

SENATE, No. 1765

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:

Senator VIN GOPAL

District 11 (Monmouth)

SYNOPSIS

Requires pharmacy benefits manager providing services within Medicaid program to implement pass-through pricing model and to disclose certain information to DHS and managed care organizations.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning pharmacy benefits managers providing services
2 within the Medicaid program and supplementing Title 30 of the
3 Revised Statutes.

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

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8 1. a. Any contract or other arrangement entered into by a
9 managed care organization that has contracted with the Division of
10 Medical Assistance and Health Services in the Department of
11 Human services to provide benefits under the Medicaid Program for
12 the provision of pharmacy benefits management services shall be
13 based on a pass-through pricing model and shall include the
14 following requirements:

15 (1) Payment to the pharmacy benefits manager shall be limited
16 to the actual ingredient costs, dispensing fees paid to pharmacies,
17 and an administrative fee that covers the cost of providing
18 pharmacy benefits management services pursuant to the contract or
19 other arrangements. The Commissioner of Human Services may
20 establish a maximum administrative fee;

21 (2) The pharmacy benefits manager shall identify all sources
22 and amounts of income, payments, and financial benefits to the
23 pharmacy benefits managers in relation to the provision and
24 administration of pharmacy benefit management services on behalf
25 of the managed care organization, including, but not limited to, any
26 pricing discounts, rebates of any kind, inflationary payments,
27 credits, clawbacks, fees, grants, chargebacks, reimbursements, or
28 other benefits and shall ensure that any portion of such income,
29 payments, and financial benefits is passed through to the managed
30 care organization, in full, to reduce the reportable ingredient cost;

31 (3) The pharmacy benefits manager shall fully disclose to the
32 department and to the managed care organization the sources and
33 amounts of all income, payments, and financial benefits, as
34 identified in paragraph (2) of subsection a. of this section, received
35 by the pharmacy benefits manager;

36 (4) The pharmacy benefits manager shall identify all ingredient
37 costs and dispensing fees or similar payments made by the
38 pharmacy benefits manager to any pharmacy in connection with the
39 contract or other arrangement;

40 (5) The pharmacy benefits manager shall not utilize any form of
41 spread pricing in the contract or other arrangement with the
42 managed care organization. Any amount due to spread pricing shall
43 be remitted to the managed care organization on a quarterly basis;
44 and

45 (6) The pharmacy benefits manager shall make their payment
46 model for administrative fees available to the department and the
47 managed care organization. The managed care organization shall, if
48 directed by the department, make changes to the payment model

1 and resubmit an amended contract or contracts to the department for
2 review and approval.

3 b. All contracts or other arrangements subject to this section
4 shall be submitted to the department for review and approval.
5 Existing contracts or other arrangements subject to this section shall
6 be submitted to the department for review and approval by July 1,
7 2020.

8 c. As used in this section:

9 “Pass-through pricing model” means a model in which the
10 managed care organization reimburses the pharmacy benefits
11 manager for prescription drugs at a rate equal to the amount paid by
12 the pharmacy benefits manager to the pharmacy on behalf of the
13 managed care organization, plus an administrative fee based on a
14 predetermined metric, such as per prescription or per member.

15 “Pharmacy benefits management services” mean the provision of
16 any of the following services on behalf of a managed care
17 organization: the procurement of prescription drugs at a negotiated
18 rate for dispensation within this State; the processing of prescription
19 drug claims; or the administration of payments related to
20 prescription drug claims.

21 “Pharmacy benefits manager” means a corporation, business, or
22 other entity, or unit within a corporation, business, or other entity,
23 that administers prescription drug benefits on behalf of a managed
24 care organization.

25 “Spread pricing” means any amount charged or claimed by a
26 pharmacy benefits manager in excess of the amount paid to a
27 pharmacy on behalf of a managed care organization, less an
28 administrative fee.

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30 2. The Commissioner of Human Services, pursuant to the
31 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-
32 1 et seq.), shall adopt rules and regulations necessary to implement
33 the provisions of this act.

