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2810

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IN ASSEMBLY

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Introduced by M. of A. JOYNER, COLTON, ORTIZ, COOK, GLICK, D'URSO, GOTT-FRIED -- Multi-Sponsored by -- M. of A. THIELE, WRIGHT -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to reimbursements to mail order pharmacies

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

Section 1. Paragraphs 13-a and 28 of subsection (i) of section 3216 of the insurance law, paragraph 13-a as amended by chapter 10 of the laws of 2012, paragraph 28 as amended by chapter 11 of the laws of 2012, are amended to read as follows:

(13-a) (A) Definitions. For the purposes of this paragraph:

(1) "Same reimbursement amount" shall mean that any coverage described under subparagraph (B) of this paragraph shall provide the same benchmark index, including the same average wholesale price, maximum allowable cost and national prescription drug codes to reimburse all pharmacies participating in the insurance network regardless of whether a pharmacy is a mail order pharmacy or a non-mail order pharmacy.

(2) "Mail order pharmacy" shall mean a pharmacy whose primary business is to receive prescriptions by mail, telefax or through electronic submissions and to dispense medication to patients through the use of the United States mail or other common or contract carrier services and provides any consultation with patients electronically rather than face-to-face.

(3) "Standard terms and conditions" shall mean the contractual terms and conditions applicable to all network participating pharmacies that were in effect on June first, two thousand fifteen; provided that if an insurer has established different standard terms and conditions for mail order pharmacies and non-mail order retail pharmacies, the term "standard terms and conditions" shall mean the standard terms and conditions that were in effect on June first, two thousand fifteen for non-mail

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

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1 order retail pharmacies, and provided further that any such standard
2 terms and conditions that require:

3 (i) consultation with a pharmacist shall not require such consultation
4 be available at non-mail order pharmacies outside of such pharmacy's
5 regular hours of operation and shall require mail order pharmacies to
6 provide such consultation twenty-four hours a day, seven days a week;

7 (ii) specific storage size for prescription drugs requiring special
8 handling, such as refrigeration, shall be based on the contracting phar-
9 macy's dispensing experience and shall not require a pharmacy to
10 increase its storage space when it has not been established that such
11 pharmacy's prescription volume requires such increased storage; and

12 (iii) specific storage space for prescription drugs that do not
13 require special handling shall be based on the contracting pharmacy's
14 physical size and dispensing experience and shall not require a pharmacy
15 to increase its storage space when it has not been established that such
16 pharmacy's prescription volume requires such increased storage.

17 (B) Every policy that provides coverage for prescription fertility
18 drugs and requires or permits prescription drugs to be purchased through
19 a network participating mail order or other non-retail pharmacy shall
20 provide the same coverage for prescription fertility drugs and shall not
21 limit the supply that may be dispensed to a thirty-day supply when such
22 drugs are purchased from a network participating non-mail order retail
23 pharmacy provided that the network participating non-mail order retail
24 pharmacy agrees [~~in advance through a contractual network agreement,~~]
25 to the same reimbursement amount[~~, as well as the same applicable terms and~~
26 ~~conditions,~~] and standard terms and conditions that the insurer has
27 established for [~~a~~] network participating [~~mail order or other non-re-~~
28 ~~tail pharmacy~~] pharmacies. In such case, the policy shall not impose
29 any fee, co-payment, co-insurance, deductible or other condition,
30 including requiring monthly refills of a prescription that was written
31 for and may be filled for more than a thirty-day supply, on any insured
32 who elects to purchase prescription fertility drugs through a network
33 participating non-mail order retail pharmacy that it does not impose on
34 any insured who purchases prescription fertility drugs through a network
35 participating mail order or other non-retail pharmacy.

