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Note to  
§§1-6

P.L. 1999, CHAPTER 395, *approved January 18, 2000*  
Senate, No. 1533 (*Third Reprint*)

1 AN ACT concerning certain prescription drug plans and amending  
2 P.L.1993, c.378.

3

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

6

7 1. Section 1 of P.L.1993, c.378 (C.17:48-6j) is amended to read as  
8 follows:

9 1. a. Notwithstanding any other provision of law to the contrary,  
10 no group or individual hospital service corporation contract which  
11 provides benefits for pharmacy services, prescription drugs, or for  
12 participation in a prescription drug plan, shall be delivered, issued,  
13 executed or renewed in this State, or approved for issuance or renewal  
14 in this State on or after the effective date of this act, unless the  
15 contract:

16 (1) Permits the subscriber, at the time of issuance, amendment or  
17 renewal, to select benefit coverage allowing the subscriber to choose  
18 a pharmacy or pharmacist for the provision of prescription drugs or  
19 pharmacy services, provided that any pharmacist or pharmacy selected  
20 by the subscriber is registered pursuant to R.S.45:14-1 et seq.;

21 (2) Provides that no pharmacy or pharmacist shall be denied the  
22 right to participate as a preferred provider or as a contracting  
23 provider, under the same terms and conditions currently applicable to  
24 all other preferred or contracting providers, if the contract provides  
25 for coverage by contracted or preferred providers <sup>1</sup>for pharmaceutical  
26 services<sup>1</sup>, provided the pharmacy or pharmacist is registered pursuant  
27 to R.S.45:14-1 et seq., and accepts the terms <sup>1</sup>and conditions<sup>1</sup> of the  
28 contract;

29 (3) Provides that no copayment, fee, or other condition shall be  
30 imposed upon a subscriber selecting a participating or contracting  
31 pharmacist or pharmacy that is not also equally imposed upon all  
32 subscribers selecting a participating or contracting pharmacist or  
33 pharmacy; [and]

34 (4) (a) Provides that no subscriber shall be required to obtain  
35 pharmacy services and prescription drugs from a mail <sup>2</sup>[order]service<sup>2</sup>  
36 pharmacy;

**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:

<sup>1</sup> Senate SHH committee amendments adopted June 14, 1999.

<sup>2</sup> Assembly AHL committee amendments adopted December 2, 1999.

<sup>3</sup> Senate amendments adopted in accordance with Governor's recommendations January 10, 2000.

1       **(b) Provides for no differential in any copayment applicable to any**  
2 **prescription drug of the same strength, quantity and days' supply,**  
3 **whether obtained from a mail <sup>2</sup>[order]service<sup>2</sup> pharmacy or a non-mail**  
4 **<sup>2</sup>[order]service<sup>2</sup> pharmacy <sup>2</sup>, provided that the non-mail service**  
5 **pharmacy agrees to the same terms, conditions, price and services**  
6 **applicable to the mail service pharmacy<sup>2</sup> ;<sup>1</sup>and**

7       **(c) Provides that the limit on days' supply is the same whether the**  
8 **prescription drug is obtained from a mail <sup>2</sup>[order]service<sup>2</sup> pharmacy**  
9 **or a non-mail <sup>2</sup>[order]service<sup>2</sup> pharmacy <sup>2</sup>, and that the limit shall**  
10 **not be less than 90 days<sup>2</sup> ;<sup>1</sup>**

11       **(5) Sets forth the auditing procedures to be used by the hospital**  
12 **service corporation and includes a provision that any audit shall take**  
13 **place at a time mutually agreeable to the pharmacy or pharmacist and**  
14 **the auditor. No audit by a hospital service corporation shall include**  
15 **a review of any document relating to any person or prescription plan**  
16 **other than those reimbursable by the hospital service corporation<sup>1</sup> [,**  
17 **nor shall the hospital service corporation seek reimbursement from a**  
18 **pharmacy or pharmacist without due process]<sup>1</sup>;**

19       **(6) <sup>1</sup>[Provides that a hospital service corporation or any agent**  
20 **thereof shall remit payment to a pharmacy or pharmacist for every**  
21 **prescription eligible for reimbursement under the hospital service**  
22 **corporation contract no later than the 15th calendar day following**  
23 **receipt of the claim. Interest on overdue payments shall bear interest**  
24 **at the rate of 10 percent simple interest per annum; and**

