STATE OF NEW YORK

5623

2017-2018 Regular Sessions

IN SENATE

April 20, 2017

Introduced by Sen. HANNON -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the public health law, in relation to civil penalties for violations concerning the pharmacy benefit manager contract appeals process; and in relation to the process for appeal

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

Section 1. Section 280-a of the public health law is amended by adding two new subdivisions 3 and 4 to read as follows:

3. Any pharmacy benefit manager who violates the provisions of subdivision two of this section shall be subject to a civil penalty not to exceed five thousand dollars for each violation.

4. The attorney general shall bring an action to recover the civil penalties provided by subdivision three of this section and for such other relief as may be deemed necessary.

§ 2. Paragraph (e) of subdivision 2 of section 280-a of the public health law, as added by chapter 540 of the laws of 2015, is amended to read as follows:

(e) if an appeal is denied, the pharmacy benefit manager shall identify [~~the national drug code of a therapeutically equivalent drug, as determined by the federal Food and Drug Administration, that is available for purchase by pharmacies in this state from wholesalers registered pursuant to subdivision four of section sixty-eight hundred eight of the education law at a price which is equal to or less than the maximum allowable cost for that drug as determined by the pharmacy benefit manager~~] **in writing: (i) the national drug code of a therapeutically equivalent drug as determined by the food and drug administration that is available for purchase by retail community pharmacies in the same package size, (ii) the name of the wholesaler registered pursuant to subdivision four of section sixty-eight hundred eight of the education law from which the price was obtained, and (iii) the date on which the price was determined**.

§ 3. This act shall take effect immediately.

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

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