STATE OF NEW YORK

1588

2021-2022 Regular Sessions

IN SENATE

January 13, 2021

Introduced by Sen. RIVERA -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the social services law, in relation to coverage for certain prescription drugs; and to repeal certain provisions of such law relating thereto

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

Section 1. Subdivision 25 of section 364-j of the social services law, as added by section 55 of part D of chapter 56 of the laws of 2012, is amended to read as follows:

25. [~~Effective January first, two thousand thirteen, notwithstanding~~] **Notwithstanding** any provision of law to the contrary, managed care providers shall cover medically necessary prescription drugs in the **anti-depressant, anti-retroviral, antirejection, seizure, epilepsy, endocrine, hematologic, immunologic and** atypical antipsychotic therapeutic [~~class~~] **classes**, including non-formulary drugs, upon [~~demonstration~~] **determination** by **the prescriber under this subdivision. If** the prescriber, after consulting with the managed care provider, **determines** that such drugs, in the prescriber's reasonable professional judgment, are medically necessary and warranted**, the prescriber's determination shall be final. However, the prescriber's determination shall not be final: (a) where the drug approved by the managed care provider is a generic drug subject to subparagraph (i) of paragraph (a-1) of subdivision four of section three hundred sixty-five-a of this title (mandatory generic substitution), and even if the prescriber has indicated that the prescription shall be dispensed as written; or (b) if it is for the use of a drug that is not consistent with food and drug administration-approved labeling or supported by one or more official Compendia references, including, but not limited to, the American Hospital Formulary Service (AHFS), the DRUGDEX Drug Information System and the United States Pharmacopeia**.

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

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§ 2. Subdivision 25-a of section 364-j of the social services law is REPEALED.

§ 3. This act shall take effect on the sixtieth day after it shall have become a law; provided that effective immediately, the commissioner of health may make regulations and take other actions necessary to implement this act on that date; and provided, further, that the amendments to 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.