

[First Reprint]

SENATE, No. 1423

STATE OF NEW JERSEY
219th LEGISLATURE

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Sponsored by:

Senator TROY SINGLETON

District 7 (Burlington)

Senator NELLIE POU

District 35 (Bergen and Passaic)

SYNOPSIS

Requires carriers to pass prescription drug savings to consumers.

CURRENT VERSION OF TEXT

As reported by the Senate Commerce Committee on February 11, 2021, with amendments.



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:

6

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 the
15 network of a pharmacy benefits manager through a contract with:

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

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

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

23 "Health benefits plan" means a benefits plan which pays hospital
24 or medical expense benefits for covered services, or prescription
25 drug benefits for covered services, and is delivered or issued for
26 delivery in this State by or through a carrier or any other sponsor.
27 For the purposes of this act, health benefits plan shall not include
28 the following plans, policies or contracts: accident only, credit
29 disability, long-term care, Medicare supplement coverage;
30 TRICARE supplement coverage, coverage for Medicare services
31 pursuant to a contract with the United States government, the State
32 Medicaid program established pursuant to P.L.1968, c.413
33 (C.30:4D-1 et seq.), coverage arising out of a worker's
34 compensation or similar law, the State Health Benefits Program, the
35 School Employees' Health Benefits Program, or a self-insured
36 health benefits plan governed by the provisions of the federal
37 "Employee Retirement Income Security Act of 1974," 29 U.S.C.
38 s.1001 et seq., coverage under a policy of private passenger
39 automobile insurance issued pursuant to P.L.1972, c.70 (C.39:6A-
40 1 et seq.), or hospital confinement indemnity coverage.

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

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.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCM committee amendments adopted February 11, 2021.

1 "Pharmacy benefits manager" means a corporation, business, or
2 other entity, or unit within a corporation, business, or other entity,
3 that administers prescription drug benefits on behalf of a purchaser.

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

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

12 "Prescription drug benefits" means the benefits provided for
13 prescription drugs and pharmacy services for covered services
14 under a health benefits plan contract.

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

19 "Compensation" means any direct or indirect financial benefit,
20 ¹including, but not limited to, rebates, discounts, credits, fees,
21 grants, charge-backs, or other payments or benefits of any kind **but**
22 shall not include any performance compensation agreement paid by
23 a manufacturer, developer or labeler.¹

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

35 (cf: P.L.2019, c.274, s.2)

36
37 2. (New section) a. All compensation paid by a
38 pharmaceutical manufacturer to a pharmacy benefits manager as a
39 result of negotiations of a reduced price for a pharmaceutical
40 between a pharmacy benefits manager and a manufacturer, in
41 relation to a contract between a pharmacy benefits manager and a
42 carrier related to its ¹insured¹ prescription drug benefits, shall be
43 remitted to and retained by the carrier and shall be used by the
44 carrier to lower the premium for covered persons under the carrier's
45 health benefits plan ¹or to allow for remittance directly to the
46 covered person at the point of sale to reduce the insured's out of
47 pocket costs¹.

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

3

4 3. This act shall take effect on the ¹["first day of the seventh
5 month next following enactment"] 180th day next following the date
6 of enactment and shall apply to plans issued or renewed on or after
7 January 1 of the next calendar year¹, except the commissioner may
8 take any anticipatory administrative action in advance as shall be
9 necessary for the implementation of this act.