

1174

2015-2016 Regular Sessions

I N A S S E M B L Y

January 8, 2015

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.