36 (C) Any policy that provides coverage for prescription fertility drugs
37 shall, in addition to the standard terms and conditions, require mail
38 order pharmacies to replace dispensed prescription fertility drugs for
39 which the mail or carrier service has proof of delivery that have not
40 been received by the insured, or are spoiled or damaged, provided that
41 in the case of a prescription fertility drug that has not been received
42 by the insured, the policy may require that the insured provide proof of
43 theft in the form of a filed police report reporting the theft and in
44 the case of a damaged or spoiled prescription fertility drug, the policy
45 may require that the damaged prescription fertility drug be returned to
46 the mail order pharmacy with the cost to be borne by such pharmacy, and
47 provided further that such unreceived, spoiled or damaged prescription
48 fertility drug shall be replaced before receipt of the police report or
49 the returned, spoiled or damaged prescription fertility drug, as the
50 case may be. If such required police report is not provided or the
51 damaged or spoiled prescription fertility drug is not returned, the
52 policy may require the insured to reimburse the policy for the cost of
53 the prescription fertility drug and, notwithstanding the forgoing, when
54 an insured who was previously required to reimburse the plan for a
55 dispensed prescription fertility drug that was not received by the
56 insured, or was damaged or spoiled, the policy may refuse to replace

1 such prescription fertility drug for such insured until such insured has
2 provided the plan with the required police report or returned the
3 spoiled or damaged prescription fertility drug. Replacement of a
4 prescription fertility drug pursuant to this subparagraph shall not be
5 limited to a specific number of occurrences during a contract year.

6 (28) (A) Definitions. For the purposes of this paragraph:

7 (1) "Same reimbursement amount" shall mean that any coverage described
8 under subparagraph (B) of this paragraph shall provide the same bench-
9 mark index, including the same average wholesale price, maximum allow-
10 able cost and national prescription drug codes to reimburse all pharma-
11 cies participating in the insurance network regardless of whether a
12 pharmacy is a mail order pharmacy or a non-mail order pharmacy.

13 (2) "Mail order pharmacy" shall mean a pharmacy whose primary business
14 is to receive prescriptions by mail, telefax or through electronic
15 submissions and to dispense medication to patients through the use of
16 the United States mail or other common or contract carrier services and
17 provides any consultation with patients electronically rather than face-
18 to-face.

19 (3) "Standard terms and conditions" shall mean the contractual terms
20 and conditions applicable to all network participating pharmacies that
21 were in effect on June first, two thousand fifteen; provided that if an
22 insurer has established different standard terms and conditions for mail
23 order pharmacies and non-mail order retail pharmacies, the term "stand-
24 ard terms and conditions" shall mean the standard terms and conditions
25 that were in effect on June first, two thousand fifteen for non-mail
26 order retail pharmacies, and provided further that any such standard
27 terms and conditions that require:

28 (i) consultation with a pharmacist shall not require such consultation
29 be available at non-mail order pharmacies outside of such pharmacy's
30 regular hours of operation and shall require mail order pharmacies to
31 provide such consultation twenty-four hours a day, seven days a week;

32 (ii) specific storage size for prescription drugs requiring special
33 handling, such as refrigeration, shall be based on the contracting phar-
34 macy's dispensing experience and shall not require a pharmacy to
35 increase its storage space when it has not been established that such
36 pharmacy's prescription volume requires such increased storage; and

37 (iii) specific storage space for prescription drugs that do not
38 require special handling shall base such requirements on the contracting
39 pharmacy's physical size and dispensing experience and shall not require
40 a pharmacy to increase its storage space when it has not been estab-
41 lished that such pharmacy's prescription volume requires such increased
42 storage.

43 (B) Any policy that provides coverage for prescription drugs shall
44 permit each insured to fill any covered prescription that may be
45 obtained at a network participating mail order or other non-retail phar-
46 macy, at the insured's option, at a network participating non-mail order
47 retail pharmacy provided that the network participating non-mail order
48 retail pharmacy agrees [~~in advance, through a contractual network agree-~~
49 ~~ment,~~] and standard terms and conditions that the insurer
50 has established for the network participating [~~mail order or other~~
51 ~~non-retail pharmacy~~] pharmacies. In such a case, the policy shall not
52 impose a co-payment fee or other condition, including requiring monthly
53 refills of a prescription that was written for and may be filled for
54 more than a thirty-day supply, on any insured who elects to purchase
55 prescription drugs from a network participating non-mail order retail
56

1 pharmacy which is not also imposed on insureds electing to purchase
2 drugs from a network participating mail order or other non-retail phar-
3 macy.

