

STATE OF NEW YORK

5022--B

2017-2018 Regular Sessions

IN SENATE

March 6, 2017

Introduced by Sens. SERINO, AVELLA, CROCI, GOLDEN, GRIFFO, KAMINSKY, KRUEGER, MURPHY, SANDERS, SAVINO, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Insurance in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

LBD05529-09-8

1 coinsurance applicable to prescription drugs in each tier may move a
2 prescription drug to a tier with a larger deductible, copayment or coin-
3 insurance if an AB-rated generic equivalent for such prescription drug is
4 added to the formulary at the same time.

5 (ii) A health care plan may remove a prescription drug from a formu-
6 lary if the federal Food and Drug Administration determines that such
7 prescription drug should be removed from the market, including new
8 utilization management restrictions issued pursuant to federal Food and
9 Drug Administration safety concerns.

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

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

20 § 4909. Prescription drug formulary changes. 1. Except as otherwise
21 provided in subdivision three of this section, a health care plan shall
22 not:

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

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

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

31 2. Prohibitions provided in subdivision one of this section shall
32 apply beginning on the date on which open enrollment begins for a plan
33 year and through the end of the plan year to which such open enrollment
34 period applies.

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

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

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

54 § 3. This act shall take effect on the sixtieth day after it shall
55 have become a law; provided, however, that effective immediately, the
56 addition, amendment and/or repeal of any rule or regulation necessary

1 for the implementation of this act on its effective date are authorized
2 to be made and completed by the superintendent of financial services on
3 or before such date.