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I N A S S E M B L Y

March 6, 2013

Introduced by M. of A. HEASTIE, BRINDISI, RAIA, KEARNS, COLTON, PAULIN, ABINANTI, PERRY, MALLIOTAKIS, CYMBROWITZ, RODRIGUEZ, HEVESI, LAVINE, MOYA, ROSENTHAL, THIELE, McDONALD, PEOPLES-STOKES, JACOBS, CUSICK, GOTTFRIED, BUCHWALD, ORTIZ, BENEDETTO, SEPULVEDA, AUBRY, WEPRIN, TITONE, GUNTHER, SIMOTAS, OTIS, ZEBROWSKI, LUPINACCI -- Multi-Sponsored by -- M. of A. ARROYO, FARRELL, GARBARINO, GIGLIO, HOOPER, LENTOL, O'DONNELL, RA, ROZIC, SCHIMEL, WEINSTEIN -- read once and referred to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- ordered to a third reading -- committed to Insurance -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

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

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

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1 PROVIDES ANY CONSULTATION WITH PATIENTS ELECTRONICALLY RATHER THAN
2 FACE-TO-FACE.

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

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

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

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

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

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

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

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

1 (A) "SAME REIMBURSEMENT AMOUNT" SHALL MEAN THAT ANY COVERAGE DESCRIBED
2 UNDER PARAGRAPH TWO OF THIS SUBSECTION SHALL PROVIDE THE SAME BENCHMARK
3 INDEX, INCLUDING THE SAME AVERAGE WHOLESAL PRICE, MAXIMUM ALLOWABLE
4 COST AND NATIONAL PRESCRIPTION DRUG CODES TO REIMBURSE ALL PHARMACIES
5 PARTICIPATING IN THE HEALTH BENEFIT PLAN REGARDLESS OF WHETHER A PHARMA-
6 CY IS A MAIL ORDER PHARMACY OR A NON-MAIL ORDER PHARMACY.

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

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

33 S 4. This act shall take effect immediately.