

3120

2015-2016 Regular Sessions

I N A S S E M B L Y

January 22, 2015

Introduced by M. of A. MORELLE, LUPARDO, STIRPE, STECK, SANTABARBARA --
Multi-Sponsored by -- M. of A. McDONALD -- read once and referred to
the Committee on Insurance

AN ACT to amend the insurance law, in relation to requiring
prescriptions for drugs to be filled in the amount indicated by the
prescription; and to amend the public health law and the social
services law, in relation to increasing the number of days for which a
prescription may be filled

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

1 Section 1. Subsection (i) of section 3216 of the insurance law is
2 amended by adding a new paragraph 32 to read as follows:

3 (32) EVERY POLICY WHICH PROVIDES COVERAGE FOR PRESCRIPTION DRUGS SHALL
4 PROVIDE THAT ANY PRESCRIPTION WRITTEN BY AN AUTHORIZED PROVIDER SHALL BE
5 FILLED IN SUCH EXACT QUANTITY AS INDICATED BY THE PRESCRIPTION WITHIN
6 AMOUNTS AUTHORIZED BY LAW, PROVIDED THAT NO SUCH QUANTITY SHALL EXCEED A
7 NINETY DAY SUPPLY. NO POLICY SHALL LIMIT THE QUANTITY OF ANY DRUG
8 PRESCRIBED NOR SHALL ANY SUCH POLICY PROVIDE FOR A HIGHER CO-PAYMENT FOR
9 PRESCRIPTIONS WRITTEN AND DISPENSED IN QUANTITIES ABOVE A SET AMOUNT.
10 WHERE A PHARMACY IS UNABLE TO PROVIDE THE FULL QUANTITY OF ANY DRUG
11 PRESCRIBED, SUCH PRESCRIPTION SHALL BE FILLED TO THE EXTENT POSSIBLE AND
12 THE BALANCE OF ANY UNFILLED PRESCRIPTION SHALL BE PROVIDED TO THE
13 INSURED WHEN IT BECOMES AVAILABLE WITH NO ADDITIONAL CO-PAYMENT
14 REQUIRED.

15 S 2. Subdivision 3 of section 3332 of the public health law, as
16 amended by chapter 178 of the laws of 2010, is amended to read as
17 follows:

18 3. No such prescription shall be made for a quantity of controlled
19 substances which would exceed a [thirty] NINETY day supply if the
20 controlled substance were used in accordance with the directions for use
21 specified on the prescription. [A practitioner may, however, issue a

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

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1 prescription for up to a three month supply of a controlled substance
2 provided that the controlled substance has been prescribed to treat one
3 of the conditions that have been enumerated by the commissioner pursuant
4 to regulations as warranting the prescribing of greater than a thirty
5 day supply of a controlled substance and that the practitioner specifies
6 the condition on the face of the prescription.] No additional
7 prescriptions for a controlled substance may be issued by a practitioner
8 to an ultimate user within [thirty] NINETY days of the date of any
9 prescription previously issued unless and until the ultimate user has
10 exhausted all but a seven day supply of the controlled substance
11 provided by any previously issued prescription. A practitioner may,
12 however, issue a prescription for up to a six month supply of any
13 substance listed in subdivision (h) of Schedule II of section thirty-
14 three hundred six of this article provided that such substance has been
15 prescribed to treat one of the conditions that have been enumerated by
16 the commissioner pursuant to regulations as warranting the prescribing
17 of a six month supply and that the practitioner specifies the condition
18 on the prescription or on the electronic prescription.