25       **(7)]<sup>1</sup> Provides that the hospital service corporation<sup>1</sup>, or any agent**  
26 **or intermediary thereof, including a third party administrator,<sup>1</sup> shall**  
27 **not restrict or prohibit, directly or indirectly, a pharmacy <sup>1</sup>[or**  
28 **pharmacist that is a party to a pharmacy provider contract or is**  
29 **otherwise entitled to reimbursement pursuant to the provisions of this**  
30 **section]<sup>1</sup> from charging the subscriber <sup>1</sup>[any sum in addition to the**  
31 **subscriber's copayment, which charges may include, but not be limited**  
32 **to, a dispensing fee or a fee for patient counseling] for services**  
33 **rendered by the pharmacy that are in addition to charges for the drug,**  
34 **for dispensing the drug or for prescription counseling. Services**  
35 **rendered by the pharmacy for which additional charges are imposed**  
36 **shall be subject to the approval of the Board of Pharmacy. <sup>2</sup>A**  
37 **pharmacy shall disclose to the purchaser the charges for the additional**  
38 **services and the purchaser's out-of-pocket cost for those services prior**  
39 **to dispensing the drug.<sup>2</sup> A pharmacy shall not impose any additional**  
40 **charges for patient counseling or for other services required by the**  
41 **Board of Pharmacy or State or federal law.**

42       **(7) The provisions of P.L. , c. (pending before the Legislature as**  
43 **this bill) shall apply to all contracts delivered, issued or renewed on or**  
44 **after the effective date of P.L. , c. <sup>1</sup>.**

45       **b. Nothing in this section shall be construed to operate to add any**  
46 **benefit, to increase the scope of any benefit, or to increase any benefit**

1 level under any contract.

2 c. This section shall apply to all hospital service corporation  
3 contracts in which the hospital service corporation has reserved the  
4 right to change the subscriber charge.

5 (cf: P.L.1993, c.378, s.1)

6

7 2. Section 2 of P.L.1993, c.378 (C.17:48A-7i) is amended to read  
8 as follows:

9 2. a. Notwithstanding any other provision of law to the contrary,  
10 no group or individual medical service corporation contract which  
11 provides benefits for pharmacy services, prescription drugs, or for  
12 participation in a prescription drug plan, shall be delivered, issued,  
13 executed or renewed in this State or approved for issuance in this  
14 State on or after the effective date of this act, unless the contract:

15 (1) Permits the subscriber, at the time of issuance, amendment or  
16 renewal, to select benefit coverage allowing the subscriber to choose  
17 a pharmacy or pharmacist for the provision of prescription drugs or  
18 pharmacy services, provided that any pharmacist or pharmacy selected  
19 by the subscriber is registered pursuant to R.S.45:14-1 et seq.;

20 (2) Provides that no pharmacy or pharmacist shall be denied the  
21 right to participate as a preferred provider or as a contracting  
22 provider, under the same terms and conditions currently applicable to  
23 all other preferred or contracting providers, if the contract provides  
24 for coverage by contracted or preferred providers <sup>1</sup>for pharmaceutical  
25 services<sup>1</sup>, provided the pharmacy or pharmacist is registered pursuant  
26 to R.S.45:14-1 et seq., and accepts the terms <sup>1</sup>and conditions<sup>1</sup> of the  
27 contract;

28 (3) Provides that no copayment, fee, or other condition shall be  
29 imposed upon a subscriber selecting a participating or contracting  
30 pharmacist or pharmacy [of his own choice,] that is not also equally  
31 imposed upon all subscribers selecting a participating or contracting  
32 pharmacist or pharmacy; [and]

33 (4) (a) Provides that no subscriber shall be required to obtain  
34 pharmacy services and prescription drugs from a mail <sup>2</sup>[order]service<sup>2</sup>  
35 pharmacy;

36 (b) Provides for no differential in any copayment applicable to any  
37 prescription drug of the same strength, quantity and days' supply,  
38 whether obtained from a mail <sup>2</sup>[order]service<sup>2</sup> pharmacy or a non-mail  
39 <sup>2</sup>[order]service<sup>2</sup> pharmacy <sup>2</sup>, provided that the non-mail service  
40 pharmacy agrees to the same terms, conditions, price and services  
41 applicable to the mail service pharmacy<sup>2</sup> ;<sup>1</sup>and

