STATE OF NEW YORK

5854--A

2021-2022 Regular Sessions

IN ASSEMBLY

March 1, 2021

Introduced by M. of A. JOYNER, COOK, AUBRY, LAVINE, RODRIGUEZ, SIMON, STECK, GALEF -- read once and referred to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to the purchase of prescription drugs

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

Section 1. Paragraph 28 of subsection (i) of section 3216 of the insurance law, as amended by chapter 11 of the laws of 2012, is amended to read as follows:

(28) **(A) Definitions. 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" means 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.

(B) Any policy that provides coverage for prescription drugs shall permit each insured to fill any covered prescription that may be obtained at a network participating mail order or other non-retail pharmacy, at the insured'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~~

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

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~~terms and conditions,~~] that the insurer has established for the network participating mail order or other non-retail pharmacy. In such a case, the policy shall not impose a co-payment fee or other condition on any insured who elects to purchase prescription 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 subparagraph shall not supersede the terms of a collective bargaining agreement or apply to a policy that is a result of a collective bargaining agreement between an employer and a recognized or certified employee organization**.

§ 2. Paragraph 18 of subsection (l) of section 3221 of the insurance law, as amended by chapter 11 of the laws of 2012, is amended to read as follows:

(18) **(A) Definitions. 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" means 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.

(B) Any insurer delivering a group or blanket policy or issuing a group or blanket policy for delivery in this state that provides coverage for prescription drugs shall permit each insured to fill any covered prescription that may be obtained at a network participating mail order or other non-retail pharmacy, at the insured'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,~~] that the insurer has established for the network participating mail order or other non-retail pharmacy. In such a case, the policy shall not impose a co-payment fee or other condition 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.

§ 3. 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 health benefit plan regardless of whether a pharmacy is a mail order pharmacy or a non-mail order pharmacy.

(B) "Mail order pharmacy" means 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.

(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,**~~] that the corporation has established for the network participating mail order or other non-retail pharmacy. In such a case, the contract shall not impose a copayment fee or other condition 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.

§ 4. This act shall take effect immediately.