STATE OF NEW YORK

11390

IN ASSEMBLY

October 22, 2018

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Gottfried, Davila, Dinowitz, D'Urso, Epstein, Hunter, Lifton, Lupardo, M. L. Miller, Mosley, Paulin, Pellegrino, Peoples-Stokes, L. Rosenthal, Seawright, Simon, Hevesi, Lentol) -- read once and referred to the Committee on Health

AN ACT to amend the public health law and the social services law, in relation to health coverage for medical marihuana

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 3368 of the public health law, as added by chapter 90 of the laws of 2014, is amended to read as follows:

§ 3368. Relation to other laws. 1. (a) The provisions of this article shall apply to this title, except that where a provision of this title conflicts with another provision of this article, this title shall apply.

(b) Medical marihuana shall not be deemed to be a "drug" for purposes of article one hundred thirty-seven of the education law. **However, regardless of federal financial participation, medical marihuana, when dispensed under this title, shall be deemed to be (i) a "prescription drug" for purposes of coverage under medical assistance under title eleven of article five of the social services law (provided that the dispensing site is certified under subdivision ten of section three hundred sixty-five-a of the social services law), title one-A of article twenty-five of this chapter, the insurance law, and the workers' compensation law; (ii) a "covered drug" for purposes of coverage under title three of article two of the elder law; and (iii) a "health care service" under section three hundred sixty-nine-gg of the social services law (unless the commissioner finds that this will result in the loss of federal financial participation in the program under that section).**

2. Nothing in this title shall be construed to require **or prohibit** an insurer or health plan under this chapter or the insurance law to provide coverage for medical marihuana**, except that is shall be covered, as provided in subdivision one of this section, by any insurer or health plan under title eleven of article five of the social services law,**

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

LBD16589-01-8

title one-A of article twenty-five of this chapter, the workers' compensation law, title three of article two of the elder law, and section three hundred sixty-nine-gg of the social services law. [~~**Nothing in this title shall be construed to require coverage for medical marihuana under article twenty-five of this chapter or article five of the social services law.**~~]

§ 2. Section 365-a of the social services law is amended by adding a new subdivision 10 to read as follows:

10. The commissioner may certify a dispensing site authorized under title five-A of the public health law as a medical assistance provider, solely for the purpose of dispensing medical marihuana.

§ 3. This act shall take effect on the first of April next succeeding the date on which it shall have become a law; provided that, effective immediately, the commissioner of health and superintendent of financial services shall make regulations and take other actions reasonably necessary to implement this act on that date; and provided further that the amendments to section 3368 of the public health law made by section one of this act shall not affect the repeal of such section and shall expire and be deemed repealed therewith.