

**17B:27F-1 TO 17B:27F-5
LEGISLATIVE HISTORY CHECKLIST**

Compiled by the NJ State Law Library

LAWS OF: 2015 **CHAPTER:** 179

NJSA: 17B:27F-1 TO 17B:27F-5 (Regulates pharmacy benefits managers and requires certain disclosures concerning multiple source generic drug pricing.)

BILL NO: S2301 (Substituted for A3522 (1R))

SPONSOR(S) Greenstein, Linda R., and others

DATE INTRODUCED: July 10, 2014

COMMITTEE: **ASSEMBLY:** ---
SENATE: Commerce

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** 12/17/2015
SENATE: 12/17/2015

DATE OF APPROVAL: January 11, 2016

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (First Reprint enacted) Yes

S2301

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** No

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: Yes

LEGISLATIVE FISCAL ESTIMATE: Yes

A3522 (1R)

INTRODUCED BILL: (Includes sponsor(s) statement) Yes

COMMITTEE STATEMENT: **ASSEMBLY:** Yes

SENATE: No

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, *may possibly* be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: No

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

end

Title 17B.
Subtitle 3.
Chapter 27F.
(New)
"Pharmacy
Benefits
Managers"
§§1-5 -
C.17B:27F-1 to
17B:27F-5
§6 - Note

P.L.2015, CHAPTER 179, *approved January 11, 2016*
Senate, No. 2301 (*First Reprint*)

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

3

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

6

7 1. As used in this act:

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

12 ¹"Contracted Pharmacy" means a pharmacy that participates in
13 the

14 network of a pharmacy benefits manager through a contract with:

15 a. the pharmacy benefits manager directly;

16 b. a pharmacy services administration organization; or

17 c. a pharmacy group purchasing organization.¹

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

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

22 "Health benefits plan" means a benefits plan which pays hospital
23 or medical expense benefits for covered services, or prescription
24 drug benefits for covered services, and is delivered or issued for
25 delivery in this State by or through a carrier or any other sponsor,
26 including, but not limited to, a carrier, self-insured employer, or
27 union. For the purposes of this act, health benefits plan shall not
28 include the following plans, policies or contracts: accident only,
29 credit disability, long-term care, Medicare supplement coverage;
30 CHAMPUS supplement coverage, coverage for Medicare services

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate floor amendments adopted December 17, 2015.

1 pursuant to a contract with the United States government, coverage
2 arising out of a worker's compensation or similar law, coverage
3 under a policy of private passenger automobile insurance issued
4 pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.), or hospital
5 confinement indemnity coverage.

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

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

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

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

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

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

28

29 2. ¹**【Beginning on the first day of each calendar year】** Upon
30 execution or renewal of each contract¹, a pharmacy benefits
31 manager shall, with respect to contracts between a pharmacy
32 benefits manager and a ¹contracted¹ pharmacy:

33 a. (1) include in the contract the ¹**【basis of the methodology**
34 **and】**¹ sources utilized to determine multiple source generic drug
35 pricing, including, if applicable, the maximum allowable cost or
36 any successive ¹**【benchmark】**¹ pricing formula, of the pharmacy
37 benefits manager;

38 (2) update that pricing information ¹**【each day】** every seven
39 calendar days¹; and

40 (3) establish a reasonable process ¹**【for the prompt notification**
41 **of those pricing updates to network pharmacies】** by which
42 contracted pharmacies have a method to access relevant maximum
43 allowable cost pricing lists and any successive pricing formulas in a
44 timely manner¹; and

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

1 3. ¹a.¹ In order to place a particular prescription drug on a
2 multiple source generic list, the pharmacy benefits manager shall, at
3 a minimum, ensure that:

4 ¹[a. The drug has at least three nationally available,
5 therapeutically equivalent multiple source generic drugs with a
6 significant cost difference;

7 b.] ¹(1)¹ The drug is listed as therapeutically and
8 pharmaceutically equivalent or ¹["A"] "A," "B," "NR," or "NA"¹
9 rated in the Food and Drug Administration's most recent version of
10 the Approved Drug Products with Therapeutic Equivalence
11 Evaluations, commonly known as the "Orange Book;" and

12 ¹[c.] ¹(2)¹ The drug is available for purchase without limitations
13 by all pharmacies in the State from national or regional wholesalers
14 and is not obsolete or temporarily unavailable.

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

20

21 ¹[4. The pharmacy benefits manager shall disclose to the
22 purchaser in the contract:

23 a. the basis of the methodology and sources utilized to
24 establish multiple source generic pricing. Applicable lists shall be
25 updated and provided to the purchaser whenever there is a change;
26 and

27 b. if a pharmacy benefits manager utilizes a multiple source
28 generic list for drugs dispensed at retail, but does not utilize a
29 similar list for drugs dispensed by mail. This practice shall be
30 disclosed to the purchaser in writing either in the contract or no
31 later than 21 business days from the implementation of the practice;
32 and

33 c. whether or not the pharmacy benefits manager is using the
34 identical multiple source generic drug list with respect to billing the
35 purchaser as it does when reimbursing all network pharmacies. If
36 multiple source generic drug lists are used, the pharmacy benefits
37 manager shall disclose any difference between the amount paid to
38 any pharmacy and the amount charged to the purchaser.]¹

39

40 ¹[5.] ¹4.¹ All contracts between a pharmacy benefits manager
41 and a ¹contracted¹ pharmacy shall include a process to appeal,
42 investigate, and resolve disputes regarding multiple source generic
43 drug pricing. The contract provision establishing the process shall
44 include the following:

45 a. The right to appeal shall be limited to ¹[60] 14 calendar¹
46 days following the initial claim;

1 b. The appeal shall be investigated and resolved by the
2 pharmacy benefits manager through an internal process within
3 ¹~~seven~~ 14 calendar¹ days of receipt of the appeal by the
4 pharmacy benefits manager;

5 c. A telephone number at which a pharmacy may contact the
6 pharmacy benefits manager and speak with an individual who is
7 ¹~~responsible for processing appeals~~ involved in the appeals
8 process¹; and

9 d. (1) If the appeal is denied, the pharmacy benefits manager
10 shall provide the reason for the denial and identify the national drug
11 code of a drug ¹~~that may be purchased by contracted pharmacies at~~
12 ~~a price at or below the maximum allowable cost, or for a benchmark~~
13 ~~price as shall be determined by the pharmacy benefits manager~~
14 product that is available for purchase by contracted pharmacies in
15 this State from wholesalers registered pursuant to P.L.1961, c.52
16 (C.24:6B-1 et seq.) at a price which is equal to or less than the
17 maximum allowable cost for the appealed drug as determined by the
18 pharmacy benefits manager¹;

19 (2) If the appeal is ¹~~upheld~~ approved¹, the pharmacy benefits
20 manager shall make ¹~~an adjustment retroactive to the date of~~
21 ~~adjudication. The pharmacy benefits manager shall make the~~
22 ~~adjustment effective for all similarly situated pharmacies in this~~
23 ~~State that are within the network~~ the price correction, permit the
24 reporting pharmacy to reverse and rebill the appealed claim, and
25 make the price correction effective for all similarly situated
26 pharmacies from the date of the approved appeal¹.

