BILL NUMBER: A1741A

SPONSOR: Gottfried

TITLE OF BILL:

An act to amend the insurance law, in relation to calculating an insured

individual's overall contribution to any out-of-pocket maximum or any

cost-sharing requirement

PURPOSE OR GENERAL IDEA OF BILL:

Requires insurance companies or pharmacy benefit managers to apply price

reduction instruments for out-of-pocket expenses when calculating an

insured individual's cost-sharing requirement.

SUMMARY OF PROVISIONS:

Section 1 adds a new paragraph 36 to subsection (i) of section 3217 of

the insurance law requiring any individual insurance policy that

provides coverage for prescription drugs to apply any third-party

payments or other price reduction instruments for out-of-pocket expenses

made on behalf of an insured person when calculating the insured indi-

vidual's overall contribution to any out-of-pocket maximum or cost-shar-

ing requirement.

Section 2 adds a new paragraph 21 to subsection (1) of section 3221 of

the insurance law applying these same provisions to group or blanket

policies that provide coverage for prescription drugs.

Section 3 adds a new subsection (ss) to section 4303 of the insurance

law applying these same provisions to non-profit medical expense indem-

nity policies, hospital service corporations or health service corpo-

rations that provides coverage for prescription drugs.

Section 4 is the effective date.

JUSTIFICATION:

Recently, many insurance companies and pharmacy benefit managers have

started to adopt new cost-shifting mechanisms that change the way an

insured individual's out-of-pocket contributions for prescription drugs

are calculated. These "copay accumulators" do not take into account any

discounts or coupons that the insured person receives from the drug

manufacturer when calculating the insured individual's out-of-pocket

expenses.

Some insurance plans with a deductible require that the patient pay up

to a certain amount of out-of-pocket expenses before the plan pays for

all of the healthcare services. Many drug manufacturers, especially for

high-cost drugs that treat rare diseases offer copay cards or other

assistance to help pay for their prescription drugs. By not applying the

discounts paid by the manufacturer, it takes the insured person longer

to reach their deductible. This means that the insured person has to

continue to pay copays for the drug for a longer period of time and may

be paying significantly more in out-of-pocket expenses.

This practice shifts the cost towards patients as the insurance plan are

essentially "double dipping" by requiring the patient to pay their

normal copay and still receiving a discount or coupon from the drug

manufacturer, while taking longer to satisfy their deductible. Several

states have already prohibited copay accumulators including Arizona,

Virginia and West Virginia. Several other states have introduced legis-

lation (Connecticut, Illinois, California, and others) that is currently

moving through the legislative process that either limit or prohibit the

use of "copay accumulators" by insurers.

PRIOR LEGISLATIVE HISTORY:

2019-2020: A.8246 - referred to Insurance Committee

FISCAL IMPLICATIONS:.

None to the state.

EFFECTIVE DATE:

First of January next succeeding the date on which it shall become a

law.