

5349

2013-2014 Regular Sessions

I N A S S E M B L Y

February 25, 2013

Introduced by M. of A. GOTTFRIED, ENGLEBRIGHT, JACOBS, PAULIN, CAHILL, PERRY, ARROYO, HEASTIE, JAFFEE -- Multi-Sponsored by -- M. of A. BRENNAN, COLTON, DINOWITZ, GLICK, GUNTHER, KELLNER, LIFTON, V. LOPEZ, LUPARDO, MILLMAN, SWEENEY, TITUS, WEISENBERG -- read once and referred 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 MEDI-

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

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1 CARE PART D. NOR shall reductions in payments as a result of such
2 co-payments exceed two hundred dollars for any recipient. THE COMMIS-
3 SIONER OF HEALTH SHALL CREATE A SYSTEM TO INCORPORATE CO-PAYMENTS BILLED
4 TO A RECIPIENT UNDER MEDICARE PART D TOWARDS THE RECIPIENT'S TOTAL ANNU-
5 AL CO-PAYMENTS UNDER MEDICAL ASSISTANCE. AS PART OF THIS SYSTEM, PHAR-
6 MACISTS SHALL RECORD ALL CO-PAYMENTS DUE UNDER MEDICARE PART D FROM SUCH
7 RECIPIENTS WITH THE MEDICAL ASSISTANCE PROGRAM, THROUGH THE MEDICAL
8 ASSISTANCE ELECTRONIC BILLING SYSTEM. THE COMMISSIONER OF HEALTH SHALL
9 INCLUDE THE CO-PAYMENTS BILLED UNDER MEDICARE PART D ALONG WITH THE
10 CO-PAYMENTS REQUIRED UNDER THIS SUBDIVISION IN DETERMINING WHEN THE
11 RECIPIENT'S TOTAL ANNUAL CO-PAYMENTS HAVE REACHED TWO HUNDRED DOLLARS.

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

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

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