27

28 ¹~~6.~~All contracts between a pharmacy benefits manager and a
29 pharmacy shall provide a contractual commitment to the pharmacy
30 to deliver a generic effective rate. A generic effective rate shall be
31 either:

32 a. a particular aggregate average reimbursement rate for
33 generics; or

34 b. a maximum average wholesale price discount on multiple
35 source generics as a whole.

36 For the purposes of this discount amount, a pharmacy benefits
37 manager shall utilize an average wholesale price published by a
38 nationally available compendium. The generic effective rate shall
39 be calculated using the actual amount paid to the pharmacy,
40 including pharmacy benefits manager reimbursement plus patient
41 co-pay, excluding the dispensing fee, and shall not be calculated
42 solely according to the amount allowed by the plan and shall
43 include all generics dispensed, regardless of whether they are
44 subject to any pharmacy benefits manager-determined multiple
45 source generic drug pricing.¹

1 ¹**[7.]** 5.¹ The Commissioner of Banking and Insurance shall
2 adopt, pursuant to the “Administrative Procedure Act,” P.L.1968,
3 c.410 (C.52:14B-1 et seq.), rules and regulations, including any
4 penalty provisions the commissioner deems to be necessary, to
5 effectuate the purposes of this act.

6
7 ¹**[8.]** 6.¹ This act shall take effect on the 90th day next
8 following enactment and shall apply to all contracts or agreements
9 for pharmacy benefits management services that are executed or
10 renewed on or after the effective date.

11
12
13
14

15 Regulates pharmacy benefits managers and requires certain
16 disclosures concerning multiple source generic drug pricing.

SENATE, No. 2301

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED JULY 10, 2014

Sponsored by:

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Senator BRIAN P. STACK

District 33 (Hudson)

Co-Sponsored by:

Senators Connors, Oroho, Thompson, Allen, Beach and A.R.Bucco

SYNOPSIS

Regulates pharmacy benefits managers and requires certain disclosures concerning multiple source generic drug pricing.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 12/8/2015)

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

3

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

6

7 1. As used in this act:

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

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

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

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

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

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

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

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

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

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

5

6 2. Beginning on the first day of each calendar year, a pharmacy
7 benefits manager shall, with respect to contracts between a
8 pharmacy benefits manager and a pharmacy:

9 a. (1) include in the contract the basis of the methodology and
10 sources utilized to determine multiple source generic drug pricing,
11 including, if applicable, the maximum allowable cost or any
12 successive benchmark pricing formula, of the pharmacy benefits
13 manager;

14 (2) update that pricing information each day; and

15 (3) establish a reasonable process for the prompt notification of
16 those pricing updates to network pharmacies; and

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

20

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

24 a. The drug has at least three nationally available,
25 therapeutically equivalent multiple source generic drugs with a
26 significant cost difference;

27 b. The drug is listed as therapeutically and pharmaceutically
28 equivalent or "A" rated in the Food and Drug Administration's most
29 recent version of the Approved Drug Products with Therapeutic
30 Equivalence Evaluations, commonly known as the "Orange Book;"
31 and

32 c. The drug is available for purchase without limitations by all
33 pharmacies in the State from national or regional wholesalers and is
34 not obsolete or temporarily unavailable.

35

36 4. The pharmacy benefits manager shall disclose to the
37 purchaser in the contract:

38 a. the basis of the methodology and sources utilized to
39 establish multiple source generic pricing. Applicable lists shall be
40 updated and provided to the purchaser whenever there is a change;
41 and

42 b. if a pharmacy benefits manager utilizes a multiple source
43 generic list for drugs dispensed at retail, but does not utilize a
44 similar list for drugs dispensed by mail. This practice shall be
45 disclosed to the purchaser in writing either in the contract or no
46 later than 21 business days from the implementation of the practice;
47 and

1 c. whether or not the pharmacy benefits manager is using the
2 identical multiple source generic drug list with respect to billing the
3 purchaser as it does when reimbursing all network pharmacies. If
4 multiple source generic drug lists are used, the pharmacy benefits
5 manager shall disclose any difference between the amount paid to
6 any pharmacy and the amount charged to the purchaser.

7
8 5. All contracts between a pharmacy benefits manager and a
9 pharmacy shall include a process to appeal, investigate, and resolve
10 disputes regarding multiple source generic drug pricing. The
11 contract provision establishing the process shall include the
12 following:

13 a. The right to appeal shall be limited to 60 days following the
14 initial claim;

15 b. The appeal shall be investigated and resolved by the
16 pharmacy benefits manager through an internal process within
17 seven days of receipt of the appeal by the pharmacy benefits
18 manager;

19 c. A telephone number at which a pharmacy may contact the
20 pharmacy benefits manager and speak with an individual who is
21 responsible for processing appeals; and

22 d. (1) If the appeal is denied, the pharmacy benefits manager
23 shall provide the reason for the denial and identify the national drug
24 code of a drug that may be purchased by contracted pharmacies at a
25 price at or below the maximum allowable cost, or for a benchmark
26 price as shall be determined by the pharmacy benefits manager;

27 (2) If the appeal is upheld, the pharmacy benefits manager shall
28 make an adjustment retroactive to the date of adjudication. The
29 pharmacy benefits manager shall make the adjustment effective for
30 all similarly situated pharmacies in this State that are within the
31 network.

32
33 6. All contracts between a pharmacy benefits manager and a
34 pharmacy shall provide a contractual commitment to the pharmacy
35 to deliver a generic effective rate. A generic effective rate shall be
36 either:

37 a. a particular aggregate average reimbursement rate for
38 generics; or

39 b. a maximum average wholesale price discount on multiple
40 source generics as a whole.

41 For the purposes of this discount amount, a pharmacy benefits
42 manager shall utilize an average wholesale price published by a
43 nationally available compendium. The generic effective rate shall
44 be calculated using the actual amount paid to the pharmacy,
45 including pharmacy benefits manager reimbursement plus patient
46 co-pay, excluding the dispensing fee, and shall not be calculated
47 solely according to the amount allowed by the plan and shall
48 include all generics dispensed, regardless of whether they are

1 subject to any pharmacy benefits manager-determined multiple
2 source generic drug pricing.

3

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

9

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

14

15

16

STATEMENT

17

18 This bill requires pharmacy benefits managers (PBMs) to
19 disclose certain information about multiple source generic drug
20 pricing to plan sponsors and pharmacies and to deliver a particular
21 aggregate average reimbursement rate for generics.

22 With respect to pharmacies, the bill requires pharmacy benefits
23 managers to disclose the methodology and sources utilized to
24 determine multiple source generic drug pricing. That pricing
25 information is required to be updated daily and the PBM must have
26 a process for the prompt notification of those pricing updates to
27 network pharmacies. The bill also requires PBMs to maintain a
28 procedure to eliminate products from the list of drugs subject to
29 multiple source generic drug pricing or modify maximum allowable
30 cost rates in a timely fashion.

