

# STATE OF NEW YORK

9507

## IN ASSEMBLY

January 8, 2026

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

AN ACT to amend the insurance law, in relation to high deductible health plans and health savings accounts; and to amend a chapter of the laws of 2025 amending the insurance law relating to high deductible health plans and health savings accounts, as proposed in legislative bills numbers S. 6895-A and A. 5367-A, in relation to the effectiveness thereof

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

1 Section 1. Subsection (n) of section 3216 of the insurance law, as  
2 added by a chapter of the laws of 2025 amending the insurance law relat-  
3 ing to high deductible health plans and health savings accounts, as  
4 proposed in legislative bills numbers S. 6895-A and A. 5367-A, is  
5 amended to read as follows:

6 (n) With respect to high deductible health plans offered in conjunc-  
7 tion with a [~~health reimbursement account or a~~] health savings account,  
8 if application of any cost sharing requirements would result in health  
9 savings account ineligibility under section two hundred twenty-three of  
10 the internal revenue code, such [~~cost sharing requirement shall apply~~  
11 ~~for health savings account-qualified high deductible health plans with~~  
12 ~~respect to the deductible of such a plan, only after the enrollee has~~  
13 ~~satisfied the minimum deductible under section two hundred twenty-three~~  
14 ~~of the internal revenue code, except with respect to items or services~~  
15 ~~that are considered preventive care pursuant to subparagraph (C) of~~  
16 ~~paragraph two of subsection e of section two hundred twenty-three of the~~  
17 ~~internal revenue code, in which case the cost sharing requirements of~~  
18 ~~this section shall apply regardless of whether the minimum deductible~~  
19 ~~required under section two hundred twenty-three of the internal revenue~~  
20 ~~code has been satisfied]~~ coverage may be subject to the plan's annual  
21 deductible.

22 § 2. Subparagraph (B) of paragraph 11 of subsection (i) of section  
23 3216 of the insurance law, as amended by chapter 424 of the laws of  
24 2024, is amended to read as follows:

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

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1 (B) Such coverage required pursuant to subparagraph (A) or (C) of this  
2 paragraph shall not be subject to annual deductibles or coinsurance. If  
3 under federal law, application of this requirement would result in  
4 health savings account ineligibility under 26 USC 223, this requirement  
5 shall apply for health savings account-qualified high deductible health  
6 plans with respect to the deductible of such a plan after the enrollee  
7 has satisfied the ~~[minimum]~~ plan deductible ~~[under 26 USC 223]~~, except  
8 for with respect to items or services that are preventive care pursuant  
9 to 26 USC 223(c)(2)(C), in which case the requirements of this paragraph  
10 shall apply regardless of whether the ~~[minimum]~~ plan deductible ~~[under~~  
11 ~~26 USC 223]~~ has been satisfied.

12 § 3. Paragraph 37 of subsection (i) of section 3216 of the insurance  
13 law, as amended by chapter 117 of the laws of 2023, is amended to read  
14 as follows:

15 (37) Any policy that provides coverage for prescription drugs shall  
16 apply any third-party payments, financial assistance, discount, voucher  
17 or other price reduction instrument for out-of-pocket expenses made on  
18 behalf of an insured individual for the cost of a prescription drug to  
19 the insured's deductible, copayment, coinsurance, out-of-pocket maximum,  
20 or any other cost-sharing requirement when calculating such insured  
21 individual's overall contribution to any out-of-pocket maximum or any  
22 cost-sharing requirement. If under federal law, application of this  
23 requirement would result in health savings account ineligibility under  
24 26 USC 223, this requirement shall apply for health savings account-qua-  
25 lified high deductible health plans with respect to the deductible of  
26 such a plan after the enrollee has satisfied the ~~[minimum]~~ plan deduct-  
27 ible ~~[under 26 USC 223]~~, except for with respect to items or services  
28 that are preventive care pursuant to 26 USC 223(c)(2)(C), in which case  
29 the requirements of this paragraph shall apply regardless of whether the  
30 ~~[minimum]~~ plan deductible ~~[under 26 USC 223]~~ has been satisfied. This  
31 paragraph only applies to a prescription drug that is either (A) a  
32 brand-name drug without an AB rated generic equivalent, as determined by  
33 the United States Food and Drug Administration; or (B) a brand-name drug  
34 with an AB rated generic equivalent, as determined by the United States  
35 Food and Drug Administration, and the insured has access to the brand-  
36 name drug through prior authorization by the insurer or through the  
37 insurer's appeal process, including any step-therapy process; or (C) a  
38 generic drug the insurer will cover, with or without prior authorization  
39 or an appeal process.

