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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2022

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A N A C T

RELATING TO BUSINESSES AND PROFESSIONS -- PHARMACIES

Introduced By: Senator Joshua Miller

Date Introduced: January 25, 2022

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 5-19.1 of the General Laws entitled "Pharmacies" is hereby amended
2 by adding thereto the following section:

3 **5-19.1-36. Maximum allowable cost lists.**

4 (a) As used in this section:

5 (1) "Maximum allowable cost list" means a listing of drugs used by a pharmacy benefits
6 manager setting the maximum allowable cost on which reimbursement to a pharmacy or pharmacist
7 may be based;

8 (2) "Pharmaceutical wholesaler" means a person or entity that sells and distributes
9 prescription pharmaceutical products, including without limitation a full line of brand-name,
10 generic, and over-the-counter pharmaceuticals, and that offers regular and private delivery to a
11 pharmacy;

12 (3) "Pharmacist" means a pharmacist in charge as defined in § 5-19.1-2;

13 (4) "Pharmacist services" means products, goods, or services provided as a part of the
14 practice of pharmacy in Rhode Island;

15 (5) "Pharmacy" means that portion or part of a premise where prescriptions are
16 compounded and dispensed as defined in § 5-19.1-2;

17 (6) "Pharmacy acquisition cost" means the amount that a pharmaceutical wholesaler
18 charges for a pharmaceutical product as listed on the pharmacy's billing invoice;

19 (7) "Pharmacy benefits manager" means an entity that administers or manages a pharmacy

1 benefits plan or program;

2 (8) "Pharmacy benefits manager affiliate" means a pharmacy or pharmacist that directly or
3 indirectly, through one or more intermediaries owns or controls, is owned or controlled by, or is
4 under common ownership or control with a pharmacy benefits manager; and

5 (9) "Pharmacy benefits plan or program" means a plan or program that pays for,
6 reimburses, covers the cost of, or otherwise provides for pharmacist services to individuals who
7 reside in or are employed in this state.

8 (b) Before a pharmacy benefits manager places or continues a particular drug on a
9 maximum allowable cost list, the drug shall:

10 (1) Be listed as therapeutically equivalent and pharmaceutically equivalent "A", "AB", or
11 "B" rated in the United States Food and Drug Administration's most recent version of the "Orange
12 Book" or "Green Book" or has an NR or NA rating by Medi-span™, Gold Standard, or a similar
13 rating by a nationally recognized reference;

14 (2) Be available for purchase by each pharmacy in the state from national or regional
15 wholesalers operating in Rhode Island; and

16 (3) Not be obsolete.

17 (c) A pharmacy benefits manager shall:

18 (1) Provide access to its maximum allowable cost list to each pharmacy subject to the
19 maximum allowable cost list;

20 (2) Update its maximum allowable cost list on a timely basis, but in no event longer than
21 seven (7) calendar days from an increase of ten percent (10%) or more in the pharmacy acquisition
22 cost from sixty percent (60%) or more of the pharmaceutical wholesalers doing business in the
23 state, or a change in the methodology on which the maximum allowable cost list is based, or in the
24 value of a variable involved in the methodology;

25 (3) Provide a process for each pharmacy subject to the maximum allowable cost list to
26 receive prompt notification of an update to the maximum allowable cost list; and

27 (4)(i) Provide a reasonable administrative appeal procedure to allow pharmacies to
28 challenge maximum allowable costs and reimbursements made under a maximum allowable cost
29 for a specific drug or drugs as:

30 (A) Not meeting the requirements of this section; or

31 (B) Being below pharmacy acquisition cost.

32 (ii) The reasonable administrative appeal procedure shall include the following terms and
33 conditions:

34 (A) A dedicated telephone number and email address or website for the purpose of

1 submitting administrative appeals:

2 (B) The ability to submit an administrative appeal directly to the pharmacy benefits
3 manager regarding the pharmacy benefits plan or program or through a pharmacy service
4 administrative organization; and

5 (C) No less than seven (7) business days to file an administrative appeal.

6 (d) The pharmacy benefits manager shall respond to the challenge under subsection
7 (c)(4)(i) of this section within seven (7) business days after receipt of the challenge.

8 (e) If a challenge is under subsection (c)(4)(i) of this section, the pharmacy benefits
9 manager shall within seven (7) business days after receipt of the challenge either:

10 (1) If the appeal is upheld:

11 (i) Make the change in the maximum allowable cost;

12 (ii) Permit the challenging pharmacy or pharmacist to reverse and rebill the claim in
13 question;

14 (iii) Provide the national drug code number that the increase or change is based on to the
15 pharmacy or pharmacist; and

16 (iv) Make the change under subsection (e)(1)(i) of this section effective for each similarly
17 situated pharmacy as defined by the payor subject to the maximum allowable cost list.

18 (2) If the appeal is denied, the pharmacy benefits manager shall provide the challenging
19 pharmacy or pharmacist the national drug code number and the name of the national or regional
20 pharmaceutical wholesalers operating in this state that have the drug currently in stock at a price
21 below the maximum allowable cost list; or

22 (3) If the national drug code number provided by the pharmacy benefits manager is not
23 available below the pharmacy acquisition cost from the pharmaceutical wholesaler from whom the
24 pharmacy or pharmacist purchases the majority of prescription drugs for resale, then the pharmacy
25 benefits manager shall adjust the maximum allowable cost list above the challenging pharmacy's
26 pharmacy acquisition cost and permit the pharmacy to reverse and rebill each claim affected by the
27 inability to procure the drug at a cost that is equal to or less than the previously challenged
28 maximum allowable cost.

29 (f)(1) A pharmacy benefits manager shall not reimburse a pharmacy or pharmacist in this
30 state an amount less than the amount that the pharmacy benefits manager reimburses a pharmacy
31 benefits manager affiliate for providing the same pharmacist services.

32 (2) The reimbursement amount shall be calculated on a per unit basis based on the same
33 generic product identifier or generic code number.

34 (g) A pharmacy or pharmacist may decline to provide the pharmacist services to a patient

1 or pharmacy benefits manager if, as a result of a maximum allowable cost list, a pharmacy or
2 pharmacist is to be paid less than the pharmacy acquisition cost of the pharmacy providing
3 pharmacist services.

4 (h) This section shall apply to a pharmacy benefits manager employed by the Rhode Island
5 Medicaid program and its contracted managed care entities.

6 (i) A violation of this section is a deceptive practice under § 6-13.1-2.

7 (j) The department of health may promulgate such rules and regulations as are necessary
8 and proper to effectuate the purpose and for the efficient administration and enforcement of this
9 chapter.

