

8099

2013-2014 Regular Sessions

I N A S S E M B L Y

June 18, 2013

Introduced by M. of A. SILVER -- read once and referred to the Committee
on Insurance

AN ACT to amend the insurance law, in relation to the purchase of
fertility drugs through mail order pharmacies

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

1 Section 1. Paragraph 13-a of subsection (i) of section 3216 of the
2 insurance law, as amended by chapter 10 of the laws of 2012, is amended
3 to read as follows:
4 (13-a) Every policy that provides coverage for prescription fertility
5 drugs and requires or permits prescription drugs to be purchased through
6 a network participating mail order or other non-retail pharmacy shall
7 provide the same coverage for prescription fertility drugs when such
8 drugs are purchased from a network participating non-mail order retail
9 pharmacy provided that the network participating non-mail order retail
10 pharmacy agrees in advance through a contractual network agreement, to
11 the same reimbursement amount, [as well as the same applicable terms and
12 conditions,] that the insurer has established for a network participat-
13 ing mail order or other non-retail pharmacy. PROVIDED, HOWEVER, THAT
14 THE TERMS AND CONDITIONS OF SUCH AGREEMENT SHALL NOT BE INCONSISTENT
15 WITH THE TERMS AND CONDITIONS OF AGREEMENTS MADE BY THE INSURER WITH
16 NETWORK PARTICIPATING MAIL ORDER OR OTHER NON-RETAIL PHARMACY PROVIDERS
17 FOR THE FIVE YEAR PERIOD PRIOR TO THE EFFECTIVE DATE OF THE CHAPTER OF
18 THE LAWS OF TWO THOUSAND THIRTEEN WHICH AMENDED THIS PARAGRAPH. THIS
19 PARAGRAPH SHALL NOT BE CONSTRUED AS PROHIBITING THE UPDATING OF POLICIES
20 AND PROCEDURES (A) AS THEY RELATE TO NEW PRODUCTS ENTERING THE MARKET
21 THAT ARE DISTRIBUTED BY THE MAIL ORDER, OTHER NON-RETAIL, AND NON-MAIL
22 ORDER RETAIL PHARMACIES, (B) AS NECESSARY TO COMPLY WITH UPDATED
23 MANUFACTURER GUIDELINES, OR UPDATED MEDICAL GUIDELINES, OR (C) AS
24 REQUIRED BY STATE OR FEDERAL LAW. In such case, the policy shall not
25 impose any fee, co-payment, co-insurance, deductible or other condition

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

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1 on any insured who elects to purchase prescription fertility drugs
2 through a network participating non-mail order retail pharmacy that it
3 does not impose on any insured who purchases prescription fertility
4 drugs through a network participating mail order or other non-retail
5 pharmacy.

6 S 2. Subparagraph (D) of paragraph 6 of subsection (k) of section 3221
7 of the insurance law, as amended by chapter 10 of the laws of 2012, is
8 amended to read as follows:

