

# STATE OF NEW YORK

6492--A

2019-2020 Regular Sessions

## IN SENATE

June 13, 2019

Introduced by Sens. RIVERA, CARLUCCI, HOYLMAN, KAPLAN, MAYER, METZGER -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Health in accordance with Senate Rule 6, sec. 8 -- 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;

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

18 3. report to the governor, the temporary president of the senate, the  
19 speaker of the assembly, and the chairs of the senate and assembly  
20 health committees on the available options to establish a drug assist-

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

LBD13323-08-0

1 ance demonstration program, various cost sharing models for eligible  
2 participants and the related costs to the state associated with imple-  
3 menting such a program no later than sixty days after the effective date  
4 of this section.

5 § 279-b. Emergency prescriptions. 1. A health care practitioner who is  
6 authorized to prescribe drugs may issue non-patient-specific  
7 prescriptions for pharmacists to dispense emergency prescriptions to  
8 refill expired prescriptions pursuant to subdivision two of this  
9 section.

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

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

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

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

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

30 § 2. Subparagraph (B) of paragraph 15-a of subsection (i) of section  
31 3216 of the insurance law, as added by chapter 378 of the laws of 1993  
32 and such paragraph as renumbered by chapter 338 of the laws of 2003, is  
33 amended to read as follows:

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

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

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

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

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

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

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

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

31 § 6. This act shall take effect immediately; provided however that  
32 sections two, three, four and five of this act shall take effect January  
33 1, 2021.