

# STATE OF NEW YORK

2535

2021-2022 Regular Sessions

## IN SENATE

January 21, 2021

Introduced by Sens. RIVERA, BAILEY -- read twice and ordered printed,  
and when printed to be committed to the Committee on Aging

AN ACT to amend the elder law, in relation to program eligibility for  
plans comparable to Medicare part D

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

1 Section 1. Paragraphs (f) and (h) of subdivision 3 and subdivision 4  
2 of section 242 of the elder law, paragraph (f) of subdivision 3 as  
3 amended by section 1 of part T of chapter 56 of the laws of 2012, para-  
4 graph (h) of subdivision 3 as amended by section 3-f of part A of chap-  
5 ter 59 of the laws of 2011, and subdivision 4 as added by section 12-a  
6 of part T of chapter 56 of the laws of 2012, are amended to read as  
7 follows:

8 (f) As a condition of eligibility for benefits under this title, a  
9 program participant is required to be enrolled in Medicare part D, or  
10 any other public or private drug plan which has successfully demon-  
11 strated to CMS that the coverage is as generous as, or more generous  
12 than the defined standard coverage under the Medicare part D  
13 prescription drug benefit, and to maintain such enrollment. For unmar-  
14 ried participants with individual annual income less than or equal to  
15 twenty-three thousand dollars and married participants with joint annual  
16 income less than or equal to twenty-nine thousand dollars, the elderly  
17 pharmaceutical insurance coverage program shall pay for the portion of  
18 the part D or comparable plan monthly premium that is the responsibility  
19 of the participant. Such payment shall be limited to the low-income  
20 benchmark premium amount established by the federal centers for medicare  
21 and medicaid services and any other amount which such agency establishes  
22 under its de minimus premium policy.

23 (h) The elderly pharmaceutical insurance coverage program is author-  
24 ized to represent program participants under this title with respect to  
25 their Medicare part D or comparable coverage.

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

LBD06842-01-1

1 4. As a condition of eligibility for benefits under this title,  
2 participants must be enrolled in [~~medicare~~] Medicare part D, or any  
3 other public or private drug plan which has successfully demonstrated to  
4 CMS that the coverage is as generous as, or more generous than the  
5 defined standard coverage under the Medicare part D prescription drug  
6 benefit, and maintain such enrollment. For persons who meet the eligi-  
7 bility requirements to participate in the elderly pharmaceutical insur-  
8 ance coverage program, the program will pay for a drug covered by the  
9 person's [~~medicare~~] Medicare part D plan or comparable plan or a drug in  
10 a [~~medicare~~] Medicare part D excluded drug class, as defined in subdivi-  
11 sion eight of section two hundred forty-one of this title, provided that  
12 such drug is a covered drug, as defined in subdivision one of section  
13 two hundred forty-one of this title, and that the participant complies  
14 with the point of sale co-payment requirements set forth in sections two  
15 hundred forty-seven and two hundred forty-eight of this title. No  
16 payment shall be made for [~~medicare~~] Medicare part D or comparable plan  
17 deductibles.

18 § 2. This act shall take effect immediately.