9 (D) Every policy that provides coverage for prescription fertility
10 drugs and requires or permits prescription drugs to be purchased through
11 a network participating mail order or other non-retail pharmacy shall
12 provide the same coverage for prescription fertility drugs when such
13 drugs are purchased from a network participating non-mail order retail
14 pharmacy provided that the network participating non-mail order retail
15 pharmacy agrees in advance through a contractual network agreement, to
16 the same reimbursement amount, [as well as the same applicable terms and
17 conditions,] that the insurer has established for a network participat-
18 ing mail order or other non-retail pharmacy. PROVIDED, HOWEVER, THAT
19 THE TERMS AND CONDITIONS OF SUCH AGREEMENT SHALL NOT BE INCONSISTENT
20 WITH THE TERMS AND CONDITIONS OF AGREEMENTS MADE BY THE INSURER WITH
21 NETWORK PARTICIPATING MAIL ORDER OR OTHER NON-RETAIL PHARMACY PROVIDERS
22 FOR THE FIVE YEAR PERIOD PRIOR TO THE EFFECTIVE DATE OF THE CHAPTER OF
23 THE LAWS OF TWO THOUSAND THIRTEEN WHICH AMENDED THIS SUBPARAGRAPH. THIS
24 PARAGRAPH SHALL NOT BE CONSTRUED AS PROHIBITING THE UPDATING OF POLICIES
25 AND PROCEDURES (I) AS THEY RELATE TO NEW PRODUCTS ENTERING THE MARKET
26 THAT ARE DISTRIBUTED BY THE MAIL ORDER, OTHER NON-RETAIL, AND NON-MAIL
27 ORDER RETAIL PHARMACIES, (II) AS NECESSARY TO COMPLY WITH UPDATED
28 MANUFACTURER GUIDELINES, OR UPDATED MEDICAL GUIDELINES, OR (III) AS
29 REQUIRED BY STATE OR FEDERAL LAW. In such case, the policy shall not
30 impose any fee, co-payment, co-insurance, deductible or other condition
31 on any covered person who elects to purchase prescription fertility
32 drugs through a network participating non-mail order retail pharmacy
33 that it does not impose on any covered person who purchases prescription
34 fertility drugs through a network participating mail order or other
35 non-retail pharmacy; provided, however, that the provisions of this
36 section shall not supersede the terms of a collective bargaining agree-
37 ment or apply to a policy that is the result of a collective bargaining
38 agreement between an employer and a recognized or certified employee
39 organization.

40 S 3. Paragraph 4 of subsection (s) of section 4303 of the insurance
41 law, as amended by chapter 10 of the laws of 2012, is amended to read as
42 follows:

43 (4) Every contract issued by a medical expense indemnity corporation,
44 a hospital service corporation or a health services corporation that
45 provides coverage for prescription fertility drugs and requires or
46 permits prescription drugs to be purchased through a network participat-
47 ing mail order or other non-retail pharmacy shall provide the same
48 coverage for prescription fertility drugs when such drugs are purchased
49 from a network participating non-mail order retail pharmacy provided
50 that the network participating non-mail order retail pharmacy agrees in
51 advance, through a contractual network agreement, to the same reimburse-
52 ment amount, [as well as the same applicable terms and conditions,] that
53 the corporation has established for the network participating mail order
54 or other non-retail pharmacy. PROVIDED, HOWEVER, THAT THE TERMS AND
55 CONDITIONS OF SUCH AGREEMENT SHALL NOT BE INCONSISTENT WITH THE TERMS
56 AND CONDITIONS OF AGREEMENTS MADE BY THE INSURER WITH NETWORK PARTIC-

1 IPATING MAIL ORDER OR OTHER NON-RETAIL PHARMACY PROVIDERS FOR THE FIVE
2 YEAR PERIOD PRIOR TO THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF
3 TWO THOUSAND THIRTEEN WHICH AMENDED THIS PARAGRAPH. THIS PARAGRAPH SHALL
4 NOT BE CONSTRUED AS PROHIBITING THE UPDATING OF POLICIES AND PROCEDURES
5 (A) AS THEY RELATE TO NEW PRODUCTS ENTERING THE MARKET THAT ARE DISTRIB-
6 UTED BY THE MAIL ORDER, OTHER NON-RETAIL, AND NON-MAIL ORDER RETAIL
7 PHARMACIES, (B) AS NECESSARY TO COMPLY WITH UPDATED MANUFACTURER GUIDE-
8 LINES, OR UPDATED MEDICAL GUIDELINES, OR (C) AS REQUIRED BY STATE OR
9 FEDERAL LAW. In such case, the contract shall not impose any fee,
10 co-payment, co-insurance, deductible or other condition on any covered
11 person who does not elect to purchase prescription fertility drugs
12 through a network participating mail order or other non-retail pharmacy;
13 provided, however, that the provisions of this section shall not super-
14 sede the terms of a collective bargaining agreement or apply to a
15 contract that is the result of a collective bargaining agreement between
16 an employer and a recognized or certified employee organization.
17 S 4. This act shall take effect immediately.