

1174

2015-2016 Regular Sessions

I N   A S S E M B L Y

January 8, 2015

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Introduced by M. of A. RODRIGUEZ, ABINANTI, GUNTHER, BRONSON, RAMOS, CYMBROWITZ, BROOK-KRASNY, GOTTFRIED, SCHIMEL, ARROYO, JAFFEE, PERRY, SCARBOROUGH, WEPRIN, DINOWITZ, CAMARA, GOLDFEDER, ROSENTHAL, COLTON, HOOPER, ZEBROWSKI, SIMANOWITZ, MAGNARELLI, BENEDETTO, ABBATE, AUBRY, TITONE, ROBERTS, CRESPO, QUART, CAHILL, SKOUFIS, OTIS, RAIA, PAULIN, MONTESANO -- Multi-Sponsored by -- M. of A. BRENNAN, CLARK, COOK, CROUCH, DUPREY, GLICK, HEASTIE, LENTOL, LUPARDO, MAGEE, PEOPLES-STOKES, RUSSELL, SKARTADOS, THIELE, TITUS, WEINSTEIN, WRIGHT -- read once and referred to the Committee on Health

AN ACT to amend the social services law and the public health law, in relation to prescription drugs in Medicaid managed care programs; and to repeal certain provisions of the social services law, relating to payments for prescription drugs

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

1     Section 1. The social services law is amended by adding a new section  
2     365-i to read as follows:  
3     S 365-I. PRESCRIPTION DRUGS IN MEDICAID MANAGED CARE PROGRAMS.     1.  
4     DEFINITIONS. AS USED IN THIS SECTION, UNLESS THE CONTEXT CLEARLY  
5     REQUIRES OTHERWISE:  
6     (A) "ARTICLE" MEANS TITLE ELEVEN OF ARTICLE FIVE OF THIS CHAPTER WITH  
7     RESPECT TO THE MEDICAL ASSISTANCE PROGRAM, TITLE ELEVEN-D OF ARTICLE  
8     FIVE OF THIS CHAPTER WITH RESPECT TO THE FAMILY HEALTH PLUS PROGRAM, AND  
9     TITLE ONE-A OF ARTICLE TWENTY-FIVE OF THE PUBLIC HEALTH LAW WITH RESPECT  
10    TO THE CHILD HEALTH INSURANCE PROGRAM.  
11    (B) "CLINICAL DRUG REVIEW PROGRAM" MEANS THE CLINICAL DRUG REVIEW  
12    PROGRAM UNDER SECTION TWO HUNDRED SEVENTY-FOUR OF THE PUBLIC HEALTH LAW.  
13    (C) "EMERGENCY CONDITION" MEANS A MEDICAL OR BEHAVIORAL CONDITION AS  
14    DETERMINED BY THE PRESCRIBER OR PHARMACIST, THE ONSET OF WHICH IS  
15    SUDDEN, THAT MANIFESTS ITSELF BY SYMPTOMS OF SUFFICIENT SEVERITY,

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

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1 INCLUDING SEVERE PAIN, AND FOR WHICH DELAY IN BEGINNING TREATMENT  
2 PRESCRIBED BY THE PATIENT'S HEALTH CARE PRACTITIONER WOULD RESULT IN:

3 (I) PLACING THE HEALTH OR SAFETY OF THE PERSON AFFLICTED WITH SUCH  
4 CONDITION OR OTHER PERSON OR PERSONS IN SERIOUS JEOPARDY;

5 (II) SERIOUS IMPAIRMENT TO SUCH PERSON'S BODILY FUNCTIONS;

6 (III) SERIOUS DYSFUNCTION OF ANY BODILY ORGAN OR PART OF SUCH PERSON;

7 (IV) SERIOUS DISFIGUREMENT OF SUCH PERSON; OR

8 (V) SEVERE DISCOMFORT.

