

6194

2015-2016 Regular Sessions

I N A S S E M B L Y

March 16, 2015

Introduced by M. of A. JOYNER, ABINANTI, AUBRY, BARRETT, BENEDETTO, BLAKE, BRINDISI, BUCHWALD, CLARK, COLTON, CRESPO, CUSICK, CYMBROWITZ, DINOWITZ, GALEF, GJONAJ, GOTTFRIED, GUNTHER, HEVESI, JAFFEE, KEARNS, LAVINE, McDONALD, MOSLEY, MOYA, ORTIZ, OTIS, PAULIN, PEOPLES-STOKES, PERRY, PICHARDO, RODRIGUEZ, ROSENTHAL, SEPULVEDA, SIMANOWITZ, SIMON, SIMOTAS, SKOUFIS, THIELE, TITONE, WEPRIN, ZEBROWSKI -- Multi-Sponsored by -- M. of A. ARROYO, BRAUNSTEIN, COOK, FARRELL, GLICK, HOOPER, LENTOL, LUPARDO, MAYER, O'DONNELL, ROZIC, SCHIMEL, WEINSTEIN -- read once and referred to the Committee on Insurance

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
15 PROVIDES ANY CONSULTATION WITH PATIENTS ELECTRONICALLY RATHER THAN
16 FACE-TO-FACE.
17 (B) Any policy that provides coverage for prescription drugs shall
18 permit each insured to fill any covered prescription that may be

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

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

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

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

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

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

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

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

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

52 (A) "SAME REIMBURSEMENT AMOUNT" SHALL MEAN THAT ANY COVERAGE DESCRIBED
53 UNDER PARAGRAPH TWO OF THIS SUBSECTION SHALL PROVIDE THE SAME BENCHMARK
54 INDEX, INCLUDING THE SAME AVERAGE WHOLESALE PRICE, MAXIMUM ALLOWABLE
55 COST AND NATIONAL PRESCRIPTION DRUG CODES TO REIMBURSE ALL PHARMACIES

1 PARTICIPATING IN THE HEALTH BENEFIT PLAN REGARDLESS OF WHETHER A PHARMA-
2 CY IS A MAIL ORDER PHARMACY OR A NON-MAIL ORDER PHARMACY.

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

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

29 S 4. This act shall take effect immediately.