STATE OF NEW YORK

2795

2019-2020 Regular Sessions

IN ASSEMBLY

January 25, 2019

Introduced by M. of A. GOTTFRIED, THIELE, RODRIGUEZ, MOSLEY, MAGNARELLI, LUPARDO, CRESPO, BLAKE, GALEF, JAFFEE, SEAWRIGHT, MONTESANO, GUNTHER, LIFTON, DINOWITZ, OTIS, ABINANTI, HYNDMAN, ORTIZ, COLTON -- Multi-Sponsored by -- M. of A. CARROLL, COOK, CROUCH, ENGLEBRIGHT, GLICK, SIMON -- read once and referred to the Committee on Health

AN ACT to amend the social services law and the public health law, in relation to extending the preferred drug program to medicaid managed care providers and offering the program to other health plans; and to repeal certain provisions of the social services law relating thereto

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

Section 1. Legislative findings. This legislature finds that the costs of many prescription drugs in the market have been escalating unreasonably. The preferred drug program and the clinical drug review program under the public health law provide effective mechanisms for assuring access to quality, effective and safe drugs to patients at reasonable cost. Providing prescription drugs to Medicaid managed health care provider participants through these programs will maximize the Medicaid program's ability to negotiate more substantial rebates with drug manufacturers (effectively, lower prices), while protecting Medicaid managed care provider participants. Offering non-Medicaid health plans the opportunity to use these programs will help lower costs for those health plans and those who pay their premiums, while protecting individuals covered by those plans, and will also further increase the negotiating power of the programs.

§ 2. The social services law is amended by adding a new section 365-i to read as follows:

§ 365-i. Prescription drugs in medicaid managed care programs. 1. Definitions. (a) The definitions of terms in section two hundred seventy of the public health law shall apply to this section.

(b) As used in this section, unless the context clearly requires otherwise:

(i) "Managed care provider" means a managed care provider under section three hundred sixty-four-j of this article, a managed long term

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

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care plan under section forty-four hundred three-f of the public health law, or any other entity that provides or arranges for the provision of medical assistance services and supplies to participants directly or indirectly (including by referral), including case management, including the managed care provider's authorized agents.

(ii) "Participant" means a medical assistance recipient who receives, is required to receive or elects to receive his or her medical assistance services from a managed care provider.

2. Providing and payment for prescription drugs for medicaid managed care provider participants. Prescription drugs eligible for reimbursement under this article prescribed in relation to a service provided by a managed care provider shall be provided and paid for under the preferred drug program and the clinical drug review program under title one of article two-A of the public health law. The managed care provider shall account to and reimburse the department for the net cost to the department for prescription drugs provided to the managed care provider's participants. Payment for prescription drugs shall be included in the capitation payments to the managed care provider for services or supplies provided to a managed care provider's participants.

§ 3. Section 270 of the public health law is amended by adding a new subdivision 15 to read as follows:

15. "Third-party health care payer" has its ordinary meanings and includes an entity such as a fiscal administrator, or administrative services provider that participates in the administration of a third-party health care payer system.

§ 4. The public health law is amended by adding a new section 274-a to read as follows:

§ 274-a. Use of preferred drug program and clinical drug review program. The commissioner shall contract with any third-party health care payer that so chooses, to use the preferred drug program and the clinical drug review program to provide and pay for prescription drugs for the third-party health care payer's enrollees. To contract under this section, the third-party health care payer shall provide coverage for prescription drugs authorized under this title. The third-party health care payer shall account to and reimburse the department for the net cost to the department for prescription drugs provided to the third-party health care payer's enrollees. The contract shall include terms required by the commissioner.

§ 5. Section 272 of the public health law is amended by adding a new subdivision 12 to read as follows:

12. No prior authorization shall be required under the preferred drug program for: (a) atypical anti-psychotics; (b) anti-depressants; (c) anti-retrovirals used in the treatment of HIV/AIDS; (d) anti-rejection drugs used in the treatment of organ and tissue transplants; (e) seizure, epilepsy, endocrine, hematologic and immunologic therapeutic classes; and (f) any other therapeutic class for the treatment of mental illness or HIV/AIDS, recommended by the committee and approved by the commissioner under this title.

§ 6. Subdivisions 25 and 25-a of section 364-j of the social services law are REPEALED.

§ 7. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that the commissioner of health is immediately authorized and directed to take actions necessary to implement this act when it takes effect.