10 SECTION 2. Chapter 27-18 of the General Laws entitled "Accident and Sickness Insurance
11 Policies" is hereby amended by adding thereto the following section:

12 **27-18-33.3. Maximum allowable cost lists.**

13 (a) As used in this section:

14 (1) "Maximum allowable cost list" means a listing of drugs used by a pharmacy benefits
15 manager setting the maximum allowable cost on which reimbursement to a pharmacy or pharmacist
16 may be based;

17 (2) "Pharmaceutical wholesaler" means a person or entity that sells and distributes
18 prescription pharmaceutical products, including without limitation a full line of brand-name,
19 generic, and over-the-counter pharmaceuticals, and that offers regular and private delivery to a
20 pharmacy;

21 (3) "Pharmacist" means a pharmacist in charge as defined in § 5-19.1-2;

22 (4) "Pharmacist services" means products, goods, or services provided as a part of the
23 practice of pharmacy in Rhode Island;

24 (5) "Pharmacy" means that portion or part of a premise where prescriptions are
25 compounded and dispensed as defined in § 5-19.1-2;

26 (6) "Pharmacy acquisition cost" means the amount that a pharmaceutical wholesaler
27 charges for a pharmaceutical product as listed on the pharmacy's billing invoice;

28 (7) "Pharmacy benefits manager" means an entity that administers or manages a pharmacy
29 benefits plan or program;

30 (8) "Pharmacy benefits manager affiliate" means a pharmacy or pharmacist that directly or
31 indirectly, through one or more intermediaries owns or controls, is owned or controlled by, or is
32 under common ownership or control with a pharmacy benefits manager; and

33 (9) "Pharmacy benefits plan or program" means a plan or program that pays for,
34 reimburses, covers the cost of, or otherwise provides for pharmacist services to individuals who

1 reside in or are employed in this state.

2 (b) Before a pharmacy benefits manager places or continues a particular drug on a
3 maximum allowable cost list, the drug shall:

4 (1) Be listed as therapeutically equivalent and pharmaceutically equivalent "A", "AB", or
5 "B" rated in the United States Food and Drug Administration's most recent version of the "Orange
6 Book" or "Green Book" or has an NR or NA rating by Medi-span™, Gold Standard, or a similar
7 rating by a nationally recognized reference;

8 (2) Be available for purchase by each pharmacy in the state from national or regional
9 wholesalers operating in Rhode Island; and

10 (3) Not be obsolete.

11 (c) A pharmacy benefits manager shall:

12 (1) Provide access to its maximum allowable cost list to each pharmacy subject to the
13 maximum allowable cost list;

14 (2) Update its maximum allowable cost list on a timely basis, but in no event longer than
15 seven (7) calendar days from an increase of ten percent (10%) or more in the pharmacy acquisition
16 cost from sixty percent (60%) or more of the pharmaceutical wholesalers doing business in the
17 state, or a change in the methodology on which the maximum allowable cost list is based, or in the
18 value of a variable involved in the methodology;

19 (3) Provide a process for each pharmacy subject to the maximum allowable cost list to
20 receive prompt notification of an update to the maximum allowable cost list; and

21 (4)(i) Provide a reasonable administrative appeal procedure to allow pharmacies to
22 challenge maximum allowable costs and reimbursements made under a maximum allowable cost
23 for a specific drug or drugs as:

24 (A) Not meeting the requirements of this section; or

25 (B) Being below pharmacy acquisition cost.

26 (ii) The reasonable administrative appeal procedure shall include the following terms and
27 conditions:

28 (A) A dedicated telephone number and email address or website for the purpose of
29 submitting administrative appeals;

30 (B) The ability to submit an administrative appeal directly to the pharmacy benefits
31 manager regarding the pharmacy benefits plan or program or through a pharmacy service
32 administrative organization; and

33 (C) No less than seven (7) business days to file an administrative appeal.

34 (d) The pharmacy benefits manager shall respond to the challenge under subsection

1 (c)(4)(i) of this section within seven (7) business days after receipt of the challenge.

2 (e) If a challenge is under subsection (c)(4)(i) of this section, the pharmacy benefits
3 manager shall within seven (7) business days after receipt of the challenge either:

4 (1) If the appeal is upheld:

5 (i) Make the change in the maximum allowable cost;

6 (ii) Permit the challenging pharmacy or pharmacist to reverse and rebill the claim in
7 question;

8 (iii) Provide the national drug code number that the increase or change is based on to the
9 pharmacy or pharmacist; and

10 (iv) Make the change under subsection (e)(1)(i) of this section effective for each similarly
11 situated pharmacy as defined by the payor subject to the maximum allowable cost list.

12 (2) If the appeal is denied, the pharmacy benefits manager shall provide the challenging
13 pharmacy or pharmacist the national drug code number and the name of the national or regional
14 pharmaceutical wholesalers operating in this state that have the drug currently in stock at a price
15 below the maximum allowable cost list; or

16 (3) If the national drug code number provided by the pharmacy benefits manager is not
17 available below the pharmacy acquisition cost from the pharmaceutical wholesaler from whom the
18 pharmacy or pharmacist purchases the majority of prescription drugs for resale, then the pharmacy
19 benefits manager shall adjust the maximum allowable cost list above the challenging pharmacy's
20 pharmacy acquisition cost and permit the pharmacy to reverse and rebill each claim affected by the
21 inability to procure the drug at a cost that is equal to or less than the previously challenged
22 maximum allowable cost.

23 (f)(1) A pharmacy benefits manager shall not reimburse a pharmacy or pharmacist in this
24 state an amount less than the amount that the pharmacy benefits manager reimburses a pharmacy
25 benefits manager affiliate for providing the same pharmacist services.

26 (2) The reimbursement amount shall be calculated on a per unit basis based on the same
27 generic product identifier or generic code number.

28 (g) A pharmacy or pharmacist may decline to provide the pharmacist services to a patient
29 or pharmacy benefits manager if, as a result of a maximum allowable cost list, a pharmacy or
30 pharmacist is to be paid less than the pharmacy acquisition cost of the pharmacy providing
31 pharmacist services.

32 (h) This section shall apply to a pharmacy benefits manager employed by the Rhode Island
33 Medicaid program and its contracted managed care entities.

34 (i) A violation of this section is a deceptive practice under § 6-13.1-2.

1 (j) The department of health may promulgate such rules and regulations as are necessary
2 and proper to effectuate the purpose and for the efficient administration and enforcement of this
3 chapter.

4 SECTION 3. Chapter 27-19 of the General Laws entitled "Nonprofit Hospital Service
5 Corporations" is hereby amended by adding thereto the following section:

6 **27-19-26.3. Maximum allowable cost lists.**

7 (a) As used in this section:

8 (1) "Maximum allowable cost list" means a listing of drugs used by a pharmacy benefits
9 manager setting the maximum allowable cost on which reimbursement to a pharmacy or pharmacist
10 may be based;

11 (2) "Pharmaceutical wholesaler" means a person or entity that sells and distributes
12 prescription pharmaceutical products, including without limitation a full line of brand-name,
13 generic, and over-the-counter pharmaceuticals, and that offers regular and private delivery to a
14 pharmacy;

15 (3) "Pharmacist" means a pharmacist in charge as defined in § 5-19.1-2;

16 (4) "Pharmacist services" means products, goods, or services provided as a part of the
17 practice of pharmacy in Rhode Island;

18 (5) "Pharmacy" means that portion or part of a premise where prescriptions are
19 compounded and dispensed as defined in § 5-19.1-2;

20 (6) "Pharmacy acquisition cost" means the amount that a pharmaceutical wholesaler
21 charges for a pharmaceutical product as listed on the pharmacy's billing invoice;

22 (7) "Pharmacy benefits manager" means an entity that administers or manages a pharmacy
23 benefits plan or program;

24 (8) "Pharmacy benefits manager affiliate" means a pharmacy or pharmacist that directly or
25 indirectly, through one or more intermediaries owns or controls, is owned or controlled by, or is
26 under common ownership or control with a pharmacy benefits manager; and

27 (9) "Pharmacy benefits plan or program" means a plan or program that pays for,
28 reimburses, covers the cost of, or otherwise provides for pharmacist services to individuals who
29 reside in or are employed in this state.

