

STATE OF NEW YORK

2317--B

Cal. No. 171

2017-2018 Regular Sessions

IN ASSEMBLY

January 17, 2017

Introduced by M. of A. PEOPLES-STOKES, HARRIS, SKOUFIS, BARRETT, NIOU, ORTIZ, SEPULVEDA, GALEF, ABINANTI, LAVINE -- Multi-Sponsored by -- M. of A. ENGLEBRIGHT, HEVESI -- read once and referred to the Committee on Insurance -- reported from committee, advanced to a third reading, amended and ordered reprinted, retaining its place on the order of third reading -- ordered to a third reading, amended and ordered reprinted, retaining its place on the order of third reading

AN ACT to amend the insurance law and the public health 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 § 4909. Prescription drug formulary changes. (a) Except as otherwise
4 provided in subsection (c) of this section, a health care plan shall
5 not:

6 (i) remove a prescription drug from a formulary;

7 (ii) move a prescription drug to a tier with a larger deductible,
8 copayment, or coinsurance if the formulary includes two or more tiers of
9 benefits providing for different deductibles, copayments or coinsurance
10 applicable to the prescription drugs in each tier; or

11 (iii) add utilization management restrictions to a prescription drug
12 on a formulary, unless such changes occur at the time of enrollment or
13 issuance of coverage.

14 (b) Prohibitions provided in subsection (a) of this section shall
15 apply beginning on the date on which open enrollment begins for a plan
16 year and through the end of the plan year to which such open enrollment
17 period applies.

18 (c) (i) A health care plan with a formulary that includes two or more
19 tiers of benefits providing for different deductibles, copayments or
20 coinsurance applicable to prescription drugs in each tier may move a
21 prescription drug to a tier with a larger deductible, copayment or coin-
22 insurance if an AB-rated generic equivalent for such prescription drug is
23 added to the formulary at the same time.

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

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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 prescription drug should be removed from the market, including new
4 utilization management restrictions issued pursuant to federal Food and
5 Drug Administration safety concerns.

6 (d) A health care plan shall provide notice to policyholders of the
7 intent to remove a prescription drug from a formulary or alter deduct-
8 ible, copayment or coinsurance requirements in the upcoming plan year,
9 thirty days prior to the open enrollment period for the consecutive plan
10 year. Such notice of impending formulary and deductible, copayment or
11 coinsurance changes shall also be posted on the plan's online formulary
12 and in any prescription drug finder system that the plan provides to the
13 public.

14 § 2. The public health law is amended by adding a new section 4909 to
15 read as follows:

16 § 4909. Prescription drug formulary changes. 1. Except as otherwise
17 provided in subdivision three of this section, a health care plan shall
18 not:

19 (a) remove a prescription drug from a formulary;

20 (b) move a prescription drug to a tier with a larger deductible,
21 copayment, or coinsurance if the formulary includes two or more tiers of
22 benefits providing for different deductibles, copayments or coinsurance
23 applicable to the prescription drugs in each tier; or

24 (c) add utilization management restrictions to a prescription drug on
25 a formulary, unless such changes occur at the time of enrollment or
26 issuance of coverage.

27 2. Prohibitions provided in subdivision one of this section shall
28 apply beginning on the date on which open enrollment begins for a plan
29 year and through the end of the plan year to which such open enrollment
30 period applies.

31 3. (a) A health care plan with a formulary that includes two or more
32 tiers of benefits providing for different deductibles, copayments or
33 coinsurance applicable to prescription drugs in each tier may move a
34 prescription drug to a tier with a larger deductible, copayment or coin-
35 insurance if an AB-rated generic equivalent for such prescription drug is
36 added to the formulary at the same time.

37 (b) A health care plan may remove a prescription drug from a formulary
38 if the federal Food and Drug Administration determines that such
39 prescription drug should be removed from the market, including new
40 utilization management restrictions issued pursuant to federal Food and
41 Drug Administration safety concerns.

42 4. A health care plan shall provide notice to policyholders of the
43 intent to remove a prescription drug from a formulary or alter deduct-
44 ible, copayment or coinsurance requirements in the upcoming plan year,
45 thirty days prior to the open enrollment period for the consecutive plan
46 year. Such notice of impending formulary and deductible, copayment or
47 coinsurance changes shall also be posted on the plan's online formulary
48 and in any prescription drug finder system that the plan provides to the
49 public.

50 § 3. This act shall take effect on the sixtieth day after it shall
51 have become a law; provided, however, that effective immediately, the
52 addition, amendment and/or repeal of any rule or regulation necessary
53 for the implementation of this act on its effective date are authorized
54 to be made and completed by the superintendent of financial services on
55 or before such date.