31 Further, the bill stipulates that all contracts between a PBM and a
32 pharmacy shall include a process to appeal, investigate, and resolve
33 disputes regarding multiple source generic drug pricing. The
34 contract provision establishing the process shall include the
35 following:

36 (1) The right to appeal shall be limited to 60 days following the
37 initial claim;

38 (2) The appeal shall be investigated and resolved within seven
39 days;

40 (3) A telephone number at which a pharmacy may contact the
41 pharmacy benefits manager and speak with an individual who is
42 responsible for processing appeals;

43 (4) If the appeal is denied, the pharmacy benefits manager shall
44 provide the reason for the denial and identify the national drug code
45 of a drug that may be purchased by contracted pharmacies at a price
46 at or below the maximum allowable cost, or benchmark price as
47 determined by the pharmacy benefits manager;

1 (5) If the appeal is upheld, the pharmacy benefits manager shall
2 make an adjustment retroactive to the date of adjudication. The
3 pharmacy benefits manager shall make the adjustment effective for
4 all similarly situated pharmacies in this State that are within the
5 network.

6 The bill also requires that, in order for a PBM to place a
7 particular prescription drug on a multiple source generic list, the
8 PBM must ensure that:

9 (1) The drug has at least three or more nationally available,
10 therapeutically equivalent multiple source generic drugs with a
11 significant cost difference;

12 (2) The products must be listed as therapeutically and
13 pharmaceutically equivalent or "A" rated in the Food and Drug
14 Administration's most recent version of the Approved Drug
15 Products with Therapeutic Equivalence Evaluations, commonly
16 known as the "Orange Book;" and

17 (3) The drug must be available for purchase without limitations
18 by all pharmacies in the State from national or regional wholesalers
19 and not obsolete or temporarily unavailable.

20 With respect to the plan sponsor, the PBM is required to disclose
21 the basis of the methodology and sources utilized to establish
22 multiple source generic pricing. Applicable lists shall be updated to
23 the plan sponsor whenever there is a change. The PBM must also
24 disclose to the plan sponsor:

25 (1) if the PBM utilizes a multiple source generic list for drugs
26 dispensed at retail, but does not utilize a similar list for drugs
27 dispensed by mail;

28 (2) whether or not it is using the identical multiple source
29 generic drug list with respect to billing the plan sponsor as it does
30 when reimbursing all network pharmacies;

31 (3) if multiple source generic drug lists are used, the PBM must
32 disclose any difference between the amount paid to any pharmacy
33 and the amount charged to the plan sponsor.

34 Finally, the bill requires a PBM to provide a contractual
35 commitment to deliver a particular aggregate average
36 reimbursement rate for generics or a maximum average wholesale
37 price discount on multiple source generics as a whole, otherwise
38 referred to as a "generic effective rate."

STATEMENT TO
SENATE, No. 2301

with Senate Floor Amendments
(Proposed by Senator GREENSTEIN)

ADOPTED: DECEMBER 17, 2015

These Senate amendments:

- add a definition of “contracted pharmacy,” which means a pharmacy that participates in the network of a pharmacy benefits manager (PBM) through a contract with:

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

- require a PBM to provide certain drug pricing information upon execution or renewal of each contract between a PBM and a pharmacy, instead of on the first day of each calendar year. The information also must be updated, instead of every day, every seven days. The amendments also remove the requirement that this information include the basis of the methodology utilized to determine multiple source generic drug pricing.

- require a PBM to provide pharmacies with a reasonable process by which contracted pharmacies have a method to access relevant maximum allowable cost pricing lists and any successive benchmark pricing formulas in a timely manner.

- in order for a PBM to place a particular prescription drug on a multiple source generic list, the PBM must ensure that the drug is listed as therapeutically equivalent and pharmaceutically equivalent or, a drug rated “A,” “B,” “NR,” or “NA” 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.” The amendments remove the requirement that the drug must have at least three nationally available, therapeutically equivalent multiple source generic drugs with a significant cost difference.

- prohibit a PBM from penalizing a pharmacist or pharmacy on audit if the pharmacist performs a generic substitution.

- limit the right of a pharmacy to appeal disputes regarding multiple source generic drug pricing to, instead of 60 days, 14 calendar days following the initial claim; require the appeal to be investigated and resolved by the PBM within, instead of seven days, 14 calendar days of receipt of the appeal by the PBM; and require that the telephone number at which a pharmacy may contact the PBM have an individual available who is involved, instead of responsible, for the appeals process.

- provide that if the appeal is denied, the PBM is to provide the reason for the denial and identify the national drug code of a drug product that is available for purchase by pharmacies in this State from wholesalers at a price which is equal to or less than the maximum allowable cost for that drug as determined by the PBM.

- provide that if the appeal is approved, the PBM shall make the price correction, permit the reporting pharmacy to reverse and rebill the appealed claim, and make the price correction effective for all prescriptions of the appealed drug in that network from the date of the approved appeal.

- remove section 4 of the bill, which required PBMs to disclose to plan sponsors the basis of the methodology and sources utilized to establish multiple source generic pricing and other information regarding the use of multiple source generic drug lists.

- remove section 6 of the bill, which provided that all contracts between a PBM and a pharmacy shall provide a contractual commitment to the pharmacy to deliver a generic effective rate.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 2301 STATE OF NEW JERSEY 216th LEGISLATURE

DATED: DECEMBER 23, 2015

SUMMARY

- Synopsis:** Regulates pharmacy benefits managers and requires certain disclosures concerning multiple source generic drug pricing.
- Type of Impact:** State and local Expenditure increase.
- Agencies Affected:** Division of Pensions and Benefits, Department of the Treasury; Department of Human Services; local governments

Office of Legislative Services Estimate

<u>Fiscal Impact</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Indeterminate increase, likely minimal - See comments below		
Local Cost	Indeterminate increase, likely minimal - See comments below		

State Health Benefits Program and the School Employees' Health Benefits Program (including local participants)

- The Office of Legislative Services (OLS) estimates that this bill may result in minimal increases in prescription drug costs to the State Health Benefits Program (SHBP) and the School Employees' Health Benefits Program (SEHBP).
- The bill regulates pharmacy benefit managers (PBMs) by requiring them to disclose how multiple source generic drug pricing is determined and by providing a way for contracted pharmacies to check pricing information. In addition, the bill limits what prescription drugs may be placed on a multiple source generic list, prohibits a pharmacy benefits manager from penalizing a contracted pharmacy for substituting a generic prescription drug in the place of another prescribed medication, and requires the PBM to reimburse pharmacies for price corrections approved under an appeals process.
- The exclusion of rated drugs from inclusion on a multiple source generic pricing list may result in higher reimbursement rates and higher costs to the SHBP and SEHBP.
- The inability to penalize pharmacies for substituting a generic prescription drug may remove a restraint to generic substitutions that result in higher costs for a given drug.

- Approved appeals do not currently result in a price correction for all network pharmacies. Presumably all such price corrections are upward, and thus, this new impact of an approved appeal could result in higher costs to health plans.

Medicaid

- The provisions of the bill limiting what prescription drugs may be placed on a multiple source generic list may also increase certain prescription drug prices for individuals who are recipients of NJ FamilyCare/Medicaid and enrolled in a managed care organization (MCO). Currently, over 95 percent of NJ Family Care/Medicaid recipients are enrolled in a MCO and receive their pharmaceuticals through that MCO.

BILL DESCRIPTION

Senate Bill No. 2301 (1R) of 2014 requires pharmacy benefits managers (PBMs) to disclose certain information about multiple source generic drug pricing to pharmacies and to deliver a particular aggregate average reimbursement rate for generics.