9 (D) "MANAGED CARE PROVIDER" MEANS A MANAGED CARE PROVIDER UNDER  
10 SECTION THREE HUNDRED SIXTY-FOUR-J OF THIS TITLE, A MANAGED LONG TERM  
11 CARE PLAN OR OTHER CARE COORDINATION MODEL UNDER SECTION FORTY-FOUR  
12 HUNDRED THREE-F OF THE PUBLIC HEALTH LAW, A FAMILY HEALTH INSURANCE PLAN  
13 UNDER SECTION THREE HUNDRED SIXTY-NINE-EE OF THIS ARTICLE (FAMILY HEALTH  
14 PLUS PROGRAM), AN APPROVED ORGANIZATION UNDER TITLE ONE-A OF ARTICLE  
15 TWENTY-FIVE OF THE PUBLIC HEALTH LAW (CHILD HEALTH INSURANCE PROGRAM),  
16 OR ANY OTHER ENTITY THAT PROVIDES OR ARRANGES FOR THE PROVISION OF  
17 MEDICAL ASSISTANCE SERVICES AND SUPPLIES TO PARTICIPANTS DIRECTLY OR  
18 INDIRECTLY (INCLUDING BY REFERRAL), INCLUDING CASE MANAGEMENT, INCLUDING  
19 THE MANAGED CARE PROVIDER'S AUTHORIZED AGENTS.

20 (E) "NON-PREFERRED DRUG" MEANS A PRESCRIPTION DRUG THAT REQUIRES PRIOR  
21 AUTHORIZATION UNDER THE PARTICIPANT'S MANAGED CARE PROVIDER.

22 (F) "PARTICIPANT" MEANS A MEDICAL ASSISTANCE RECIPIENT WHO RECEIVES,  
23 IS REQUIRED TO RECEIVE OR ELECTS TO RECEIVE HIS OR HER MEDICAL ASSIST-  
24 ANCE SERVICES FROM A MANAGED CARE PROVIDER.

25 (G) "PREFERRED DRUG" MEANS A PRESCRIPTION DRUG THAT IS NOT A NON-PRE-  
26 FERRED DRUG UNDER THE PATIENT'S MANAGED CARE PROVIDER. "PREFERRED DRUG  
27 LIST" MEANS A LIST OF A MANAGED CARE PROVIDER'S PREFERRED DRUGS.

28 (H) "PREFERRED DRUG PROGRAM" MEANS THE PREFERRED DRUG PROGRAM ESTAB-  
29 LISHED UNDER SECTION TWO HUNDRED SEVENTY-TWO OF THE PUBLIC HEALTH LAW.

30 (I) "PRESCRIBER" MEANS A HEALTH CARE PROFESSIONAL AUTHORIZED TO  
31 PRESCRIBE PRESCRIPTION DRUGS FOR A PARTICIPANT OF THE MANAGED CARE  
32 PROVIDER, ACTING WITHIN HIS OR HER LAWFUL SCOPE OF PRACTICE.

33 (J) "PRESCRIPTION DRUG" OR "DRUG" MEANS A DRUG DEFINED IN SUBDIVISION  
34 SEVEN OF SECTION SIXTY-EIGHT HUNDRED TWO OF THE EDUCATION LAW, FOR WHICH  
35 A PRESCRIPTION IS REQUIRED UNDER THE FEDERAL FOOD, DRUG AND COSMETIC  
36 ACT. ANY DRUG THAT DOES NOT REQUIRE A PRESCRIPTION UNDER SUCH ACT, BUT  
37 WHICH WOULD OTHERWISE BE ELIGIBLE FOR REIMBURSEMENT UNDER THIS ARTICLE  
38 WHEN ORDERED BY A PRESCRIBER AND THE PRESCRIPTION IS SUBJECT TO THE  
39 APPLICABLE PROVISIONS OF THIS ARTICLE AND PARAGRAPH (A) OF SUBDIVISION  
40 FOUR OF SECTION THREE HUNDRED SIXTY-FIVE-A OF THIS TITLE.