30 (b) Before a pharmacy benefits manager places or continues a particular drug on a
31 maximum allowable cost list, the drug shall:

32 (1) Be listed as therapeutically equivalent and pharmaceutically equivalent "A", "AB", or
33 "B" rated in the United States Food and Drug Administration's most recent version of the "Orange
34 Book" or "Green Book" or has an NR or NA rating by Medi-span™, Gold Standard, or a similar

1 rating by a nationally recognized reference;

2 (2) Be available for purchase by each pharmacy in the state from national or regional

3 wholesalers operating in Rhode Island; and

4 (3) Not be obsolete.

5 (c) A pharmacy benefits manager shall:

6 (1) Provide access to its maximum allowable cost list to each pharmacy subject to the

7 maximum allowable cost list;

8 (2) Update its maximum allowable cost list on a timely basis, but in no event longer than

9 seven (7) calendar days from an increase of ten percent (10%) or more in the pharmacy acquisition

10 cost from sixty percent (60%) or more of the pharmaceutical wholesalers doing business in the

11 state, or a change in the methodology on which the maximum allowable cost list is based, or in the

12 value of a variable involved in the methodology;

13 (3) Provide a process for each pharmacy subject to the maximum allowable cost list to

14 receive prompt notification of an update to the maximum allowable cost list; and

15 (4)(i) Provide a reasonable administrative appeal procedure to allow pharmacies to

16 challenge maximum allowable costs and reimbursements made under a maximum allowable cost

17 for a specific drug or drugs as:

18 (A) Not meeting the requirements of this section; or

19 (B) Being below pharmacy acquisition cost.

20 (ii) The reasonable administrative appeal procedure shall include the following terms and

21 conditions:

22 (A) A dedicated telephone number and email address or website for the purpose of

23 submitting administrative appeals;

24 (B) The ability to submit an administrative appeal directly to the pharmacy benefits

25 manager regarding the pharmacy benefits plan or program or through a pharmacy service

26 administrative organization; and

27 (C) No less than seven (7) business days to file an administrative appeal.

28 (d) The pharmacy benefits manager shall respond to the challenge under subsection

29 (c)(4)(i) of this section within seven (7) business days after receipt of the challenge.

30 (e) If a challenge is under subsection (c)(4)(i) of this section, the pharmacy benefits

31 manager shall within seven (7) business days after receipt of the challenge either:

32 (1) If the appeal is upheld:

33 (i) Make the change in the maximum allowable cost;

34 (ii) Permit the challenging pharmacy or pharmacist to reverse and rebill the claim in

1 question:

2 (iii) Provide the national drug code number that the increase or change is based on to the
3 pharmacy or pharmacist; and

4 (iv) Make the change under subsection (e)(1)(i) of this section effective for each similarly
5 situated pharmacy as defined by the payor subject to the maximum allowable cost list.

6 (2) If the appeal is denied, the pharmacy benefits manager shall provide the challenging
7 pharmacy or pharmacist the national drug code number and the name of the national or regional
8 pharmaceutical wholesalers operating in this state that have the drug currently in stock at a price
9 below the maximum allowable cost list; or

10 (3) If the national drug code number provided by the pharmacy benefits manager is not
11 available below the pharmacy acquisition cost from the pharmaceutical wholesaler from whom the
12 pharmacy or pharmacist purchases the majority of prescription drugs for resale, then the pharmacy
13 benefits manager shall adjust the maximum allowable cost list above the challenging pharmacy's
14 pharmacy acquisition cost and permit the pharmacy to reverse and rebill each claim affected by the
15 inability to procure the drug at a cost that is equal to or less than the previously challenged
16 maximum allowable cost.

17 (f)(1) A pharmacy benefits manager shall not reimburse a pharmacy or pharmacist in this
18 state an amount less than the amount that the pharmacy benefits manager reimburses a pharmacy
19 benefits manager affiliate for providing the same pharmacist services.

20 (2) The reimbursement amount shall be calculated on a per unit basis based on the same
21 generic product identifier or generic code number.

22 (g) A pharmacy or pharmacist may decline to provide the pharmacist services to a patient
23 or pharmacy benefits manager if, as a result of a maximum allowable cost list, a pharmacy or
24 pharmacist is to be paid less than the pharmacy acquisition cost of the pharmacy providing
25 pharmacist services.

26 (h) This section shall apply to a pharmacy benefits manager employed by the Rhode Island
27 Medicaid program and its contracted managed care entities.

28 (i) A violation of this section is a deceptive practice under § 6-13.1-2.

29 (j) The department of health may promulgate such rules and regulations as are necessary
30 and proper to effectuate the purpose and for the efficient administration and enforcement of this
31 chapter.

32 SECTION 4. Chapter 27-20 of the General Laws entitled "Nonprofit Medical Services
33 Corporation" is hereby amended by adding thereto the following section:

34 **27-20-23.3. Maximum allowable cost lists.**

1 (a) As used in this section:

2 (1) "Maximum allowable cost list" means a listing of drugs used by a pharmacy benefits
3 manager setting the maximum allowable cost on which reimbursement to a pharmacy or pharmacist
4 may be based;

5 (2) "Pharmaceutical wholesaler" means a person or entity that sells and distributes
6 prescription pharmaceutical products, including without limitation a full line of brand-name,
7 generic, and over-the-counter pharmaceuticals, and that offers regular and private delivery to a
8 pharmacy;

9 (3) "Pharmacist" means a pharmacist in charge as defined in § 5-19.1-2;

10 (4) "Pharmacist services" means products, goods, or services provided as a part of the
11 practice of pharmacy in Rhode Island;

12 (5) "Pharmacy" means that portion or part of a premise where prescriptions are
13 compounded and dispensed as defined in § 5-19.1-2;

14 (6) "Pharmacy acquisition cost" means the amount that a pharmaceutical wholesaler
15 charges for a pharmaceutical product as listed on the pharmacy's billing invoice;

16 (7) "Pharmacy benefits manager" means an entity that administers or manages a pharmacy
17 benefits plan or program;

18 (8) "Pharmacy benefits manager affiliate" means a pharmacy or pharmacist that directly or
19 indirectly, through one or more intermediaries owns or controls, is owned or controlled by, or is
20 under common ownership or control with a pharmacy benefits manager; and

21 (9) "Pharmacy benefits plan or program" means a plan or program that pays for,
22 reimburses, covers the cost of, or otherwise provides for pharmacist services to individuals who
23 reside in or are employed in this state.