With respect to pharmacies, the bill requires PBMs to disclose the sources utilized to determine multiple source generic drug pricing. That pricing information is required to be updated every seven days and the PBM must have 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. The bill also requires PBMs to maintain a procedure to eliminate products from the list of drugs subject to multiple source generic drug pricing or modify maximum allowable cost rates in a timely fashion.

Further, the bill stipulates that all contracts between a PBM 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:

- (1) The right to appeal shall be limited to 14 calendar days following the initial claim;
- (2) The appeal shall be investigated and resolved within 14 calendar days;
- (3) A telephone number at which a pharmacy may contact the PBM and speak with an individual who is involved in the appeals process;
- (4) If the appeal is denied, the PBM is to provide the reason for the denial and identify the national drug code of a drug product that is available for purchase by pharmacies in this State from wholesalers at a price which is equal to or less than the maximum allowable cost for that drug as determined by the PBM;
- (5) If the appeal is approved, the PBM shall make the price correction, permit the reporting pharmacy to reverse and rebill the appealed claim, and make the price correction effective for all prescriptions of the appealed drug in that network from the date of the approved appeal.

The bill also requires that, in order for a PBM to place a particular prescription drug on a multiple source generic list, the PBM must ensure that:

- (1) the product 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 not obsolete or temporarily unavailable.

Finally, the bill prohibits a PBM from penalizing a pharmacist or pharmacy on audit if the pharmacist performs a generic substitution.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received

OFFICE OF LEGISLATIVE SERVICES

The State Health Benefits Program and the School Employees' Health Benefits Program

The OLS estimates that this bill may result in minimal increases in prescription drug costs to the SHBP and the SEHBP. The bill regulates PBMs by requiring them to disclose how multiple source generic drug pricing is determined and by providing a way for contracted pharmacies to check pricing information. In addition, the bill limits what prescription drugs may be placed on a multiple source generic list, prohibits a pharmacy benefits manager from penalizing a contracted pharmacy for substituting a generic prescription drug in the place of another prescribed medication, and requires the PBM to reimburse pharmacies for price corrections approved under an appeals process.

Pharmacies that contract with PBMs are reimbursed by PBMs for the drugs that they purchase to fill member prescriptions. Because generic drug prices vary, PBMs will normalize the reimbursement price of generic drugs that pharmacies dispense as a way to control costs. This practice is known as multiple source generic drug pricing and the reimbursement rate for a specific generic prescription drug is affected by the maximum allowable cost. Because prescription generic drug prices are dynamic, the maximum allowable cost changes periodically. According to the Division of Pensions and Benefits, if a prescription drug is not on a multiple source generic pricing list the State is required to reimburse the contract pharmacies for the full cost that the pharmacy paid for the drug.

There are three provisions in the bill that may increase costs to the SHBP and the SEHBP: multiple source generic pricing list exclusions, substitutions, and appeals. First, the bill requires the PBM, prior to placing a prescription drug on a multiple source generic pricing list, to ensure that a drug is listed as therapeutically and pharmaceutically equivalent to certain drugs that are rated in the Food and Drug Administration's most recent version of the Approved Drug Products with Therapeutic Equivalence Book, "the Orange Book." However, the bill excludes certain ratings from inclusion in the book. The exclusion of these rated drugs from inclusion on a multiple source generic pricing list may result in higher reimbursement rates and higher costs to the SHBP and SEHBP. For example, the bill would allow drugs rated "A", "AB", "B", "NR" or "NA" in the "Orange Book" to remain on multiple source generic lists, but there appear to be other "Orange Book" rated drugs "Z," for example, that might be excluded from those lists and that are likely being prescribed at present to plan beneficiaries. Any such exclusion could result in higher costs to the SHBP and the SEHBP. According to the Division of Pensions and Benefits, if a prescription drug is not on a multiple source generic pricing list the State is required to reimburse the contract pharmacies for the full cost that the pharmacy paid for the drug, not the average wholesale price.

Second, the bill prohibits a PBM from penalizing a pharmacist or pharmacy being audited for substituting generic drugs. The substitution of higher cost generic drugs that are not on the multiple source generic pricing list results in higher costs to the SHBP and SEHBP. The inability to penalize pharmacies in those circumstances may remove a restraint to generic substitutions that result in higher costs for a given drug.

Finally, concerning approved appeals by pharmacies, upon approval of an appeal, a price correction is required not just for the pharmacy that pursued the appeal but for all pharmacies in the network. Approved appeals do not currently result in a price correction for all network pharmacies. Presumably all such price corrections are upward, and thus, this new impact of an approved appeal could result in higher costs to health plans.

Medicaid

This bill may also increase certain prescription drug prices for individuals who are recipients of NJ FamilyCare/Medicaid and enrolled in a managed care organization (MCO). Currently, over 95 percent of NJ Family Care/Medicaid recipients are enrolled in a MCO and receive their pharmaceuticals through that MCO.

MCO's control their pharmacy costs through the use of pharmacy benefits managers (PBM), which administer the prescription benefits for NJ Family Care/Medicaid recipients. The PBMs establish formulary or preferred drug lists which contain the reimbursement rate the PBM will pay pharmacies for different drugs. The bill provides that in order for a drug to be placed on a formulary or preferred drug list, called a multiple source generic list, the drug must meet certain requirements. Although these requirements are broad, they may still result in the exclusion of certain drugs. If drugs are excluded from the list, certain price increases may occur which may be passed on to the MCO and to the State as payer of the NJFamilyCare/Medicaid policy. The OLS is not able to quantify the number of drugs that may be excluded and thus cannot determine with any certainty the cost to the State.

Section: State Government

*Analyst: Kimberly M. Clemmensen
Senior Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 3522

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED JULY 11, 2014

Sponsored by:

Assemblywoman LINDA STENDER

District 22 (Middlesex, Somerset and Union)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblyman JOSEPH A. LAGANA

District 38 (Bergen and Passaic)

Assemblyman PATRICK J. DIEGNAN, JR.

District 18 (Middlesex)

Co-Sponsored by:

Assemblyman Rumpf, Assemblywoman Gove and Assemblyman Benson

SYNOPSIS

Regulates pharmacy benefits managers and requires certain disclosures concerning multiple source generic drug pricing.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 11/10/2015)

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

3

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

6

7 1. As used in this act:

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

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

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

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

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

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

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

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

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

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

5
6 2. Beginning on the first day of each calendar year, a pharmacy
7 benefits manager shall, with respect to contracts between a
8 pharmacy benefits manager and a pharmacy:

9 a. (1) include in the contract the basis of the methodology and
10 sources utilized to determine multiple source generic drug pricing,
11 including, if applicable, the maximum allowable cost or any
12 successive benchmark pricing formula, of the pharmacy benefits
13 manager;

14 (2) update that pricing information each day; and

15 (3) establish a reasonable process for the prompt notification of
16 those pricing updates to network pharmacies; and

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

20
21 3. In order to place a particular prescription drug on a multiple
22 source generic list, the pharmacy benefits manager shall, at a
23 minimum, ensure that:

24 a. The drug has at least three nationally available,
25 therapeutically equivalent multiple source generic drugs with a
26 significant cost difference;

27 b. The drug is listed as therapeutically and pharmaceutically
28 equivalent or "A" rated in the Food and Drug Administration's most
29 recent version of the Approved Drug Products with Therapeutic
30 Equivalence Evaluations, commonly known as the "Orange Book;"
31 and

32 c. The drug is available for purchase without limitations by all
33 pharmacies in the State from national or regional wholesalers and is
34 not obsolete or temporarily unavailable.

