

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR ASSEMBLY, No. 2431

STATE OF NEW JERSEY

DATED: MARCH 18, 2019

The Assembly Appropriations Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 2431.

This Assembly Committee Substitute for Assembly Bill No. 2431 requires certain health insurers, under certain policies or contracts that provide coverage for prescription drugs, to place limitations on covered persons' cost sharing for prescription drugs.

The substitute's provisions apply to the following insurers and programs that provide coverage for prescription drugs under a policy or contract: health, hospital and medical service corporations; commercial individual and group health insurers; health maintenance organizations; health benefits plans issued pursuant to the New Jersey Individual Health Coverage and Small Employer Health Benefits Programs; the State Health Benefits Program (SHBP) and the School Employees' Health Benefits Program (SEHBP).

Unless the plan or contract is a catastrophic plan under the federal Affordable Care Act, the substitute requires insurers that offer plans in the individual and small employer markets to ensure that at least 25 percent of all plans, or at least one plan if the insurer offers less than four plans, offered by the insurer in each rating area and in each of the bronze, silver, gold, and platinum levels of coverage, shall conform with the following:

- a contract that provides a silver, gold, or platinum level of coverage shall limit a covered person's cost-sharing financial responsibility, including any copayment or coinsurance, for prescription drugs, including specialty drugs, to no more than \$150 per month for each prescription drug for up to a 30-day supply of any single drug; and
- a contract that provides a bronze level of coverage shall ensure that any required covered person's cost-sharing, including any copayment or coinsurance, does not exceed \$250 per month for each prescription drug for up to a 30-day supply of any single drug.

In the case of high-deductible plans, these cost sharing limits apply at any point in the benefit design, including before and after any applicable deductible is reached. For prescription drug benefits

offered in conjunction with a high-deductible health plan, the plan shall not provide prescription drug benefits until the expenditures applicable to the deductible under the plan have met the amount of the minimum annual deductibles in effect for self-only and family coverage under section 223(c)(2)(A)(i) of the federal Internal Revenue Code (26 U.S.C. 223(c)(2)(A)(i)) for self-only and family coverage, respectively. Once the foregoing expenditure amount has been met under the plan, coverage for prescription drug benefits shall begin, and the limit on out-of-pocket expenditures for prescription drug benefits shall be as specified in the bill.

In the case of a carrier that offers a large employer group health insurance policy, the carrier is required to offer at least two plans in the large group market.

In the case of the SHBP and the SEHBP, the respective commissions for these programs shall ensure that every contract that provides benefits for expenses incurred in the purchase of prescription drugs, which is purchased by the commission shall:

- limit a covered person's cost-sharing, including any copayment or coinsurance, for prescription drugs, including specialty drugs, to no more than \$200 per month for each prescription drug for up to a 30-day supply of any single drug, and the limits shall apply at any point in the benefit design, including before and after any applicable deductible is reached; and
- for prescription drug benefits offered in conjunction with a high-deductible health plan, not provide prescription drug benefits until the expenditures applicable to the deductible under the plan have met the amount of the minimum annual deductibles in effect for self-only and family coverage under section 223(c)(2)(A)(i) of the federal Internal Revenue Code (26 U.S.C. 223(c)(2)(A)(i)) for self-only and family coverage, respectively. Once the foregoing expenditure amount has been met under the plan, coverage for prescription drug benefits shall begin, and the limit on out-of-pocket expenditures for prescription drug benefits shall be as specified in the bill.

Finally, the substitute provides for various effective dates for the substitute, depending on the type of plan offered. The substitute provides:

- for large employer plans, the substitute shall take effect immediately and apply to plans issued or renewed on or after January 1 of the calendar year that begins 180 days after the date of enactment;
- for individual and small employer plans, the substitute shall take effect immediately and apply to new plans or renewals issued on or after January 1 of the calendar year that begins 270 days after the date of enactment; and
- for contracts purchased by the SHBP and the SEHBP, the substitute shall take effect on the 90th day after the date of

enactment and shall apply to contracts purchased on or after that date.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that this substitute bill will result in an indeterminate increase in State and local health benefit costs. Member copays for brand name drugs with generic equivalents in most SHBP and SEHBP plans require the member to pay the generic copay amount and the difference between the cost of a generic prescription drug and the cost of the brand name drug with a generic equivalent. This substitute will increase State and local costs by an indeterminate amount in cases where the cost to a member to pay the difference between generic and brand name drug with a generic equivalent is greater than \$200. It is also likely that some local governments' plans that are external to the State-administered plans will be affected by the substitute in a manner that increases costs. The OLS has no basis for determining the number of prescriptions that may be filled for brand name drugs with a generic equivalent.