

ASSEMBLY, No. 2222

STATE OF NEW JERSEY 219th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2020 SESSION

Sponsored by:

Assemblyman **JOHN F. MCKEON**

District 27 (Essex and Morris)

Assemblyman **ROY FREIMAN**

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblywoman **VALERIE VAINIERI HUTTLE**

District 37 (Bergen)

Co-Sponsored by:

Assemblywoman Swain, Assemblymen Tully, Verrelli, Karabinchak and Benson

SYNOPSIS

Requires carriers to pass prescription drug savings to consumers.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 2/13/2020)

1 AN ACT concerning pharmacy benefits managers and amending and
2 supplementing P.L.2015, c.179.

3

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

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7 1. Section 1 of P.L.2015, c.179 (C.17B:27F-1) is amended to
8 read as follows:

9 1. As used in this act:

10 "Carrier" means an insurance company, health service
11 corporation, hospital service corporation, medical service
12 corporation, or health maintenance organization authorized to issue
13 health benefits plans in this State.

14 "Contracted Pharmacy" means a pharmacy that participates in
15 the network of a pharmacy benefits manager through a contract
16 with:

- 17 a. the pharmacy benefits manager directly;
18 b. a pharmacy services administration organization; or
19 c. a pharmacy group purchasing organization.

20 "Covered person" means a person on whose behalf a carrier or
21 other entity, who is the sponsor of the health benefits plan, is
22 obligated to pay benefits pursuant to a health benefits plan.

23 "Drug" means a drug or device as defined in R.S.24:1-1.

24 "Health benefits plan" means a benefits plan which pays hospital
25 or medical expense benefits for covered services, or prescription
26 drug benefits for covered services, and is delivered or issued for
27 delivery in this State by or through a carrier or any other sponsor,
28 including, but not limited to, a carrier, self-insured employer, or
29 union. For the purposes of this act, health benefits plan shall not
30 include the following plans, policies or contracts: accident only,
31 credit disability, long-term care, Medicare supplement coverage;
32 CHAMPUS supplement coverage, coverage for Medicare services
33 pursuant to a contract with the United States government, coverage
34 arising out of a worker's compensation or similar law, coverage
35 under a policy of private passenger automobile insurance issued
36 pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.), or hospital
37 confinement indemnity coverage.

38 "Pharmacy" means any place in the State where drugs are
39 dispensed or pharmaceutical care is provided by a licensed
40 pharmacist, but shall not include a medical office under the control
41 of a licensed physician.

42 "Pharmacy benefits manager" means a corporation, business, or
43 other entity, or unit within a corporation, business, or other entity,
44 that administers prescription drug benefits on behalf of a purchaser.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 "Pharmacy benefits management services" means the provision
2 of any of the following services on behalf of a purchaser: the
3 procurement of prescription drugs at a negotiated rate for
4 dispensation within this State; the processing of prescription drug
5 claims; or the administration of payments related to prescription
6 drug claims.

7 "Prescription" means a prescription as defined in section 5 of
8 P.L.1977, c.240 (C.24:6E-4).

9 "Prescription drug benefits" means the benefits provided for
10 prescription drugs and pharmacy services for covered services
11 under a health benefits plan contract.

12 "Purchaser" means any sponsor of a health benefits plan who
13 enters into an agreement with a pharmacy benefits management
14 company for the provision of pharmacy benefits management
15 services to covered persons.

16 "Compensation" means any direct or indirect financial benefit,
17 including, but not limited to, rebates, discounts, credits, fees, grants,
18 charge-backs, or other payments or benefits of any kind.

19 "Pharmaceutical manufacturer" or "manufacturer" means any
20 entity that: (1) is engaged in the production, preparation,
21 propagation, compounding, conversion, or processing of
22 prescription drugs or biologics, by extraction from substances of
23 natural origin or independently by means of chemical synthesis; or
24 (2) is directly engaged in the packaging, repackaging, labeling,
25 relabeling, or distribution of prescription drugs or biologics.
26 "Pharmaceutical manufacturer" or "manufacturer" does not include
27 a health care facility licensed by the Department of Health or a
28 pharmacy holding a permit issued by the New Jersey State Board of
29 Pharmacy.

30 (cf: P.L.2015, c.179, s.1)

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32 2. (New section) a. All compensation paid by a pharmaceutical
33 manufacturer to a pharmacy benefits manager as a result of
34 negotiations of a reduced price for a pharmaceutical between a
35 pharmacy benefits manager and a manufacturer, in relation to a
36 contract between a pharmacy benefits manager and a carrier related
37 to its prescription drug benefits, shall be remitted to and retained by
38 the carrier and shall be used by the carrier to lower the premium for
39 covered persons under the carrier's health benefits plan.

40 b. A carrier shall annually file with the commissioner a report
41 demonstrating how the carrier has complied with this section.

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43 3. This act shall take effect on the first day of the seventh
44 month next following enactment, except the commissioner may take
45 any anticipatory administrative action in advance as shall be
46 necessary for the implementation of this act.

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STATEMENT

This bill requires carriers to pass prescription drug savings on to consumers. The bill provides that all compensation paid by a pharmaceutical manufacturer to a pharmaceutical benefits manager as a result of negotiations of a reduced price for a pharmaceutical between a pharmacy benefits manager and a manufacturer, in relation to a contract between a pharmacy benefits manager and a carrier related to its prescription drug benefits, shall be remitted to and retained by the carrier and must be used by the carrier to lower the premium for covered persons under the carrier's health benefits plan.

In addition, the bill provides that a carrier shall annually file with the commissioner a report demonstrating how the carrier has complied with the provisions of the bill.

Under the bill, "compensation" is defined as any direct or indirect financial benefit, including, but not limited to, rebates, discounts, credits, fees, grants, charge-backs, or other payments or benefits of any kind.