAL PRESCRIPTION DRUG CODES TO REIMBURSE ALL PHARMACIES PARTICIPATING IN THE HEALTH BENEFIT PLAN REGARDLESS OF WHETHER A PHARMACY IS A MAIL ORDER PHARMACY OR A NON-MAIL ORDER PHARMACY.

(B) "MAIL ORDER PHARMACY" MEANS A PHARMACY WHOSE PRIMARY BUSINESS IS TO RECEIVE PRESCRIPTIONS BY MAIL, TELEFAX OR THROUGH ELECTRONIC SUBMISSIONS AND TO DISPENSE MEDICATION TO PATIENTS THROUGH THE USE OF THE UNITED STATES MAIL OR OTHER COMMON OR CONTRACT CARRIER SERVICES AND PROVIDES ANY CONSULTATION WITH PATIENTS ELECTRONICALLY RATHER THAN FACE-TO-FACE.

(2) Any contract issued by a medical expense indemnity corporation, a hospital service corporation or a health services corporation that provides coverage for prescription drugs shall permit each covered person to fill any covered prescription that may be obtained at a network participating mail order or other non-retail pharmacy, at the covered person's option, at a network participating non-mail order retail pharmacy provided that the network participating non-mail order retail pharmacy agrees [in advance, through a contractual network agreement,] to the same reimbursement amount[, as well as the same applicable terms and conditions,] that the corporation has established for the network participating mail order or other non-retail pharmacy. In such a case, the contract shall not impose a copayment fee or other condition on any covered person who elects to purchase drugs from a network participating non-mail order retail pharmacy which is not also imposed on covered persons electing to purchase drugs from a network participating mail order or other non-retail pharmacy; provided, however, that the provisions of this section shall not supersede the terms of a collective bargaining agreement or apply to a contract that is the result of a collective bargaining agreement between an employer and a recognized or certified employee organization.

S 4. This act shall take effect immediately.