

STATE OF NEW YORK

1743

2017-2018 Regular Sessions

IN SENATE

January 10, 2017

Introduced by Sens. GOLDEN, ADDABBO, BRESLIN, LANZA, O'MARA -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to the purchase of prescription drugs

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

1 Section 1. Paragraph 28 of subsection (i) of section 3216 of the
2 insurance law, as amended by chapter 11 of the laws of 2012, is amended
3 to read as follows:

4 (28) (A) Definitions. For the purpose of this paragraph:

5 (1) "Same reimbursement amount" shall mean that any coverage described
6 under subparagraph (B) of this paragraph shall provide the same bench-
7 mark index, including the same average wholesale price, maximum allow-
8 able cost and national prescription drug codes to reimburse all pharma-
9 cies participating in the insurance network regardless of whether a
10 pharmacy is a mail order pharmacy or a non-mail order pharmacy.

11 (2) "Mail order pharmacy" means a pharmacy whose primary business is
12 to receive prescriptions by mail, telefax or through electronic
13 submissions and to dispense medication to patients through the use of
14 the United States mail or other common or contract carrier services and
15 provides any consultation with patients electronically rather than face-
16 to-face.

17 (B) Any policy that provides coverage for prescription drugs shall
18 permit each insured to fill any covered prescription that may be
19 obtained at a network participating mail order or other non-retail phar-
20 macy, at the insured's option, at a network participating non-mail order
21 retail pharmacy provided that the network participating non-mail order
22 retail pharmacy agrees [~~in advance, through a contractual network agree-~~
23 ~~ment,~~] to the same reimbursement amount[~~, as well as the same applicable~~
24 ~~terms and conditions,~~] that the insurer has established for the network

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

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1 participating mail order or other non-retail pharmacy. In such a case,
2 the policy shall not impose a co-payment fee or other condition on any
3 insured who elects to purchase prescription drugs from a network partic-
4 ipating non-mail order retail pharmacy which is not also imposed on
5 insureds electing to purchase drugs from a network participating mail
6 order or other non-retail pharmacy.

7 § 2. Paragraph 18 of subsection (1) of section 3221 of the insurance
8 law, as amended by chapter 11 of the laws of 2012, is amended to read as
9 follows:

10 (18) (A) Definitions. For the purpose of this paragraph:

11 (1) "Same reimbursement amount" shall mean that any coverage described
12 under subparagraph (B) of this paragraph shall provide the same bench-
13 mark index, including the same average wholesale price, maximum allow-
14 able cost and national prescription drug codes to reimburse all pharma-
15 cies participating in the insurance network regardless of whether a
16 pharmacy is a mail order pharmacy or a non-mail order pharmacy.

17 (2) "Mail order pharmacy" means a pharmacy whose primary business is
18 to receive prescriptions by mail, telefax or through electronic
19 submissions and to dispense medication to patients through the use of
20 the United States mail or other common or contract carrier services and
21 provides any consultation with patients electronically rather than face-
22 to-face.

23 (B) Any insurer delivering a group or blanket policy or issuing a
24 group or blanket policy for delivery in this state that provides cover-
25 age for prescription drugs shall permit each insured to fill any covered
26 prescription that may be obtained at a network participating mail order
27 or other non-retail pharmacy, at the insured's option, at a network
28 participating non-mail order retail pharmacy provided that the network
29 participating non-mail order retail pharmacy agrees [~~in advance, through~~
30 a ~~contractual network agreement,~~] to the same reimbursement amount[~~, as~~
31 well as the same applicable terms and conditions,] that the insurer has
32 established for the network participating mail order or other non-retail
33 pharmacy. In such a case, the policy shall not impose a co-payment fee
34 or other condition on any insured who elects to purchase drugs from a
35 network participating non-mail order retail pharmacy which is not also
36 imposed on insureds electing to purchase drugs from a network partic-
37 ipating mail order or other non-retail pharmacy; provided, however, that
38 the provisions of this section shall not supersede the terms of a
39 collective bargaining agreement or apply to a policy that is the result
40 of a collective bargaining agreement between an employer and a recog-
41 nized or certified employee organization.

42 § 3. Subsection (kk) of section 4303 of the insurance law, as amended
43 by chapter 11 of the laws of 2012 and as relettered by section 55 of
44 part D of chapter 56 of the laws of 2013, is amended to read as follows:

45 (kk) (1) Definitions. For the purpose of this subsection:

46 (A) "Same reimbursement amount" shall mean that any coverage described
47 under paragraph two of this subsection shall provide the same benchmark
48 index, including the same average wholesale price, maximum allowable
49 cost and national prescription drug codes to reimburse all pharmacies
50 participating in the health benefit plan regardless of whether a pharma-
51 cy is a mail order pharmacy or a non-mail order pharmacy.

52 (B) "Mail order pharmacy" means a pharmacy whose primary business is
53 to receive prescriptions by mail, telefax or through electronic
54 submissions and to dispense medication to patients through the use of
55 the United States mail or other common or contract carrier services and

1 provides any consultation with patients electronically rather than face-
2 to-face.

3 (2) Any contract issued by a medical expense indemnity corporation, a
4 hospital service corporation or a health services corporation that
5 provides coverage for prescription drugs shall permit each covered
6 person to fill any covered prescription that may be obtained at a
7 network participating mail order or other non-retail pharmacy, at the
8 covered person's option, at a network participating non-mail order
9 retail pharmacy provided that the network participating non-mail order
10 retail pharmacy agrees [~~in advance, through a contractual network agree-~~
11 ~~ment,~~] to the same reimbursement amount[~~, as well as the same applicable~~
12 ~~terms and conditions,~~] that the corporation has established for the
13 network participating mail order or other non-retail pharmacy. In such
14 a case, the contract shall not impose a copayment fee or other condition
15 on any covered person who elects to purchase drugs from a network
16 participating non-mail order retail pharmacy which is not also imposed
17 on covered persons electing to purchase drugs from a network participat-
18 ing mail order or other non-retail pharmacy; provided, however, that the
19 provisions of this section shall not supersede the terms of a collective
20 bargaining agreement or apply to a contract that is the result of a
21 collective bargaining agreement between an employer and a recognized or
22 certified employee organization.

23 § 4. This act shall take effect immediately.