

# STATE OF NEW YORK

355--A

Cal. No. 743

2025-2026 Regular Sessions

## IN SENATE

(Prefiled)

January 8, 2025

Introduced by Sens. RIVERA, ADDABBO, CLEARE, COONEY, LIU, MAY, RHOADS -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- reported favorably from said committee and committed to the Committee on Finance -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the elder law, in relation to program eligibility for health plans comparable to Medicare part D; and to amend the public health law, in relation to assessment of prescription drug coverage by health plans

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

1 Section 1. Paragraphs (f) and (h) of subdivision 3 and subdivision 4  
2 of section 242 of the elder law, paragraph (f) of subdivision 3 as  
3 amended by section 1 of part T of chapter 56 of the laws of 2012, para-  
4 graph (h) of subdivision 3 as amended by section 3-f of part A of chap-  
5 ter 59 of the laws of 2011, and subdivision 4 as added by section 12-a  
6 of part T of chapter 56 of the laws of 2012, are amended to read as  
7 follows:

8 (f) As a condition of eligibility for benefits under this title, a  
9 program participant is required to be enrolled in Medicare part D, or  
10 any other public or private drug plan which has successfully demon-  
11 strated to CMS that the coverage meets or exceeds the actuarial value of  
12 the defined standard coverage under the Medicare part D prescription  
13 drug benefit, as determined by CMS, and to maintain such enrollment. For  
14 unmarried participants with individual annual income less than or equal  
15 to twenty-three thousand dollars and married participants with joint  
16 annual income less than or equal to twenty-nine thousand dollars, the  
17 elderly pharmaceutical insurance coverage program shall pay for the

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

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1 portion of the part D or comparable plan monthly premium that is the  
2 responsibility of the participant. Such payment shall be limited to the  
3 low-income benchmark premium amount established by the federal centers  
4 for medicare and medicaid services and any other amount which such agen-  
5 cy establishes under its de minimus premium policy.

6 (h) The elderly pharmaceutical insurance coverage program is author-  
7 ized to represent program participants under this title with respect to  
8 their Medicare part D or comparable coverage.

9 4. As a condition of eligibility for benefits under this title,  
10 participants must be enrolled in [~~medicare~~] Medicare part D, or any  
11 other public or private drug plan which has successfully demonstrated to  
12 CMS that the coverage meets or exceeds the actuarial value of the  
13 defined standard coverage under the Medicare part D prescription drug  
14 benefit, as determined by CMS, and maintain such enrollment. For persons  
15 who meet the eligibility requirements to participate in the elderly  
16 pharmaceutical insurance coverage program, the program will pay for a  
17 drug covered by the person's [~~medicare~~] Medicare part D plan or compara-  
18 ble plan or a drug in a [~~medicare~~] Medicare part D excluded drug class,  
19 as defined in subdivision eight of section two hundred forty-one of this  
20 title, provided that such drug is a covered drug, as defined in subdivi-  
21 sion one of section two hundred forty-one of this title, and that the  
22 participant complies with the point of sale co-payment requirements set  
23 forth in sections two hundred forty-seven and two hundred forty-eight of  
24 this title. No payment shall be made for [~~medicare~~] Medicare part D or  
25 comparable plan deductibles.

26 § 2. Section 241 of the elder law is amended by adding a new subdivi-  
27 sion 9 to read as follows:

28 9. "CMS" means the centers for Medicare & Medicaid services within the  
29 U.S. department of health and human services.

30 § 3. The public health law is amended by adding a new section 280-e to  
31 read as follows:

32 § 280-e. Assessment of prescription drug coverage. 1. For the purposes  
33 of this section, the following terms shall have the following meanings:

34 (a) "Insurer" means an insurance company subject to article forty-two  
35 or a corporation subject to article forty-three of the insurance law, or  
36 a health maintenance organization certified pursuant to article forty-  
37 four of the public health law that contracts or offers to contract to  
38 provide, deliver, arrange, pay or reimburse any of the costs of health  
39 care services.