41 (K) "PRIOR AUTHORIZATION" MEANS A PROCESS REQUIRING THE PRESCRIBER OR  
42 THE DISPENSER TO VERIFY WITH THE PARTICIPANT'S MANAGED CARE PROVIDER  
43 THAT THE DRUG IS APPROPRIATE FOR THE NEEDS OF THE SPECIFIC PATIENT.

44 (L) "QUALIFIED PRESCRIPTION DRUG SYSTEM" OR "SYSTEM" MEANS A PROCESS  
45 UNDER THIS SECTION, APPROVED BY THE COMMISSIONER, THROUGH WHICH A  
46 MANAGED CARE PROVIDER APPROVES PAYMENT FOR A NON-PREFERRED DRUG FOR A  
47 PARTICIPANT BASED ON PRIOR AUTHORIZATION.

48 2. PAYMENT FOR PRESCRIPTION DRUGS UNDER CAPITATION. (A) PAYMENT FOR  
49 PRESCRIPTION DRUGS SHALL BE INCLUDED IN THE CAPITATION PAYMENTS FOR  
50 SERVICES OR SUPPLIES PROVIDED TO A MANAGED CARE PROVIDER'S PARTICIPANTS,  
51 PROVIDED THAT THE MANAGED CARE PROVIDER PAYS FOR PRESCRIPTION DRUGS  
52 UNDER A QUALIFIED PRESCRIPTION DRUG SYSTEM. EVERY PRESCRIPTION DRUG  
53 ELIGIBLE FOR REIMBURSEMENT UNDER THIS ARTICLE PRESCRIBED IN RELATION TO  
54 A SERVICE PROVIDED BY THE MANAGED CARE PROVIDER SHALL BE EITHER A  
55 PREFERRED OR NON-PREFERRED DRUG UNDER THE QUALIFIED PRESCRIPTION DRUG  
56 SYSTEM. THE COMMISSIONER SHALL APPROVE A MANAGED CARE PROVIDER'S QUALI-

1 FIED PRESCRIPTION DRUG SYSTEM IF IT CONFORMS TO THE PROVISIONS OF THIS  
2 SECTION.

3 (B) IF THE MANAGED CARE PROVIDER DOES NOT PAY FOR PRESCRIPTION DRUGS  
4 UNDER A QUALIFIED PRESCRIPTION DRUG SYSTEM, THEN PAYMENT FOR  
5 PRESCRIPTION DRUGS FOR THE MANAGED CARE PROVIDER'S PATIENTS SHALL NOT BE  
6 INCLUDED IN SUCH CAPITATION PAYMENTS AND PRESCRIPTION DRUGS SHALL BE  
7 PROVIDED FOR THE MANAGED CARE PROVIDER'S PARTICIPANTS UNDER THE  
8 PREFERRED DRUG PROGRAM.

9 3. QUALIFIED PRESCRIPTION DRUG SYSTEM; CRITERIA. (A) A QUALIFIED  
10 PRESCRIPTION DRUG SYSTEM SHALL PROMOTE ACCESS TO THE MOST EFFECTIVE  
11 PRESCRIPTION DRUGS WHILE REDUCING THE COST OF PRESCRIPTION DRUGS UNDER  
12 THIS ARTICLE. THIS SUBDIVISION AND SUBDIVISION FOUR OF THIS SECTION  
13 APPLY TO QUALIFIED PRESCRIPTION DRUG SYSTEMS.

14 (B) WHEN A PRESCRIBER PRESCRIBES A NON-PREFERRED DRUG FOR A PARTIC-  
15 IPANT, REIMBURSEMENT MAY BE DENIED UNLESS PRIOR AUTHORIZATION IS  
16 OBTAINED, UNLESS NO PRIOR AUTHORIZATION IS REQUIRED UNDER THIS SECTION.  
17 WHEN A PRESCRIBER PRESCRIBES A PREFERRED DRUG FOR A PARTICIPANT, NO  
18 PRIOR AUTHORIZATION SHALL BE REQUIRED FOR REIMBURSEMENT, UNLESS PRIOR  
19 AUTHORIZATION IS REQUIRED UNDER THE CLINICAL DRUG REVIEW PROGRAM.

