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:

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

(f) As a condition of eligibility for benefits under this title, a program participant is required to be enrolled in Medicare part D**, or any other public or private drug plan which has successfully demonstrated to CMS that the coverage meets or exceeds the actuarial value of the defined standard coverage under the Medicare part D prescription drug benefit, as determined by CMS,** and to maintain such enrollment. For unmarried participants with individual annual income less than or equal to twenty-three thousand dollars and married participants with joint annual income less than or equal to twenty-nine thousand dollars, the 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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portion of the part D **or comparable plan** monthly premium that is the responsibility of the participant. Such payment shall be limited to the low-income benchmark premium amount established by the federal centers for medicare and medicaid services and any other amount which such agency establishes under its de minimus premium policy.

(h) The elderly pharmaceutical insurance coverage program is authorized to represent program participants under this title with respect to their Medicare part D **or comparable** coverage.

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

§ 2. Section 241 of the elder law is amended by adding a new subdivision 9 to read as follows:

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

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

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

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

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

(i) accident insurance or disability income insurance, or any combination thereof;

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

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

(iv) workers' compensation or similar insurance;

(v) automobile no-fault insurance;

(vi) credit insurance;

(vii) other similar insurance coverage, as specified in federal regulations, under which benefits for medical care are secondary or incidental to other insurance benefits;

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

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

(ix) coverage only for a specified disease or illness, hospital indemnity, or other fixed indemnity coverage;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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