4 (C) Any policy that provides coverage for prescription drugs shall, in
5 addition to the standard terms and conditions, require mail order phar-
6 macies to replace dispensed prescription drugs for which the mail or
7 carrier service has proof of delivery that have not been received by the
8 insured, or are spoiled or damaged, provided that in the case of a
9 prescription drug that has not been received by the insured, the policy
10 may require that the insured provide proof of theft in the form of a
11 filed police report reporting the theft and in the case of a damaged or
12 spoiled prescription drug, the policy may require that the damaged
13 prescription drug be returned to the mail order pharmacy with the cost
14 to be borne by such pharmacy, and provided further that such unreceived,
15 spoiled or damaged prescription drug shall be replaced before receipt of
16 the police report or the spoiled or damaged prescription drug, as the
17 case may be. If such required police report is not provided or the
18 damaged or spoiled prescription drug is not returned, the policy may
19 require the insured to reimburse the policy for the cost of the
20 prescription drug and, notwithstanding the forgoing, when an insured who
21 was previously required to reimburse the plan for a dispensed
22 prescription drug that was not received by the insured, or was damaged
23 or spoiled, the policy may refuse to replace such prescription drug for
24 such insured until such insured has provided the plan with the required
25 police report or returned the spoiled or damaged prescription drug.
26 Replacement of a prescription drug pursuant to this subparagraph shall
27 not be limited to a specific number of occurrences during a contract
28 year.

29 § 2. Subparagraph (D) of paragraph 6 of subsection (k) of section 3221
30 of the insurance law, as amended by chapter 10 of the laws of 2012, is
31 amended to read as follows:

32 (D) (i) Definitions. For the purpose of this paragraph:

33 (1) "Same reimbursement amount" shall mean that any coverage described
34 under item (ii) of this subparagraph shall provide the same benchmark
35 index, including the same average wholesale price, maximum allowable
36 cost and national prescription drug codes to reimburse all pharmacies
37 participating in the insurance network regardless of whether a pharmacy
38 is a mail order pharmacy or a non-mail order pharmacy.

39 (2) "Mail order pharmacy" shall mean a pharmacy whose primary business
40 is to receive prescriptions by mail, telefax or through electronic
41 submissions and to dispense medication to patients through the use of
42 the United States mail or other common or contract carrier services and
43 provides any consultation with patients electronically rather than face-
44 to-face.

45 (3) "Standard terms and conditions" shall mean the contractual terms
46 and conditions applicable to all network participating pharmacies that
47 were in effect on June first, two thousand fifteen; provided that if an
48 insurer has established different standard terms and conditions for mail
49 order pharmacies and non-mail order retail pharmacies, the term standard
50 terms and conditions shall mean the standard terms and conditions that
51 were in effect on June first, two thousand fifteen for non-mail order
52 retail pharmacies, and provided further that any such standard terms and
53 conditions that require:

54 a. Consultation with a pharmacist shall not require such consultation
55 be available at non-mail order pharmacies outside of such pharmacy's

1 regular hours of operation and shall require mail order pharmacies to
2 provide such consultation twenty-four hours a day, seven days a week;

3 b. Specific storage size for prescription drugs requiring special
4 handling, such as refrigeration, shall be based on the contracting phar-
5 macy's dispensing experience and shall not require a pharmacy to
6 increase its storage space when it has not been established that such
7 pharmacy's prescription volume requires such increased storage; and

8 c. Specific storage space for prescription drugs that do not require
9 special handling shall be based on the contracting pharmacy's physical
10 size and dispensing experience and shall not require a pharmacy to
11 increase its storage space when it has not been established that such
12 pharmacy's prescription volume requires such increased storage.