20 (C) THE COMMISSIONER SHALL ESTABLISH PERFORMANCE STANDARDS FOR SYSTEMS  
21 THAT, AT A MINIMUM, ENSURE THAT SYSTEMS PROVIDE SUFFICIENT TECHNICAL  
22 SUPPORT AND TIMELY RESPONSES TO CONSUMERS, PRESCRIBERS AND PHARMACISTS.

23 (D) THE COMMISSIONER SHALL ADOPT CRITERIA FOR QUALIFIED PRESCRIPTION  
24 DRUG SYSTEMS AFTER CONSIDERING RECOMMENDATIONS AND COMMENTS RECEIVED  
25 FROM PRESCRIBERS, PHARMACISTS, PARTICIPANTS, AND ORGANIZATIONS REPRES-  
26 ENTING THEM.

27 (E) THE MANAGED CARE PROVIDER SHALL DEVELOP ITS PREFERRED DRUG LIST  
28 BASED INITIALLY ON AN EVALUATION OF THE CLINICAL EFFECTIVENESS, SAFETY,  
29 AND PATIENT OUTCOMES, FOLLOWED BY CONSIDERATION OF THE COST-EFFECTIVE-  
30 NESS OF THE DRUGS. IN EACH THERAPEUTIC CLASS, THE MANAGED CARE PROVIDER  
31 SHALL DETERMINE WHETHER THERE IS ONE DRUG THAT IS SIGNIFICANTLY MORE  
32 CLINICALLY EFFECTIVE AND SAFE, AND THAT DRUG SHALL BE INCLUDED ON THE  
33 PREFERRED DRUG LIST WITHOUT CONSIDERATION OF COST. IF, AMONG TWO OR MORE  
34 DRUGS IN A THERAPEUTIC CLASS, THE DIFFERENCE IN CLINICAL EFFECTIVENESS  
35 AND SAFETY IS NOT CLINICALLY SIGNIFICANT, THEN COST-EFFECTIVENESS MAY  
36 ALSO BE CONSIDERED IN DETERMINING WHICH DRUG OR DRUGS SHALL BE INCLUDED  
37 ON THE PREFERRED DRUG LIST.

38 4. PRIOR AUTHORIZATION. (A) A QUALIFIED PRESCRIPTION DRUG SYSTEM SHALL  
39 MAKE AVAILABLE A TWENTY-FOUR HOUR PER DAY, SEVEN DAYS PER WEEK TELEPHONE  
40 CALL CENTER THAT INCLUDES A TOLLFREE TELEPHONE LINE AND DEDICATED  
41 FACSIMILE LINE TO RESPOND TO REQUESTS FOR PRIOR AUTHORIZATION. THE CALL  
42 CENTER SHALL INCLUDE QUALIFIED HEALTH CARE PROFESSIONALS WHO SHALL BE  
43 AVAILABLE TO CONSULT WITH PRESCRIBERS CONCERNING PRESCRIPTION DRUGS THAT  
44 ARE NON-PREFERRED DRUGS. A PRESCRIBER SEEKING PRIOR AUTHORIZATION SHALL  
45 CONSULT WITH THE PROGRAM CALL LINE TO REASONABLY PRESENT HIS OR HER  
46 JUSTIFICATION FOR THE PRESCRIPTION AND GIVE THE PROGRAM'S QUALIFIED  
47 HEALTH CARE PROFESSIONAL A REASONABLE OPPORTUNITY TO RESPOND.

