S T A T E O F N E W Y O R K

5851

2013-2014 Regular Sessions

I N S E N A T E

June 18, 2013

Introduced by Sen. SKELOS -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraph 13-a of subsection (i) of section 3216 of the insurance law, as amended by chapter 10 of the laws of 2012, is amended to read as follows:

(13-a) Every policy that provides coverage for prescription fertility drugs and requires or permits prescription drugs to be purchased through a network participating mail order or other non-retail pharmacy shall provide the same coverage for prescription fertility drugs when such drugs are purchased from 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 insurer has established for a network participating mail order or other non-retail pharmacy. PROVIDED, HOWEVER, THAT THE TERMS AND CONDITIONS OF SUCH AGREEMENT SHALL NOT BE INCONSISTENT WITH THE TERMS AND CONDITIONS OF AGREEMENTS MADE BY THE INSURER WITH NETWORK PARTICIPATING MAIL ORDER OR OTHER NON-RETAIL PHARMACY PROVIDERS FOR THE FIVE YEAR PERIOD PRIOR TO THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND THIRTEEN WHICH AMENDED THIS PARAGRAPH. THIS PARAGRAPH SHALL NOT BE CONSTRUED AS PROHIBITING THE UPDATING OF POLICIES AND PROCEDURES (A) AS THEY RELATE TO NEW PRODUCTS ENTERING THE MARKET THAT ARE DISTRIBUTED BY THE MAIL ORDER, OTHER NON-RETAIL, AND NON-MAIL ORDER RETAIL PHARMACIES, (B) AS NECESSARY TO COMPLY WITH UPDATED MANUFACTURER GUIDELINES, OR UPDATED MEDICAL GUIDELINES, OR (C) AS REQUIRED BY STATE OR FEDERAL LAW. In such case, the policy shall not 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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on any insured who elects to purchase prescription fertility drugs through a network participating non-mail order retail pharmacy that it does not impose on any insured who purchases prescription fertility drugs through a network participating mail order or other non-retail pharmacy.

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

(D) Every policy that provides coverage for prescription fertility drugs and requires or permits prescription drugs to be purchased through a network participating mail order or other non-retail pharmacy shall provide the same coverage for prescription fertility drugs when such drugs are purchased from 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 insurer has established for a network participating mail order or other non-retail pharmacy. PROVIDED, HOWEVER, THAT THE TERMS AND CONDITIONS OF SUCH AGREEMENT SHALL NOT BE INCONSISTENT WITH THE TERMS AND CONDITIONS OF AGREEMENTS MADE BY THE INSURER WITH NETWORK PARTICIPATING MAIL ORDER OR OTHER NON-RETAIL PHARMACY PROVIDERS FOR THE FIVE YEAR PERIOD PRIOR TO THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND THIRTEEN WHICH AMENDED THIS SUBPARAGRAPH. THIS PARAGRAPH SHALL NOT BE CONSTRUED AS PROHIBITING THE UPDATING OF POLICIES AND PROCEDURES (I) AS THEY RELATE TO NEW PRODUCTS ENTERING THE MARKET THAT ARE DISTRIBUTED BY THE MAIL ORDER, OTHER NON-RETAIL, AND NON-MAIL ORDER RETAIL PHARMACIES, (II) AS NECESSARY TO COMPLY WITH UPDATED MANUFACTURER GUIDELINES, OR UPDATED MEDICAL GUIDELINES, OR (III) AS REQUIRED BY STATE OR FEDERAL LAW. In such case, the policy shall not impose any fee, co-payment, co-insurance, deductible or other condition on any covered person who elects to purchase prescription fertility drugs through a network participating non-mail order retail pharmacy that it does not impose on any covered person who purchases prescription fertility drugs through 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 policy that is the result of a collective bargaining agreement between an employer and a recognized or certified employee organization.

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

(4) Every contract issued by a medical expense indemnity corporation, a hospital service corporation or a health services corporation that provides coverage for prescription fertility drugs and requires or permits prescription drugs to be purchased through a network participating mail order or other non-retail pharmacy shall provide the same coverage for prescription fertility drugs when such drugs are purchased from 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. PROVIDED, HOWEVER, THAT THE TERMS AND CONDITIONS OF SUCH AGREEMENT SHALL NOT BE INCONSISTENT WITH THE TERMS AND CONDITIONS OF AGREEMENTS MADE BY THE INSURER WITH NETWORK PARTIC-

IPATING MAIL ORDER OR OTHER NON-RETAIL PHARMACY PROVIDERS FOR THE FIVE YEAR PERIOD PRIOR TO THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND THIRTEEN WHICH AMENDED THIS PARAGRAPH. THIS PARAGRAPH SHALL NOT BE CONSTRUED AS PROHIBITING THE UPDATING OF POLICIES AND PROCEDURES (A) AS THEY RELATE TO NEW PRODUCTS ENTERING THE MARKET THAT ARE DISTRIBUTED BY THE MAIL ORDER, OTHER NON-RETAIL, AND NON-MAIL ORDER RETAIL PHARMACIES, (B) AS NECESSARY TO COMPLY WITH UPDATED MANUFACTURER GUIDELINES, OR UPDATED MEDICAL GUIDELINES, OR (C) AS REQUIRED BY STATE OR FEDERAL LAW. In such case, the contract shall not impose any fee, co-payment, co-insurance, deductible or other condition on any covered person who does not elect to purchase prescription fertility drugs through 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.