

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:

1 Section 1. The public health law is amended by adding two new sections
2 279-a and 279-b to read as follows:

3 § 279-a. Drug assistance demonstration program. The commissioner shall
4 develop a demonstration program to ensure access to insulin and other
5 life sustaining, maintenance prescription medications identified by the
6 commissioner for residents of the state who are uninsured, are ineligi-
7 ble for Medicaid or other publicly funded health coverage, or are other-
8 wise determined to be eligible by the commissioner and depend upon such
9 medication for their survival. In developing such program the commis-
10 sioner shall:

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

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

LBD13323-09-0

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

4 3. report to the governor, the temporary president of the senate, the
5 speaker of the assembly, and the chairs of the senate and assembly
6 health committees on the available options to establish a drug assist-
7 ance demonstration program, various cost sharing models for eligible
8 participants and the related costs to the state associated with imple-
9 menting such a program no later than sixty days after the effective date
10 of this section.

11 § 279-b. Emergency prescriptions. 1. A health care practitioner who is
12 authorized to prescribe drugs may issue non-patient-specific
13 prescriptions for pharmacists to dispense emergency prescriptions to
14 refill expired prescriptions pursuant to subdivision two of this
15 section.

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

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

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

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

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

36 § 2. Subparagraph (B) of paragraph 15-a of subsection (i) of section
37 3216 of the insurance law, as added by chapter 378 of the laws of 1993
38 and such paragraph as renumbered by chapter 338 of the laws of 2003, is
39 amended to read as follows:

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

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

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

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

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

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

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

22 7. (i) No health maintenance organization which provides coverage for
23 prescription drugs and for which cost-sharing, deductibles or co-insu-
24 rance obligations are determined by category of prescription drugs shall
25 impose cost-sharing, deductibles or co-insurance obligations for any
26 prescription drug that exceeds the dollar amount of cost-sharing, deduc-
27 tibles or co-insurance obligations for non-preferred brand drugs or its
28 equivalent (or brand drugs if there is no non-preferred brand drug cate-
29 gory).

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

37 § 6. This act shall take effect immediately; provided however that
38 sections two, three, four and five of this act shall take effect January
39 1, 2021.