24 (b) Before a pharmacy benefits manager places or continues a particular drug on a
25 maximum allowable cost list, the drug shall:

26 (1) Be listed as therapeutically equivalent and pharmaceutically equivalent "A", "AB", or
27 "B" rated in the United States Food and Drug Administration's most recent version of the "Orange
28 Book" or "Green Book" or has an NR or NA rating by Medi-span™, Gold Standard, or a similar
29 rating by a nationally recognized reference;

30 (2) Be available for purchase by each pharmacy in the state from national or regional
31 wholesalers operating in Rhode Island; and

32 (3) Not be obsolete.

33 (c) A pharmacy benefits manager shall:

34 (1) Provide access to its maximum allowable cost list to each pharmacy subject to the

1 maximum allowable cost list;

2 (2) Update its maximum allowable cost list on a timely basis, but in no event longer than
3 seven (7) calendar days from an increase of ten percent (10%) or more in the pharmacy acquisition
4 cost from sixty percent (60%) or more of the pharmaceutical wholesalers doing business in the
5 state, or a change in the methodology on which the maximum allowable cost list is based, or in the
6 value of a variable involved in the methodology;

7 (3) Provide a process for each pharmacy subject to the maximum allowable cost list to
8 receive prompt notification of an update to the maximum allowable cost list; and

9 (4)(i) Provide a reasonable administrative appeal procedure to allow pharmacies to
10 challenge maximum allowable costs and reimbursements made under a maximum allowable cost
11 for a specific drug or drugs as:

12 (A) Not meeting the requirements of this section; or

13 (B) Being below pharmacy acquisition cost.

14 (ii) The reasonable administrative appeal procedure shall include the following terms and
15 conditions:

16 (A) A dedicated telephone number and email address or website for the purpose of
17 submitting administrative appeals;

18 (B) The ability to submit an administrative appeal directly to the pharmacy benefits
19 manager regarding the pharmacy benefits plan or program or through a pharmacy service
20 administrative organization; and

21 (C) No less than seven (7) business days to file an administrative appeal.

22 (d) The pharmacy benefits manager shall respond to the challenge under subsection
23 (c)(4)(i) of this section within seven (7) business days after receipt of the challenge.

24 (e) If a challenge is under subsection (c)(4)(i) of this section, the pharmacy benefits
25 manager shall within seven (7) business days after receipt of the challenge either:

26 (1) If the appeal is upheld:

27 (i) Make the change in the maximum allowable cost;

28 (ii) Permit the challenging pharmacy or pharmacist to reverse and rebill the claim in
29 question;

30 (iii) Provide the national drug code number that the increase or change is based on to the
31 pharmacy or pharmacist; and

32 (iv) Make the change under subsection (e)(1)(i) of this section effective for each similarly
33 situated pharmacy as defined by the payor subject to the maximum allowable cost list.

34 (2) If the appeal is denied, the pharmacy benefits manager shall provide the challenging

1 pharmacy or pharmacist the national drug code number and the name of the national or regional
2 pharmaceutical wholesalers operating in this state that have the drug currently in stock at a price
3 below the maximum allowable cost list; or

4 (3) If the national drug code number provided by the pharmacy benefits manager is not
5 available below the pharmacy acquisition cost from the pharmaceutical wholesaler from whom the
6 pharmacy or pharmacist purchases the majority of prescription drugs for resale, then the pharmacy
7 benefits manager shall adjust the maximum allowable cost list above the challenging pharmacy's
8 pharmacy acquisition cost and permit the pharmacy to reverse and rebill each claim affected by the
9 inability to procure the drug at a cost that is equal to or less than the previously challenged
10 maximum allowable cost.

11 (f)(1) A pharmacy benefits manager shall not reimburse a pharmacy or pharmacist in this
12 state an amount less than the amount that the pharmacy benefits manager reimburses a pharmacy
13 benefits manager affiliate for providing the same pharmacist services.

14 (2) The reimbursement amount shall be calculated on a per unit basis based on the same
15 generic product identifier or generic code number.

16 (g) A pharmacy or pharmacist may decline to provide the pharmacist services to a patient
17 or pharmacy benefits manager if, as a result of a maximum allowable cost list, a pharmacy or
18 pharmacist is to be paid less than the pharmacy acquisition cost of the pharmacy providing
19 pharmacist services.

20 (h) This section shall apply to a pharmacy benefits manager employed by the Rhode Island
21 Medicaid program and its contracted managed care entities.

22 (i) A violation of this section is a deceptive practice under § 6-13.1-2.

23 (j) The department of health may promulgate such rules and regulations as are necessary
24 and proper to effectuate the purpose and for the efficient administration and enforcement of this
25 chapter.

26 SECTION 5. Chapter 27-20.1 of the General Laws entitled "Nonprofit Dental Service
27 Corporations" is hereby amended by adding thereto the following section:

28 **27-20.1-15.2. Maximum allowable cost limits.**

29 (a) As used in this section:

30 (1) "Maximum allowable cost list" means a listing of drugs used by a pharmacy benefits
31 manager setting the maximum allowable cost on which reimbursement to a pharmacy or pharmacist
32 may be based;

33 (2) "Pharmaceutical wholesaler" means a person or entity that sells and distributes
34 prescription pharmaceutical products, including without limitation a full line of brand-name,

1 generic, and over-the-counter pharmaceuticals, and that offers regular and private delivery to a
2 pharmacy;

3 (3) "Pharmacist" means a pharmacist in charge as defined in § 5-19.1-2;

4 (4) "Pharmacist services" means products, goods, or services provided as a part of the
5 practice of pharmacy in Rhode Island;

6 (5) "Pharmacy" means that portion or part of a premise where prescriptions are
7 compounded and dispensed as defined in § 5-19.1-2;

8 (6) "Pharmacy acquisition cost" means the amount that a pharmaceutical wholesaler
9 charges for a pharmaceutical product as listed on the pharmacy's billing invoice;

10 (7) "Pharmacy benefits manager" means an entity that administers or manages a pharmacy
11 benefits plan or program;

12 (8) "Pharmacy benefits manager affiliate" means a pharmacy or pharmacist that directly or
13 indirectly, through one or more intermediaries owns or controls, is owned or controlled by, or is
14 under common ownership or control with a pharmacy benefits manager; and

15 (9) "Pharmacy benefits plan or program" means a plan or program that pays for,
16 reimburses, covers the cost of, or otherwise provides for pharmacist services to individuals who
17 reside in or are employed in this state.

