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I N   S E N A T E

January 24, 2014

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

AN ACT to amend the public health law and the social services law, in relation to medicaid payment for co-payments due under Medicare Part D

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

1     Section 1. Subdivision 7 of section 273 of the public health law, as  
2     amended by section 7 of part C of chapter 58 of the laws of 2008, is  
3     amended to read as follows:  
4     7. No prior authorization under the preferred drug program shall be  
5     required when a prescriber prescribes a drug on the preferred drug list,  
6     OR WHEN MEDICAL ASSISTANCE PAYMENT IS MADE, UNDER PARAGRAPH (G) OF  
7     SUBDIVISION TWO OF SECTION THREE HUNDRED SIXTY-FIVE-A OF THE SOCIAL  
8     SERVICES LAW SOLELY FOR THE CO-PAYMENT FOR PRESCRIPTIONS PROVIDED UNDER  
9     PART D OF TITLE XVIII OF THE FEDERAL SOCIAL SECURITY ACT; provided,  
10    however, that the commissioner may identify [such] a drug for which  
11    prior authorization is required pursuant to the provisions of the clinical  
12    drug review program established under section two hundred seventy-  
13    four of this article.  
14    S 2. Subparagraph (ii) of paragraph (f) of subdivision 6 of section  
15    367-a of the social services law, as amended by section 42 of part C of  
16    chapter 58 of the laws of 2005, is amended to read as follows:  
17    (ii) In the year commencing April first, two thousand five and for  
18    each year thereafter, no recipient shall be required to pay more than a  
19    total of two hundred dollars in co-payments, INCLUDING THOSE required by  
20    this subdivision[, nor] AND, FOR RECIPIENTS ELIGIBLE FOR COVERAGE UNDER  
21    PART D OF TITLE XVIII OF THE FEDERAL SOCIAL SECURITY ACT (REFERRED TO IN  
22    THIS SECTION AS "MEDICARE PART D"), THOSE CO-PAYMENTS REQUIRED BY MEDICARE  
23    PART D. NOR shall reductions in payments as a result of such  
24    co-payments exceed two hundred dollars for any recipient. THE COMMISSIONER  
25    OF HEALTH SHALL CREATE A SYSTEM TO INCORPORATE CO-PAYMENTS BILLED  
26    TO A RECIPIENT UNDER MEDICARE PART D TOWARDS THE RECIPIENT'S TOTAL ANNUAL  
27    CO-PAYMENTS UNDER MEDICAL ASSISTANCE. AS PART OF THIS SYSTEM, PHARMACISTS  
28    SHALL RECORD ALL CO-PAYMENTS DUE UNDER MEDICARE PART D FROM SUCH

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

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1 RECIPIENTS WITH THE MEDICAL ASSISTANCE PROGRAM, THROUGH THE MEDICAL  
2 ASSISTANCE ELECTRONIC BILLING SYSTEM. THE COMMISSIONER OF HEALTH SHALL  
3 INCLUDE THE CO-PAYMENTS BILLED UNDER MEDICARE PART D ALONG WITH THE  
4 CO-PAYMENTS REQUIRED UNDER THIS SUBDIVISION IN DETERMINING WHEN THE  
5 RECIPIENT'S TOTAL ANNUAL CO-PAYMENTS HAVE REACHED TWO HUNDRED DOLLARS.

6 S 3. Paragraph (g-1) of subdivision 2 of section 365-a of the social  
7 services law, as amended by section 23 of part H of chapter 59 of the  
8 laws of 2011, is amended to read as follows:

9 (g-1) drugs provided on an in-patient basis, those drugs contained on  
10 the list established by regulation of the commissioner of health pursu-  
11 ant to subdivision four of this section, AND, FOR RECIPIENTS ELIGIBLE  
12 FOR COVERAGE UNDER PART D OF TITLE XVIII OF THE FEDERAL SOCIAL SECURITY  
13 ACT (REFERRED TO IN THIS SECTION AS "MEDICARE PART D"), PAYMENT OF THE  
14 CO-PAYMENT FOR DRUGS PROVIDED BY A MEDICARE PART D PLAN, AFTER THE INDI-  
15 VIDUAL HAS REACHED THE ANNUAL CAP ON CO-PAYMENTS AS DEFINED IN SUBPARA-  
16 GRAPH (II) OF PARAGRAPH (F) OF SUBDIVISION SIX OF SECTION THREE HUNDRED  
17 SIXTY-SEVEN-A OF THIS TITLE, and those drugs which may not be dispensed  
18 without a prescription as required by section sixty-eight hundred ten of  
19 the education law and which the commissioner of health shall determine  
20 to be reimbursable based upon such factors as the availability of such  
21 drugs or alternatives at low cost if purchased by a medicaid recipient,  
22 or the essential nature of such drugs as described by such commissioner  
23 in regulations, provided, however, that such drugs, exclusive of long-  
24 term maintenance drugs, shall be dispensed in quantities no greater than  
25 a thirty day supply or one hundred doses, whichever is greater; provided  
26 further that the commissioner of health is authorized to require prior  
27 authorization for any refill of a prescription when less than seventy-  
28 five percent of the previously dispensed amount per fill should have  
29 been used were the product used as normally indicated; provided further  
30 that the commissioner of health is authorized to require prior authori-  
31 zation of prescriptions of opioid analgesics in excess of four  
32 prescriptions in a thirty-day period in accordance with section two  
33 hundred seventy-three of the public health law; medical assistance shall  
34 not include any drug provided on other than an in-patient basis for  
35 which a recipient is charged or a claim is made in the case of a  
36 prescription drug, in excess of the maximum reimbursable amounts to be  
37 established by department regulations in accordance with standards  
38 established by the secretary of the United States department of health  
39 and human services, or, in the case of a drug not requiring a  
40 prescription, in excess of the maximum reimbursable amount established  
41 by the commissioner of health pursuant to paragraph (a) of subdivision  
42 four of this section;

43 S 4. This act shall take effect on the first of April next succeeding  
44 the date on which it shall have become a law.