

# 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:

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

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

(1) "Same reimbursement amount" shall mean that any coverage described under subparagraph (B) of this paragraph shall provide the same benchmark index, including the same average wholesale price, maximum allowable cost and national prescription drug codes to reimburse all pharmacies participating in the insurance network regardless of whether a pharmacy is a mail order pharmacy or a non-mail order pharmacy.

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

(B) Any policy that provides coverage for prescription drugs shall permit each insured to fill any covered prescription that may be obtained at a network participating mail order or other non-retail pharmacy, at the insured's option, at a network participating non-mail order retail pharmacy provided that the network participating non-mail order retail pharmacy agrees [~~in advance, through a contractual network agreement,~~] to the same reimbursement amount[~~, as well as the same applicable 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.

LBD04215-01-7

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 (l) 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.