

STATE OF NEW YORK

3566

2021-2022 Regular Sessions

IN SENATE

January 30, 2021

Introduced by Sens. BRESLIN, ADDABBO, MAY -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

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:

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

4 (28) (A) Definitions. For the purpose of this paragraph:

5 (i) "Same reimbursement amount" shall mean that any coverage described
6 under subparagraph (B) of this paragraph shall provide the same bench-
7 mark index, including the same average wholesale price, maximum allow-
8 able cost and national prescription drug codes to reimburse all pharma-
9 cies participating in the insurance network regardless of whether a
10 pharmacy is a mail order pharmacy or a non-mail order pharmacy.

11 (ii) "Mail order pharmacy" means a pharmacy whose primary business is
12 to receive prescriptions by mail, telefax or through electronic
13 submissions and to dispense medication to patients through the use of
14 the United States mail or other common or contract carrier services and
15 provides any consultation with patients electronically rather than face-
16 to-face.

17 (B) Any policy that provides coverage for prescription drugs shall
18 permit each insured to fill any covered prescription that may be
19 obtained at a network participating mail order or other non-retail phar-
20 macy, at the insured's option, at a network participating non-mail order
21 retail pharmacy provided that the network participating non-mail order
22 retail pharmacy agrees [~~in advance, through a contractual network agree-~~
23 ~~ment,~~] to the same reimbursement amount[~~, as well as the same applicable~~
24 ~~terms and conditions,~~] that the insurer has established for the network

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

LBD03918-02-1

1 participating mail order or other non-retail pharmacy. In such a case,
2 the policy shall not impose a co-payment fee or other condition on any
3 insured who elects to purchase prescription drugs from a network partic-
4 ipating non-mail order retail pharmacy which is not also imposed on
5 insureds electing to purchase drugs from a network participating mail
6 order or other non-retail pharmacy; provided, however, that the
7 provisions of this subparagraph shall not supersede the terms of a
8 collective bargaining agreement or apply to a policy that is a result of
9 a collective bargaining agreement between an employer and a recognized
10 or certified employee organization.

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

14 (18) (A) Definitions. For the purpose of this paragraph:

15 (i) "Same reimbursement amount" shall mean that any coverage described
16 under subparagraph (B) of this paragraph shall provide the same bench-
17 mark index, including the same average wholesale price, maximum allow-
18 able cost and national prescription drug codes to reimburse all pharma-
19 cies participating in the insurance network regardless of whether a
20 pharmacy is a mail order pharmacy or a non-mail order pharmacy.

21 (ii) "Mail order pharmacy" means a pharmacy whose primary business is
22 to receive prescriptions by mail, telefax or through electronic
23 submissions and to dispense medication to patients through the use of
24 the United States mail or other common or contract carrier services and
25 provides any consultation with patients electronically rather than face-
26 to-face.

27 (B) Any insurer delivering a group or blanket policy or issuing a
28 group or blanket policy for delivery in this state that provides cover-
29 age for prescription drugs shall permit each insured to fill any covered
30 prescription that may be obtained at a network participating mail order
31 or other non-retail pharmacy, at the insured's option, at a network
32 participating non-mail order retail pharmacy provided that the network
33 participating non-mail order retail pharmacy agrees [~~in advance, through~~
34 a contractual network agreement,] to the same reimbursement amount[~~, as~~
35 well as the same applicable terms and conditions,] that the insurer has
36 established for the network participating mail order or other non-retail
37 pharmacy. In such a case, the policy shall not impose a co-payment fee
38 or other condition on any insured who elects to purchase drugs from a
39 network participating non-mail order retail pharmacy which is not also
40 imposed on insureds electing to purchase drugs from a network partic-
41 ipating mail order or other non-retail pharmacy; provided, however, that
42 the provisions of this section shall not supersede the terms of a
43 collective bargaining agreement or apply to a policy that is the result
44 of a collective bargaining agreement between an employer and a recog-
45 nized or certified employee organization.

46 § 3. Subsection (kk) of section 4303 of the insurance law, as amended
47 by chapter 11 of the laws of 2012 and as relettered by section 55 of
48 part D of chapter 56 of the laws of 2013, is amended to read as follows:

49 (kk) (1) Definitions. For the purpose of this subsection:

50 (A) "Same reimbursement amount" shall mean that any coverage described
51 under paragraph two of this subsection shall provide the same benchmark
52 index, including the same average wholesale price, maximum allowable
53 cost and national prescription drug codes to reimburse all pharmacies
54 participating in the health benefit plan regardless of whether a pharma-
55 cy is a mail order pharmacy or a non-mail order pharmacy.

1 (B) "Mail order pharmacy" means a pharmacy whose primary business is
2 to receive prescriptions by mail, telefax or through electronic
3 submissions and to dispense medication to patients through the use of
4 the United States mail or other common or contract carrier services and
5 provides any consultation with patients electronically rather than face-
6 to-face.

7 (2) Any contract issued by a medical expense indemnity corporation, a
8 hospital service corporation or a health services corporation that
9 provides coverage for prescription drugs shall permit each covered
10 person to fill any covered prescription that may be obtained at a
11 network participating mail order or other non-retail pharmacy, at the
12 covered person's option, at a network participating non-mail order
13 retail pharmacy provided that the network participating non-mail order
14 retail pharmacy agrees [~~in advance, through a contractual network agree-~~
15 ~~ment,~~] to the same reimbursement amount[~~, as well as the same applicable~~
16 ~~terms and conditions,~~] that the corporation has established for the
17 network participating mail order or other non-retail pharmacy. In such
18 a case, the contract shall not impose a copayment fee or other condition
19 on any covered person who elects to purchase drugs from a network
20 participating non-mail order retail pharmacy which is not also imposed
21 on covered persons electing to purchase drugs from a network participat-
22 ing mail order or other non-retail pharmacy; provided, however, that the
23 provisions of this section shall not supersede the terms of a collective
24 bargaining agreement or apply to a contract that is the result of a
25 collective bargaining agreement between an employer and a recognized or
26 certified employee organization.

27 § 4. This act shall take effect immediately.