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I N A S S E M B L Y

April 4, 2014

Introduced by M. of A. ROSENTHAL, SIMANOWITZ, BRINDISI, SKOUFIS, CYMBROWITZ, McDONALD -- Multi-Sponsored by -- M. of A. RAIA, SWEENEY, WALTER -- read once and referred to the Committee on Health -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to pharmacy benefit managers

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

1 Section 1. The public health law is amended by adding a new section
2 280-a to read as follows:
3 S 280-A. PHARMACY BENEFIT MANAGERS. 1. DEFINITIONS. AS USED IN THIS
4 SECTION, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:
5 (A) "PHARMACY BENEFIT MANAGER" MEANS AN ENTITY THAT ENTERS INTO
6 CONTRACTS WITH PHARMACIES ON BEHALF OF A HEALTH PLAN, STATE AGENCY,
7 INSURER, MANAGED CARE ORGANIZATION, OR OTHER THIRD PARTY PAYOR TO
8 PROVIDE PHARMACY HEALTH BENEFIT SERVICES OR ADMINISTRATION.
9 (B) "MAXIMUM ALLOWABLE COST PRICE" MEANS A MAXIMUM REIMBURSEMENT
10 AMOUNT SET BY THE PHARMACY BENEFIT MANAGER FOR THERAPEUTICALLY EQUIV-
11 ALENT MULTIPLE SOURCE GENERIC DRUGS.
12 2. ALL CONTRACTS BETWEEN A PHARMACY BENEFIT MANAGER AND A CONTRACTED
13 PHARMACY SHALL INCLUDE A REASONABLE PROCESS TO APPEAL, INVESTIGATE AND
14 RESOLVE DISPUTES REGARDING MULTI-SOURCE GENERIC DRUG PRICING. THE
15 APPEALS PROCESS SHALL INCLUDE THE FOLLOWING PROVISIONS:
16 (A) THE RIGHT TO APPEAL SHALL BE LIMITED TO SIXTY DAYS FOLLOWING THE
17 INITIAL CLAIM SUBMITTED FOR PAYMENT;
18 (B) A TELEPHONE NUMBER THROUGH WHICH A NETWORK PHARMACY MAY CONTACT
19 THE PHARMACY BENEFIT MANAGER AND SPEAK WITH AN INDIVIDUAL WHO IS RESPON-
20 SIBLE FOR PROCESSING APPEALS;
21 (C) A PHARMACY BENEFIT MANAGER SHALL RESPOND IN WRITING TO THE CHAL-
22 LENGE WITHIN SEVEN BUSINESS DAYS AFTER RECEIPT OF THE CHALLENGE;
23 (D) IF AN UPDATE TO THE MAXIMUM ALLOWABLE COST IS WARRANTED, THE PHAR-
24 MACY BENEFIT MANAGER SHALL MAKE THE CHANGE RETROACTIVE TO THE DATE ON

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

LBD14526-06-4

1 WHICH THE CLAIM FOR PAYMENT WAS ADJUDICATED BY THE PHARMACY BENEFIT
2 MANAGER. THE PHARMACY BENEFIT MANAGER SHALL MAKE THE ADJUSTMENT EFFEC-
3 TIVE FOR ALL SIMILARLY SITUATED PHARMACY PROVIDERS IN THE STATE IN THE
4 NETWORK; AND

5 (E) IF AN APPEAL IS DENIED, THE PHARMACY BENEFIT MANAGER SHALL PROVIDE
6 IN WRITING THE REASON FOR THE DENIAL AND IDENTIFY THE NATIONAL DRUG CODE
7 AT A PRICE AT OR BELOW THE MAXIMUM ALLOWABLE COST OR BENCHMARK PRICE AS
8 DETERMINED BY THE PHARMACY BENEFIT MANAGER.

9 S 2. This act shall take effect on the ninetieth day after it shall
10 become a law and shall apply to any contract between a pharmacy and a
11 pharmacy benefit manager issued or renewed after such effective date.