## STATE OF NEW YORK

3005--A

2023-2024 Regular Sessions

## IN SENATE

January 26, 2023

- Introduced by Sen. CLEARE -- read twice and ordered printed, and when printed to be committed to the Committee on Aging -- recommitted to the Committee on Aging in accordance with Senate Rule 6, sec. 8 -committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee
- AN ACT to amend the elder law, in relation to improving and expanding the pharmaceutical insurance coverage program for certain medicare enrollees

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

Section 1. Section 240 of the elder law is amended to read as follows: 2 § 240. Short title. This title shall be known and may be cited as the 3 "program for [elderly] expanded pharmaceutical insurance coverage".

4 § 2. Subdivisions 3 and 8 of section 241 of the elder law, subdivision 5 8 as added by section 2 of part A of chapter 59 of the laws of 2011 and 6 as renumbered by section 3 of part T of chapter 56 of the laws of 2012, 7 are amended to read as follows:

8 3. "Income" shall mean "household gross income" as defined in the real 9 property tax circuit breaker credit program, pursuant to subparagraph 10 (C) of paragraph one of subsection (e) of section six hundred six of the 11 tax law, but only shall include the income of program applicants and 12 spouses and shall exclude the income of other members of the household, 13 <u>but shall not include any increase in income derived from social securi-</u> 14 <u>ty income or pension benefits that increase over the previous year due</u> 15 <u>solely to a cost-of-living adjustment provided by the program adminis-</u> 16 <u>trators</u>.

17 8. "Medicare part D excluded drug classes" shall mean any drugs or 18 classes of drugs, or their medical uses, which are described in section 19 1927(d)(2) or 1927(d)(3) of the federal social security act, with the 20 exception of smoking cessation agents <u>and medical marijuana dispensed in</u> 21 <u>the state of New York</u>.

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

LBD01416-02-4

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55 7 Thore shall be an advisory committee to	
7. There shart be an advisory committee to	shall be an advisory committee to the panel comprised of

56 twelve persons. Four members shall be appointed by the governor, three

S. 3005--A

members shall be appointed by the temporary president of the senate, one 1 member shall be appointed by the minority leader of the senate, three 2 members shall be appointed by the speaker of the assembly and one member 3 4 shall be appointed by the minority leader of the assembly. The commit-5 tee members shall be representatives of consumers, pharmacists, pharmaб ceutical drug manufacturers and pharmaceutical wholesalers. No less than 7 sixty percent of the committee membership shall represent consumers. 8 Committee members shall receive no compensation for their services but 9 shall be allowed their actual and necessary expenses incurred in the 10 performance of their duties. § 4. Subdivisions 1 and 2 of section 242 of the elder law, subdivision 11 12 1 as amended by section 4 of part T of chapter 56 of the laws of 2012, and subdivision 2 as amended by section 12 of part A of chapter 60 of 13 the laws of 2014, are amended to read as follows: 14 15 1. Persons eligible for comprehensive coverage under section two 16 hundred forty-seven of this title shall include: 17 (a) any unmarried resident who is enrolled in medicare and at least sixty-five years of age in the year two thousand twenty-three, during 18 the year two thousand twenty-four is at least sixty years of age, during 19 20 the year two thousand twenty-five is at least fifty-five years of age, 21 during the year two thousand twenty-six is at least fifty years of age, 22 during the year two thousand twenty-seven is at least forty-five years of age, during the year two thousand twenty-eight is at least forty 23 years of age, during the year two thousand twenty-nine is at least thir-24 25 ty-five years of age, during the year two thousand thirty is at least 26 thirty years of age, during the year two thousand thirty-one is at least 27 twenty-five years of age, or during the year two thousand thirty-two is 28 at least eighteen years of age; and whose income for the calendar year 29 immediately preceding the effective date of the annual coverage period 30 beginning on or after January first, two thousand five, is less than or 31 equal to twenty thousand dollars. After the initial determination of 32 eligibility, each eligible individual must be redetermined eligible at 33 least every twenty-four months; and (b) any married resident who **is enrolled in medicare and** is at least 34 35 sixty-five years of age in the year two thousand twenty-three, during 36 the year two thousand twenty-four is at least sixty years of age, during 37 the year two thousand twenty-five is at least fifty-five years of age, 38 during the year two thousand twenty-six is at least fifty years of age, 39 during the year two thousand twenty-seven is at least forty-five years of age, during the year two thousand twenty-eight is at least forty 40 years of age, during the year two thousand twenty-nine is at least thir-41 ty-five years of age, during the year two thousand thirty is at least 42 43 thirty years of age, during the year two thousand thirty-one is at least 44 twenty-five years of age, or during the year two thousand thirty-two is 45 at least eighteen years of age; and whose income for the calendar year 46 immediately preceding the effective date of the annual coverage period 47 when combined with the income in the same calendar year of such married 48 person's spouse beginning on or after January first, two thousand one, is less than or equal to twenty-six thousand dollars. After the initial 49 50 determination of eligibility, each eligible individual must be redeter-51 mined eligible at least every twenty-four months. 52 2. Persons eligible for catastrophic coverage under section two hundred forty-eight of this title shall include: 53 54 (a) any unmarried resident who is enrolled in medicare and at least 55 sixty-five years of age in the year two thousand twenty-three, during the year two thousand twenty-four is at least sixty years of age, during 56