13 (ii) Every policy that provides coverage for prescription fertility
14 drugs and requires or permits prescription drugs to be purchased through
15 a network participating mail order or other non-retail pharmacy shall
16 provide the same coverage for prescription fertility drugs and shall not
17 limit the supply that may be dispensed to a thirty-day supply when such
18 drugs are purchased from a network participating non-mail order retail
19 pharmacy provided that the network participating non-mail order retail
20 pharmacy agrees [~~in advance through a contractual network agreement,~~]
21 to the same reimbursement amount[~~, as well as the same applicable terms and~~
22 ~~conditions,~~] and standard terms and conditions that the insurer has
23 established for [~~a~~] network participating [~~mail order or other non-re-~~
24 ~~tail pharmacy~~] pharmacies. In such case, the policy shall not impose any
25 fee, co-payment, co-insurance, deductible or other condition, including
26 requiring monthly refills of a prescription that was written for and may
27 be filled for more than a thirty-day supply, on any covered person who
28 elects to purchase prescription fertility drugs through a network
29 participating non-mail order retail pharmacy that it does not impose on
30 any covered person who purchases prescription fertility drugs through a
31 network participating mail order or other non-retail pharmacy; provided,
32 however, that the provisions of this section shall not supersede the
33 terms of a collective bargaining agreement or apply to a policy that is
34 the result of a collective bargaining agreement between an employer and
35 a recognized or certified employee organization.

36 (iii) Any policy that provides coverage for prescription fertility
37 drugs shall, in addition to the standard terms and conditions, require
38 mail order pharmacies to replace dispensed prescription fertility drugs
39 for which the mail or carrier service has proof of delivery that have
40 not been received by the insured, or are spoiled or damaged, provided
41 that in the case of a prescription fertility drug that has not been
42 received by the insured, the policy may require that the insured provide
43 proof of theft in the form of a filed police report reporting the theft
44 and in the case of a damaged or spoiled prescription fertility drug, the
45 policy may require that the damaged prescription fertility drug be
46 returned to the mail order pharmacy with the cost to be borne by such
47 pharmacy, and provided further that such unreceived, spoiled or damaged
48 prescription fertility drug shall be replaced before receipt of the
49 police report or the returned spoiled or damaged prescription fertility
50 drug, as the case may be. If such required police report is not provided
51 or the damaged or spoiled prescription fertility drug is not returned,
52 the policy may require the insured to reimburse the policy for the cost
53 of the prescription fertility drug and, notwithstanding the forgoing,
54 when an insured who was previously required to reimburse the plan for a
55 dispensed prescription fertility drug that was not received by the
56 insured, or was damaged or spoiled, the policy may refuse to replace

1 such prescription fertility drug for such insured until such insured has
2 provided the plan with the required police report or returned the
3 spoiled or damaged prescription fertility drug. Replacement of a
4 prescription fertility drug pursuant to this clause shall not be limited
5 to a specific number of occurrences during a contract year.

6 § 3. Paragraph 18 of subsection (1) of section 3221 of the insurance
7 law, as amended by chapter 11 of the laws of 2012, is amended to read as
8 follows:

9 (18) (A) Definitions. For the purpose of this paragraph:

10 (1) "Same reimbursement amount" shall mean that any coverage described
11 under subparagraph (B) of this paragraph shall provide the same bench-
12 mark index, including the same average wholesale price, maximum allow-
13 able cost and national prescription drug codes to reimburse all pharma-
14 cies participating in the insurance network regardless of whether a
15 pharmacy is a mail order pharmacy or a non-mail order pharmacy.

16 (2) "Mail order pharmacy" shall mean a pharmacy whose primary business
17 is to receive prescriptions by mail, telefax or through electronic
18 submissions and to dispense medication to patients through the use of
19 the United States mail or other common or contract carrier services and
20 provides any consultation with patients electronically rather than face-
21 to-face.

22 (3) "Standard terms and conditions" shall mean the contractual terms
23 and conditions applicable to all network participating pharmacies that
24 were in effect on June first, two thousand fifteen; provided that if an
25 insurer has established different standard terms and conditions for mail
26 order pharmacies and non-mail order retail pharmacies, the term standard
27 terms and conditions shall mean the standard terms and conditions that
28 were in effect on June first, two thousand fifteen for non-mail order
29 retail pharmacies, and provided further that any such standard terms and
30 conditions that require:

31 (i) Consultation with a pharmacist shall not require such consultation
32 be available at non-mail order pharmacies outside of such pharmacy's
33 regular hours of operation and shall require mail order pharmacies to
34 provide such consultation twenty-four hours a day, seven days a week;

35 (ii) Specific storage size for prescription drugs requiring special
36 handling, such as refrigeration, shall be based on the contracting phar-
37 macy's dispensing experience and shall not require a pharmacy to
38 increase its storage space when it has not been established that such
39 pharmacy's prescription volume requires such increased storage; and

40 (iii) Specific storage space for prescription drugs that do not
41 require special handling shall base such requirements on the contracting
42 pharmacy's physical size and dispensing experience and shall not require
43 a pharmacy to increase its storage space when it has not been estab-
44 lished that such pharmacy's prescription volume requires such increased
45 storage.