35
36 4. The pharmacy benefits manager shall disclose to the
37 purchaser in the contract:

38 a. the basis of the methodology and sources utilized to establish
39 multiple source generic pricing. Applicable lists shall be updated
40 and provided to the purchaser whenever there is a change; and

41 b. if a pharmacy benefits manager utilizes a multiple source
42 generic list for drugs dispensed at retail, but does not utilize a
43 similar list for drugs dispensed by mail. This practice shall be
44 disclosed to the purchaser in writing either in the contract or no
45 later than 21 business days from the implementation of the practice;
46 and

47 c. whether or not the pharmacy benefits manager is using the
48 identical multiple source generic drug list with respect to billing the

1 purchaser as it does when reimbursing all network pharmacies. If
2 multiple source generic drug lists are used, the pharmacy benefits
3 manager shall disclose any difference between the amount paid to
4 any pharmacy and the amount charged to the purchaser.

5
6 5. All contracts between a pharmacy benefits manager and a
7 pharmacy shall include a process to appeal, investigate, and resolve
8 disputes regarding multiple source generic drug pricing. The
9 contract provision establishing the process shall include the
10 following:

11 a. The right to appeal shall be limited to 60 days following the
12 initial claim;

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

17 c. A telephone number at which a pharmacy may contact the
18 pharmacy benefits manager and speak with an individual who is
19 responsible for processing appeals; and

20 d. (1) If the appeal is denied, the pharmacy benefits manager
21 shall provide the reason for the denial and identify the national drug
22 code of a drug that may be purchased by contracted pharmacies at a
23 price at or below the maximum allowable cost, or for a benchmark
24 price as shall be determined by the pharmacy benefits manager;

25 (2) If the appeal is upheld, the pharmacy benefits manager shall
26 make an adjustment retroactive to the date of adjudication. The
27 pharmacy benefits manager shall make the adjustment effective for
28 all similarly situated pharmacies in this State that are within the
29 network.

30
31 6. All contracts between a pharmacy benefits manager and a
32 pharmacy shall provide a contractual commitment to the pharmacy
33 to deliver a generic effective rate. A generic effective rate shall be
34 either:

35 a. a particular aggregate average reimbursement rate for
36 generics; or

37 b. a maximum average wholesale price discount on multiple
38 source generics as a whole.

39 For the purposes of this discount amount, a pharmacy benefits
40 manager shall utilize an average wholesale price published by a
41 nationally available compendium. The generic effective rate shall
42 be calculated using the actual amount paid to the pharmacy,
43 including pharmacy benefits manager reimbursement plus patient
44 co-pay, excluding the dispensing fee, and shall not be calculated
45 solely according to the amount allowed by the plan and shall
46 include all generics dispensed, regardless of whether they are
47 subject to any pharmacy benefits manager-determined multiple
48 source generic drug pricing.

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

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

11
12
13 STATEMENT
14

15 This bill requires pharmacy benefits managers (PBMs) to
16 disclose certain information about multiple source generic drug
17 pricing to plan sponsors and pharmacies and to deliver a particular
18 aggregate average reimbursement rate for generics.

19 With respect to pharmacies, the bill requires pharmacy benefits
20 managers to disclose the methodology and sources utilized to
21 determine multiple source generic drug pricing. That pricing
22 information is required to be updated daily and the PBM must have
23 a process for the prompt notification of those pricing updates to
24 network pharmacies. The bill also requires PBMs to maintain a
25 procedure to eliminate products from the list of drugs subject to
26 multiple source generic drug pricing or modify maximum allowable
27 cost rates in a timely fashion.

28 Further, the bill stipulates that all contracts between a PBM and a
29 pharmacy shall include a process to appeal, investigate, and resolve
30 disputes regarding multiple source generic drug pricing. The
31 contract provision establishing the process shall include the
32 following:

33 (1) The right to appeal shall be limited to 60 days following the
34 initial claim;

35 (2) The appeal shall be investigated and resolved within seven
36 days;

37 (3) A telephone number at which a pharmacy may contact the
38 pharmacy benefits manager and speak with an individual who is
39 responsible for processing appeals;

40 (4) If the appeal is denied, the pharmacy benefits manager shall
41 provide the reason for the denial and identify the national drug code
42 of a drug that may be purchased by contracted pharmacies at a price
43 at or below the maximum allowable cost, or benchmark price as
44 determined by the pharmacy benefits manager;

45 (5) If the appeal is upheld, the pharmacy benefits manager shall
46 make an adjustment retroactive to the date of adjudication. The
47 pharmacy benefits manager shall make the adjustment effective for

1 all similarly situated pharmacies in this State that are within the
2 network.

3 The bill also requires that, in order for a PBM to place a
4 particular prescription drug on a multiple source generic list, the
5 PBM must ensure that:

6 (1) The drug has at least three or more nationally available,
7 therapeutically equivalent multiple source generic drugs with a
8 significant cost difference;

9 (2) The products must be listed as therapeutically and
10 pharmaceutically equivalent or "A" rated in the Food and Drug
11 Administration's most recent version of the Approved Drug
12 Products with Therapeutic Equivalence Evaluations, commonly
13 known as the "Orange Book;" and

14 (3) The drug must be available for purchase without limitations
15 by all pharmacies in the State from national or regional wholesalers
16 and not obsolete or temporarily unavailable.

17 With respect to the plan sponsor, the PBM is required to disclose
18 the basis of the methodology and sources utilized to establish
19 multiple source generic pricing. Applicable lists shall be updated to
20 the plan sponsor whenever there is a change. The PBM must also
21 disclose to the plan sponsor:

22 (1) if the PBM utilizes a multiple source generic list for drugs
23 dispensed at retail, but does not utilize a similar list for drugs
24 dispensed by mail;

25 (2) whether or not it is using the identical multiple source
26 generic drug list with respect to billing the plan sponsor as it does
27 when reimbursing all network pharmacies;

28 (3) if multiple source generic drug lists are used, the PBM must
29 disclose any difference between the amount paid to any pharmacy
30 and the amount charged to the plan sponsor.

31 Finally, the bill requires a PBM to provide a contractual
32 commitment to deliver a particular aggregate average
33 reimbursement rate for generics or a maximum average wholesale
34 price discount on multiple source generics as a whole, otherwise
35 referred to as a "generic effective rate."

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

STATEMENT TO
ASSEMBLY, No. 3522

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 10, 2015

The Assembly Financial Institutions and Insurance Committee reports favorably and with committee amendments Assembly Bill No. 3522.

As amended, this bill requires pharmacy benefits managers (PBMs) to disclose certain information about multiple source generic drug pricing to pharmacies and to deliver a particular aggregate average reimbursement rate for generics.

With respect to pharmacies, the bill requires PBMs to disclose the sources utilized to determine multiple source generic drug pricing. That pricing information is required to be updated every seven days and the PBM must have 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. The bill also requires PBMs to maintain a procedure to eliminate products from the list of drugs subject to multiple source generic drug pricing or modify maximum allowable cost rates in a timely fashion.

