ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3970

with committee amendments

STATE OF NEW JERSEY

DATED: MAY 4, 2020

The Assembly Appropriations Committee releases favorably and with committee amendments Assembly Bill No. 3970.

This bill requires carriers (insurance companies, health, hospital, and medical service corporations, health maintenance organizations, and State and School Employees' Health Benefits Program contracts), that offer a health benefits plan in this State which provides benefits for pharmacy services, prescription drugs, or for participation in a prescription drug plan, as well as the State Medicaid program, to provide coverage of prescription drug refills even when the covered person has not yet reached the scheduled refill date, provided that the prescription itself would remain valid beyond the refill date, in a manner calculated to ensure an enrollee's ability to maintain at least a 30-day supply, or a 90-day supply of a maintenance medication supply at home, but not to exceed a 120 day supply on-hand at any given time. The coverage shall be provided based on the authorization for the most recently filled prescription and additional authorization for the refill shall not be required.

The provisions of the bill are in effect if:

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

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

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

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

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

The bill also provides that the Division of Consumer Affairs, in consultation with the Commissioner of Banking and Insurance, or, in the case of the State Medicaid program, the Commissioner of Human Services, may develop restrictions on the filling or refilling of prescriptions by pharmacists to address shortage concerns, provided

those restrictions shall exclude restricting use for existing conditions to the maximum extent practicable.

As amended and released by the committee, this bill is the same as Senate Bill No. 2344, as also amended and released by the committee.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) provide that carriers and the State Medicaid program are not required to provide coverage for the maintenance of medications beyond 120 days;

(2) provide that the coverage shall be provided based on the authorization for the most recently filled prescription and additional authorization for the refill shall not be required;

(3) clarify the circumstances under which the provisions of the bill remain in effect;

(4) provide that, in the event of a drug shortage or access issue, formulary flexibility is required to be provided for a covered alternative; and

(5) provide that the coverage requirements for carriers only apply if the member remains eligible beyond the refill date.

FISCAL IMPACT:

The OLS estimates that this bill may have an indeterminate, minimal impact on State expenditures under the New Jersey FamilyCare program, State Health Benefits Program, and School Employees' Health Benefit Program due to forward shifts in the timing of payment of prescription claims.

To the extent that FamilyCare beneficiaries and covered State health plan members refill certain prescriptions early, whenever the emergency conditions explained in the bill apply, State reimbursements to prescription drug providers may be accelerated. Depending upon the timing and duration of the emergency conditions, the indeterminate expenditure shifts may occur either entirely within the same fiscal year or may span two fiscal years.

The OLS assumes that any State expenditure shift would be unlikely to affect the timing of the payment to the State of federal Medicaid matching funds or pharmaceutical manufacturer rebates. The OLS also anticipates that none of the likely rare expenditure accelerations would affect the total amounts of State expenditures, federal Medicaid reimbursements, or pharmaceutical manufacturer rebates.