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35 3. This act shall take effect immediately

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STATEMENT

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40 The bill requires a pharmacy benefits manager providing services
41 within Medicaid program to implement a pass-through pricing
42 model. As defined in the bill, a “pass-through pricing model” is a
43 model in which a managed care organization reimburses the
44 pharmacy benefits manager for prescription drugs at a rate equal to
45 the amount paid by the pharmacy benefits manager to the pharmacy
46 on behalf of the managed care organization, plus an administrative
47 fee based on a predetermined metric, such as per prescription or per
48 member. Additionally, the bill requires a pharmacy benefits

1 manager to disclose certain information to the Department of
2 Human Services and the applicable managed care organization. A
3 similar law recently adopted in New York is projected to save the
4 State at least \$43 million in Medicaid dollars by ensuring that
5 pharmacy benefits managers do not charge managed care
6 organizations more for prescription drugs than what they actually
7 pay to pharmacies.

8 Under the bill, any contract or other arrangement entered into by
9 a managed care organization that has contracted with the Division
10 of Medical Assistance and Health Services in the Department of
11 Human services to provide benefits under the Medicaid Program for
12 the provision of pharmacy benefits management services is required
13 to be based on a pass-through pricing model and include the
14 following provisions:

15 (1) Payment to the pharmacy benefits manager is limited to the
16 actual ingredient costs, dispensing fees paid to pharmacies, and an
17 administrative fee that covers the cost of providing pharmacy
18 benefits management services pursuant to the contract or other
19 arrangements. The Commissioner of Human Services may establish
20 a maximum administrative fee;

21 (2) The pharmacy benefits manager is required to identify all
22 sources and amounts of income, payments, and financial benefits to
23 the pharmacy benefits managers in relation to the provision and
24 administration of pharmacy benefit management services on behalf
25 of the managed care organization, including, but not limited to, any
26 pricing discounts, rebates of any kind, inflationary payments,
27 credits, clawbacks, fees, grants, chargebacks, reimbursements, or
28 other benefits and to ensure that any portion of such income,
29 payments, and financial benefits is passed through to the managed
30 care organization, in full, to reduce the reportable ingredient cost;

31 (3) The pharmacy benefits manager is required to fully disclose
32 to the department and to the managed care organization the sources
33 and amounts of all income, payments, and financial benefits
34 received by the pharmacy benefits manager;

35 (4) The pharmacy benefits manager is required to identify all
36 ingredient costs and dispensing fees or similar payments made by
37 the pharmacy benefits manager to any pharmacy in connection with
38 the contract or other arrangement;

39 (5) The pharmacy benefits manager is prohibited from utilizing
40 any form of spread pricing in the contract or other arrangement with
41 the managed care organization. As defined in the bill, “spread
42 pricing” means any amount charged or claimed by a pharmacy
43 benefit manager in excess of the amount paid to a pharmacy on
44 behalf of a managed care organization, less an administrative fee.
45 Any amount due to spread pricing shall be remitted to the managed
46 care organization on a quarterly basis; and

47 (6) The pharmacy benefits manager is required to make their
48 payment model for administrative fees available to the department

1 and the managed care organization. The managed care organization,
2 if directed by the department, is required to make changes to the
3 payment model and resubmit an amended contract or contracts to
4 the department for review and approval.

5 Finally, all contracts or other arrangements subject to the bill's
6 provisions are to be submitted to the department for review and
7 approval. Existing contracts or other arrangements subject to the
8 bill's provisions at the time of the bill's enactment are to be
9 submitted to the department for review and approval by July 1,
10 2020.

11 As defined in the bill, a "pharmacy benefits manager" means a
12 corporation, business, or other entity, or unit within a corporation,
13 business, or other entity, that administers prescription drug benefits
14 on behalf of a managed care organization. "Pharmacy benefits
15 management services" is further defined to mean the provision of
16 any of the following services on behalf of a managed care
17 organization: the procurement of prescription drugs at a negotiated
18 rate for dispensation within this State; the processing of prescription
19 drug claims; or the administration of payments related to
20 prescription drug claims.