

# 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.