42 (c) Provides that the limit on days' supply is the same whether the  
43 prescription drug is obtained from a mail <sup>2</sup>[order]service<sup>2</sup> pharmacy  
44 or a non-mail <sup>2</sup>[order]service<sup>2</sup> pharmacy <sup>2</sup>, and that the limit shall not  
45 be less than 90 days<sup>2</sup> ;<sup>1</sup>

46 (5) Sets forth the auditing procedures to be used by the medical

1 service corporation and includes a provision that any audit shall take  
2 place at a time mutually agreeable to the pharmacy or pharmacist and  
3 the auditor. No audit by a medical service corporation shall include a  
4 review of any document relating to any person or prescription plan  
5 other than those reimbursable by the medical service corporation<sup>1</sup>,  
6 nor shall the medical service corporation seek reimbursement from a  
7 pharmacy or pharmacist without due process<sup>1</sup>;

8 (6) <sup>1</sup> Provides that a medical service corporation or any agent  
9 thereof shall remit payment to a pharmacy or pharmacist for every  
10 prescription eligible for reimbursement under the medical service  
11 corporation contract no later than the 15th calendar day following  
12 receipt of the claim. Interest on overdue payments shall bear interest  
13 at the rate of 10 percent simple interest per annum; and

14 (7)<sup>1</sup>  Provides that the medical service corporation<sup>1</sup>, or any agent  
15 or intermediary thereof, including a third party administrator,<sup>1</sup>  shall  
16 not restrict or prohibit, directly or indirectly, a pharmacy<sup>1</sup> [or  
17 pharmacist that is a party to a pharmacy provider contract or is  
18 otherwise entitled to reimbursement pursuant to the provisions of this  
19 section]<sup>1</sup>  from charging the subscriber<sup>1</sup> [any sum in addition to the  
20 subscriber's copayment, which charges may include, but not be limited  
21 to, a dispensing fee or a fee for patient counseling] for services  
22 rendered by the pharmacy that are in addition to charges for the drug,  
23 for dispensing the drug or for prescription counseling. Services  
24 rendered by the pharmacy for which additional charges are imposed  
25 shall be subject to the approval of the Board of Pharmacy.<sup>2</sup> A  
26 pharmacy shall disclose to the purchaser the charges for the additional  
27 services and the purchaser's out-of-pocket cost for those services prior  
28 to dispensing the drug.<sup>2</sup>  A pharmacy shall not impose any additional  
29 charges for patient counseling or for other services required by the  
30 Board of Pharmacy or State or federal law.

31 (7) The provisions of P.L. , c. (pending before the Legislature as  
32 this bill) shall apply to all contracts delivered, issued or renewed on or  
33 after the effective date of P.L. , c. <sup>1</sup>.

34 b. Nothing in this section shall be construed to operate to add any  
35 benefit, to increase the scope of any benefit, or to increase any benefit  
36 level under any contract.

37 c. This section shall apply to all medical service corporation  
38 contracts in which the medical service corporation has reserved the  
39 right to change the subscriber charge.

40 (cf: P.L.1993, c.378, s.2)

41  
42 3. Section 3 of P.L.1993, c.378 (C.17:48E-35.7) is amended to  
43 read as follows:

44 3. a. Notwithstanding any other provisions of law to the contrary,  
45 no group or individual health service corporation contract which  
46 provides benefits for pharmacy services, prescription drugs, or for

1 participation in a prescription drug plan, shall be delivered, issued,  
2 executed or renewed in this State, or approved for issuance or renewal  
3 in this State on or after the effective date of this act, unless the  
4 contract:

5 (1) Permits the subscriber, at the time of issuance, amendment or  
6 renewal, to select benefit coverage allowing the subscriber to choose  
7 a pharmacy or pharmacist for the provision of prescription drugs or  
8 pharmacy services, provided that any pharmacist or pharmacy selected  
9 by the subscriber is registered pursuant to R.S.45:14-1 et seq.;

10 (2) Provides that no pharmacy or pharmacist shall be denied the  
11 right to participate as a preferred provider or as a contracting  
12 provider, under the same terms and conditions currently applicable to  
13 all other preferred or contracting providers, if the contract provides  
14 for coverage by contracted or preferred providers <sup>1</sup>for pharmaceutical  
15 services<sup>1</sup>, provided the pharmacy or pharmacist is registered pursuant  
16 to R.S.45:14-1 et seq., and accepts the terms <sup>1</sup>and conditions<sup>1</sup> of the  
17 contract;