46 (B) Any insurer delivering a group or blanket policy or issuing a
47 group or blanket policy for delivery in this state that provides cover-
48 age for prescription drugs shall permit each insured to fill any covered
49 prescription that may be obtained at a network participating mail order
50 or other non-retail pharmacy, at the insured's option, at a network
51 participating non-mail order retail pharmacy provided that the network
52 participating non-mail order retail pharmacy [~~agrees in advance, through~~
53 ~~a contractual network agreement,~~ to the same reimbursement amount[~~, as~~
54 ~~well as the same applicable terms and conditions,~~ and standard terms
55 and conditions that the insurer has established for the network partic-
56 ipating [~~mail order or other non-retail pharmacy~~ pharmacies]. In such a

case, the policy shall not impose a co-payment fee or other condition, including requiring monthly refills of a prescription that was written for and may be filled for more than a thirty-day supply, on any insured who elects to purchase drugs from a network participating non-mail order retail pharmacy which is not also imposed on insureds electing to purchase drugs from a network participating mail order or other non-retail pharmacy; provided, however, that the provisions of this section shall not supersede the terms of a collective bargaining agreement or apply to a policy that is the result of a collective bargaining agreement between an employer and a recognized or certified employee organization.

(C) Any policy that provides coverage for prescription drugs shall, in addition to the standard terms and conditions, require mail order pharmacies to replace dispensed prescription drugs for which the mail or carrier service has proof of delivery that have not been received by the insured, or are spoiled or damaged, provided that in the case of a prescription drug that has not been received by the insured, the policy may require that the insured provide proof of theft in the form of a filed police report reporting the theft and in the case of a damaged or spoiled prescription drug, the policy may require that the damaged prescription drug be returned to the mail order pharmacy with the cost to be borne by such pharmacy, and provided further that such unreceived, spoiled or damaged prescription drug shall be replaced before receipt of the police report or the spoiled or damaged prescription drug, as the case may be. If such required police report is not provided or the damaged or spoiled prescription drug is not returned, the policy may require the insured to reimburse the policy for the cost of the prescription drug and, notwithstanding the foregoing, when an insured who was previously required to reimburse the plan for a dispensed prescription drug that was not received by the insured, or was damaged or spoiled, the policy may refuse to replace such prescription drug for such insured until such insured has provided the plan with the required police report or returned the spoiled or damaged prescription drug. Replacement of a prescription drug pursuant to this subparagraph shall not be limited to a specific number of occurrences during a contract year.

§ 4. Paragraph 4 of subsection (s) of section 4303 of the insurance law, as amended by chapter 10 of the laws of 2012, is amended to read as follows:

(4) (A) Definition. For the purpose of this paragraph:

(i) "Same reimbursement amount" shall mean that any coverage described under subparagraph (B) of this paragraph shall provide the same benchmark index, including the same average wholesale price, maximum allowable cost and national prescription drug codes to reimburse all pharmacies participating in the insurance network regardless of whether a pharmacy is a mail order pharmacy or a non-mail order pharmacy.

(ii) "Mail order pharmacy" shall mean a pharmacy whose primary business is to receive prescriptions by mail, telefax or through electronic submissions and to dispense medication to patients through the use of the United States mail or other common or contract carrier services and provides any consultation with patients electronically rather than face-to-face.