Further, the bill stipulates that all contracts between a PBM 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:

(1) The right to appeal shall be limited to 14 calendar days following the initial claim;

(2) The appeal shall be investigated and resolved within 14 calendar days;

(3) A telephone number at which a pharmacy may contact the PBM and speak with an individual who is involved in the appeals process;

(4) If the appeal is denied, the PBM is to provide the reason for the denial and identify the national drug code of a drug product that is available for purchase by pharmacies in this State from wholesalers at a price which is equal to or less than the maximum allowable cost for that drug as determined by the PBM;

(5) If the appeal is approved, the PBM shall make the price correction, permit the reporting pharmacy to reverse and rebill the appealed claim, and make the price correction effective for all prescriptions of the appealed drug in that network from the date of the approved appeal.

The bill also requires that, in order for a PBM to place a particular prescription drug on a multiple source generic list, the PBM must ensure that:

(1) the product 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 not obsolete or temporarily unavailable.

Finally, the bill prohibits a PBM from penalizing a pharmacist or pharmacy on audit if the pharmacist performs a generic substitution.

COMMITTEE AMENDMENTS

The committee amended the bill to:

- add a definition of “contracted pharmacy,” which means a pharmacy that participates in the network of a pharmacy benefits manager (PBM) through a contract with:

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

- require a PBM to provide certain drug pricing information upon execution or renewal of each contract between a PBM and a pharmacy, instead of on the first day of each calendar year. The information also must be updated, instead of every day, every seven days. The amendments also remove the requirement that this information include the basis of the methodology utilized to determine multiple source generic drug pricing.

- require a PBM to provide pharmacies with a reasonable process by which contracted pharmacies have a method to access relevant maximum allowable cost pricing lists and any successive benchmark pricing formulas in a timely manner.

- in order for a PBM to place a particular prescription drug on a multiple source generic list, the PBM must ensure that the drug is listed as therapeutically equivalent and pharmaceutically equivalent or, a drug rated “A,” “B,” “NR,” or “NA” 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.” The amendments remove the requirement that the drug must have at least three nationally available, therapeutically

equivalent multiple source generic drugs with a significant cost difference.

- prohibit a PBM from penalizing a pharmacist or pharmacy on audit if the pharmacist performs a generic substitution.

- limit the right of a pharmacy to appeal disputes regarding multiple source generic drug pricing to, instead of 60 days, 14 calendar days following the initial claim; require the appeal to be investigated and resolved by the PBM within, instead of seven days, 14 calendar days of receipt of the appeal by the PBM; and require that the telephone number at which a pharmacy may contact the PBM have an individual available who is involved, instead of responsible, for the appeals process.

- provide that if the appeal is denied, the PBM is to provide the reason for the denial and identify the national drug code of a drug product that is available for purchase by pharmacies in this State from wholesalers at a price which is equal to or less than the maximum allowable cost for that drug as determined by the PBM.

- provide that if the appeal is approved, the PBM shall make the price correction, permit the reporting pharmacy to reverse and rebill the appealed claim, and make the price correction effective for all prescriptions of the appealed drug in that network from the date of the approved appeal.

- remove section 4 of the bill, which required PBMs to disclose to plan sponsors the basis of the methodology and sources utilized to establish multiple source generic pricing and other information regarding the use of multiple source generic drug lists.

- remove section 6 of the bill, which provided that all contracts between a PBM and a pharmacy shall provide a contractual commitment to the pharmacy to deliver a generic effective rate.

Governor Christie Takes Action On Pending Legislation

Monday, January 11, 2016 Tags: [Bill Action](#)



Stay Connected with Social Media

Stay Connected with Email Alerts

LIKE THIS PAGE? SHARE IT WITH YOUR FRIENDS.



Trenton, NJ – Governor Chris Christie today took action on legislation, including a bill aimed at helping inmates who were victims of domestic violence and a second bill designed to help non-violent drug offenders reclaim their lives by streamlining the process for expungement of their criminal records.

The Governor suggested minor changes to strengthen Senate Bill No. 995, which seeks to help domestic violence victims who have been convicted of crimes against their abusers by establishing a community reentry program to assist victim-offenders assimilate into society upon release from custody and prevent further victimization.

Governor Christie conditionally vetoed the bill, proposing that the program be established solely in the Department of Corrections.

"The goal of this bill is commendable and I sincerely support its objective," Governor Christie said. "Domestic violence is tragic, and victims deserve support and counseling. However, the bill conflates the statutory and regulatory responsibilities of the Department of Corrections and the State Parole Board, combining the agencies' separate residential program functions. Accordingly, I suggest minor amendments, in accordance with the intent of the legislation to establish this program within the Department of Corrections, consistent with its existing reintegration programming and tailored to the specific needs of this limited inmate population."

The bill as written also called for an automatic early release program for this specific subset of inmates upon successful completion of the reentry program, an element of the bill that Governor Christie does not support.

"I cannot support the creation of early release programs because they would begin to chisel away at the long-standing function of the State Parole Board," Governor Christie said. "For decades, the State Parole Board has faithfully fulfilled its charge to carefully review and consider the underlying facts and circumstances of each applicant for parole. While I continue to encourage the Legislature to explore reforms that will create efficiencies in State government, I remain grounded in my belief that the review of parole applications is best accomplished through the reasoned, compassionate, experienced and individualized judgment of the State Parole Board and not through an automatic process based upon one factor."

Governor Christie similarly took action to strengthen the Assembly Committee Substitute for Assembly Bills Nos. 206, 471, 1663, 2879, 3060 and 3108, and urged quick approval from the Legislature.

The bill proposes to allow those who have successfully completed the Drug Court program to expunge the related criminal charges, and it further aims to make the expungement process more efficient.

Seeking to balance the needs of non-violent ex-offenders with public safety, Governor Christie conditionally vetoed the bill, retaining the current waiting period for expungements for indictable offenses, currently 10 years, or five years if a court determines that expungement is in the public's interest.

"While I support breaking down barriers to employment and education for non-violent ex-offenders, I cannot endorse a bill that compromises public safety," Governor Christie said. "As written, this bill would cut in half the presumptive waiting period to expunge indictable offenses, often felonies, from ten years to five years, and eliminate an important safeguard which allows a judge to consider whether granting an expungement is in the public's interest. The current public interest exception to the presumptive waiting period is an effective and efficient way to help ex-offenders combat the collateral consequences of their offense, while also ensuring that public safety is not compromised."

Governor Christie further suggested retaining the five-year waiting period for disorderly persons offenses, while adopting the bill's provision to lower this waiting period to three years, if a court determines that expungement is in the public interest.