40 (b) "Health plan" means a policy, contract or certificate, offered or  
41 issued by an insurer to provide, deliver, arrange for, pay for or reim-  
42 burse any of the costs of health care services. Health plan shall not  
43 include the following:

44 (i) accident insurance or disability income insurance, or any combina-  
45 tion thereof;

46 (ii) coverage issued as a supplement to liability insurance;

47 (iii) liability insurance, including general liability insurance and  
48 automobile liability insurance;

49 (iv) workers' compensation or similar insurance;

50 (v) automobile no-fault insurance;

51 (vi) credit insurance;

52 (vii) other similar insurance coverage, as specified in federal regu-  
53 lations, under which benefits for medical care are secondary or inci-  
54 dental to other insurance benefits;

55 (viii) limited scope dental or vision benefits, benefits for long-term  
56 care insurance, nursing home insurance, home care insurance, or any

1 combination thereof, or such other similar, limited benefits health  
2 insurance as specified in federal regulations, if the benefits are  
3 provided under a separate policy, certificate or contract of insurance  
4 or are otherwise not an integral part of the plan;

5 (ix) coverage only for a specified disease or illness, hospital indem-  
6 nity, or other fixed indemnity coverage;

7 (x) Medicare supplemental insurance as defined in section 1882(g)(1)  
8 of the federal social security act, coverage supplemental to the cover-  
9 age provided under chapter 55 of title 10 of the United States Code, or  
10 similar supplemental coverage provided under a group health plan if it  
11 is offered as a separate policy, certificate or contract of insurance;  
12 or

13 (xi) the New York state medical indemnity fund established pursuant to  
14 title four of article twenty-nine-D of the public health law.

15 (c) "EPIC program" means the elderly pharmaceutical insurance coverage  
16 program established pursuant to title three of article two of the elder  
17 law.

18 (d) "Medicare part D standard" means the defined standard coverage  
19 under the Medicare part D prescription drug benefit.

20 2. (a) Insurers operating in the state may submit their health plans  
21 to the department for assessment to determine whether prescription drug  
22 coverage offered under any such health plans meet or exceed the actuari-  
23 al value of the Medicare part D standard.

24 (b) Upon receiving a health plan submission from an insurer pursuant  
25 to paragraph (a) of this subdivision, the department shall conduct a  
26 comprehensive actuarial analysis comparing such health plan's  
27 prescription drug coverage against the Medicare part D standard.

28 (c) Upon conclusion of an analysis conducted under paragraph (b) of  
29 this subdivision, the department shall notify the insurer of the outcome  
30 of such analysis.

31 3. (a) Individuals enrolled in a health plan including prescription  
32 drug coverage that is not already listed on the online list published by  
33 the department pursuant to subdivision four of this section may submit a  
34 request to the department to have such health plan assessed by the  
35 department to determine whether prescription drug coverage under such  
36 health plan meets or exceeds the actuarial value of the Medicare part D  
37 standard. The department shall develop a process by which such requests  
38 may be submitted, and detail any necessary information that shall be  
39 submitted with such requests on its website.

40 (b) Upon receipt of a request under paragraph (a) of this subdivision,  
41 the department shall conduct a comprehensive actuarial analysis compar-  
42 ing the health plan's prescription drug coverage against the Medicare  
43 part D standard.

44 (c) Upon conclusion of an analysis conducted under paragraph (b) of  
45 this subdivision, the department shall notify the individual who submit-  
46 ted the request for such analysis of the outcome of such analysis, in  
47 addition to any implications of such conclusion on such individual's  
48 eligibility for the EPIC program.

49 4. (a) The department shall maintain and publish an online list of  
50 available health plans that qualify as meeting or exceeding the Medicare  
51 part D standard, as determined under subdivision two or three of this  
52 section.

53 (b) The department shall establish a system for continued monitoring  
54 of health plans evaluated under this section and listed under paragraph  
55 (a) of this subdivision, to ensure that prescription drug coverage under  
56 such plans remain meeting or exceeding the actuarial value of the Medi-

1 care part D standard. The department shall reevaluate any health plan  
2 that undergoes changes in its prescription drug coverage, and shall  
3 update the list under paragraph (a) of this subdivision accordingly.

4 § 4. The department of health, in consultation with the department of  
5 financial services, shall notify all insurers providing coverage for  
6 prescription drugs that are operating in this state of the provisions of  
7 this act. Such notification shall include detailed guidelines on the  
8 criteria for the elderly pharmaceutical insurance coverage program  
9 (EPIC) established pursuant to title three of article two of the elder  
10 law.

11 § 5. This act shall take effect on the first of April next succeeding  
12 the date on which it shall have become a law. Effective immediately, the  
13 addition, amendment and/or repeal of any rule or regulation necessary  
14 for the implementation of this act on its effective date are authorized  
15 to be made, including by emergency, and completed on or before such  
16 effective date.