

# SENATE, No. 2344

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED APRIL 9, 2020

**Sponsored by:**

**Senator NELLIE POU**

**District 35 (Bergen and Passaic)**

**Senator ROBERT W. SINGER**

**District 30 (Monmouth and Ocean)**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**Co-Sponsored by:**

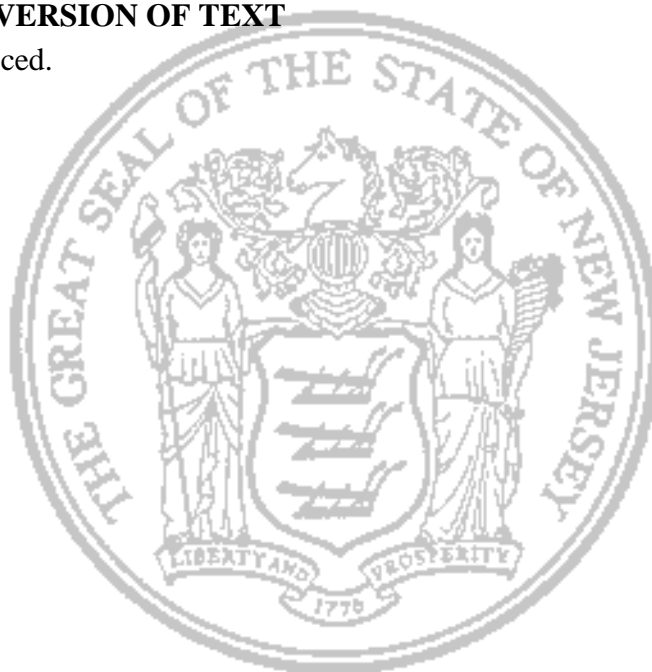
**Senators Addiego, Bateman, Brown, Cardinale, O'Scanlon, Pennacchio and Singleton**

**SYNOPSIS**

Requires Medicaid and health insurance coverage for certain refills of prescription drugs during state of emergency.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 4/13/2020)**

1 AN ACT requiring Medicaid and health insurance coverage for certain  
2 prescription drugs during a state of emergency and supplementing  
3 P.L.1968, c.413 (C.30:4D-1 et seq.) and P.L.1997, c.192  
4 (C.26:2S-1 et seq.).

5  
6 **BE IT ENACTED** by the Senate and General Assembly of the State  
7 of New Jersey:

8  
9 1. a. Subject to subsection b. of this section and to the extent  
10 consistent with clinical guidelines, the State Medicaid and NJ  
11 FamilyCare programs shall provide coverage of prescription drug  
12 refills even when the covered person has not yet reached the  
13 scheduled refill date, provided that the prescription itself would  
14 remain valid beyond the refill date, in a manner calculated to ensure  
15 an enrollee's ability to maintain at least a 30-day supply, or a 90-day  
16 supply of a maintenance medication supply at home.

17 b. The provisions of this section shall take effect if:

18 (1) a state of emergency or public health emergency is declared  
19 by the State or federal government, or an emergency supply of a drug  
20 is recommended by the Centers for Disease Control and Prevention;  
21 and

22 (2) the Commissioner of Human Services determines that an  
23 emergency supply of prescription drugs is necessary.

24 c. The coverage shall be provided on an in-network basis to the  
25 same extent as for any other refills of prescription drugs, except that:

26 (1) in the event of a drug shortage or access issue, formulary  
27 flexibility shall be provided; and

28 (2) no fees shall be imposed for home delivery of the drugs.

29 d. The Commissioner of Human Services shall apply for such  
30 State plan amendments or waivers as may be necessary to implement  
31 the provisions of this section and to secure federal financial  
32 participation for State Medicaid expenditures under the federal  
33 Medicaid program.

34 e. The Division of Consumer Affairs, in consultation with the  
35 Commissioner of Human Services, may develop restrictions on the  
36 filling or refilling of prescriptions to address shortage concerns,  
37 provided those restrictions shall exclude restricting use for existing  
38 conditions to the maximum extent practicable.