The Governor also took the following action on other pending legislation:

BILL SIGNINGS:

S-475/A-3223 (Madden, Sweeney/Mosquera, Webber, Moriarty, Mukherji, Garcia, Munoz, Lampitt) - Requires certain information regarding Down syndrome be provided to certain parents and families

S-650 (Doherty, Beach/DiMaio, Andrzejczak, Peterson, DeAngelo) - Designates State Route 173 between Clinton and Phillipsburg as "173rd Airborne Brigade Highway"

S-835/A-1972 (Bateman/Garcia, Danielson) - Enhances penalties for false incrimination and making fictitious reports

S-939/A-2913 (Bateman, A.R. Bucco/Caride, Dancer, A.M. Bucco) - Designates Black Swallowtail butterfly as State Butterfly

S-1940/A-2893 (Oroho, Van Drew/Burzichelli, Space) - Exempts board of education and local government payments to entities under BPU jurisdiction from certain certification requirements

S-2145/A-631 (Van Drew, Madden/Moriarty, Burzichelli, Tucker, DeAngelo, Danielson, Mukherji) - Authorizes hiring preference for veterans in non-civil service jurisdictions

S-2301/A-3522 (Greenstein, Stack/Stender, Mukherji, Lagana, Diegnan) - Regulates pharmacy benefits managers and requires certain disclosures concerning multiple source generic drug pricing

S-2432/A-4720 (Madden/Moriarty, Mosquera) - Requires notification of member or retiree of State-administered retirement system under certain circumstances when member or retiree requests change in beneficiary for group life insurance

S-2453/A-3805 (Weinberg, Allen/Burzichelli, Singleton) - Requires earlier mandatory polling hours for school elections; requires discretionary additional polling hours be consistent with current primary and general elections

S-2523/A-3917 (Gill, Greenstein, Benson/DeAngelo, Johnson) - Permits municipalities and municipal parking authorities to create Senior Citizen Priority Parking Program

SCS for S-2586, 2587, A-3217, and 3218 (Stack, Cunningham, Mukherji, Pintor Marin, Garcia) - Requires certain sanitary and protective procedures for used mattresses

SCS for S-2668/A-4270 (Beach, Madden/Lampitt, Vainieri Huttie, Benson, Spencer, Wimberly, Mosquera) - Establishes "MVP Emergency Alert System" for missing persons with mental, intellectual, or developmental disabilities

SS for S-2770/AS for A-3956 (Sweeney, Addiego/Lampitt, Greenwald, Vainieri Huttie, Benson, Mazzeo) - Authorizes establishment of Achieving a Better Life Experience accounts for persons with certain disabilities

S-2940/A-4531 (Singer, Sweeney/Spencer, Benson, Casagrande, Muoio) - Creates new criminal offenses concerning endangering another person; repeals N.J.S.2C:12-2 and N.J.S.2C:24-7

S-2961/A-4188 (Codey, Vitale/Garcia, Lagana, Taliaferro, Vainieri Huttie, Danielsens, Holley, Benson, Jimenez) - Clarifies that Alzheimer's disease and related disorders may be listed as secondary cause of death on death certificate when appropriate

S-2978/A-4194 (Van Drew, Oroho/Burzichelli, Spencer, Rumana, Webber, Benson) - Authorizes mobile electronic waste destruction units to operate without DEP permit

S-3004/A-4685 (Cunningham, Van Drew/Andrzejczak, Johnson, Muoio, Wimberly) - Permits municipality with UEZ to participate in Downtown Business Improvements Zone Loan Fund

S-3076/A-4621 (Weinberg, Bateman/Johnson, Caride) - Increases maximum legal fee to represent victims from \$1,000 to \$3,000

S-3110/A-4617 (Scutari/Johnson, Webber) - Permits certain health clubs to offer swimming lessons and otherwise remain exempt from first aid personnel and lifeguarding requirements

S-3117/A-4781 (Gordon, Bateman, Sweeney, T. Kean/Vainieri Huttie, Eustace, Gusciora, Lampitt, Angelini, Moriarty) - Prohibits Division of Developmental Disabilities from compelling transfers of individuals with developmental disabilities from out-of-State to in-State facilities unless certain exceptions apply

S-3220/A-4790 (Sweeney, O'Toole, Vitale/Greenwald, Conaway, Vainieri Huttie, Handlin, Garcia) - Establishes a process to integrate certain health data and other data from publicly supported programs for population health research

S-3232/A-4834 (Sarlo, Oroho/Lagana, Burzichelli, Schaer, DeAngelo, Phoebus) - Allows businesses due to receive grant under Business Employment Incentive Program to receive tax credit instead of grant

S-3270/A-4705 (Gill, Bateman/Schaer, Coughlin, Lagana, S. Kean, Ciattarelli) - "Certificates of Insurance Act;" governs use of certificates of insurance; provides DOBI with enforcement authority

SJR-81/AJR-122 (Barnes/Vainieri Huttle, Schaer, Lampitt) - Condemns Boycott, Divestment, and Sanctions movement against Israel

A-308/S-2203 (Russo, Rumana/O'Toole, Smith) - Prohibits escrow agent evaluation services from charging escrow agents fees

A-1098/S-671 (Vainieri Huttle, Eustace, Diegnan, Giblin/Pou, Sarlo, Weinberg) - Requires DHS and DMVA to conduct or contract for follow-up studies of former residents transitioning to community from their facilities

A-1355/S-2963 (Stender, Lampitt, Holley, Moriarty/T. Kean, Vitale) - Requires DOH to provide information about crib safety on its Internet website

A-1783/S-2020 (McKeon, Rible, Sumter, Moriarty/Vitale, Cunningham) - "Art Therapist Licensing Act"

A-2023/S-2675 (Greenwald, Benson/Cruz-Perez) - Revises definition of "responsible charge" as it pertains to licensed professional engineers and licensed architects

A-2229 (Wisniewski, Diegnan) - Concerns contracts for asphalt work under the "Local Public Contracts Law"

A-2301/S-1481 (Andrzejczak/Van Drew) - Designates certain interchanges of Garden State Parkway in honor of Melvin M. Loftus and Christopher Meyer

A-3052/S-1090 (Mazzeo, Pinkin, Mukherji, Wimberly/A.R. Bucco, Whelan) - Concerns property taxes due and owing on real property damaged or destroyed during, or as the result of, a natural disaster when a state of emergency is declared by the Governor

A-3246/S-3069 (Dancer, Burzichelli, Vainieri Huttle/Oroho, Sarlo) - Requires timeframe of standardbred mare residing in New Jersey breeding farm be inclusive of foaling instead of between foal's conception and birth

A-3293/S-2146 (Mazzeo, Andrzejczak, Pinkin, Webber, Simon, Mukherji/Van Drew, Doherty) - Allows military personnel and veterans to present certain identifying documents in lieu of municipal beach tags to gain admission to certain beaches

A-3331/S-3111 (Benson, Rodriguez-Gregg, Coughlin/Gill, Beach) - Requires health benefits coverage for synchronization of prescribed medications under certain circumstances

A-3390/S-2309 (Coughlin, Pinkin, Webber, Diegnan/Vitale) - Permits transmittal of certain land use documents via email

A-3395/S-2294 (Wisniewski/Sacco) - Allows insurer to obtain certificates of ownership or salvage certificates of title for motor vehicles under certain circumstances

A-3499/S-2256 (Andrzejczak, Mazzeo, Johnson, Pinkin, DeAngelo/Van Drew) - Requires DMVA to encourage and facilitate returning service members' registration with VA

A-3507/S-2677 (Eustace, Webber, Munoz, Schepisi, Rumana/Gordon, Sarlo) - Amends law concerning county and municipal stream cleaning activities

A-3749/S-2568 (Lampitt, Mazzeo, Andrzejczak, Mukherji, Pinkin/Beach, Allen) - Establishes program to provide assistance to qualified veterans in in-patient and out-patient treatment programs to travel to medical counseling in State