18 (b) Before a pharmacy benefits manager places or continues a particular drug on a
19 maximum allowable cost list, the drug shall:

20 (1) Be listed as therapeutically equivalent and pharmaceutically equivalent "A", "AB", or
21 "B" rated in the United States Food and Drug Administration's most recent version of the "Orange
22 Book" or "Green Book" or has an NR or NA rating by Medi-span™, Gold Standard, or a similar
23 rating by a nationally recognized reference;

24 (2) Be available for purchase by each pharmacy in the state from national or regional
25 wholesalers operating in Rhode Island; and

26 (3) Not be obsolete.

27 (c) A pharmacy benefits manager shall:

28 (1) Provide access to its maximum allowable cost list to each pharmacy subject to the
29 maximum allowable cost list;

30 (2) Update its maximum allowable cost list on a timely basis, but in no event longer than
31 seven (7) calendar days from an increase of ten percent (10%) or more in the pharmacy acquisition
32 cost from sixty percent (60%) or more of the pharmaceutical wholesalers doing business in the
33 state, or a change in the methodology on which the maximum allowable cost list is based, or in the
34 value of a variable involved in the methodology;

1 (3) Provide a process for each pharmacy subject to the maximum allowable cost list to
2 receive prompt notification of an update to the maximum allowable cost list; and

3 (4)(i) Provide a reasonable administrative appeal procedure to allow pharmacies to
4 challenge maximum allowable costs and reimbursements made under a maximum allowable cost
5 for a specific drug or drugs as:

6 (A) Not meeting the requirements of this section; or
7 (B) Being below pharmacy acquisition cost.

8 (ii) The reasonable administrative appeal procedure shall include the following terms and
9 conditions:

10 (A) A dedicated telephone number and email address or website for the purpose of
11 submitting administrative appeals;

12 (B) The ability to submit an administrative appeal directly to the pharmacy benefits
13 manager regarding the pharmacy benefits plan or program or through a pharmacy service
14 administrative organization; and

15 (C) No less than seven (7) business days to file an administrative appeal.

16 (d) The pharmacy benefits manager shall respond to the challenge under subsection
17 (c)(4)(i) of this section within seven (7) business days after receipt of the challenge.

18 (e) If a challenge is under subsection (c)(4)(i) of this section, the pharmacy benefits
19 manager shall within seven (7) business days after receipt of the challenge either:

20 (1) If the appeal is upheld:

21 (i) Make the change in the maximum allowable cost;
22 (ii) Permit the challenging pharmacy or pharmacist to reverse and rebill the claim in
23 question;

24 (iii) Provide the national drug code number that the increase or change is based on to the
25 pharmacy or pharmacist; and

26 (iv) Make the change under subsection (e)(1)(i) of this section effective for each similarly
27 situated pharmacy as defined by the payor subject to the maximum allowable cost list.

28 (2) If the appeal is denied, the pharmacy benefits manager shall provide the challenging
29 pharmacy or pharmacist the national drug code number and the name of the national or regional
30 pharmaceutical wholesalers operating in this state that have the drug currently in stock at a price
31 below the maximum allowable cost list; or

32 (3) If the national drug code number provided by the pharmacy benefits manager is not
33 available below the pharmacy acquisition cost from the pharmaceutical wholesaler from whom the
34 pharmacy or pharmacist purchases the majority of prescription drugs for resale, then the pharmacy

1 benefits manager shall adjust the maximum allowable cost list above the challenging pharmacy's
2 pharmacy acquisition cost and permit the pharmacy to reverse and rebill each claim affected by the
3 inability to procure the drug at a cost that is equal to or less than the previously challenged
4 maximum allowable cost.

5 (f)(1) A pharmacy benefits manager shall not reimburse a pharmacy or pharmacist in this
6 state an amount less than the amount that the pharmacy benefits manager reimburses a pharmacy
7 benefits manager affiliate for providing the same pharmacist services.

8 (2) The reimbursement amount shall be calculated on a per unit basis based on the same
9 generic product identifier or generic code number.

10 (g) A pharmacy or pharmacist may decline to provide the pharmacist services to a patient
11 or pharmacy benefits manager if, as a result of a maximum allowable cost list, a pharmacy or
12 pharmacist is to be paid less than the pharmacy acquisition cost of the pharmacy providing
13 pharmacist services.

14 (h) This section shall apply to a pharmacy benefits manager employed by the Rhode Island
15 Medicaid program and its contracted managed care entities.

16 (i) A violation of this section is a deceptive practice under § 6-13.1-2.

17 (j) The department of health may promulgate such rules and regulations as are necessary
18 and proper to effectuate the purpose and for the efficient administration and enforcement of this
19 chapter.

20 SECTION 6. Chapter 27-41 of the General Laws entitled "Health Maintenance
21 Organizations" is hereby amended by adding thereto the following section:

22 **27-41-38.3. Maximum allowable cost limits.**

23 (a) As used in this section:

24 (1) "Maximum allowable cost list" means a listing of drugs used by a pharmacy benefits
25 manager setting the maximum allowable cost on which reimbursement to a pharmacy or pharmacist
26 may be based;

27 (2) "Pharmaceutical wholesaler" means a person or entity that sells and distributes
28 prescription pharmaceutical products, including without limitation a full line of brand-name,
29 generic, and over-the-counter pharmaceuticals, and that offers regular and private delivery to a
30 pharmacy;

31 (3) "Pharmacist" means a pharmacist in charge as defined in § 5-19.1-2;

32 (4) "Pharmacist services" means products, goods, or services provided as a part of the
33 practice of pharmacy in Rhode Island;

34 (5) "Pharmacy" means that portion or part of a premise where prescriptions are

1 compounded and dispensed as defined in § 5-19.1-2;

2 (6) "Pharmacy acquisition cost" means the amount that a pharmaceutical wholesaler
3 charges for a pharmaceutical product as listed on the pharmacy's billing invoice;

4 (7) "Pharmacy benefits manager" means an entity that administers or manages a pharmacy
5 benefits plan or program;

6 (8) "Pharmacy benefits manager affiliate" means a pharmacy or pharmacist that directly or
7 indirectly, through one or more intermediaries owns or controls, is owned or controlled by, or is
8 under common ownership or control with a pharmacy benefits manager; and

9 (9) "Pharmacy benefits plan or program" means a plan or program that pays for,
10 reimburses, covers the cost of, or otherwise provides for pharmacist services to individuals who
11 reside in or are employed in this state.

12 (b) Before a pharmacy benefits manager places or continues a particular drug on a
13 maximum allowable cost list, the drug shall:

14 (1) Be listed as therapeutically equivalent and pharmaceutically equivalent "A", "AB", or
15 "B" rated in the United States Food and Drug Administration's most recent version of the "Orange
16 Book" or "Green Book" or has an NR or NA rating by Medi-span™, Gold Standard, or a similar
17 rating by a nationally recognized reference;

18 (2) Be available for purchase by each pharmacy in the state from national or regional
19 wholesalers operating in Rhode Island; and

20 (3) Not be obsolete.