18 (3) Provides that no copayment, fee, or other condition shall be  
19 imposed upon a subscriber selecting a participating or contracting  
20 pharmacist or pharmacy that is not also equally imposed upon all  
21 subscribers selecting a participating or contracting pharmacist or  
22 pharmacy; [and]

23 (4) (a) Provides that no subscriber shall be required to obtain  
24 pharmacy services and prescription drugs from a mail <sup>2</sup>[order]service<sup>2</sup>  
25 pharmacy;

26 (b) Provides for no differential in any copayment applicable to any  
27 prescription drug of the same strength, quantity and days' supply,  
28 whether obtained from a mail <sup>2</sup>[order]service<sup>2</sup> pharmacy or a non-mail  
29 <sup>2</sup>[order]service<sup>2</sup> pharmacy <sup>2</sup>, provided that the non-mail service  
30 pharmacy agrees to the same terms, conditions, price and services  
31 applicable to the mail service pharmacy<sup>2</sup> ;<sup>1</sup>and

32 (c) Provides that the limit on days' supply is the same whether the  
33 prescription drug is obtained from a mail <sup>2</sup>[order]service<sup>2</sup> pharmacy  
34 or a non-mail <sup>2</sup>[order]service<sup>2</sup> pharmacy <sup>2</sup>, and that the limit shall not  
35 be less than 90 days<sup>2</sup> ;<sup>1</sup>

36 (5) Sets forth the auditing procedures to be used by the health  
37 service corporation and includes a provision that any audit shall take  
38 place at a time mutually agreeable to the pharmacy or pharmacist and  
39 the auditor. No audit by a health service corporation shall include a  
40 review of any document relating to any person or prescription plan  
41 other than those reimbursable by the health service corporation<sup>1</sup> [, nor  
42 shall the health service corporation seek reimbursement from a  
43 pharmacy or pharmacist without due process]<sup>1</sup>;

44 (6) <sup>1</sup>[ Provides that a health service corporation or any agent  
45 thereof shall remit payment to a pharmacy or pharmacist for every  
46 prescription eligible for reimbursement under the health service

1 corporation contract no later than the 15th calendar day following  
2 receipt of the claim. Interest on overdue payments shall bear interest  
3 at the rate of 10 percent simple interest per annum; and

4 (7)]<sup>1</sup> Provides that the health service corporation<sup>1</sup>, or any agent or  
5 intermediary thereof, including a third party administrator,<sup>1</sup> shall not  
6 restrict or prohibit, directly or indirectly, a pharmacy<sup>1</sup> [or pharmacist  
7 that is a party to a pharmacy provider contract or is otherwise entitled  
8 to reimbursement pursuant to the provisions of this section]<sup>1</sup> from  
9 charging the subscriber<sup>1</sup> [any sum in addition to the subscriber's  
10 copayment, which charges may include, but not be limited to, a  
11 dispensing fee or a fee for patient counseling] for services rendered by  
12 the pharmacy that are in addition to charges for the drug, for  
13 dispensing the drug or for prescription counseling. Services rendered  
14 by the pharmacy for which additional charges are imposed shall be  
15 subject to the approval of the Board of Pharmacy. <sup>2</sup>A pharmacy shall  
16 disclose to the purchaser the charges for the additional services and  
17 the purchaser's out-of-pocket cost for those services prior to  
18 dispensing the drug.<sup>2</sup> A pharmacy shall not impose any additional  
19 charges for patient counseling or for other services required by the  
20 Board of Pharmacy or State or federal law.

21 (7) The provisions of P.L. , c. (pending before the Legislature as  
22 this bill) shall apply to all contracts delivered, issued or renewed on or  
23 after the effective date of P.L. , c. <sup>1</sup>.

24 b. Nothing in this section shall be construed to operate to add any  
25 benefit, to increase the scope of any benefit, or to increase any benefit  
26 level under any contract.

27 c. This section shall apply to all health service corporation  
28 contracts in which the health service corporation has reserved the right  
29 to change the subscriber charge.