A-3849/SCS for S-2466 (DeAngelo, Eustace, Mazzeo, Pintor Marin, Benson/Turner, Singer) - Requires BPU to provide links to pricing information to customers from electric and gas public utilities, and third-party electric power and gas suppliers

A-3950/S-2832 (Prieto, Jimenez, Quijano/Greenstein, Turner) - Permits correctional facilities to utilize body imaging scanning equipment

A-4079/S-2819 (Eustace, Andrzejczak, Taliaferro, Benson, Dancer/Van Drew, Beach) - Directs Department of Agriculture to publish on its website "New Jersey Gleaning Week" and "Farmers Against Hunger Day" page

A-4094/S-2884 (Conaway, Singleton, Wimberly, Lampitt, Benson/Whelan, Madden) - Permits administration of epinephrine auto-injector device by persons who complete approved educational program

A-4438/S-3202 (Mukherji, Burzichelli/Scutari, Madden) - Raises maximum workers' compensation fees for evaluating physicians

A-4518/S-3010 (Schaer, Eustace, Benson, Pintor Marin/Sarlo) - Modifies and clarifies provisions of certain economic incentive programs

AJR-57/SJR-42 (Space/Oroho) - Designates April of each year as "Sarcoidosis Awareness Month"

AJR-93/SJR-73 (Eustace, Andrzejczak, Taliaferro, Benson/Van Drew, Beach) - Designates third week of September as "New Jersey Gleaning Week"

AJR-94/SJR-74 (Eustace, Andrzejczak, Taliaferro, Benson/Van Drew, Beach) - Designates Wednesday of third week of September as "Farmers Against Hunger Day"

AJR-100/SJR-70 (Andrzejczak, Tucker, DeAngelo, Mazzeo/Van Drew, Whelan) - Designates first week in August of each year as "Coast Guard Week" and honors Cape May as U.S. Coast Guard's enlisted accession point and recruit training center

BILLS VETOED:

S-264/A-1347 (Greenstein, Cunningham/Stender, Egan, O'Donnell, Wimberly) – **ABSOLUTE** - "Thomas P. Canzanella Twenty First Century First Responders Protection Act"; concerns workers compensation for public safety workers

S-374/A-3403 (Scutari, Beck/Rible, DeAngelo, Mukherji) - **ABSOLUTE** - Concerns attorney fees for workers' compensation awards

SCS for S-779, 1952/ACS for A-2474 (Weinberg, Sarlo, Lesniak/Johnson, Garcia, Vainieri Huttie, Lagana, Mukherji, Moriarty) - **ABSOLUTE** - "Garden State Film and Digital Media Jobs Act" expands existing film and digital media production tax credit programs

S-995/A-1677 (Weinberg, Allen/Johnson, Vainieri Huttie, Lampitt, Mosquera) – **CONDITIONAL** - Establishes in DOC, supervised community reintegration program for certain victims of domestic abuse

S-1346/A-3837 (Rice/Coughlin, Garcia, Rodriguez-Gregg, Pintor Marin, Jasey) - **CONDITIONAL** - Concerns the recording of mortgages

S-2260/A-688 (Scutari, Cardinale/Schaer) - **CONDITIONAL** - Modifies certain fees charged by, and requirements imposed on, check casher licensees

S-2524/A-4067 (Gill, Allen/Lagana, Singleton, Moriarty) - **CONDITIONAL** - The "Municipal Volunteer Property Tax Reduction Act"; permits certain municipal property owners to perform volunteer services in return for property tax vouchers

S-2577/ACS for A-4139 (Stack, Schaer/Mazzeo, Andrzejczak, Mukherji, Quijano) - **CONDITIONAL** - Establishes temporary mortgage relief programs for certain owners of real property impacted by "Superstorm Sandy"

S-2867/A-4248 (Ruiz, Pou/Jasey, Sumter, Vainieri Huttie, Green, Holley, Wimberly) - **ABSOLUTE** - Permits municipal land banking in conjunction with online property database development

S-3024/A-4463 (Scutari/Giblin, Diegnan, Jimenez, Caputo, Vainieri Huttie) – **CONDITIONAL** - Revises laws concerning real estate licensees

S-3282/A-4850 (Rice, Cunningham/Wimberly, Mainor, Johnson) - **CONDITIONAL** - Expands Police Training Commission membership to include representative from Northern New Jersey and South Jersey Chapters of National Organization of Black Law Enforcement Executives

ACS for A-206, 471, 1663, 2879, 3060, and 3108/S-2663 (Green, Spencer, Gusciora, Johnson, McKeon, Giblin, Wimberly, Mainor, Quijano/Turner, Lesniak, Pou) - **CONDITIONAL** - Shortens waiting periods for expungement of criminal and other records and information; makes various changes to other expungement procedures and requirements

A-3257/S-2125 (Andrzejczak, Mazzeo, Burzichelli/Van Drew) - **CONDITIONAL** - Provides that determination by county agriculture development board or State Agriculture Development Committee as to what qualifies as farm-based recreational activity in pinelands protection area is binding on Pinelands Commission

A-4103/S-2840 (Mazzeo, Andrzejczak, Giblin/Allen, Whelan) - **ABSOLUTE** - Creates workforce training program for former casino workers

A-4233/S-2435 (Jasey, McKeon, Vainieri Huttie, Mukherji, Lampitt/Codey, Vitale) - **ABSOLUTE** - Provides Medicaid coverage for advance care planning

A-4275/S2831 (Prieto, Eustace, Lagana, Greewald, Quijano, Danielsen, Mukherji/Sweeney, Turner, Sarlo) – **CONDITIONAL** - "New Jersey Secure Choice Savings Program Act"; establishes retirement savings program for certain workers

A-4326/S-2942 (Schaer, Lagana, Eustace, Prieto/Gordon, Barnes) - **ABSOLUTE** - Reforms annual State revenue estimating and reporting, and executive State budget presentation and revenue certification processes

A-4386/S-3042 (Coughlin, Pinkin/Vitale, Singer) - **CONDITIONAL** - Permits candidates for school board to circulate petitions jointly and be bracketed together on ballot; permits short nonpolitical designation of principles on petitions and ballots; provides for study of impact of changes

A-4638/S-3118 (Vainieri Huttie, Singleton, Holley, Mosquera, Tucker, Benson/Sweeney, Madden) - **ABSOLUTE** - Requires DCPP to implement policies and procedures to ensure caseworker safety; "Leah's Law"

A-4703/S-3172 (Spencer, Tucker, Pintor Marin, Egan, Muoio, Gusciora/Rice, Smith) - **ABSOLUTE** - Increases tax credit cap by \$165 million for certain qualified residential projects under Economic Redevelopment and Growth Grant program and restricts increase to certain projects

###

Press Contact:

Brian Murray
609-777-2600



[Contact Us](#) | [Privacy Notice](#) | [Legal Statement & Disclaimers](#) | [Accessibility Statement](#) | 

Statewide: [NJ Home](#) | [Services A to Z](#) | [Departments/Agencies](#) | [FAQs](#)
Office of the Governor: [Home](#) | [Newsroom](#) | [Media](#) | [Administration](#) | [NJ's Priorities](#) | [Contact Us](#)

Copyright © State of New Jersey, 1996-2017
Office of the Governor
PO Box 001
Trenton, NJ 08625
609-292-6000