19 S 3. Subdivision 1 of section 3333 of the public health law, as
20 amended by chapter 178 of the laws of 2010, is amended to read as
21 follows:

22 1. A licensed pharmacist may, in good faith and in the course of his
23 or her professional practice, sell and dispense to an ultimate user
24 controlled substances only upon the delivery of an official New York
25 state prescription or the receipt of an electronic prescription to such
26 pharmacist, within thirty days of the date such prescription was signed
27 by an authorized practitioner; provided, however, a pharmacist may
28 dispense a part or portion of such prescription in accordance with regu-
29 lations of the commissioner in consultation with the commissioner of
30 education. No pharmacy or pharmacist may sell or dispense greater than a
31 [thirty] NINETY day supply of a controlled substance to an ultimate user
32 unless and until the ultimate user has exhausted all but a seven day
33 supply of the controlled substance provided pursuant to any previously
34 issued prescription, except that a pharmacy or pharmacist may sell or
35 dispense up to a three month supply of a controlled substance if there
36 appears, on the official New York state prescription or electronic
37 prescription, a statement that the controlled substance has been
38 prescribed to treat one of the conditions that have been enumerated by
39 the regulations of the commissioner as warranting the prescribing of
40 greater than a [thirty] NINETY day supply of a controlled substance. A
41 pharmacy or pharmacist may sell or dispense up to a six month supply of
42 any substance listed in subdivision (h) of Schedule II of section thir-
43 ty-three hundred six of this article if there appears, on the official
44 New York state prescription or on an electronic prescription, a state-
45 ment that the substance has been prescribed to treat one of the condi-
46 tions that have been enumerated by the regulations of the commissioner
47 as warranting the prescribing of a specified greater supply.

48 S 4. Subdivision 2 of section 3339 of the public health law, as
49 amended by section 13 of part A of chapter 58 of the laws of 2004, is
50 amended to read as follows:

51 2. A prescription, except for a schedule II controlled substance or
52 those schedule III or schedule IV controlled substances which the
53 commissioner may require by regulation may be refilled not more than the
54 number of times specifically authorized by the prescriber upon the
55 prescription, provided however no such authorization shall be effective
56 for a period greater than six months from the date the prescription is

1 signed. In the event that the prescription authorizes the dispensing of
2 more than a [thirty] NINETY day supply of schedule III, schedule IV or
3 schedule V substances pursuant to regulations of the commissioner
4 enumerating conditions warranting specified greater supplies, the
5 prescription may be refilled only once.

6 S 5. Paragraph (g-1) of subdivision 2 of section 365-a of the social
7 services law, as amended by section 5 of part C of chapter 60 of the
8 laws of 2014, is amended to read as follows:

9 (g-1) drugs provided on an in-patient basis, those drugs contained on
10 the list established by regulation of the commissioner of health pursu-
11 ant to subdivision four of this section, and those drugs which may not
12 be dispensed without a prescription as required by section sixty-eight
13 hundred ten of the education law and which the commissioner of health
14 shall determine to be reimbursable based upon such factors as the avail-
15 ability of such drugs or alternatives at low cost if purchased by a
16 medicaid recipient, or the essential nature of such drugs as described
17 by such commissioner in regulations, provided, however, that such drugs,
18 exclusive of long-term maintenance drugs, shall be dispensed in quanti-
19 ties no greater than a [thirty] NINETY day supply or one hundred doses,
20 whichever is greater; provided further that the commissioner of health
21 is authorized to require prior authorization for any refill of a
22 prescription when more than a ten day supply of the previously dispensed
23 amount should remain were the product used as normally indicated;
24 provided further that the commissioner of health is authorized to
25 require prior authorization of prescriptions of opioid analgesics in
26 excess of four prescriptions in a thirty-day period in accordance with
27 section two hundred seventy-three of the public health law; medical
28 assistance shall not include any drug provided on other than an in-pa-
29 tient basis for which a recipient is charged or a claim is made in the
30 case of a prescription drug, in excess of the maximum reimbursable
31 amounts to be established by department regulations in accordance with
32 standards established by the secretary of the United States department
33 of health and human services, or, in the case of a drug not requiring a
34 prescription, in excess of the maximum reimbursable amount established
35 by the commissioner of health pursuant to paragraph (a) of subdivision
36 four of this section;

37 S 6. This act shall take effect immediately and section one of this
38 act shall apply to policies issued, reissued, renewed, modified or
39 amended on and after such date.