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S. 3005--A

the year two thousand twenty-five is at least fifty-five years of age, 1 during the year two thousand twenty-six is at least fifty years of age, 2 3 during the year two thousand twenty-seven is at least forty-five years 4 of age, during the year two thousand twenty-eight is at least forty 5 years of age, during the year two thousand twenty-nine is at least thirб ty-five years of age, during the year two thousand thirty is at least 7 thirty years of age, during the year two thousand thirty-one is at least 8 twenty-five years of age, or during the year two thousand thirty-two is 9 at least eighteen years of age; and whose income for the calendar year 10 immediately preceding the effective date of the annual coverage period 11 beginning on or after January first, two thousand one, is more than twenty thousand and less than or equal to seventy-five thousand dollars. 12 After the initial determination of eligibility, each eligible individual 13 14 must be redetermined eligible at least every twenty-four months; and 15 (b) any married resident who is enrolled in medicare and at least 16 sixty-five years of age in the year two thousand twenty-three, during 17 the year two thousand twenty-four is at least sixty years of age, during the year two thousand twenty-five is at least fifty-five years of age, 18 during the year two thousand twenty-six is at least fifty years of age, 19 20 during the year two thousand twenty-seven is at least forty-five years 21 of age, during the year two thousand twenty-eight is at least forty 22 years of age, during the year two thousand twenty-nine is at least thirty-five years of age, during the year two thousand thirty is at least 23 thirty years of age, during the year two thousand thirty-one is at least 24 25 twenty-five years of age, or during the year two thousand thirty-two is 26 at least eighteen years of age; and whose income for the calendar year 27 immediately preceding the effective date of the annual coverage period 28 when combined with the income in the same calendar year of such married 29 person's spouse beginning on or after January first, two thousand one, 30 is more than twenty-six thousand dollars and less than or equal to one 31 hundred thousand dollars. After the initial determination of eligibility, each eligible individual must be redetermined eligible at least 32 33 every twenty-four months. 34 § 5. Paragraphs (e) and (f) of subdivision 3 of section 242 of the 35 elder law, paragraph (e) as amended by section 3-d of part A of chapter 36 59 of the laws of 2011, and paragraph (f) as amended by section 1 of 37 part T of chapter 56 of the laws of 2012, are amended to read as 38 follows: 39 (e) As a condition of eligibility for benefits under this title, if a program participant's income indicates that the participant could be 40 eligible for an income-related subsidy under section 1860D-14 of the 41 federal social security act by either applying for such subsidy or by 42 43 enrolling in a medicare savings program as a qualified medicare benefi-44 ciary (QMB), a specified low-income medicare beneficiary (SLMB), or a 45 qualifying individual (QI), a program participant is required to 46 provide, and to authorize the [elderly] expanded pharmaceutical insur-47 ance coverage program to obtain, any information or documentation 48 required to establish the participant's eligibility for such subsidy, and to authorize the [elderly] expanded pharmaceutical insurance cover-49 50 age program to apply on behalf of the participant for the subsidy or the 51 medicare savings program. [The elderly] Upon receipt of an enrollment 52 application, or at any time after enrollment when the program has information that indicates an enrollee is eligible for a subsidy under 53 54 section 1860D-14 of the federal social security act or in a medicare savings program, the expanded pharmaceutical insurance coverage program 55 56 shall make a reasonable effort to notify the program participant of his

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or her need to provide any of the above required information. After a 1 reasonable effort has been made to contact the participant, a partic-2 ipant shall be notified in writing that he or she has sixty days to 3 provide such required information. If such information is not provided 4 5 within the sixty day period, the participant's coverage may be termi-6 nated. A program participant who is eligible to enroll in the medicare 7 savings program shall be assisted to do so, and their expanded pharma-8 ceutical insurance coverage program enrollment shall be in place 9 throughout the medicare savings program application process.

10 (f) As a condition of eligibility for benefits under this title, a 11 program participant is required to be enrolled in Medicare part D and to 12 maintain such enrollment. For unmarried participants with individual annual income less than or equal to twenty-three thousand dollars and 13 married participants with joint annual income less than or equal to 14 15 twenty-nine thousand dollars, the [elderly] expanded pharmaceutical 16 insurance coverage program shall pay for the portion of the part D monthly premium, and any late enrollment penalty that may have been 17 18 assessed, that is the responsibility of the participant. Such total payment shall be limited to the low-income benchmark premium amount 19 established by the federal centers for medicare and medicaid services 20 21 and any other amount which such agency establishes under its de minimus 22 premium policy.

23 § 6. Subdivision 3 of section 250 of the elder law is amended by 24 adding a new paragraph (f) to read as follows:

(f) The expanded pharmaceutical insurance coverage program shall post to its website the names of manufacturers that have a rebate program and list the drugs that are covered by such rebate program in a manner that provides enrollees with access to such information prior to the annual medicare open enrollment period.

30 § 7. This act shall take effect immediately.