

CHAPTER 179
(CORRECTED COPY)

AN ACT concerning pharmacy benefits managers and supplementing Title 17B of the New Jersey Statutes.

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

C.17B:27F-1 Definitions relative to pharmacy benefits managers.

1. As used in this act:

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

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

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

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

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

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

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

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

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

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

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

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

C.17B:27F-2 Duties of pharmacy benefits manager relative to contracts.

2. Upon execution or renewal of each contract, a pharmacy benefits manager shall, with respect to contracts between a pharmacy benefits manager and a contracted pharmacy:

a. (1) include in the contract the sources utilized to determine multiple source generic drug pricing, including, if applicable, the maximum allowable cost or any successive pricing formula, of the pharmacy benefits manager;

(2) update that pricing information every seven calendar days; and

(3) establish a reasonable process by which contracted pharmacies have a method to access relevant maximum allowable cost pricing lists and any successive pricing formulas in a timely manner; and

b. Maintain a procedure to eliminate drugs from the list of drugs subject to multiple source generic drug pricing or modify maximum allowable cost rates in a timely fashion.

C.17B:27F-3 Requirements for placing prescription drug on multiple source generic list.

3. a. In order to place a particular prescription drug on a multiple source generic list, the pharmacy benefits manager shall, at a minimum, ensure that:

(1) The drug is listed as therapeutically and pharmaceutically equivalent or “A,” “B,” “NR,” or “NA” rated in the Food and Drug Administration’s most recent version of the Approved Drug Products with Therapeutic Equivalence Evaluations, commonly known as the “Orange Book;” and

(2) The drug is available for purchase without limitations by all pharmacies in the State from national or regional wholesalers and is not obsolete or temporarily unavailable.

b. A pharmacy benefits manager shall not penalize a pharmacist or pharmacy on audit if the pharmacist or pharmacy performs a generic substitution pursuant to the "Prescription Drug Price and Quality Stabilization Act," P.L.1977, c.240 (C.24:6E-1 et seq.).

C.17B:27F-4 Process for appeals, investigation and dispute resolution.

4. All contracts between a pharmacy benefits manager and a contracted pharmacy shall include a process to appeal, investigate, and resolve disputes regarding multiple source generic drug pricing. The contract provision establishing the process shall include the following:

a. The right to appeal shall be limited to 14 calendar days following the initial claim;

b. The appeal shall be investigated and resolved by the pharmacy benefits manager through an internal process within 14 calendar days of receipt of the appeal by the pharmacy benefits manager;

c. A telephone number at which a pharmacy may contact the pharmacy benefits manager and speak with an individual who is involved in the appeals process; and

d. (1) If the appeal is denied, the pharmacy benefits manager shall provide the reason for the denial and identify the national drug code of a drug product that is available for purchase by contracted pharmacies in this State from wholesalers registered pursuant to P.L.1961, c.52 (C.24:6B-1 et seq.) at a price which is equal to or less than the maximum allowable cost for the appealed drug as determined by the pharmacy benefits manager;

(2) If the appeal is approved, the pharmacy benefits manager shall make the price correction, permit the reporting pharmacy to reverse and rebill the appealed claim, and make the price correction effective for all similarly situated pharmacies from the date of the approved appeal.

C.17B:27F-5 Rules, regulations.

5. The Commissioner of Banking and Insurance shall adopt, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations, including any penalty provisions the commissioner deems to be necessary, to effectuate the purposes of this act.

6. This act shall take effect on the 90th day next following enactment and shall apply to all contracts or agreements for pharmacy benefits management services that are executed or renewed on or after the effective date.

Approved January 11, 2016.