

S. 4237

A. 6098

2013-2014 Regular Sessions

S E N A T E - A S S E M B L Y

March 15, 2013

IN SENATE -- Introduced by Sens. LAVALLE, LIBOUS -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

IN ASSEMBLY -- Introduced by M. of A. MORELLE -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to requiring prescriptions for drugs to be filled in the amount indicated by the prescription; and to amend the public health law and the social services law, in relation to increasing the number of days for which a prescription may be filled

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

1 Section 1. Subsection (i) of section 3216 of the insurance law is
2 amended by adding a new paragraph 30 to read as follows:
3 (30) EVERY POLICY WHICH PROVIDES COVERAGE FOR PRESCRIPTION DRUGS SHALL
4 PROVIDE THAT ANY PRESCRIPTION WRITTEN BY AN AUTHORIZED PROVIDER SHALL BE
5 FILLED IN SUCH EXACT QUANTITY AS INDICATED BY THE PRESCRIPTION WITHIN
6 AMOUNTS AUTHORIZED BY LAW, PROVIDED THAT NO SUCH QUANTITY SHALL EXCEED A
7 NINETY DAY SUPPLY. NO POLICY SHALL LIMIT THE QUANTITY OF ANY DRUG
8 PRESCRIBED NOR SHALL ANY SUCH POLICY PROVIDE FOR A HIGHER CO-PAYMENT FOR
9 PRESCRIPTIONS WRITTEN AND DISPENSED IN QUANTITIES ABOVE A SET AMOUNT.
10 WHERE A PHARMACY IS UNABLE TO PROVIDE THE FULL QUANTITY OF ANY DRUG
11 PRESCRIBED, SUCH PRESCRIPTION SHALL BE FILLED TO THE EXTENT POSSIBLE AND
12 THE BALANCE OF ANY UNFILLED PRESCRIPTION SHALL BE PROVIDED TO THE
13 INSURED WHEN IT BECOMES AVAILABLE WITH NO ADDITIONAL CO-PAYMENT
14 REQUIRED.
15 S 2. Subdivision 3 of section 3332 of the public health law, as
16 amended by chapter 178 of the laws of 2010, is amended to read as
17 follows:

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

LBD09791-01-3

1 3. No such prescription shall be made for a quantity of controlled
2 substances which would exceed a [thirty] NINETY day supply if the
3 controlled substance were used in accordance with the directions for use
4 specified on the prescription. [A practitioner may, however, issue a
5 prescription for up to a three month supply of a controlled substance
6 provided that the controlled substance has been prescribed to treat one
7 of the conditions that have been enumerated by the commissioner pursuant
8 to regulations as warranting the prescribing of greater than a thirty
9 day supply of a controlled substance and that the practitioner specifies
10 the condition on the face of the prescription.] No additional
11 prescriptions for a controlled substance may be issued by a practitioner
12 to an ultimate user within [thirty] NINETY days of the date of any
13 prescription previously issued unless and until the ultimate user has
14 exhausted all but a seven day supply of the controlled substance
15 provided by any previously issued prescription. A practitioner may,
16 however, issue a prescription for up to a six month supply of any
17 substance listed in subdivision (h) of Schedule II of section thirty-
18 three hundred six of this article provided that such substance has been
19 prescribed to treat one of the conditions that have been enumerated by
20 the commissioner pursuant to regulations as warranting the prescribing
21 of a six month supply and that the practitioner specifies the condition
22 on the prescription or on the electronic prescription.