40 § 4. Subsection (v) of section 3221 of the insurance law, as added by  
41 a chapter of the laws of 2025 amending the insurance law relating to  
42 high deductible health plans and health savings accounts, as proposed in  
43 legislative bills numbers S. 6895-A and A. 5367-A, is amended to read as  
44 follows:

45 (v) With respect to high deductible health plans offered in conjunc-  
46 tion with a ~~[health reimbursement account or a]~~ health savings account,  
47 if application of any cost sharing requirements would result in health  
48 savings account ineligibility under section two hundred twenty-three of  
49 the internal revenue code, such ~~[cost sharing requirement shall apply~~  
50 ~~for health savings account-qualified high deductible health plans with~~  
51 ~~respect to the deductible of such a plan, only after the enrollee has~~  
52 ~~satisfied the minimum deductible under section two hundred twenty three~~  
53 ~~of the internal revenue code, except with respect to items or services~~  
54 ~~that are considered preventive care pursuant to subparagraph (C) of~~  
55 ~~paragraph two of subsection c of section two hundred twenty three of the~~  
56 ~~internal revenue code, in which case the cost sharing requirements of~~

~~this section shall apply regardless of whether the minimum deductible required under section two hundred twenty three of the internal revenue code has been satisfied~~ coverage may be subject to the plan's annual deductible.

§ 5. Subparagraph (B) of paragraph 11 of subsection (1) of section 3221 of the insurance law, as amended by chapter 424 of the laws of 2024, is amended to read as follows:

(B) Such coverage required pursuant to subparagraph (A) or (C) of this paragraph shall not be subject to annual deductibles or coinsurance. If under federal law, application of this requirement would result in health savings account ineligibility under 26 USC 223, this requirement shall apply for health savings account-qualified high deductible health plans with respect to the deductible of such a plan after the enrollee has satisfied the [minimum] plan deductible ~~[under 26 USC 223]~~, except for with respect to items or services that are preventive care pursuant to 26 USC 223(c)(2)(C), in which case the requirements of this paragraph shall apply regardless of whether the [minimum] plan deductible ~~[under 26 USC 223]~~ has been satisfied.

§ 6. Paragraph 21 of subsection (1) of section 3221 of the insurance law, as amended by chapter 117 of the laws of 2023, is amended to read as follows:

(21) Every group or blanket policy delivered or issued for delivery in this state that provides coverage for a prescription drug shall apply any third-party payments, financial assistance, discount, voucher or other price reduction instrument for out-of-pocket expenses made on behalf of an insured individual for the cost of prescription drugs to the insured's deductible, copayment, coinsurance, out-of-pocket maximum, or any other cost-sharing requirement when calculating such insured individual's overall contribution to any out-of-pocket maximum or any cost-sharing requirement. If under federal law, application of this requirement would result in health savings account ineligibility under 26 USC 223, this requirement shall apply for health savings account-qualified high deductible health plans with respect to the deductible of such a plan after the enrollee has satisfied the [minimum] plan deductible ~~[under 26 USC 223]~~, except for with respect to items or services that are preventive care pursuant to 26 USC 223(c)(2)(C), in which case the requirements of this paragraph shall apply regardless of whether the [minimum] plan deductible ~~[under 26 USC 223]~~ has been satisfied. This paragraph only applies to a prescription drug that is either (A) a brand-name drug without an AB rated generic equivalent, as determined by the United States Food and Drug Administration; or (B) a brand-name drug with an AB rated generic equivalent, as determined by the United States Food and Drug Administration, and the insured has access to the brand-name drug through prior authorization by the insurer or through the insurer's appeal process, including any step-therapy process; or (C) a generic drug the insurer will cover, with or without prior authorization or an appeal process.

