

2016 -- S 2467 SUBSTITUTE A

LC004813/SUB A

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

A N A C T

RELATING TO INSURANCE -- HEALTH INSURANCE -- PRESCRIPTION DRUG
BENEFITS

Introduced By: Senators Walaska, McCaffrey, Ciccone, and Cote

Date Introduced: February 11, 2016

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 27-18 of the General Laws entitled "Accident and Sickness
2 Insurance Policies" is hereby amended by adding thereto the following section:

3 **27-18-33.2. Pharmacy benefit manager requirements with respect to multi-source**
4 **generic pricing updates to pharmacies. – (a) Definitions. As used herein:**

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

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

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

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

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

17 (2) Maintain a procedure to eliminate products from the list of drugs subject to such
18 pricing, or modify MAC rates when such drugs do not meet the standards and requirements of

1 this section as set forth in order to remain consistent with pricing changes in the marketplace.

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

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

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

9 (2) The product must be nationally available.

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

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

16 (2) The appeal shall be investigated and resolved within fifteen (15) days following
17 receipt of the appeal;

18 (3) A process by which a network pharmacy may contact the PBM regarding the appeals
19 process;

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

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

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

25 SECTION 2. Chapter 27-19 of the General Laws entitled "Nonprofit Hospital Service
26 Corporations" is hereby amended by adding thereto the following section:

27 **27-19-26.1. Pharmacy benefit manager requirements with respect to multi-source**
28 **generic pricing updates to pharmacies. – (a) Definitions. As used herein:**

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

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

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

1 provides prescription drug benefits to residents of this state.

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

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

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

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

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

17 (2) The product must be nationally available.

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

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

24 (2) The appeal shall be investigated and resolved within fifteen (15) days following
25 receipt of the appeal;

26 (3) A process by which a network pharmacy may contact the PBM regarding the appeals
27 process;

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

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

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

33 SECTION 3. Chapter 27-20 of the General Laws entitled "Nonprofit Medical Service
34 Corporations" is hereby amended by adding thereto the following section:

1 **27-20-23.1. Pharmacy benefit manager requirements with respect to multi-source**
2 **generic pricing updates to pharmacies. -- (a) Definitions. As used herein:**

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

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

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

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

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

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

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

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

25 (2) The product must be nationally available.

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

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

32 (2) The appeal shall be investigated and resolved within fifteen (15) days following
33 receipt of the appeal;

34 (3) A process by which a network pharmacy may contact the PBM regarding the appeals

1 process:

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

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

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

7 SECTION 4. Chapter 27-20.1 of the General Laws entitled "Nonprofit Dental Service
8 Corporations" is hereby amended by adding thereto the following section:

9 **27-20.1-15.1. Pharmacy benefit manager requirements with respect to multi-source**
10 **generic pricing updates to pharmacies. -- (a) Definitions. As used herein:**

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

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

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

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

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

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

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

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

33 (2) The product must be nationally available.

34 (d) Standards for pharmacy appeals. All contracts between a PBM, a contracted

1 pharmacy or, alternatively, a PBM and a pharmacy's contracting representative or agent such as a
2 pharmacy services administrative organization (PSAO) shall include a process to appeal,
3 investigate, and resolve disputes regarding MAC pricing. The process shall include the following
4 provisions:

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

6 (2) The appeal shall be investigated and resolved within fifteen (15) days following
7 receipt of the appeal;

8 (3) A process by which a network pharmacy may contact the PBM regarding the appeals
9 process;

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

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

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

15 SECTION 5. Chapter 27-41 of the General Laws entitled "Health Maintenance
16 Organizations" is hereby amended by adding thereto the following section:

17 **27-41-38.1. Pharmacy benefit manager requirements with respect to multi-source**
18 **generic pricing updates to pharmacies. -- (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" 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
32 pricing, or modify MAC rates when such drugs do not meet the standards and requirements of
33 this section 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,
2 ensure that:

3 (1) The product must be listed as "A", "AB", or "B" rated in the most recent version of
4 the 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
6 similar 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
9 pharmacy or, alternatively, a PBM and a pharmacy's contracting representative or agent such as a
10 pharmacy services administrative organization (PSAO) shall include a process to appeal,
11 investigate, and resolve disputes regarding MAC pricing. The process shall include the following
12 provisions:

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

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

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

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

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

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

23 SECTION 6. This act shall take effect on September 30, 2016.

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LC004813/SUB A
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO INSURANCE -- HEALTH INSURANCE -- PRESCRIPTION DRUG
BENEFITS

- 1 This act would regulate business relationship between pharmacy services providers/group
- 2 health insurers/health service organizations with department of health oversight.
- 3 This act would take effect on September 30, 2016.

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