(iii) "Standard terms and conditions" shall mean the contractual terms and conditions applicable to all network participating pharmacies that were in effect on June first, two thousand fifteen; provided that if an insurer had established different standard terms and conditions for mail

1 order pharmacies and non-mail order retail pharmacies, the term standard
2 terms and conditions shall mean the standard terms and conditions that
3 were in effect on June first, two thousand fifteen for non-mail order
4 retail pharmacies, and provided further that any such standard terms and
5 conditions that require:

6 (I) Consultation with a pharmacist shall not require such consultation
7 be available at non-mail order pharmacies outside of such pharmacy's
8 regular hours of operation and shall require mail order pharmacies to
9 provide such consultation twenty-four hours a day, seven days a week;

10 (II) Specific storage space for prescription drugs require special
11 handling, such as refrigeration, shall be based on the contracting phar-
12 macy's dispensing experience and shall not require a pharmacy to
13 increase its storage space when it has not been established that such
14 pharmacy's prescription volume requires such increased storage; and

15 (III) Specific storage space for prescription drugs that do not
16 require special handling shall be based on on the contracting pharmacy's
17 physical size and dispensing experience and shall not require a pharmacy
18 to increase its storage space when it has not been established that such
19 pharmacy's prescription volume requires such increased storage.

20 (B) Every contract issued by a medical expense indemnity corporation,
21 a hospital service corporation or a health services corporation that
22 provides coverage for prescription fertility drugs and requires or
23 permits prescription drugs to be purchased through a network participat-
24 ing mail order or other non-retail pharmacy shall provide the same
25 coverage for prescription fertility drugs and shall not limit the supply
26 that may be dispensed to a thirty-day supply when such drugs are
27 purchased from a network participating non-mail order retail pharmacy
28 provided that the network participating non-mail order retail pharmacy
29 agrees [~~in advance, through a contractual network agreement,~~ to the
30 same reimbursement amount[~~, as well as the same applicable terms and~~
31 ~~conditions,~~ and standard terms and conditions that the corporation has
32 established for the network participating [~~mail order or other non-re-~~
33 ~~tail pharmacy~~ pharmacies]. In such case, the contract shall not impose
34 any fee, co-payment, co-insurance, deductible or other condition,
35 including requiring monthly refills of a prescription that was written
36 for and may be filled for more than a thirty-day supply, on any covered
37 person who does not elect to purchase prescription fertility drugs
38 through a network participating mail order or other non-retail pharmacy;
39 provided, however, that the provisions of this section shall not super-
40 seede the terms of a collective bargaining agreement or apply to a
41 contract that is the result of a collective bargaining agreement between
42 an employer and a recognized or certified employee organization.

43 (C) Any policy that provides coverage for prescription fertility drugs
44 shall, in addition to the standard terms and conditions, require mail
45 order pharmacies to replace dispensed prescription fertility drugs for
46 which the mail or carrier service has proof of delivery that have been
47 not received by the insured, or are spoiled or damaged, provided that in
48 the case of a prescription fertility drug that has not been received by
49 the insured, the policy may require that the insured provide proof of
50 theft in the form of a filed police report reporting the theft and in
51 the case of a damaged or spoiled prescription fertility drug, the policy
52 may require that the damaged prescription fertility drug be returned to
53 the mail order pharmacy with the cost to be borne by such pharmacy, and
54 provided further that such unreceived, spoiled or damaged prescription
55 fertility drug shall be replaced before receipt of the police report or
56 the spoiled or damaged prescription fertility drug, as the case may be.

If such required police report is not provided or the damaged or spoiled prescription fertility drug is not returned, the policy may require the insured to reimburse the policy for the cost of the prescription fertility drug and, notwithstanding the forgoing, when an insured who was previously required to reimburse the plan for a dispensed prescription fertility drug that was not received by the insured, or was damaged or spoiled, the policy may refuse to replace such prescription fertility drug for such insured until such insured has provided the plan with the required police report or returned the spoiled or damaged prescription fertility drug. Replacement of a prescription fertility drug pursuant to this paragraph shall not be limited to a specific number of occurrences during a contract year.

§ 5. Subsection (kk) of section 4303 of the insurance law, as amended by chapter 11 of the laws of 2012 and as relettered by section 55 of part D of chapter 56 of the laws of 2013, is amended to read as follows:

(kk) (1) Definitions. For the purpose of this subsection:

(A) "Same reimbursement amount" shall mean that any coverage described under paragraph two of this subsection shall provide the same benchmark index, including the same average wholesale price, maximum allowable cost and national prescription drug codes to reimburse all pharmacies participating in the insurance network regardless of whether a pharmacy is a mail order pharmacy or a non-mail order pharmacy.