21 (c) A pharmacy benefits manager shall:

22 (1) Provide access to its maximum allowable cost list to each pharmacy subject to the
23 maximum allowable cost list;

24 (2) Update its maximum allowable cost list on a timely basis, but in no event longer than
25 seven (7) calendar days from an increase of ten percent (10%) or more in the pharmacy acquisition
26 cost from sixty percent (60%) or more of the pharmaceutical wholesalers doing business in the
27 state, or a change in the methodology on which the maximum allowable cost list is based, or in the
28 value of a variable involved in the methodology;

29 (3) Provide a process for each pharmacy subject to the maximum allowable cost list to
30 receive prompt notification of an update to the maximum allowable cost list; and

31 (4)(i) Provide a reasonable administrative appeal procedure to allow pharmacies to
32 challenge maximum allowable costs and reimbursements made under a maximum allowable cost
33 for a specific drug or drugs as:

34 (A) Not meeting the requirements of this section; or

1 (B) Being below pharmacy acquisition cost.

2 (ii) The reasonable administrative appeal procedure shall include the following terms and
3 conditions:

4 (A) A dedicated telephone number and email address or website for the purpose of
5 submitting administrative appeals;

6 (B) The ability to submit an administrative appeal directly to the pharmacy benefits
7 manager regarding the pharmacy benefits plan or program or through a pharmacy service
8 administrative organization; and

9 (C) No less than seven (7) business days to file an administrative appeal.

10 (d) The pharmacy benefits manager shall respond to the challenge under subsection
11 (c)(4)(i) of this section within seven (7) business days after receipt of the challenge.

12 (e) If a challenge is under subsection (c)(4)(i) of this section, the pharmacy benefits
13 manager shall within seven (7) business days after receipt of the challenge either:

14 (1) If the appeal is upheld:

15 (i) Make the change in the maximum allowable cost;

16 (ii) Permit the challenging pharmacy or pharmacist to reverse and rebill the claim in
17 question;

18 (iii) Provide the national drug code number that the increase or change is based on to the
19 pharmacy or pharmacist; and

20 (iv) Make the change under subsection (e)(1)(i) of this section effective for each similarly
21 situated pharmacy as defined by the payor subject to the maximum allowable cost list.

22 (2) If the appeal is denied, the pharmacy benefits manager shall provide the challenging
23 pharmacy or pharmacist the national drug code number and the name of the national or regional
24 pharmaceutical wholesalers operating in this state that have the drug currently in stock at a price
25 below the maximum allowable cost list; or

26 (3) If the national drug code number provided by the pharmacy benefits manager is not
27 available below the pharmacy acquisition cost from the pharmaceutical wholesaler from whom the
28 pharmacy or pharmacist purchases the majority of prescription drugs for resale, then the pharmacy
29 benefits manager shall adjust the maximum allowable cost list above the challenging pharmacy's
30 pharmacy acquisition cost and permit the pharmacy to reverse and rebill each claim affected by the
31 inability to procure the drug at a cost that is equal to or less than the previously challenged
32 maximum allowable cost.

33 (f)(1) A pharmacy benefits manager shall not reimburse a pharmacy or pharmacist in this
34 state an amount less than the amount that the pharmacy benefits manager reimburses a pharmacy

1 benefits manager affiliate for providing the same pharmacist services.

2 (2) The reimbursement amount shall be calculated on a per unit basis based on the same
3 generic product identifier or generic code number.

4 (g) A pharmacy or pharmacist may decline to provide the pharmacist services to a patient
5 or pharmacy benefits manager if, as a result of a maximum allowable cost list, a pharmacy or
6 pharmacist is to be paid less than the pharmacy acquisition cost of the pharmacy providing
7 pharmacist services.

8 (h) This section shall apply to a pharmacy benefits manager employed by the Rhode Island
9 Medicaid program and its contracted managed care entities.

10 (i) A violation of this section is a deceptive practice under § 6-13.1-2.

11 (j) The department of health may promulgate such rules and regulations as are necessary
12 and proper to effectuate the purpose and for the efficient administration and enforcement of this
13 chapter.

14 SECTION 7. Section 27-18-33.2 of the General Laws in Chapter 27-18 entitled "Accident
15 and Sickness Insurance Policies" is hereby repealed.

16 ~~**27-18-33.2. Pharmacy benefit manager requirements with respect to multi-source**~~
17 ~~**generic pricing updates to pharmacies.**~~

18 (a) Definitions. As used herein:

19 ~~(1) "Maximum allowable cost" or "MAC" means the maximum amount that a pharmacy~~
20 ~~benefits manager will reimburse toward the cost of a drug;~~

21 ~~(2) "Nationally available" means that there is an adequate supply available from regional~~
22 ~~or national wholesalers and that the product is not obsolete or temporarily unavailable;~~

23 ~~(3) "Pharmacy benefit manager" or "PBM" means an entity doing business in this state that~~
24 ~~contracts to administer or manage prescription drug benefits on behalf of any carrier that provides~~
25 ~~prescription drug benefits to residents of this state.~~

26 ~~(b) Upon each contract execution or renewal, a PBM shall, with respect to contracts~~
27 ~~between a PBM and a pharmacy or, alternatively, a PBM and a pharmacy's contracting~~
28 ~~representative or agent, such as a pharmacy services administrative organization (PSAO):~~

29 ~~(1) Include in such contracts a requirement to update pricing information on the MAC list~~
30 ~~at least every ten (10) calendar days;~~

31 ~~(2) Maintain a procedure to eliminate products from the list of drugs subject to such pricing,~~
32 ~~or modify MAC rates when such drugs do not meet the standards and requirements of this section~~
33 ~~as set forth, in order to remain consistent with pricing changes in the marketplace.~~

34 ~~(c) PBM requirements for inclusion of products on a list of drugs subject to MAC pricing.~~

1 ~~In order to place a particular prescription drug on a MAC list, the PBM must, at a minimum, ensure~~
2 ~~that:~~

3 ~~(1) The product must be listed as "A," "AB," or "B" rated in the most recent version of the~~
4 ~~United States Food and Drug Administration's approved drug products with therapeutic~~
5 ~~equivalence evaluations, also known as the orange book, or has an "NR" or "NA" rating or similar~~
6 ~~rating by a nationally recognized reference; and~~

7 ~~(2) The product must be nationally available.~~

8 ~~(d) Standards for pharmacy appeals. All contracts between a PBM, a contracted pharmacy~~
9 ~~or, alternatively, a PBM and a pharmacy's contracting representative or agent, such as a pharmacy~~
10 ~~services administrative organization (PSAO), shall include a process to appeal, investigate, and~~
11 ~~resolve disputes regarding MAC pricing. The process shall include the following provisions:~~

12 ~~(1) The right to appeal shall be limited to fifteen (15) days following the initial claim;~~

13 ~~(2) The appeal shall be investigated and resolved within fifteen (15) days following receipt~~
14 ~~of the appeal;~~

15 ~~(3) A process by which a network pharmacy may contact the PBM regarding the appeals~~
16 ~~process;~~

17 ~~(4) If the appeal is denied, the PBM shall provide the reason for the denial and identify the~~
18 ~~national drug code of a drug product that is available in adequate supply;~~

19 ~~(5) If an appeal is upheld, the PBM shall make an adjustment to the list effective no later~~
20 ~~than one day after the date of determination; and~~

21 ~~(6) The department of health shall exercise oversight and enforcement of this section.~~

22 SECTION 8. Section 27-19-26.2 of the General Laws in Chapter 27-19 entitled "Nonprofit
23 Hospital Service Corporations" is hereby repealed.