48 (B) WHEN A PATIENT'S HEALTH CARE PROVIDER PRESCRIBES A NON-PREFERRED  
49 DRUG, THE PRESCRIBER SHALL CONSULT WITH THE SYSTEM TO CONFIRM THAT IN  
50 HIS OR HER REASONABLE PROFESSIONAL JUDGMENT, THE PATIENT'S CLINICAL  
51 CONDITION IS CONSISTENT WITH THE CRITERIA FOR APPROVAL OF THE NON-PRE-  
52 FERRED DRUG. SUCH CRITERIA SHALL INCLUDE:

53 (I) THE PREFERRED DRUG HAS BEEN TRIED BY THE PATIENT AND HAS FAILED TO  
54 PRODUCE THE DESIRED HEALTH OUTCOMES;

55 (II) THE PATIENT HAS TRIED THE PREFERRED DRUG AND HAS EXPERIENCED  
56 UNACCEPTABLE SIDE EFFECTS;

(III) THE PATIENT HAS BEEN STABILIZED ON A NON-PREFERRED DRUG AND TRANSITION TO THE PREFERRED DRUG WOULD BE MEDICALLY CONTRAINDICATED; OR

(IV) OTHER CLINICAL INDICATIONS IDENTIFIED BY THE COMMISSIONER OR THE MANAGED CARE PROVIDER FOR THE PATIENT'S USE OF THE NON-PREFERRED DRUG, WHICH SHALL INCLUDE CONSIDERATION OF THE MEDICAL NEEDS OF SPECIAL POPULATIONS, INCLUDING CHILDREN, ELDERLY, CHRONICALLY ILL, PERSONS WITH MENTAL HEALTH CONDITIONS, AND PERSONS AFFECTED BY HIV/AIDS OR HEPATITIS C.

(C) IN THE EVENT THAT THE PATIENT DOES NOT MEET THE CRITERIA IN PARAGRAPH (B) OF THIS SUBDIVISION, THE PRESCRIBER MAY PROVIDE ADDITIONAL INFORMATION TO THE MANAGED CARE PROVIDER TO JUSTIFY THE USE OF A NON-PREFERRED DRUG. THE SYSTEM SHALL PROVIDE A REASONABLE OPPORTUNITY FOR A PRESCRIBER TO REASONABLY PRESENT HIS OR HER JUSTIFICATION OF PRIOR AUTHORIZATION. IF, AFTER CONSULTATION WITH THE MANAGED CARE PROVIDER, THE PRESCRIBER, IN HIS OR HER REASONABLE PROFESSIONAL JUDGMENT, DETERMINES THAT THE USE OF A NON-PREFERRED DRUG IS WARRANTED, THE PRESCRIBER'S DETERMINATION SHALL BE FINAL.

(D) IF A PRESCRIBER MEETS THE REQUIREMENTS OF PARAGRAPH (B) OR (C) OF THIS SUBDIVISION, THE PRESCRIBER SHALL BE GRANTED PRIOR AUTHORIZATION UNDER THIS SECTION.

(E) IN THE INSTANCE WHERE A PRIOR AUTHORIZATION DETERMINATION IS NOT COMPLETED WITHIN TWENTY-FOUR HOURS OF THE ORIGINAL REQUEST, SOLELY AS THE RESULT OF A FAILURE OF THE SYSTEM (WHETHER BY ACTION OR INACTION), PRIOR AUTHORIZATION SHALL BE IMMEDIATELY AND AUTOMATICALLY GRANTED WITH NO FURTHER ACTION BY THE PRESCRIBER AND THE PRESCRIBER SHALL BE NOTIFIED OF THIS DETERMINATION. IN THE INSTANCE WHERE A PRIOR AUTHORIZATION DETERMINATION IS NOT COMPLETED WITHIN TWENTY-FOUR HOURS OF THE ORIGINAL REQUEST FOR ANY OTHER REASON, A SEVENTY-TWO HOUR SUPPLY OF THE MEDICATION SHALL BE APPROVED BY THE SYSTEM AND THE PRESCRIBER SHALL BE NOTIFIED OF THIS DETERMINATION.

