

# STATE OF NEW YORK

3509

2023-2024 Regular Sessions

## IN SENATE

January 31, 2023

Introduced by Sens. SKOUFIS, ADDABBO, CLEARE, KAVANAGH, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Health

AN ACT to amend the social services law and the public health law, in relation to protecting access to pharmacy services

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

1 Section 1. Subdivision 4 of section 364-j of the social services law  
2 is amended by adding two new paragraphs (x) and (y) to read as follows:

3 (x) Notwithstanding any provision of law to the contrary, administra-  
4 tive fees paid to a managed care provider or a pharmacy benefit manager  
5 under the medical assistance program shall be reduced for the purpose of  
6 increasing reimbursement rates to retail pharmacies under the Medicaid  
7 managed care program. Beginning on and after July first, two thousand  
8 twenty-three, all reimbursement paid by Medicaid managed care plans to  
9 retail pharmacies shall include a professional dispensing fee and the  
10 drug acquisition cost for each outpatient drug dispensed at no less than  
11 the amount established under the fee-for-service program, as defined in  
12 section three hundred sixty-seven-a of this title, regardless of whether  
13 such reimbursement is paid directly by the Medicaid managed care plan or  
14 passed through a pharmacy benefit manager or other entity. The  
15 reimbursement provided for under this paragraph shall not apply to any  
16 existing reimbursement arrangements involving an eligible provider under  
17 section 340B of the federal public health services act or a comprehen-  
18 sive HIV special needs plan under section forty-four hundred three-c of  
19 the public health law under the medical assistance program. No managed  
20 care provider or pharmacy benefit manager shall reimburse a pharmacy  
21 owned by or affiliated with such entity at a higher rate than that paid  
22 by such entity to a pharmacy it does not own or is not otherwise affil-  
23 iated with.

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

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1 (y) Notwithstanding any provision of law to the contrary, a managed  
2 care provider or pharmacy benefit manager acting on its behalf, as  
3 defined in section two hundred eighty-a of the public health law, shall  
4 not deny any retail pharmacy the opportunity to participate in another  
5 provider's pharmacy network under the medical assistance program at  
6 preferred participation status, provided that such retail pharmacy  
7 agrees to the same reimbursement amount, as defined in paragraph (x) of  
8 this subdivision, and is able to fill and dispense prescription and  
9 over-the-counter medications for those enrolled in the medical assist-  
10 ance program.

11 § 2. Section 280-a of the public health law is amended by adding a new  
12 subdivision 6 to read as follows:

13 6. Delivery option. Notwithstanding any provision of law to the  
14 contrary, no pharmacy benefit manager shall limit the option for an  
15 individual receiving prescription or over-the-counter medications to  
16 receive such medications from their local, non-mail order pharmacy of  
17 choice via delivery including in-person delivery, United States postal  
18 service or other mail or courier service. No restrictions, prohibitions  
19 or prior authorization requirements shall be based on the individual's  
20 choice in delivery type or distance from a pharmacy.

21 § 3. This act shall take effect immediately; provided, however, that:

22 (a) section one of this act shall take effect July 1, 2023;

23 (b) if this act shall have become a law after such effective date it  
24 shall take effect immediately and shall be deemed to have been in full  
25 force and effect on and after July 1, 2023;

26 (c) the amendments to subdivision 4 of section 364-j of the social  
27 services law made by section one of this act shall not affect the repeal  
28 of such section and shall be deemed repealed therewith; and

29 (d) section two of this act shall take effect on the thirtieth day  
30 after it shall have become a law.