

5382--A

2015-2016 Regular Sessions

I N S E N A T E

May 14, 2015

Introduced by Sen. MARTINS -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- recommitted to the Committee on Insurance in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to prescription drug formulary changes during a contract year

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

1 Section 1. The insurance law is amended by adding a new section 4909
2 to read as follows:
3 S 4909. PRESCRIPTION DRUG FORMULARY CHANGES. (A) A HEALTH CARE PLAN
4 REQUIRED TO PROVIDE ESSENTIAL HEALTH BENEFITS SHALL NOT, EXCEPT AS
5 OTHERWISE PROVIDED IN SUBSECTION (B) OF THIS SECTION, REMOVE A
6 PRESCRIPTION DRUG FROM A FORMULARY:
7 (I) IF THE FORMULARY INCLUDES TWO OR MORE TIERS OF BENEFITS PROVIDING
8 FOR DIFFERENT DEDUCTIBLES, COPAYMENTS OR COINSURANCE APPLICABLE TO THE
9 PRESCRIPTION DRUGS IN EACH TIER, MOVE A DRUG TO A TIER WITH A LARGER
10 DEDUCTIBLE, COPAYMENT OR COINSURANCE, OR
11 (II) ADD UTILIZATION MANAGEMENT RESTRICTIONS TO A FORMULARY DRUG,
12 UNLESS SUCH CHANGES OCCUR AT THE TIME OF ENROLLMENT OR ISSUANCE OF
13 COVERAGE. SUCH PROHIBITION SHALL APPLY BEGINNING ON THE DATE ON WHICH
14 OPEN ENROLLMENT BEGINS FOR A PLAN YEAR AND THROUGH THE END OF THE PLAN
15 YEAR TO WHICH SUCH OPEN ENROLLMENT PERIOD APPLIES.
16 (B) (I) A HEALTH CARE PLAN WITH A FORMULARY THAT INCLUDES TWO OR MORE
17 TIERS OF BENEFITS PROVIDING FOR DIFFERENT DEDUCTIBLES, COPAYMENTS OR
18 COINSURANCE APPLICABLE TO PRESCRIPTION DRUGS IN EACH TIER MAY MOVE A
19 PRESCRIPTION DRUG TO A TIER WITH A LARGER DEDUCIBLE, COPAYMENT OR COIN-
20 SURANCE IF AN AB-RATED GENERIC DRUG FOR SUCH PRESCRIPTION DRUG IS ADDED
21 TO THE FORMULARY AT THE SAME TIME.

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

LBD11110-03-6

1 (II) A HEALTH CARE PLAN MAY REMOVE A PRESCRIPTION DRUG FROM A FORMU-
2 LARY IF THE FEDERAL FOOD AND DRUG ADMINISTRATION DETERMINES THAT SUCH
3 DRUG SHOULD BE REMOVED FROM THE MARKET.

4 S 2. This act shall take effect on the sixtieth day after it shall
5 have become a law; provided, however, that effective immediately, the
6 addition, amendment and/or repeal of any rule or regulation necessary
7 for the implementation of this act on its effective date are authorized
8 to be made and completed by the superintendent of financial services on
9 or before such date.