STATE OF NEW YORK

8533--A

2019-2020 Regular Sessions

IN ASSEMBLY

August 14, 2019

Introduced by M. of A. JOYNER, O'DONNELL, LENTOL, WILLIAMS, REYES, SEAWRIGHT, SIMON, HEVESI, FERNANDEZ, DINOWITZ, BURKE, MOSLEY, DICKENS, L. ROSENTHAL, ARROYO, FALL, SMITH, McDONOUGH, MONTESANO, ORTIZ, COLTON, THIELE, JAFFEE, GUNTHER, CRUZ, COOK, MAGNARELLI, WALKER, CARROLL, DE LA ROSA, BLAKE, GRIFFIN, D'URSO, BRONSON, DenDEKKER, BENEDETTO, SAYEGH, JACOBSON, STIRPE, MANKTELOW, GOTTFRIED, BARRON, OTIS, TAYLOR, SIMOTAS -- Multi-Sponsored by -- M. of A. BUCHWALD, TAGUE -- read once and referred to the Committee on Health -- recommitted to the Committee on Health in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, in relation to drug assistance demonstration and emergency prescriptions; and to amend the insurance law, in relation to capping cost sharing for insulin

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

Section 1. The public health law is amended by adding two new sections 279-a and 279-b to read as follows:

§ 279-a. Drug assistance demonstration program. The commissioner shall develop a demonstration program to ensure access to insulin and other life sustaining, maintenance prescription medications identified by the commissioner for residents of the state who are uninsured, are ineligible for Medicaid or other publicly funded health coverage, or are otherwise determined to be eligible by the commissioner and depend upon such medication for their survival. In developing such program the commissioner shall:

1. consider modeling the drug assistance demonstration program on the state's HIV/AIDS drug assistance program providing access to eligible individuals at certain income thresholds above the federal poverty level;

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

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2. engage with pharmaceutical manufacturers to explore a public private partnership designed to bring affordable medications through the demonstration program to eligible individuals; and

3. report to the governor, the temporary president of the senate, the speaker of the assembly, and the chairs of the senate and assembly health committees on the available options to establish a drug assistance demonstration program, various cost sharing models for eligible participants and the related costs to the state associated with implementing such a program no later than sixty days after the effective date of this section.

§ 279-b. Emergency prescriptions. 1. A health care practitioner who is authorized to prescribe drugs may issue non-patient-specific prescriptions for pharmacists to dispense emergency prescriptions to refill expired prescriptions pursuant to subdivision two of this section.

2. A pharmacist may dispense insulin and related supplies, or other life sustaining, maintenance prescription medications identified by the commissioner, through non-patient-specific prescriptions, to an individual who has had a valid prescription for any types of insulin, or other medications identified by the commissioner, during the prior twelve month period which have since expired, on an emergency basis provided the pharmacist:

(a) first attempts to obtain an authorization from the authorized prescriber and cannot obtain the authorization;

(b) believes, that in the pharmacist's professional judgment, the interruption of the therapy reasonably might produce an undesirable health consequence detrimental to the patient's welfare or cause physical or mental discomfort;

(c) provides refill of the prescription or prescriptions and the quantity of that refill or refills is in conformity with the prescribed directions for use, but limited to an amount not to exceed a thirty-day emergency supply; and

(d) notifies, within seventy-two hours of dispensing the refill or refills, the prescriber that an emergency prescription or prescriptions have been dispensed.

§ 2. Subparagraph (B) of paragraph 15-a of subsection (i) of section 3216 of the insurance law, as added by chapter 378 of the laws of 1993 and such paragraph as renumbered by chapter 338 of the laws of 2003, is amended to read as follows:

(B) Such coverage may be subject to annual deductibles and coinsurance as may be deemed appropriate by the superintendent and as are consistent with those established for other benefits within a given policy; provided however, the total amount that a covered person is required to pay out of pocket for covered prescription insulin drugs shall be capped at an amount not to exceed one hundred dollars per thirty-day supply, regardless of the amount or types of insulin needed to fill such covered person's prescriptions and regardless of the insured's deductible, copayment, coinsurance, out of pocket maximum or any other cost sharing requirement.

§ 3. Subparagraph (B) of paragraph 7 of subsection (k) of section 3221 of the insurance law, as amended by chapter 338 of the laws of 2003, is amended to read as follows:

(B) Such coverage may be subject to annual deductibles and coinsurance as may be deemed appropriate by the superintendent and as are consistent with those established for other benefits within a given policy; provided however, the total amount that a covered person is required to

pay out of pocket for covered prescription insulin drugs shall be capped at an amount not to exceed one hundred dollars per thirty-day supply, regardless of the amount or types of insulin needed to fill such covered person's prescriptions and regardless of the insured's deductible, copayment, coinsurance, out of pocket maximum or any other cost sharing requirement.

§ 4. Paragraph 2 of subsection (u) of section 4303 of the insurance law, as amended by chapter 338 of the laws of 2003, is amended to read as follows:

(2) Such coverage may be subject to annual deductibles and coinsurance as may be deemed appropriate by the superintendent and as are consistent with those established for other benefits within a given policy**; provided however, the total amount that a covered person is required to pay out of pocket for covered prescription insulin drugs shall be capped at an amount not to exceed one hundred dollars per thirty-day supply, regardless of the amount or types of insulin needed to fill such covered person's prescriptions and regardless of the insured's deductible, copayment, coinsurance, out of pocket maximum or any other cost sharing requirement**.

§ 5. Subdivision 7 of section 4406-c of the public health law, as added by chapter 536 of the laws of 2010, is amended to read as follows:

7. **(i)** No health maintenance organization which provides coverage for prescription drugs and for which cost-sharing, deductibles or co-insurance obligations are determined by category of prescription drugs shall impose cost-sharing, deductibles or co-insurance obligations for any prescription drug that exceeds the dollar amount of cost-sharing, deductibles or co-insurance obligations for non-preferred brand drugs or its equivalent (or brand drugs if there is no non-preferred brand drug category).

(ii) The total amount that a covered person is required to pay out of pocket for covered prescription insulin drugs shall be capped at an amount not to exceed one hundred dollars per thirty-day supply, regardless of the amount or types of insulin needed to fill such covered person's prescriptions and regardless of the insured's deductible, copayment, coinsurance, out of pocket maximum or any other cost sharing requirement.

§ 6. This act shall take effect immediately; provided however that sections two, three, four and five of this act shall take effect January 1, 2021.