

9271

I N A S S E M B L Y

February 10, 2016

Introduced by M. of A. GOTTFRIED -- 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 extending the preferred drug program to medicaid managed
care providers and offering the program to other health plans; and to
repeal certain provisions of the social services law relating thereto

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

1 Section 1. Legislative findings. This legislature finds that the costs
2 of many prescription drugs in the market have been escalating unreason-
3 ably. The preferred drug program and the clinical drug review program
4 under the public health law provide effective mechanisms for assuring
5 access to quality, effective and safe drugs to patients at reasonable
6 cost. Providing prescription drugs to Medicaid managed health care
7 provider participants through these programs will maximize the Medicaid
8 program's ability to negotiate more substantial rebates with drug
9 manufacturers (effectively, lower prices), while protecting Medicaid
10 managed care provider participants. Offering non-Medicaid health plans
11 the opportunity to use these programs will help lower costs for those
12 health plans and those who pay their premiums, while protecting individ-
13 uals covered by those plans, and will also further increase the negoti-
14 ating power of the programs.

15 S 2. The social services law is amended by adding a new section 365-i
16 to read as follows:

17 S 365-I. PRESCRIPTION DRUGS IN MEDICAID MANAGED CARE PROGRAMS. 1.
18 DEFINITIONS. (A) THE DEFINITIONS OF TERMS IN SECTION TWO HUNDRED SEVENTY
19 OF THE PUBLIC HEALTH LAW SHALL APPLY TO THIS SECTION.

20 (B) AS USED IN THIS SECTION, UNLESS THE CONTEXT CLEARLY REQUIRES
21 OTHERWISE:

22 (I) "MANAGED CARE PROVIDER" MEANS A MANAGED CARE PROVIDER UNDER
23 SECTION THREE HUNDRED SIXTY-FOUR-J OF THIS ARTICLE, A MANAGED LONG TERM
24 CARE PLAN UNDER SECTION FORTY-FOUR HUNDRED THREE-F OF THE PUBLIC HEALTH
25 LAW, OR ANY OTHER ENTITY THAT PROVIDES OR ARRANGES FOR THE PROVISION OF
26 MEDICAL ASSISTANCE SERVICES AND SUPPLIES TO PARTICIPANTS DIRECTLY OR

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

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1 INDIRECTLY (INCLUDING BY REFERRAL), INCLUDING CASE MANAGEMENT, INCLUDING
2 THE MANAGED CARE PROVIDER'S AUTHORIZED AGENTS.

3 (II) "PARTICIPANT" MEANS A MEDICAL ASSISTANCE RECIPIENT WHO RECEIVES,
4 IS REQUIRED TO RECEIVE OR ELECTS TO RECEIVE HIS OR HER MEDICAL ASSIST-
5 ANCE SERVICES FROM A MANAGED CARE PROVIDER.

6 2. PROVIDING AND PAYMENT FOR PRESCRIPTION DRUGS FOR MEDICAID MANAGED
7 CARE PROVIDER PARTICIPANTS. PRESCRIPTION DRUGS ELIGIBLE FOR REIMBURSE-
8 MENT UNDER THIS ARTICLE PRESCRIBED IN RELATION TO A SERVICE PROVIDED BY
9 A MANAGED CARE PROVIDER SHALL BE PROVIDED AND PAID FOR UNDER THE
10 PREFERRED DRUG PROGRAM AND THE CLINICAL DRUG REVIEW PROGRAM UNDER TITLE
11 ONE OF ARTICLE TWO-A OF THE PUBLIC HEALTH LAW. THE MANAGED CARE PROVIDER
12 SHALL ACCOUNT TO AND REIMBURSE THE DEPARTMENT FOR THE NET COST TO THE
13 DEPARTMENT FOR PRESCRIPTION DRUGS PROVIDED TO THE MANAGED CARE PROVID-
14 ER'S PARTICIPANTS. PAYMENT FOR PRESCRIPTION DRUGS SHALL BE INCLUDED IN
15 THE CAPITATION PAYMENTS TO THE MANAGED CARE PROVIDER FOR SERVICES OR
16 SUPPLIES PROVIDED TO A MANAGED CARE PROVIDER'S PARTICIPANTS.

17 S 3. Section 270 of the public health law is amended by adding a new
18 subdivision 15 to read as follows:

19 15. "THIRD-PARTY HEALTH CARE PAYER" HAS ITS ORDINARY MEANINGS AND
20 INCLUDES AN ENTITY SUCH AS A FISCAL ADMINISTRATOR, OR ADMINISTRATIVE
21 SERVICES PROVIDER THAT PARTICIPATES IN THE ADMINISTRATION OF A
22 THIRD-PARTY HEALTH CARE PAYER SYSTEM.

23 S 4. The public health law is amended by adding a new section 274-a to
24 read as follows:

25 S 274-A. USE OF PREFERRED DRUG PROGRAM AND CLINICAL DRUG REVIEW
26 PROGRAM. THE COMMISSIONER SHALL CONTRACT WITH ANY THIRD-PARTY HEALTH
27 CARE PAYER THAT SO CHOOSES, TO USE THE PREFERRED DRUG PROGRAM AND THE
28 CLINICAL DRUG REVIEW PROGRAM TO PROVIDE AND PAY FOR PRESCRIPTION DRUGS
29 FOR THE THIRD-PARTY HEALTH CARE PAYER'S ENROLLEES. TO CONTRACT UNDER
30 THIS SECTION, THE THIRD-PARTY HEALTH CARE PAYER SHALL PROVIDE COVERAGE
31 FOR PRESCRIPTION DRUGS AUTHORIZED UNDER THIS TITLE. THE THIRD-PARTY
32 HEALTH CARE PAYER SHALL ACCOUNT TO AND REIMBURSE THE DEPARTMENT FOR THE
33 NET COST TO THE DEPARTMENT FOR PRESCRIPTION DRUGS PROVIDED TO THE
34 THIRD-PARTY HEALTH CARE PAYER'S ENROLLEES. THE CONTRACT SHALL INCLUDE
35 TERMS REQUIRED BY THE COMMISSIONER.

36 S 5. Section 272 of the public health law is amended by adding a new
37 subdivision 12 to read as follows:

38 12. NO PRIOR AUTHORIZATION SHALL BE REQUIRED UNDER THE PREFERRED DRUG
39 PROGRAM FOR: (A) ATYPICAL ANTI-PSYCHOTICS; (B) ANTI-DEPRESSANTS; (C)
40 ANTI-RETROVIRALS USED IN THE TREATMENT OF HIV/AIDS; (D) ANTI-REJECTION
41 DRUGS USED IN THE TREATMENT OF ORGAN AND TISSUE TRANSPLANTS; (E)
42 SEIZURE, EPILEPSY, ENDOCRINE, HEMATOLOGIC AND IMMUNOLOGIC THERAPEUTIC
43 CLASSES; AND (F) ANY OTHER THERAPEUTIC CLASS FOR THE TREATMENT OF MENTAL
44 ILLNESS OR HIV/AIDS, RECOMMENDED BY THE COMMITTEE AND APPROVED BY THE
45 COMMISSIONER UNDER THIS TITLE.

46 S 6. Subdivisions 25 and 25-a of section 364-j of the social services
47 law are REPEALED.

48 S 7. This act shall take effect on the one hundred eightieth day after
49 it shall have become a law; provided, however, that the commissioner of
50 health is immediately authorized and directed to take actions necessary
51 to implement this act when it takes effect.