STATE OF NEW YORK

3973

2025-2026 Regular Sessions

IN ASSEMBLY

January 30, 2025

Introduced by M. of A. McDONALD -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to prescription drug formulary coverage for interchangeable biologics and biosimilars

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

Section 1. Paragraph 4 of subsection (c-1) of section 4903 of the insurance law, as added by chapter 512 of the laws of 2016, is amended to read as follows:

(4) The insured is stable on a prescription drug or drugs selected by their health care professional for the medical condition under consideration, provided that this shall not prevent a utilization review agent from [~~requiring an insured to try an AB-rated generic equivalent prior to providing coverage for the equivalent brand name prescription drug or drugs; or~~]:

(i) requiring an insured to try an AB-rated generic equivalent or an interchangeable biological product prior to providing coverage for the equivalent brand name prescription drug or drugs, or

(ii) requiring an insured to try a biosimilar prior to providing coverage for the brand name prescription reference product drug or drugs.

§ 2. Subparagraph (A) of paragraph 3 of subsection (c) of section 3242 of the insurance law, as added by chapter 99 of the laws of 2022, is amended to read as follows:

(A) An insurer with a formulary that includes two or more tiers of benefits providing for different deductibles, copayments or coinsurance applicable to prescription drugs in each tier may move a prescription drug to a tier with a larger deductible, copayment or coinsurance if an AB-rated generic equivalent [~~or~~]**, an** interchangeable biological product**, or biosimilar** for such prescription drug is added to the formulary at the same time**; provided the change is not applicable to an insured who**

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

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is already receiving such prescription drug or has been diagnosed with or presented with a condition on or prior to the start of the plan year that is treated by such prescription drug or is a prescription drug that is or would be part of the insured's treatment plan for such condition.

§ 3. Subparagraph (A) of paragraph 3 of subsection (c) of section 4329 of the insurance law, as added by chapter 99 of the laws of 2022, is amended to read as follows:

(A) A corporation with a formulary that includes two or more tiers of benefits providing for different deductibles, copayments or coinsurance applicable to prescription drugs in each tier may move a prescription drug to a tier with a larger deductible, copayment or coinsurance if an AB-rated generic equivalent [~~or~~]**, an** interchangeable biological product**, or biosimilar** for such prescription drug is added to the formulary at the same time**; provided the change is not applicable to an insured who is already receiving such prescription drug or has been diagnosed with or presented with a condition on or prior to the start of the plan year that is treated by such prescription drug or is a prescription drug that is or would be part of the insured's treatment regimen for such condition**.

§ 4. Subsection (c) of section 3242 of the insurance law, as added by chapter 99 of the laws of 2022, is redesignated subsection (d).

§ 5. Subsection (c) of section 4329 of the insurance law, as added by chapter 99 of the laws of 2022, is redesignated subsection (d).

§ 6. This act shall take effect immediately.