(B) "Mail order pharmacy" shall mean a pharmacy whose primary business is to receive prescriptions by mail, telefax or through electronic submissions and to dispense medication to patients through the use of the United States mail or other common or contract carrier services and provides any consultation with patients electronically rather than face-to-face.

(C) "Standard terms and conditions" shall mean the contractual terms and conditions applicable to all network participating pharmacies that were in effect on June first, two thousand fifteen; provided that if an insurer has established different standard terms and conditions for mail order pharmacies and non-mail order retail pharmacies, the term standard terms and conditions shall mean the standard terms and conditions that were in effect on June first, two thousand fifteen for non-mail order retail pharmacies, and provided further that any such standard terms and conditions that require:

(i) Consultation with a pharmacist shall not require such consultation be available at non-mail order pharmacies outside of such pharmacy's regular hours of operation and shall require mail order pharmacies to provide such consultation twenty-four hours a day, seven days a week;

(ii) Specific storage size for prescription drugs requiring special handling, such as refrigeration, shall be based on the contracting pharmacy's dispensing experience and shall not require a pharmacy to increase its storage space when it has not been established that such pharmacy's prescription volume requires such increased storage; and

(iii) Specific storage space for prescription drugs that do not require special handling shall be based on the contracting pharmacy's physical size and dispensing experience and shall not require a pharmacy to increase its storage space when it has not been established that such pharmacy's prescription volume requires such increased storage.

(2) Any contract issued by a medical expense indemnity corporation, a hospital service corporation or a health services corporation that provides coverage for prescription drugs shall permit each covered person to fill any covered prescription that may be obtained at a network participating mail order or other non-retail pharmacy, at the

covered person's option, at a network participating non-mail order retail pharmacy provided that the network participating non-mail order retail pharmacy agrees [~~in advance, through a contractual network agreement,~~] to the same reimbursement amount[~~, as well as the same applicable terms and conditions,~~] and standard terms and conditions that the corporation has established for the network participating [~~mail order or other non-retail pharmacy~~] pharmacies. In such a case, the contract shall not impose a copayment fee or other condition, including requiring monthly refills of a prescription that was written for and may be filled for more than a thirty-day supply, on any covered person who elects to purchase drugs from a network participating non-mail order retail pharmacy which is not also imposed on covered persons electing to purchase drugs from a network participating mail order or other non-retail pharmacy; provided, however, that the provisions of this section shall not supersede the terms of a collective bargaining agreement or apply to a contract that is the result of a collective bargaining agreement between an employer and a recognized or certified employee organization.

(3) Any policy that provides coverage for prescription drugs shall, in addition to the standard terms and conditions, require mail order pharmacies to replace dispensed prescription drugs for which the mail or carrier service has proof of delivery that have not been received by the insured, or are spoiled or damaged, provided that in the case of a prescription drug that has not been received by the insured, the policy may require that the insured provide proof of theft in the form of a filed police report reporting theft and in the case of a damaged or spoiled prescription drug, the policy may require that the damaged prescription drug be returned to the mail order pharmacy with the cost to be borne by such pharmacy, and provided further that such unreceived, spoiled or damaged prescription drug shall be replaced before receipt of the police report or the spoiled or damaged prescription drug, as the case may be. If such required police report is not provided or the damaged or spoiled prescription drug is not returned, the policy may require the insured to reimburse the policy for the cost of the prescription drug and, notwithstanding the forgoing, when an insured who was previously required to reimburse the plan for a dispensed prescription drug that was not received by the insured, or was damaged or spoiled, the policy may refuse to replace such prescription drug for such insured until such insured has provided the plan with the required police report or returned the spoiled or damaged prescription drug. Replacement of a prescription drug pursuant to this paragraph shall not be limited to a specific number of occurrences during a contract year.

§ 6. Severability. If any clause, sentence, paragraph, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, the judgement shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which the judgement shall have been rendered.

§ 7. This act shall take effect immediately.