24 ~~**27-19-26.2. Pharmacy benefit manager requirements with respect to multi-source**~~
25 ~~**generic pricing updates to pharmacies.**~~

26 ~~(a) Definitions. As used herein:~~

27 ~~(1) "Maximum allowable cost" or "MAC" means the maximum amount that a pharmacy~~
28 ~~benefits manager will reimburse toward the cost of a drug;~~

29 ~~(2) "Nationally available" means that there is an adequate supply available from regional~~
30 ~~or national wholesalers and that the product is not obsolete or temporarily unavailable;~~

31 ~~(3) "Pharmacy benefit manager" or "PBM" means an entity doing business in this state that~~
32 ~~contracts to administer or manage prescription drug benefits on behalf of any carrier that provides~~
33 ~~prescription drug benefits to residents of this state.~~

34 ~~(b) Upon each contract execution or renewal, a PBM shall, with respect to contracts~~

~~1 between a PBM and a pharmacy or, alternatively, a PBM and a pharmacy's contracting
2 representative or agent, such as a pharmacy services administrative organization (PSAO):~~

~~3 (1) Include in such contracts a requirement to update pricing information on the MAC list
4 at least every ten (10) calendar days;~~

~~5 (2) Maintain a procedure to eliminate products from the list of drugs subject to such pricing,
6 or modify MAC rates when such drugs do not meet the standards and requirements of this section
7 as set forth in order to remain consistent with pricing changes in the marketplace.~~

~~8 (c) PBM requirements for inclusion of products on a list of drugs subject to MAC pricing.
9 In order to place a particular prescription drug on a MAC list, the PBM must, at a minimum, ensure
10 that:~~

~~11 (1) The product must be listed as "A," "AB," or "B" rated in the most recent version of the
12 United States Food and Drug Administration's approved drug products with therapeutic
13 equivalence evaluations, also known as the orange book, or has an "NR" or "NA" rating or similar
14 rating by a nationally recognized reference; and~~

~~15 (2) The product must be nationally available.~~

~~16 (d) Standards for pharmacy appeals. All contracts between a PBM, a contracted pharmacy
17 or, alternatively, a PBM and a pharmacy's contracting representative or agent, such as a pharmacy
18 services administrative organization (PSAO), shall include a process to appeal, investigate, and
19 resolve disputes regarding MAC pricing. The process shall include the following provisions:~~

~~20 (1) The right to appeal shall be limited to fifteen (15) days following the initial claim;~~

~~21 (2) The appeal shall be investigated and resolved within fifteen (15) days following receipt
22 of the appeal;~~

~~23 (3) A process by which a network pharmacy may contact the PBM regarding the appeals
24 process;~~

~~25 (4) If the appeal is denied, the PBM shall provide the reason for the denial and identify the
26 national drug code of a drug product that is available in adequate supply;~~

~~27 (5) If an appeal is upheld, the PBM shall make an adjustment to the list effective no later
28 than one day after the date of determination; and~~

~~29 (6) The department of health shall exercise oversight and enforcement of this section.~~

30 SECTION 9. Section 27-20-23.2 of the General Laws in Chapter 27-20 entitled "Nonprofit
31 Medical Service Corporations" is hereby repealed.

32 ~~27-20-23.2. Pharmacy benefit manager requirements with respect to multi-source~~
33 ~~generic pricing updates to pharmacies.~~

34 (a) Definitions. As used herein:

1 ~~(1) "Maximum allowable cost" or "MAC" means the maximum amount that a pharmacy~~
2 ~~benefits manager will reimburse toward the cost of a drug;~~

3 ~~(2) "Nationally available" means that there is an adequate supply available from regional~~
4 ~~or national wholesalers and that the product is not obsolete or temporarily unavailable;~~

5 ~~(3) "Pharmacy benefit manager" or "PBM" means an entity doing business in this state that~~
6 ~~contracts to administer or manage prescription drug benefits on behalf of any carrier that provides~~
7 ~~prescription drug benefits to residents of this state.~~

8 ~~(b) Upon each contract execution or renewal, a PBM shall, with respect to contracts~~
9 ~~between a PBM and a pharmacy or, alternatively, a PBM and a pharmacy's contracting~~
10 ~~representative or agent such as a pharmacy services administrative organization (PSAO):~~

11 ~~(1) Include in such contracts a requirement to update pricing information on the MAC list~~
12 ~~at least every ten (10) calendar days;~~

13 ~~(2) Maintain a procedure to eliminate products from the list of drugs subject to such pricing,~~
14 ~~or modify MAC rates when such drugs do not meet the standards and requirements of this section~~
15 ~~as set forth in order to remain consistent with pricing changes in the marketplace.~~

16 ~~(c) PBM requirements for inclusion of products on a list of drugs subject to MAC pricing.~~
17 ~~In order to place a particular prescription drug on a MAC list, the PBM must, at a minimum, ensure~~
18 ~~that:~~

19 ~~(1) The product must be listed as "A," "AB," or "B" rated in the most recent version of the~~
20 ~~United States Food and Drug Administration's approved drug products with therapeutic~~
21 ~~equivalence evaluations, also known as the orange book, or has an "NR" or "NA" rating or similar~~
22 ~~rating by a nationally recognized reference; and~~

23 ~~(2) The product must be nationally available.~~

24 ~~(d) Standards for pharmacy appeals. All contracts between a PBM, a contracted pharmacy~~
25 ~~or, alternatively, a PBM and a pharmacy's contracting representative or agent, such as a pharmacy~~
26 ~~services administrative organization (PSAO), shall include a process to appeal, investigate, and~~
27 ~~resolve disputes regarding MAC pricing. The process shall include the following provisions:~~

28 ~~(1) The right to appeal shall be limited to fifteen (15) days following the initial claim;~~

29 ~~(2) The appeal shall be investigated and resolved within fifteen (15) days following receipt~~
30 ~~of the appeal;~~

31 ~~(3) A process by which a network pharmacy may contact the PBM regarding the appeals~~
32 ~~process;~~

33 ~~(4) If the appeal is denied, the PBM shall provide the reason for the denial and identify the~~
34 ~~national drug code of a drug product that is available in adequate supply;~~

1 ~~(5) If an appeal is upheld, the PBM shall make an adjustment to the list effective no later~~
2 ~~than one day after the date of determination; and~~

3 ~~(6) The department of health shall exercise oversight and enforcement of this section.~~

4 SECTION 10. Section 27-20.1-15.1 of the General Laws in Chapter 27-20.1 entitled
5 "Nonprofit Dental Service Corporations" is hereby repealed.

