

STATE OF NEW YORK

6425--A

2023-2024 Regular Sessions

IN ASSEMBLY

April 6, 2023

Introduced by M. of A. O'DONNELL, PAULIN, LUNSFORD, LAVINE, WEPRIN, SIMON, BURDICK, DAVILA, STERN, SILLITTI, SIMONE, SHIMSKY, DICKENS, DeSTEFANO, LEMONDES, McDONOUGH, JACOBSON, STECK -- read once and referred to the Committee on Insurance -- recommitted to the Committee on Insurance in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to requiring health insurance plans to provide coverage for epinephrine auto-injector devices

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

1 Section 1. Subsection (i) of section 3216 of the insurance law is
2 amended by adding a new paragraph 39 to read as follows:

3 (39) (A) Every insurer issuing a policy of accident and health insur-
4 ance delivered or issued for delivery in this state which provides major
5 medical or similar comprehensive-type coverage shall include coverage
6 for, at a minimum, two medically necessary epinephrine auto-injector
7 devices for the emergency treatment of life-threatening allergic
8 reactions. Such coverage may be subject to annual deductibles and coin-
9 surance as may be deemed appropriate by the superintendent and as are
10 consistent with those established for other benefits within a given
11 policy; provided however, the total amount that a covered person is
12 required to pay out-of-pocket for such devices shall be capped at an
13 amount not to exceed one hundred dollars annually regardless of the
14 insured's deductible, copayment, coinsurance or any other cost-sharing
15 requirement. If under federal law, application of this requirement
16 would result in health savings account ineligibility under 26 USC
17 223, this requirement shall apply for health savings
18 account-qualified high deductible health plans with respect to the
19 deductible of such a plan after the enrollee has satisfied the minimum

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

LBD10597-02-4

1 deductible under 26 USC 223, except for with respect to items or
2 services that are preventive care pursuant to 26 USC 223(c)(2)(C), in
3 which case the requirements of this paragraph shall apply regardless of
4 whether the minimum deductible under 26 USC 223 has been satisfied.

5 (B) For the purposes of this paragraph, "epinephrine auto-injector
6 device" shall have the same meaning as provided in paragraph (b) of
7 subdivision one of section three thousand-c of the public health law.

8 § 2. Subsection (k) of section 3221 of the insurance law is amended by
9 adding a new paragraph 23 to read as follows:

10 (23) (A) Every group or blanket policy of accident and health insur-
11 ance delivered or issued for delivery in this state which provides
12 medical coverage that includes coverage for physician services in a
13 physician's office and every policy which provides major medical or
14 similar comprehensive-type coverage shall provide coverage for, at a
15 minimum, two medically necessary epinephrine auto-injector devices for
16 the emergency treatment of life-threatening allergic reactions. Such
17 coverage may be subject to annual deductibles and coinsurance as may be
18 deemed appropriate by the superintendent and as are consistent with
19 those established for other benefits within a given policy; provided
20 however, the total amount that a covered person is required to pay out-
21 of-pocket for such devices shall be capped at an amount not to exceed
22 one hundred dollars annually regardless of the insured's deductible,
23 copayment, coinsurance or any other cost-sharing requirement. If under
24 federal law, application of this requirement would result in health
25 savings account ineligibility under 26 USC 223, this requirement
26 shall apply for health savings account-qualified high deduct-
27 ible health plans with respect to the deductible of such a plan
28 after the enrollee has satisfied the minimum deductible under 26 USC
29 223, except for with respect to items or services that are preven-
30 tive care pursuant to 26 USC 223(c)(2)(C), in which case the
31 requirements of this paragraph shall apply regardless of whether the
32 minimum deductible under 26 USC 223 has been satisfied.

33 (B) For the purposes of this paragraph, "epinephrine auto-injector
34 device" shall have the same meaning as provided in paragraph (b) of
35 subdivision one of section three thousand-c of the public health law.

36 § 3. Section 4303 of the insurance law is amended by adding a new
37 subsection (vv) to read as follows:

38 (vv) (1) Every medical expense indemnity corporation, hospital service
39 corporation and health service corporation which provides medical cover-
40 age that includes coverage for physician services in a physician's
41 office and every policy which provides major medical or similar compre-
42 hensive-type coverage shall provide coverage for, at a minimum, two
43 medically necessary epinephrine auto-injector devices for the emergency
44 treatment of life-threatening allergic reactions. Such coverage may be
45 subject to annual deductibles and coinsurance as may be deemed appro-
46 priate by the superintendent and as are consistent with those estab-
47 lished for other benefits within a given policy; provided however, the
48 total amount that a covered person is required to pay out-of-pocket for
49 such devices shall be capped at an amount not to exceed one hundred
50 dollars annually regardless of the insured's deductible, copayment,
51 coinsurance or any other cost-sharing requirement. If under federal
52 law, application of this requirement would result in health savings
53 account ineligibility under 26 USC 223, this requirement shall
54 apply for health savings account-qualified high deductible
55 health plans with respect to the deductible of such a plan after the
56 enrollee has satisfied the minimum deductible under 26 USC 223,

1 except for with respect to items or services that are preventive care
2 pursuant to 26 USC 223(c)(2)(C), in which case the requirements of
3 this paragraph shall apply regardless of whether the minimum deductible
4 under 26 USC 223 has been satisfied.

5 (2) For the purposes of this subsection, "epinephrine auto-injector
6 device" shall have the same meaning as provided in paragraph (b) of
7 subdivision one of section three thousand-c of the public health law.

8 § 4. This act shall take effect January 1, 2026 and shall apply to all
9 policies and contracts issued, renewed, modified, altered or amended on
10 or after such date.