23 S 3. Subdivision 1 of section 3333 of the public health law, as
24 amended by chapter 178 of the laws of 2010, is amended to read as
25 follows:

26 1. A licensed pharmacist may, in good faith and in the course of his
27 or her professional practice, sell and dispense to an ultimate user
28 controlled substances only upon the delivery of an official New York
29 state prescription or the receipt of an electronic prescription to such
30 pharmacist, within thirty days of the date such prescription was signed
31 by an authorized practitioner; provided, however, a pharmacist may
32 dispense a part or portion of such prescription in accordance with regu-
33 lations of the commissioner in consultation with the commissioner of
34 education. No pharmacy or pharmacist may sell or dispense greater than a
35 [thirty] NINETY day supply of a controlled substance to an ultimate user
36 unless and until the ultimate user has exhausted all but a seven day
37 supply of the controlled substance provided pursuant to any previously
38 issued prescription, except that a pharmacy or pharmacist may sell or
39 dispense up to a three month supply of a controlled substance if there
40 appears, on the official New York state prescription or electronic
41 prescription, a statement that the controlled substance has been
42 prescribed to treat one of the conditions that have been enumerated by
43 the regulations of the commissioner as warranting the prescribing of
44 greater than a [thirty] NINETY day supply of a controlled substance. A
45 pharmacy or pharmacist may sell or dispense up to a six month supply of
46 any substance listed in subdivision (h) of Schedule II of section thir-
47 ty-three hundred six of this article if there appears, on the official
48 New York state prescription or on an electronic prescription, a state-
49 ment that the substance has been prescribed to treat one of the condi-
50 tions that have been enumerated by the regulations of the commissioner
51 as warranting the prescribing of a specified greater supply.

52 S 4. Subdivision 2 of section 3339 of the public health law, as
53 amended by section 13 of part A of chapter 58 of the laws of 2004, is
54 amended to read as follows:

55 2. A prescription, except for a schedule II controlled substance or
56 those schedule III or schedule IV controlled substances which the

1 commissioner may require by regulation may be refilled not more than the
2 number of times specifically authorized by the prescriber upon the
3 prescription, provided however no such authorization shall be effective
4 for a period greater than six months from the date the prescription is
5 signed. In the event that the prescription authorizes the dispensing of
6 more than a [thirty] NINETY day supply of schedule III, schedule IV or
7 schedule V substances pursuant to regulations of the commissioner
8 enumerating conditions warranting specified greater supplies, the
9 prescription may be refilled only once.

10 S 5. Paragraph (g-1) of subdivision 2 of section 365-a of the social
11 services law, as amended by section 23 of part H of chapter 59 of the
12 laws of 2011, is amended to read as follows:

13 (g-1) drugs provided on an in-patient basis, those drugs contained on
14 the list established by regulation of the commissioner of health pursu-
15 ant to subdivision four of this section, and those drugs which may not
16 be dispensed without a prescription as required by section sixty-eight
17 hundred ten of the education law and which the commissioner of health
18 shall determine to be reimbursable based upon such factors as the avail-
19 ability of such drugs or alternatives at low cost if purchased by a
20 medicaid recipient, or the essential nature of such drugs as described
21 by such commissioner in regulations, provided, however, that such drugs,
22 exclusive of long-term maintenance drugs, shall be dispensed in quanti-
23 ties no greater than a [thirty] NINETY day supply or one hundred doses,
24 whichever is greater; provided further that the commissioner of health
25 is authorized to require prior authorization for any refill of a
26 prescription when less than seventy-five percent of the previously
27 dispensed amount per fill should have been used were the product used as
28 normally indicated; provided further that the commissioner of health is
29 authorized to require prior authorization of prescriptions of opioid
30 analgesics in excess of four prescriptions in a thirty-day period in
31 accordance with section two hundred seventy-three of the public health
32 law; medical assistance shall not include any drug provided on other
33 than an in-patient basis for which a recipient is charged or a claim is
34 made in the case of a prescription drug, in excess of the maximum reim-
35 bursable amounts to be established by department regulations in accord-
36 ance with standards established by the secretary of the United States
37 department of health and human services, or, in the case of a drug not
38 requiring a prescription, in excess of the maximum reimbursable amount
39 established by the commissioner of health pursuant to paragraph (a) of
40 subdivision four of this section;

41 S 6. This act shall take effect immediately and section one of this
42 act shall apply to policies issued, reissued, renewed, modified or
43 amended on and after such date.