6 ~~**27-20.1-15.1. Pharmacy benefit manager requirements with respect to multi-source**~~
7 ~~**generic pricing updates to pharmacies.**~~

8 ~~(a) Definitions. As used herein:~~

9 ~~(1) "Maximum allowable cost" or "MAC" means the maximum amount that a pharmacy~~
10 ~~benefits manager will reimburse toward the cost of a drug;~~

11 ~~(2) "Nationally available" means that there is an adequate supply available from regional~~
12 ~~or national wholesalers and that the product is not obsolete or temporarily unavailable;~~

13 ~~(3) "Pharmacy benefit manager" or "PBM" means an entity doing business in this state that~~
14 ~~contracts to administer or manage prescription drug benefits on behalf of any carrier that provides~~
15 ~~prescription drug benefits to residents of this state.~~

16 ~~(b) Upon each contract execution or renewal, a PBM shall, with respect to contracts~~
17 ~~between a PBM and a pharmacy or, alternatively, a PBM and a pharmacy's contracting~~
18 ~~representative or agent, such as a pharmacy services administrative organization (PSAO):~~

19 ~~(1) Include in such contracts a requirement to update pricing information on the MAC list~~
20 ~~at least every ten (10) calendar days;~~

21 ~~(2) Maintain a procedure to eliminate products from the list of drugs subject to such pricing,~~
22 ~~or modify MAC rates when such drugs do not meet the standards and requirements of this section~~
23 ~~as set forth in order to remain consistent with pricing changes in the marketplace.~~

24 ~~(c) PBM requirements for inclusion of products on a list of drugs subject to MAC pricing.~~
25 ~~In order to place a particular prescription drug on a MAC list, the PBM must, at a minimum, ensure~~
26 ~~that:~~

27 ~~(1) The product must be listed as "A," "AB," or "B" rated in the most recent version of the~~
28 ~~United States Food and Drug Administration's approved drug products with therapeutic~~
29 ~~equivalence evaluations, also known as the orange book, or has an "NR" or "NA" rating or similar~~
30 ~~rating by a nationally recognized reference; and~~

31 ~~(2) The product must be nationally available.~~

32 ~~(d) Standards for pharmacy appeals. All contracts between a PBM, a contracted pharmacy~~
33 ~~or, alternatively, a PBM and a pharmacy's contracting representative or agent, such as a pharmacy~~
34 ~~services administrative organization (PSAO), shall include a process to appeal, investigate, and~~

1 ~~resolve disputes regarding MAC pricing. The process shall include the following provisions:~~

2 ~~(1) The right to appeal shall be limited to fifteen (15) days following the initial claim;~~

3 ~~(2) The appeal shall be investigated and resolved within fifteen (15) days following receipt~~
4 ~~of the appeal;~~

5 ~~(3) A process by which a network pharmacy may contact the PBM regarding the appeals~~
6 ~~process;~~

7 ~~(4) If the appeal is denied, the PBM shall provide the reason for the denial and identify the~~
8 ~~national drug code of a drug product that is available in adequate supply;~~

9 ~~(5) If an appeal is upheld, the PBM shall make an adjustment to the list effective no later~~
10 ~~than one day after the date of determination; and~~

11 ~~(6) The department of health shall exercise oversight and enforcement of this section.~~

12 SECTION 11. Section 27-41-38.2 of the General Laws in Chapter 27-41 entitled "Health
13 Maintenance Organizations" is hereby repealed.

14 ~~27-41-38.2. Pharmacy benefit manager requirements with respect to multi-source~~
15 ~~generic pricing updates to pharmacies.~~

16 ~~(a) Definitions. As used herein:~~

17 ~~(1) "Maximum allowable cost" or "MAC" means the maximum amount that a pharmacy~~
18 ~~benefits manager will reimburse toward the cost of a drug;~~

19 ~~(2) "Nationally available" means that there is an adequate supply available from regional~~
20 ~~or national wholesalers and that the product is not obsolete or temporarily unavailable;~~

21 ~~(3) "Pharmacy benefit manager" means an entity doing business in this state that contracts~~
22 ~~to administer or manage prescription drug benefits on behalf of any carrier that provides~~
23 ~~prescription drug benefits to residents of this state.~~

24 ~~(b) Upon each contract execution or renewal, a PBM shall, with respect to contracts~~
25 ~~between a PBM and a pharmacy or, alternatively, a PBM and a pharmacy's contracting~~
26 ~~representative or agent, such as a pharmacy services administrative organization (PSAO):~~

27 ~~(1) Include in such contracts a requirement to update pricing information on the MAC list~~
28 ~~at least every ten (10) calendar days;~~

29 ~~(2) Maintain a procedure to eliminate products from the list of drugs subject to such pricing,~~
30 ~~or modify MAC rates when such drugs do not meet the standards and requirements of this section~~
31 ~~as set forth in order to remain consistent with pricing changes in the marketplace.~~

32 ~~(c) PBM requirements for inclusion of products on a list of drugs subject to MAC pricing.~~
33 ~~In order to place a particular prescription drug on a MAC list, the PBM must, at a minimum, ensure~~
34 ~~that:~~

- 1 ~~(1) The product must be listed as "A," "AB," or "B" rated in the most recent version of the~~
2 ~~United States Food and Drug Administration's approved drug products with therapeutic~~
3 ~~equivalence evaluations, also known as the orange book, or has an "NR" or "NA" rating or similar~~
4 ~~rating by a nationally recognized reference; and~~
- 5 ~~(2) The product must be nationally available.~~
- 6 ~~(d) Standards for pharmacy appeals. All contracts between a PBM, a contracted pharmacy~~
7 ~~or, alternatively, a PBM and a pharmacy's contracting representative or agent, such as a pharmacy~~
8 ~~services administrative organization (PSAO), shall include a process to appeal, investigate, and~~
9 ~~resolve disputes regarding MAC pricing. The process shall include the following provisions:~~
- 10 ~~(1) The right to appeal shall be limited to fifteen (15) days following the initial claim;~~
11 ~~(2) The appeal shall be investigated and resolved within fifteen (15) days following receipt~~
12 ~~of the appeal;~~
- 13 ~~(3) A process by which a network pharmacy may contact the PBM regarding the appeals~~
14 ~~process;~~
- 15 ~~(4) If the appeal is denied, the PBM shall provide the reason for the denial and identify the~~
16 ~~national drug code of a drug product that is available in adequate supply;~~
- 17 ~~(5) If an appeal is upheld, the PBM shall make an adjustment to the list effective no later~~
18 ~~than one day after the date of determination; and~~
- 19 ~~(6) The department of health shall exercise oversight and enforcement of this section.~~

20 SECTION 12. This act shall take effect upon passage.

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LC003764
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO BUSINESSES AND PROFESSIONS -- PHARMACIES

1 This act would update and revise the current law on pharmacy benefit managers and
2 prescription drug pricing including establishing maximum allowable cost limits and providing for
3 amended administrative appeal procedures.

4 This act would take effect upon passage.

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