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2015-2016 Regular Sessions

I N A S S E M B L Y

March 25, 2015

Introduced by M. of A. ENGLEBRIGHT, CAHILL, JAFFEE, ROSENTHAL, DINOWITZ, BENEDETTO, PERRY, GUNTHER, ROBINSON, COLTON, GALEF -- Multi-Sponsored by -- M. of A. ABBATE, BRENNAN, COOK, PEOPLES-STOKES -- read once and referred to the Committee on Health

AN ACT to amend the elder law and the social services law, in relation to payments for multiple source prescription drugs

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

1 Section 1. Subparagraph 2 of paragraph (a) of subdivision 1 of  
2 section 250 of the elder law, as amended by section 18 of part T of  
3 chapter 56 of the laws of 2012, is amended to read as follows:

4 (2) The upper limit, if any, set by the centers for medicare and medi-  
5 caid services for such multiple source drug AND THE DEPARTMENT OF HEALTH  
6 TOGETHER WITH THE PHARMACY ADVISORY COMMITTEE SHALL DETERMINE THE IMPACT  
7 OF SUCH UPPER LIMIT PAYMENTS FOR DRUGS IMPLEMENTED UNDER THE DEFICIT  
8 REDUCTION ACT OF 2005 AND SHALL REPORT TO THE DIRECTOR OF THE DIVISION  
9 OF THE BUDGET, SECRETARY OF THE SENATE FINANCE COMMITTEE AND SECRETARY  
10 OF THE ASSEMBLY WAYS AND MEANS COMMITTEE ON SUCH IMPACT AND SHALL ADJUST  
11 PHARMACY DISPENSING FEES FOR MULTIPLE SOURCE PRESCRIPTION DRUGS TO  
12 COMPENSATE FOR ANY REDUCTION AS A RESULT OF THE UPPER LIMITS IMPLEMENTED  
13 UNDER THE DEFICIT REDUCTION ACT OF 2005 AT SUCH TIME THAT THE NEW UPPER  
14 LIMITS ARE IMPLEMENTED, or

15 S 2. Subparagraph (i) of paragraph (b) of subdivision 9 of section  
16 367-a of the social services law, as amended by section 2 of part C of  
17 chapter 60 of the laws of 2014, is amended to read as follows:

18 (i) if the drug dispensed is a multiple source prescription drug for  
19 which an upper limit has been set by the federal centers for medicare  
20 and medicaid services, the lower of: (A) an amount equal to the specific  
21 upper limit set by such federal agency for the multiple source  
22 prescription drug; (B) the estimated acquisition cost of such drug to  
23 pharmacies which, for purposes of this subparagraph, shall mean the

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

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1 average wholesale price of a prescription drug based on the package size  
2 dispensed from, as reported by the prescription drug pricing service  
3 used by the department, less twenty-five percent thereof; (C) the maxi-  
4 mum acquisition cost, if any, established pursuant to paragraph (e) of  
5 this subdivision, provided that the methodology used by the department  
6 to establish a maximum acquisition cost shall not include average acqui-  
7 sition cost as determined by department surveys; [or] (D) the dispensing  
8 pharmacy's usual and customary price charged to the general public; OR  
9 (E) THE AVERAGE ACQUISITION COST IF AVAILABLE, AND THE DEPARTMENT OF  
10 HEALTH TOGETHER WITH THE PHARMACY ADVISORY COMMITTEE SHALL DETERMINE THE  
11 IMPACT OF SUCH UPPER LIMIT PAYMENTS FOR DRUGS IMPLEMENTED UNDER THE  
12 DEFICIT REDUCTION ACT OF 2005 AND SHALL REPORT TO THE DIRECTOR OF THE  
13 DIVISION OF THE BUDGET, SECRETARY OF THE SENATE FINANCE COMMITTEE AND  
14 SECRETARY OF THE ASSEMBLY WAYS AND MEANS COMMITTEE ON SUCH IMPACT AND  
15 SHALL ADJUST PHARMACY DISPENSING FEES FOR MULTIPLE SOURCE PRESCRIPTION  
16 DRUGS TO COMPENSATE FOR ANY REDUCTION AS A RESULT OF THE UPPER LIMITS  
17 IMPLEMENTED UNDER THE DEFICIT REDUCTION ACT OF 2005 AT SUCH TIME THAT  
18 THE NEW UPPER LIMITS ARE IMPLEMENTED; and

19 S 3. This act shall take effect immediately provided, however, that  
20 the amendments to subdivision 9 of section 367-a of the social services  
21 law, made by section two of this act, shall not affect the expiration  
22 and reversion of such subdivision pursuant to section 4 of chapter 19 of  
23 the laws of 1998, as amended, and shall be deemed to expire therewith.