STATE OF NEW YORK

8772

IN SENATE

January 8, 2026

Introduced by Sen. BAILEY -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

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:

Section 1. Subsection (n) of section 3216 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:

(n) 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-three of the internal revenue code, such [~~cost sharing requirement shall apply for health savings account-qualified high deductible health plans with respect to the deductible of such a plan, only after the enrollee has satisfied the minimum deductible under section two hundred twenty-three of the internal revenue code, except with respect to items or services that are considered preventive care pursuant to subparagraph (C) of paragraph two of subsection c of section two hundred twenty-three of the 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**.

§ 2. Subparagraph (B) of paragraph 11 of subsection (i) of section 3216 of the insurance law, as amended by chapter 424 of the laws of 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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(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.

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

(37) Any policy that provides coverage for prescription drugs 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 a prescription drug 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.

§ 4. Subsection (v) of section 3221 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:

(v) 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-three of the internal revenue code, such [~~cost sharing requirement shall apply for health savings account-qualified high deductible health plans with respect to the deductible of such a plan, only after the enrollee has satisfied the minimum deductible under section two hundred twenty-three of the internal revenue code, except with respect to items or services that are considered preventive care pursuant to subparagraph (C) of paragraph two of subsection c of section two hundred twenty-three of the 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 (l) 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 (l) 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-

three of the internal revenue code, such [~~cost sharing requirement shall apply for health savings account-qualified high deductible health plans with respect to the deductible of such a plan, only after the enrollee has satisfied the minimum deductible under section two hundred twenty-three of the internal revenue code, except with respect to items or services that are considered preventive care pursuant to subparagraph (C) of paragraph two of subsection c of section two hundred twenty-three of the 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**.

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

(F) The coverage required in this paragraph or paragraph two of this subsection 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.

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

(tt) Every contract issued by a medical expense indemnity corporation, hospital service corporation, or health service corporation 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 subsection 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.

§ 10. Section 4 of 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:

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

§ 11. This act shall take effect immediately; provided, however, sections one, two, three, four, five, six, seven, eight, and nine of this act shall take effect on the same date and in the same manner as 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, takes effect.