§ 7. Subsection (ww) of section 4303 of the insurance law, as added by a chapter of the laws of 2025 amending the insurance law relating to high deductible health plans and health savings accounts, as proposed in legislative bills numbers S. 6895-A and A. 5367-A, is amended to read as follows:

~~[(ww)]~~ [(xx)] With respect to high deductible health plans offered in conjunction with a ~~[health reimbursement account or a]~~ health savings account, if application of any cost sharing requirements would result in health savings account ineligibility under section two hundred twenty-

1 three of the internal revenue code, such [~~cost sharing requirement shall~~  
2 ~~apply for health savings account-qualified high deductible health plans~~  
3 ~~with respect to the deductible of such a plan, only after the enrollee~~  
4 ~~has satisfied the minimum deductible under section two hundred twenty-~~  
5 ~~three of the internal revenue code, except with respect to items or~~  
6 ~~services that are considered preventive care pursuant to subparagraph~~  
7 ~~(C) of paragraph two of subsection e of section two hundred twenty-three~~  
8 ~~of the internal revenue code, in which case the cost sharing require-~~  
9 ~~ments of this section shall apply regardless of whether the minimum~~  
10 ~~deductible required under section two hundred twenty-three of the inter-~~  
11 ~~nal revenue code has been satisfied]~~ coverage may be subject to the  
12 plan's annual deductible.

13 § 8. Subparagraph (F) of paragraph 1 of subsection (p) of section 4303  
14 of the insurance law, as amended by chapter 424 of the laws of 2024, is  
15 amended to read as follows:

16 (F) The coverage required in this paragraph or paragraph two of this  
17 subsection shall not be subject to annual deductibles or coinsurance. If  
18 under federal law, application of this requirement would result in  
19 health savings account ineligibility under 26 USC 223, this requirement  
20 shall apply for health savings account-qualified high deductible health  
21 plans with respect to the deductible of such a plan after the enrollee  
22 has satisfied the [minimum] plan deductible [~~under 26 USC 223~~], except  
23 for with respect to items or services that are preventive care pursuant  
24 to 26 USC 223(c)(2)(C), in which case the requirements of this paragraph  
25 shall apply regardless of whether the [minimum] plan deductible [~~under~~  
26 ~~26 USC 223~~] has been satisfied.

27 § 9. Subsection (tt) of section 4303 of the insurance law, as amended  
28 by chapter 117 of the laws of 2023, is amended to read as follows:

29 (tt) Every contract issued by a medical expense indemnity corporation,  
30 hospital service corporation, or health service corporation that  
31 provides coverage for a prescription drug shall apply any third-party  
32 payments, financial assistance, discount, voucher or other price  
33 reduction instrument for out-of-pocket expenses made on behalf of an  
34 insured individual for the cost of prescription drugs to the insured's  
35 deductible, copayment, coinsurance, out-of-pocket maximum, or any other  
36 cost-sharing requirement when calculating such insured individual's  
37 overall contribution to any out-of-pocket maximum or any cost-sharing  
38 requirement. If under federal law, application of this requirement would  
39 result in health savings account ineligibility under 26 USC 223, this  
40 requirement shall apply for health savings account-qualified high deduc-  
41 tible health plans with respect to the deductible of such a plan after  
42 the enrollee has satisfied the [minimum] plan deductible [~~under 26 USC~~  
43 ~~223~~], except for with respect to items or services that are preventive  
44 care pursuant to 26 USC 223(c)(2)(C), in which case the requirements of  
45 this paragraph shall apply regardless of whether the [minimum] plan  
46 deductible [~~under 26 USC 223~~] has been satisfied. This subsection only  
47 applies to a prescription drug that is either (A) a brand-name drug  
48 without an AB rated generic equivalent, as determined by the United  
49 States Food and Drug Administration; or (B) a brand-name drug with an AB  
50 rated generic equivalent, as determined by the United States Food and  
51 Drug Administration, and the insured has access to the brand-name drug  
52 through prior authorization by the insurer or through the insurer's  
53 appeal process, including any step-therapy process; or (C) a generic  
54 drug the insurer will cover, with or without prior authorization or an  
55 appeal process.

1 § 10. Section 4 of a chapter of the laws of 2025 amending the insur-  
2 ance law relating to high deductible health plans and health savings  
3 accounts, as proposed in legislative bills numbers S. 6895-A and A.  
4 5367-A, is amended to read as follows:

5 § 4. This act shall take effect [~~immediately~~] January 1, 2027 and  
6 apply to all policies and contracts issued, renewed, modified, altered,  
7 or amended on or after such date.

8 § 11. This act shall take effect immediately; provided, however,  
9 sections one, two, three, four, five, six, seven, eight, and nine of  
10 this act shall take effect on the same date and in the same manner as a  
11 chapter of the laws of 2025 amending the insurance law relating to high  
12 deductible health plans and health savings accounts, as proposed in  
13 legislative bills numbers S. 6895-A and A. 5367-A, takes effect.