(F) WHEN, IN THE JUDGMENT OF THE PRESCRIBER OR THE PHARMACIST, AN EMERGENCY CONDITION EXISTS, AND THE PRESCRIBER OR PHARMACIST NOTIFIES THE MANAGED CARE PROVIDER THAT AN EMERGENCY CONDITION EXISTS, A SEVENTY-TWO HOUR EMERGENCY SUPPLY OF THE DRUG PRESCRIBED SHALL BE IMMEDIATELY AUTHORIZED BY THE MANAGED CARE PROVIDER.

(G) IN THE EVENT THAT A PATIENT PRESENTS A PRESCRIPTION TO A PHARMACIST FOR A PRESCRIPTION DRUG THAT IS A NON-PREFERRED DRUG AND FOR WHICH THE PRESCRIBER HAS NOT OBTAINED A PRIOR AUTHORIZATION, THE PHARMACIST SHALL, WITHIN A PROMPT PERIOD BASED ON PROFESSIONAL JUDGMENT, NOTIFY THE PRESCRIBER. THE PRESCRIBER SHALL, WITHIN A PROMPT PERIOD BASED ON PROFESSIONAL JUDGMENT, EITHER SEEK PRIOR AUTHORIZATION OR SHALL CONTACT THE PHARMACIST AND AMEND OR CANCEL THE PRESCRIPTION. THE PHARMACIST SHALL, WITHIN A PROMPT PERIOD BASED ON PROFESSIONAL JUDGMENT, NOTIFY THE PATIENT WHEN PRIOR AUTHORIZATION HAS BEEN OBTAINED OR DENIED OR WHEN THE PRESCRIPTION HAS BEEN AMENDED OR CANCELLED.

(H) ONCE PRIOR AUTHORIZATION OF A PRESCRIPTION FOR A DRUG THAT IS NOT ON THE PREFERRED DRUG LIST IS OBTAINED, PRIOR AUTHORIZATION SHALL NOT BE REQUIRED FOR ANY REFILL OF THE PRESCRIPTION.

(I) NO PRIOR AUTHORIZATION UNDER A QUALIFIED PRESCRIPTION DRUG SYSTEM SHALL BE REQUIRED FOR: (I) ATYPICAL ANTI-PSYCHOTICS; (II) ANTI-DEPRESSANTS; (III) ANTI-RETROVIRALS USED IN THE TREATMENT OF HIV/AIDS OR HEPATITIS C; (IV) ANTI-REJECTION DRUGS USED IN THE TREATMENT OF ORGAN AND TISSUE TRANSPLANTS; AND (V) ANY OTHER THERAPEUTIC CLASS FOR THE TREATMENT OF MENTAL ILLNESS, HIV/AIDS OR HEPATITIS C, APPROVED BY THE COMMISSIONER.

1 5. CLINICAL DRUG REVIEW PROGRAM. IN THE CASE OF A DRUG FOR WHICH PRIOR  
2 AUTHORIZATION IS REQUIRED UNDER THE CLINICAL DRUG REVIEW PROGRAM, PRIOR  
3 AUTHORIZATION SHALL BE OBTAINED UNDER THE CLINICAL DRUG REVIEW PROGRAM  
4 AND NOT UNDER THIS SECTION.

5 6. PRESCRIBER CONDUCT. THE MANAGED CARE PROVIDER AND THE DEPARTMENT  
6 SHALL MONITOR THE PRIOR AUTHORIZATION PROCESS UNDER A QUALIFIED  
7 PRESCRIPTION DRUG SYSTEM FOR PRESCRIBING PATTERNS WHICH ARE SUSPECTED OF  
8 ENDANGERING THE HEALTH AND SAFETY OF THE PATIENT OR WHICH DEMONSTRATE A  
9 LIKELIHOOD OF FRAUD OR ABUSE. THE MANAGED CARE PROVIDER AND THE DEPART-  
10 MENT SHALL TAKE ANY AND ALL ACTIONS OTHERWISE PERMITTED BY LAW TO INVES-  
11 TIGATE SUCH PRESCRIBING PATTERNS, TO TAKE REMEDIAL ACTION AND TO ENFORCE  
12 APPLICABLE FEDERAL AND STATE LAWS.

