STATE OF NEW YORK

10716

IN ASSEMBLY

September 18, 2024

Introduced by COMMITTEE ON RULES -- (at request of M. of A. L. Rosenthal) -- 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 prohibiting Medicaid from requiring prior authorization for HIV medication

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

Section 1. Paragraph (g-1) of subdivision 2 of section 365-a of the social services law, as amended by section 9 of part D of chapter 57 of the laws of 2017, is amended to read as follows:

(g-1) drugs provided on an in-patient basis, those drugs contained on the list established by regulation of the commissioner of health pursuant to subdivision four of this section, and those drugs which may not be dispensed without a prescription as required by section sixty-eight hundred ten of the education law and which the commissioner of health shall determine to be reimbursable based upon such factors as the availability of such drugs or alternatives at low cost if purchased by a medicaid recipient, or the essential nature of such drugs as described by such commissioner in regulations, provided, however, that such drugs, exclusive of long-term maintenance drugs, shall be dispensed in quantities no greater than a thirty day supply or one hundred doses, whichever is greater; provided further that the commissioner of health is authorized to require prior authorization for any refill of a prescription when more than a ten day supply of the previously dispensed amount should remain were the product used as normally indicated, or in the case of a controlled substance, as defined in section thirty-three hundred two of the public health law, when more than a seven day supply of the previously dispensed amount should remain were the product used as normally indicated; provided further that the commissioner of health is authorized to require prior authorization of prescriptions of opioid analgesics in excess of four prescriptions in a thirty-day period in accordance with section two hundred seventy-three of the public health law; **provided further that the commissioner of health shall not require prior authorization of antiretroviral prescription drugs for the treat-**

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

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ment or prevention of the human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS); medical assistance shall not include any drug provided on other than an in-patient basis for which a recipient is charged or a claim is made in the case of a prescription drug, in excess of the maximum reimbursable amounts to be established by department regulations in accordance with standards established by the secretary of the United States department of health and human services, or, in the case of a drug not requiring a prescription, in excess of the maximum reimbursable amount established by the commissioner of health pursuant to paragraph (a) of subdivision four of this section;

§ 2. Section 364-j of the social services law is amended by adding a new subdivision 26-d to read as follows:

26-d. Managed care providers shall not require prior authorization for any antiretroviral prescription drugs for the treatment or prevention of the human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS).

§ 3. Section 273 of the public health law is amended by adding a new subdivision 11 to read as follows:

11. Prior authorization shall not be required for antiretroviral prescription drugs prescribed to a person in a state public health plan for the treatment or prevention of the human immunodeficiency virus (HIV) or acquired immunodeficiency syndrome (AIDS).

§ 4. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that the amendments to section 364-j of the social services law made by section two of this act shall not affect the repeal of such section and shall be deemed repealed therewith.