

# STATE OF NEW YORK

5923

2019-2020 Regular Sessions

## IN SENATE

May 16, 2019

Introduced by Sen. RIVERA -- read twice and ordered printed, and when printed to be committed 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:

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

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

17 § 365-i. Prescription drugs in medicaid managed care programs. 1.  
18 Definitions. (a) The definitions of terms in section two hundred seventy  
19 of the public health law shall apply to this section.

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

22 (i) "Managed care provider" means a managed care provider under  
23 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.

LBD03489-01-9

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

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

9 2. Providing and payment for prescription drugs for medicaid managed  
10 care provider participants. Prescription drugs eligible for reimburse-  
11 ment under this article prescribed in relation to a service provided by  
12 a managed care provider shall be provided and paid for under the  
13 preferred drug program and the clinical drug review program under title  
14 one of article two-A of the public health law. The managed care provider  
15 shall account to and reimburse the department for the net cost to the  
16 department for prescription drugs provided to the managed care provid-  
17 er's participants. Payment for prescription drugs shall be included in  
18 the capitation payments to the managed care provider for services or  
19 supplies provided to a managed care provider's participants.

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

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

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

28 § 274-a. Use of preferred drug program and clinical drug review  
29 program. The commissioner shall contract with any third-party health  
30 care payer that so chooses, to use the preferred drug program and the  
31 clinical drug review program to provide and pay for prescription drugs  
32 for the third-party health care payer's enrollees. To contract under  
33 this section, the third-party health care payer shall provide coverage  
34 for prescription drugs authorized under this title. The third-party  
35 health care payer shall account to and reimburse the department for the  
36 net cost to the department for prescription drugs provided to the third-  
37 party health care payer's enrollees. The contract shall include terms  
38 required by the commissioner.

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

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

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

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