13 7. USE OF PREFERRED DRUG PROGRAM. THE COMMISSIONER MAY CONTRACT WITH A  
14 MANAGED CARE PROVIDER FOR THE PROVIDER TO USE THE PREFERRED DRUG PROGRAM  
15 TO PROVIDE PRIOR AUTHORIZATION UNDER THE MANAGED CARE PROVIDER'S QUALI-  
16 FIED PRESCRIPTION DRUG SYSTEM. THE CONTRACT SHALL INCLUDE TERMS REQUIRED  
17 BY THE COMMISSIONER TO MAXIMIZE SAVINGS TO THE MEDICAID PROGRAM AND  
18 PROTECT THE HEALTH AND INTERESTS OF THE MANAGED CARE PROVIDER'S PARTIC-  
19 IPANTS. THE CONTRACT SHALL PROVIDE WHETHER THE PREFERRED DRUG PROGRAM  
20 SHALL USE THE MANAGED CARE PROVIDER'S LISTS OF PREFERRED AND NON-PRE-  
21 FERRED DRUGS OR THE PREFERRED DRUG LIST UNDER THE PREFERRED DRUG  
22 PROGRAM, WITH RESPECT TO WHETHER PRIOR AUTHORIZATION IS REQUIRED.

23 S 2. Subdivisions 25 and 25-a of section 364-j of the social services  
24 law are REPEALED.

25 S 3. Subdivision 2-b of section 369-ee of the social services law is  
26 REPEALED and a new subdivision 2-b is added to read as follows:

27 2-B. PAYMENT FOR PRESCRIPTION DRUGS. PAYMENT FOR PRESCRIPTION DRUGS  
28 SHALL BE INCLUDED IN THE CAPITATED PAYMENTS FOR SERVICES OR SUPPLIES  
29 PROVIDED UNDER A FAMILY HEALTH INSURANCE PLAN OR PROVIDED BY AN EMPLOYER  
30 PARTNERSHIP FOR FAMILY HEALTH PLUS PLAN AUTHORIZED BY THIS SECTION,  
31 PROVIDED THAT THE PLAN PAYS FOR PRESCRIPTION DRUGS UNDER A QUALIFIED  
32 PRESCRIPTION DRUG SYSTEM UNDER SECTION THREE HUNDRED SIXTY-FIVE-I OF  
33 THIS ARTICLE. EVERY PRESCRIPTION DRUG ELIGIBLE FOR REIMBURSEMENT UNDER  
34 THIS ARTICLE PRESCRIBED IN RELATION TO A SERVICE PROVIDED BY THE PLAN  
35 SHALL BE EITHER A PREFERRED OR NON-PREFERRED DRUG UNDER THE QUALIFIED  
36 PRESCRIPTION DRUG SYSTEM. IF THE PLAN DOES NOT PAY FOR PRESCRIPTION  
37 DRUGS UNDER A QUALIFIED PRESCRIPTION DRUG SYSTEM, THEN PAYMENT FOR  
38 PRESCRIPTION DRUGS FOR THE PLAN'S PATIENTS SHALL NOT BE INCLUDED IN SUCH  
39 CAPITATION PAYMENTS AND PRESCRIPTION DRUGS SHALL BE PROVIDED FOR THE  
40 APPROVED ORGANIZATION'S PARTICIPANTS UNDER THE PREFERRED DRUG PROGRAM.

