STATE OF NEW YORK

9165

IN ASSEMBLY

January 31, 2022

Introduced by M. of A. GOTTFRIED -- read once and referred to the Committee on Health

AN ACT to amend the social services law and the public health law, in relation to protecting access to pharmacy services

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

Section 1. Subdivision 4 of section 364-j of the social services law is amended by adding two new paragraphs (w) and (x) to read as follows:

(w) Notwithstanding any provision of law to the contrary, administrative fees paid to a managed care provider or a pharmacy benefit manager under the medical assistance program shall be reduced for the purpose of increasing reimbursement rates to retail pharmacies under the Medicaid managed care program. Beginning on and after July first, two thousand twenty-two, all reimbursement paid by Medicaid managed care plans to retail pharmacies shall include a professional dispensing fee and the drug acquisition cost for each outpatient drug dispensed at no less than the amount established under the fee-for-service program, as defined in section three hundred sixty-seven-a of this title, regardless of whether such reimbursement is paid directly by the Medicaid managed care plan or passed through a pharmacy benefit manager or other entity. The reimbursement provided for under this paragraph shall not apply to any existing reimbursement arrangements involving an eligible provider under section 340B of the federal public health services act or a comprehensive HIV special needs plan under section forty-four hundred three-c of the public health law under the medical assistance program. No managed care provider or pharmacy benefit manager shall reimburse a pharmacy owned by or affiliated with such entity at a higher rate than that paid by such entity to a pharmacy it does not own or is not otherwise affiliated with.

(x) Notwithstanding any provision of law to the contrary, a managed care provider or pharmacy benefit manager acting on its behalf, as defined in section two hundred eighty-a of the public health law, shall not deny any retail pharmacy the opportunity to participate in another provider's pharmacy network under the medical assistance program at

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

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preferred participation status, provided that such retail pharmacy agrees to the same reimbursement amount, as defined in paragraph (w) of this subdivision, and is able to fill and dispense prescription and over-the-counter medications for those enrolled in the medical assistance program.

§ 2. Section 280-a of the public health law is amended by adding a new subdivision 6 to read as follows:

6. Delivery option. Notwithstanding any provision of law to the contrary, no pharmacy benefit manager shall limit the option for an individual receiving prescription or over-the-counter medications to receive such medications from their local, non-mail order pharmacy of choice via delivery including in-person delivery, United States postal service or other mail or courier service. No restrictions, prohibitions or prior authorization requirements shall be based on the individual's choice in delivery type or distance from a pharmacy.

§ 3. This act shall take effect on the thirtieth day after it shall have become a law; provided, however, that:

(a) the amendments to subdivision 4 of section 364-j of the social services law made by section one of this act shall take effect July 1, 2022;

(b) if this act shall have become a law after such effective date it shall take effect immediately and shall be deemed to have been in full force and effect on and after July 1, 2022;

(c) the amendments to subdivision 4 of section 364-j of the social services law made by section one of this act shall not affect the repeal of such section and shall be deemed repealed therewith; and

(d) if chapter 828 of the laws of 2021 shall not have taken effect on or before such effective date then section two of this act shall take effect on the same date and in the same manner as such chapter of the laws of 2021 takes effect.