

# STATE OF NEW YORK

4620--A

2021-2022 Regular Sessions

## IN SENATE

February 8, 2021

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed 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 enacting the "patient Rx information and choice expansion act"

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

1 Section 1. This act shall be known and may be cited as the "patient Rx  
2 information and choice expansion act" or the "PRICE act".

3 § 2. The insurance law is amended by adding a new section 341-a to  
4 read as follows:

5 § 341-a. Patient prescription pricing transparency. 1. Definitions.  
6 As used in this section:

7 (a) "Health plan" means benefits provided by any entity delivering or  
8 issuing for delivery a policy of accident and health insurance pursuant  
9 to section three thousand two hundred sixteen, or a group or blanket  
10 accident and health insurance policy pursuant to section three thousand  
11 two hundred twenty-one, or providing benefits pursuant to section four  
12 thousand three hundred three of this chapter.

13 (b) "Cost-sharing information" means the amount an enrollee is  
14 required to pay in order to receive a drug that is covered under the  
15 enrollee's health plan.

16 (c) "Covered/coverage" means those health care services to which an  
17 enrollee is entitled under the terms of the health plan.

18 (d) "Enrollee" means the covered individual, policyholder, subscriber,  
19 the insured, or person who has authority under applicable law to act on  
20 behalf of an enrollee in making decisions related to health care, a  
21 health plan, or pharmacy benefit manager, or its affiliates or entities.

22 (e) "Interoperability element" means hardware, software, integrated  
23 technologies or related licenses, technical information, privileges,

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

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1 rights, intellectual property, upgrades, or services that may be neces-  
2 sary to provide the data required in the requested format and consistent  
3 with the required format.

4 (f) "Pharmacy benefit manager (PBM)" ensure that this term includes  
5 pharmacy benefit managers, affiliates, or other entities acting on their  
6 behalf.

7 (g) "Electronic health record" means a digital version of a patient's  
8 paper chart and medical history that makes information available  
9 instantly and securely to authorized users.

10 (h) "Electronic prescribing system" means a system that enables pres-  
11 cribers to enter prescription information into a computer prescription  
12 device and securely transmit the prescription to pharmacies using a  
13 special software program and connectivity to a transmission network.

14 (i) "Electronic prescription" means an electronic prescription as  
15 defined in section thirty-three hundred two of the public health law.

16 (j) "Prescriber" means a health care provider licensed to prescribe  
17 medication or medical devices in the state.

18 (k) "Real-time benefit tool" or "RTBT" means an electronic  
19 prescription decision support tool that: (i) is capable of integrating  
20 with prescribers' electronic prescribing and electronic health record  
21 systems; and (ii) complies with the technical standards adopted by the  
22 National Council for Prescription Drug Programs (NCPDP).

23 2. No later than July first, two thousand twenty-three, each health  
24 plan operating in the state shall, upon request of the enrollee, his or  
25 her health care provider, or a third-party on their behalf, furnish the  
26 cost, benefit, and coverage data set forth as required to the enrollee,  
27 his or her health care provider, or the third-party of his or her choos-  
28 ing and shall ensure that such data is (i) current no later than one  
29 business day after any change is made; (ii) provided in real time; and  
30 (iii) in the same format that the request is made by the enrollee or his  
31 or her health care provider.

32 3. The format of the request shall use established industry content  
33 and transport standards published by:

34 (a) A standards developing organization accredited by the American  
35 National Standards Institute (ANSI), including, the National Council for  
36 Prescription Drug Programs (NCPDP), ASC X12, Health Level 7; or

37 (b) A relevant federal or state governing body, including the Center  
38 for Medicare & Medicaid Services or the Office of the National Coordina-  
39 tor for Health Information Technology.

40 4. A facsimile, proprietary payor or patient portal, or other elec-  
41 tronic form shall not be considered acceptable electronic formats pursu-  
42 ant to this section.

43 5. Upon such request, the following data shall be provided for any  
44 drug covered under the enrollee's health plan:

45 (a) patient-specific eligibility information;

46 (b) patient-specific prescription cost and benefit data, such as  
47 applicable formulary, benefit, coverage and cost-sharing data for the  
48 prescribed drug and clinically-appropriate alternatives, when appropri-  
49 ate;

50 (c) patient-specific cost-sharing information that describes variance  
51 in cost-sharing based on the pharmacy dispensing the prescribed drug or  
52 its alternatives, and in relation to the patient's benefit (i.e., spend  
53 related to out-of-pocket maximum);

54 (d) information regarding lower cost clinically-appropriate treatment  
55 alternatives; and

1 (e) applicable utilization management requirements, such as prior  
2 authorization, step therapy, quantity limits, and site-of-service  
3 restrictions.

4 6. Any health plan or PBM shall furnish the data as required whether  
5 the request is made using the drug's unique billing code, such as a  
6 National Drug Code or Healthcare Common Procedure Coding System code or  
7 descriptive term, such as the brand or generic name of the drug. A  
8 health plan or PBM shall not deny or delay a request as a method of  
9 blocking the data set forth as required from being shared based on how  
10 the drug was requested.

11 7. A health plan, or entities acting on a health plan's behalf, shall  
12 not restrict, prohibit, or otherwise hinder the prescriber from commu-  
13 nicating or sharing benefit and coverage information that reflects other  
14 choices, such as cash price, lower cost clinically-appropriate alterna-  
15 tives, whether or not they are covered under the enrollee's plan,  
16 patient assistance and support programs and the cost available at the  
17 patient's pharmacy of choice.

18 8. A health plan, or entities acting on a health plan's behalf, shall  
19 not, except as may be required by law, interfere with, prevent, or mate-  
20 rially discourage access, exchange, or use of the data as required,  
21 which may include charging fees, not responding to a request at the time  
22 made where such a response is reasonably possible, implementing technol-  
23 ogy in nonstandard ways or instituting enrollee consent requirements,  
24 processes, policies, procedures, or renewals that are likely to substan-  
25 tially increase the complexity or burden of accessing, exchanging, or  
26 using such data; nor penalize a health care provider or professional for  
27 disclosing such information to an enrollee or prescribing, administer-  
28 ing, or ordering a clinically appropriate or lower-cost alternative.

29 9. Nothing in this section shall be construed to limit access to the  
30 most up-to-date patient-specific eligibility or patient-specific  
31 prescription cost and benefit data by the health plan.

32 10. Nothing in this section shall interfere with patient choice and a  
33 health care professional's ability to convey the full range of  
34 prescription drug cost options to a patient. Health plans, or entities  
35 acting on their behalf, shall not restrict a health care professional  
36 from communicating to the patient prescription cost options.

37 11. No RTBT shall require or influence a patient to utilize specific  
38 plan preferred drugs or pharmacies.

39 § 3. Severability. If any provision of this act, or any application  
40 of any provision of this act, is held to be invalid, or to violate or  
41 be inconsistent with any federal law or regulation, that shall not  
42 affect the validity or effectiveness of any other provision of this  
43 act, or of any other application of any provision of this act, which  
44 can be given effect without that provision or application; and to that  
45 end, the provisions and applications of this act are severable.

46 § 4. This act shall take effect July 1, 2023. Effective immediately,  
47 the addition, amendment and/or repeal of any rule or regulation neces-  
48 sary for the implementation of this act on its effective date are  
49 authorized to be made and completed on or before such effective date.