

3995--B

2013-2014 Regular Sessions

I N S E N A T E

March 4, 2013

Introduced by Sens. MAZIARZ, ADDABBO, AVELLA, BOYLE, CARLUCCI, ESPAILLAT, GIPSON, GOLDEN, GRISANTI, HOYLMAN, LANZA, LARKIN, LATIMER, MARTINS, PARKER, PERALTA, RANZENHOFER, RITCHIE, SAMPSON, SMITH, STAVISKY, VALESKY, ZELDIN -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Insurance in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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
15 PROVIDES ANY CONSULTATION WITH PATIENTS ELECTRONICALLY RATHER THAN
16 FACE-TO-FACE.

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

LBD09462-07-4

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

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

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

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

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

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

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

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

54 (A) "SAME REIMBURSEMENT AMOUNT" SHALL MEAN THAT ANY COVERAGE DESCRIBED
55 UNDER PARAGRAPH TWO OF THIS SUBSECTION SHALL PROVIDE THE SAME BENCHMARK
56 INDEX, INCLUDING THE SAME AVERAGE WHOLESALE PRICE, MAXIMUM ALLOWABLE

1 COST AND NATIONAL PRESCRIPTION DRUG CODES TO REIMBURSE ALL PHARMACIES
2 PARTICIPATING IN THE HEALTH BENEFIT PLAN REGARDLESS OF WHETHER A PHARMA-
3 CY IS A MAIL ORDER PHARMACY OR A NON-MAIL ORDER PHARMACY.

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

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

30 S 4. This act shall take effect immediately.