LAW WITHOUT GOVERNOR'S SIGNATURE

MAY 7, 2022

CHAPTER

744

PUBLIC LAW

STATE OF MAINE

IN THE YEAR OF OUR LORD

TWO THOUSAND TWENTY-TWO

S.P. 621 - L.D. 1783

An Act To Require Health Insurance Carriers and Pharmacy Benefits Managers To Appropriately Account for Cost-sharing Amounts Paid on Behalf of Insureds

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 24-A MRSA §4349, sub-§6 is enacted to read:

6. Cost-sharing amounts paid on behalf of covered person. The requirements of this subsection apply to the calculation of a covered person's contribution to any applicable cost-sharing or other out-of-pocket expense under a covered prescription drug benefit.

A. When calculating a covered person's contribution to any applicable cost-sharing or other out-of-pocket expense under a covered prescription drug benefit, a carrier or pharmacy benefits manager shall give credit for any waiver or discount of, or payment made by a 3rd party for, the amount of, or any portion of the amount of, the applicable cost-sharing or other out-of-pocket expense for the covered prescription drug that is either:

(1) Without a generic equivalent; or

(2) With a generic equivalent when the covered person has obtained access to the covered prescription drug through prior authorization, a step therapy override exception or other exception or appeal process.

B. A 3rd party that pays as financial assistance any amount, or portion of the amount, of any applicable cost-sharing or other out-of-pocket expense on behalf of a covered person for a covered prescription drug:

(1) Shall notify the covered person prior to or within 7 days of the acceptance of the financial assistance of the total amount of assistance available and the duration for which it is available; and

(2) May not condition the assistance on enrollment in a specific health plan or type of health plan, except as permitted under federal law.

C. If under federal law, with respect to a high-deductible health plan offered for use with a health savings account in accordance with the federal Internal Revenue Code,

the application of paragraph A would result in ineligibility for a health savings account, this subsection applies only with respect to the deductible of such a plan after the covered person has satisfied the minimum deductible under the federal Internal Revenue Code, Section 223, except for items or services that are determined to be preventive care pursuant to the federal Internal Revenue Code, Section 223(c)(2)(C), in which case the requirements of paragraph A apply regardless of whether the minimum deductible under the federal Internal Revenue Code, Section 223 has been satisfied.

Sec. 2. Application. The requirements of this Act apply to prescription drug benefits provided pursuant to a contract or policy of insurance by a carrier or a pharmacy benefits manager on behalf of a carrier on or after January 1, 2023.