39  
40 2. a. Subject to subsection b. of this section and to the extent  
41 consistent with clinical guidelines, the Commissioner of Banking and  
42 Insurance shall require carriers to provide coverage of prescription  
43 drug refills even when the covered person has not yet reached the  
44 scheduled refill date, provided that the prescription itself would  
45 remain valid beyond the refill date, in a manner calculated to ensure  
46 a subscriber's ability to maintain at least a 30-day supply, or a 90-  
47 day supply of a maintenance medication supply at home.

48 b. The provisions of this section shall take effect if:

- 1 (1) a state of emergency or public health emergency is declared  
2 by the State or federal government, or an emergency supply of a drug  
3 is recommended by the Centers for Disease Control and Prevention;  
4 and  
5 (2) the commissioner determines that an emergency supply of  
6 prescription drugs is necessary.
- 7 c. The coverage shall be provided on an in-network basis to the  
8 same extent as for any other refills of prescription drugs under the  
9 health benefits plan, except that:
- 10 (1) in the event of a drug shortage or access issue identified by  
11 the commissioner or the Division of Consumer Affairs, the carrier  
12 shall provide formulary flexibility. The cost-sharing for any non-  
13 preferred medication shall not exceed the cost-sharing that would be  
14 imposed for the preferred medication that is unavailable due to the  
15 shortage or access issue; and  
16 (2) no fees shall be imposed for home delivery of the drugs.
- 17 d. The Division of Consumer Affairs, in consultation with the  
18 commissioner, may develop restrictions on the filling or refilling of  
19 prescriptions to address shortage concerns, provided those  
20 restrictions shall exclude restricting use for existing conditions to the  
21 maximum extent practicable.
- 22 e. As used in this section, “carrier” means an insurance  
23 company, health service corporation, hospital service corporation,  
24 medical service corporation, or health maintenance organization  
25 authorized to issue health benefits plans in this State, and shall  
26 include the State Health Benefits Program and the School Employees'  
27 Health Benefits Program.
- 28
- 29 3. This act shall take effect immediately.
- 30
- 31

32 STATEMENT

33

34 This bill requires carriers (insurance companies, health, hospital,  
35 and medical service corporations, health maintenance organizations,  
36 and State and School Employees' Health Benefits Program  
37 contracts), that offer a health benefits plan in this State which  
38 provides benefits for pharmacy services, prescription drugs, or for  
39 participation in a prescription drug plan, as well as the State Medicaid  
40 program, to provide coverage of prescription drug refills even when  
41 the covered person has not yet reached the scheduled refill date,  
42 provided that the prescription itself would remain valid beyond the  
43 refill date, in a manner calculated to ensure an enrollee's ability to  
44 maintain at least a 30-day supply, or a 90-day supply of a  
45 maintenance medication supply at home.

46 The provisions of the bill take effect if:

47 (1) a state of emergency or public health emergency is declared  
48 by the State or federal government, or an emergency supply of a drug

1 is recommended by the Centers for Disease Control and Prevention;  
2 and

3 (2) the Commissioner of Banking and Insurance or, in the case of  
4 the State Medicaid program, the Commissioner of Human Services,  
5 determines that an emergency supply of prescription drugs is  
6 necessary.

7 The coverage is required to be provided to the same extent as for  
8 any other refills of prescription drugs, except that:

9 (1) in the event of a drug shortage or access issue, formulary  
10 flexibility is required to be provided; and

11 (2) no fees shall be imposed for home delivery of the drugs.

12 The bill also provides that the Division of Consumer Affairs, in  
13 consultation with the Commissioner of Banking and Insurance, or, in  
14 the case of the State Medicaid program, the Commissioner of Human  
15 Services, may develop restrictions on the filling or refilling of  
16 prescriptions to address shortage concerns, provided those  
17 restrictions shall exclude restricting use for existing conditions to the  
18 maximum extent practicable.