41 S 4. Section 2511 of the public health law is amended by adding a new  
42 subdivision 22 to read as follows:

43 22. PAYMENT FOR PRESCRIPTION DRUGS. PAYMENT FOR PRESCRIPTION DRUGS  
44 SHALL BE INCLUDED IN THE PAYMENTS FOR SERVICES OR SUPPLIES PROVIDED BY  
45 THE APPROVED ORGANIZATION, PROVIDED THAT THE PLAN PAYS FOR PRESCRIPTION  
46 DRUGS UNDER A QUALIFIED PRESCRIPTION DRUG SYSTEM UNDER SECTION THREE  
47 HUNDRED SIXTY-FIVE-I OF THE SOCIAL SERVICES LAW. EVERY PRESCRIPTION DRUG  
48 ELIGIBLE FOR REIMBURSEMENT UNDER THIS ARTICLE PRESCRIBED IN RELATION TO  
49 A SERVICE PROVIDED BY THE APPROVED ORGANIZATION SHALL BE EITHER A  
50 PREFERRED OR NON-PREFERRED DRUG UNDER THE QUALIFIED PRESCRIPTION DRUG  
51 SYSTEM. IF THE APPROVED ORGANIZATION DOES NOT PAY FOR PRESCRIPTION DRUGS  
52 UNDER A QUALIFIED PRESCRIPTION DRUG SYSTEM, THEN PAYMENT FOR  
53 PRESCRIPTION DRUGS FOR THE APPROVED ORGANIZATION'S PATIENTS SHALL NOT BE  
54 INCLUDED IN SUCH PAYMENTS AND PRESCRIPTION DRUGS SHALL BE PROVIDED FOR  
55 THE APPROVED ORGANIZATION'S PARTICIPANTS UNDER THE PREFERRED DRUG  
56 PROGRAM.

1 S 5. Subdivision 11 of section 270 of the public health law, as  
2 amended by section 2-a of part C of chapter 58 of the laws of 2008, is  
3 amended to read as follows:

4 11. "State public health plan" means the medical assistance program  
5 established by title eleven of article five of the social services law  
6 (referred to in this article as "Medicaid"), the elderly pharmaceutical  
7 insurance coverage program established by title three of article two of  
8 the elder law (referred to in this article as "EPIC"), [and] the family  
9 health plus program established by section three hundred sixty-nine-ee  
10 of the social services law [to the extent that section provides that the  
11 program shall be subject to this article], AND THE CHILD HEALTH INSUR-  
12 ANCE PROGRAM UNDER TITLE ONE-A OF ARTICLE TWENTY-FIVE OF THIS CHAPTER.

13 S 6. Section 272 of the public health law is amended by adding a new  
14 subdivision 12 to read as follows:

15 12. NO PRIOR AUTHORIZATION SHALL BE REQUIRED UNDER THE PREFERRED DRUG  
16 PROGRAM FOR:

17 (A) ATYPICAL ANTI-PSYCHOTICS; (B) ANTI-DEPRESSANTS; (C) ANTI-RETROVI-  
18 RALS USED IN THE TREATMENT OF HIV/AIDS OR HEPATITIS C; (D) ANTI-REJEC-  
19 TION DRUGS USED IN THE TREATMENT OF ORGAN AND TISSUE TRANSPLANTS; AND  
20 (E) ANY OTHER THERAPEUTIC CLASS FOR THE TREATMENT OF MENTAL ILLNESS,  
21 HIV/AIDS OR HEPATITIS C, RECOMMENDED BY THE BOARD AND APPROVED BY THE  
22 COMMISSIONER UNDER THIS SECTION.

23 S 7. This act shall take effect on the one hundred eightieth day after  
24 it shall become a law; provided, however, that section two of this act  
25 shall take effect one year after this act shall become a law; and  
26 provided further, that the amendments to section 369-ee of the social  
27 services law made by section three of this act shall not affect the  
28 repeal of such section and shall be deemed repealed therewith and  
29 provided further, that the commissioner of health is immediately author-  
30 ized and directed to take actions necessary to implement this act when  
31 it takes effect.