30 (cf: P.L.1993, c.378, s.3)

31

32 4. Section 4 of P.L.1993, c.378 (C.17B:26-2.1i) is amended to  
33 read as follows:

34 4. a. Notwithstanding any other provision of law to the contrary,  
35 no individual health insurance policy which provides benefits for  
36 pharmacy services, prescription drugs, or for participation in a  
37 prescription drug plan, shall be delivered, issued, executed or renewed  
38 in this State, or approved for issuance or renewal in this State on or  
39 after the effective date of this act, unless the policy:

40 (1) Permits the insured, at the time of issuance, amendment or  
41 renewal, to select benefit coverage allowing the insured to choose a  
42 pharmacy or pharmacist for the provision of prescription drugs or  
43 pharmacy services, provided that any pharmacist or pharmacy selected  
44 by the insured is registered pursuant to R.S.45:14-1 et seq.;

45 (2) Provides that no pharmacy or pharmacist shall be denied the  
46 right to participate as a preferred provider or as a contracting



1 provider, under the same terms and conditions currently applicable to  
2 all other preferred or contracting providers, if the policy provides for  
3 coverage by contracted or preferred providers <sup>1</sup>for pharmaceutical  
4 services<sup>1</sup>, provided the pharmacy or pharmacist is registered pursuant  
5 to R.S.45:14-1 et seq., and accepts the terms <sup>1</sup>and conditions<sup>1</sup> of the  
6 policy;

7 (3) Provides that no copayment, fee, or other condition shall be  
8 imposed upon an insured selecting a participating or contracting  
9 pharmacist or pharmacy that is not also equally imposed upon all  
10 insureds selecting a participating or contracting pharmacist or  
11 pharmacy; [and]

12 (4) (a) Provides that no insured shall be required to obtain  
13 pharmacy services and prescription drugs from a mail <sup>2</sup>[order]service<sup>2</sup>  
14 pharmacy;

15 (b) Provides for no differential in any copayment applicable to any  
16 prescription drug of the same strength, quantity and days' supply,  
17 whether obtained from a mail <sup>2</sup>[order]service<sup>2</sup> pharmacy or a non-mail  
18 <sup>2</sup>[order]service<sup>2</sup> pharmacy <sup>2</sup>, provided that the non-mail service  
19 pharmacy agrees to the same terms, conditions, price and services  
20 applicable to the mail service pharmacy<sup>2</sup> ;<sup>1</sup>and

21 (c) Provides that the limit on days' supply is the same whether the  
22 prescription drug is obtained from a mail <sup>2</sup>[order]service<sup>2</sup> pharmacy  
23 or a non-mail <sup>2</sup>[order]service<sup>2</sup> pharmacy <sup>2</sup>, and that the limit shall not  
24 be less than 90 days<sup>2</sup> ;<sup>1</sup>

25 (5) Sets forth the auditing procedures to be used by the insurer and  
26 includes a provision that any audit shall take place at a time mutually  
27 agreeable to the pharmacy or pharmacist and the auditor. No audit by  
28 an insurer shall include a review of any document relating to any  
29 person or prescription plan other than those reimbursable by the  
30 insurer<sup>1</sup>, nor shall the insurer seek reimbursement from a pharmacy  
31 or pharmacist without due process<sup>1</sup>;

32 (6) <sup>1</sup>Provides that an insurer or any agent thereof shall remit  
33 payment to a pharmacy or pharmacist for every prescription eligible  
34 for reimbursement under the policy no later than the 15th calendar day  
35 following receipt of the claim. Interest on overdue payments shall bear  
36 interest at the rate of 10 percent simple interest per annum; and

37 (7) <sup>1</sup>Provides that the insurer ,<sup>1</sup>or any agent or intermediary  
38 thereof, including a third party administrator,<sup>1</sup> shall not restrict or  
39 prohibit, directly or indirectly, a pharmacy <sup>1</sup>[or pharmacist that is a  
40 party to a pharmacy provider contract or is otherwise entitled to  
41 reimbursement pursuant to the provisions of this section]<sup>1</sup> from  
42 charging the insured <sup>1</sup>[any sum in addition to the insured's copayment,  
43 which charges may include, but not be limited to, a dispensing fee or  
44 a fee for patient counseling] for services rendered by the pharmacy  
45 that are in addition to charges for the drug, for dispensing the drug or  
46 for prescription counseling. Services rendered by the pharmacy for

1 which additional charges are imposed shall be subject to the approval  
2 of the Board of Pharmacy. <sup>2</sup>A pharmacy shall disclose to the  
3 purchaser the charges for the additional services and the purchaser's  
4 out-of-pocket cost for those services prior to dispensing the drug. <sup>2</sup> A  
5 pharmacy shall not impose any additional charges for patient  
6 counseling or for other services required by the Board of Pharmacy or  
7 State or federal law.

8 (7) The provisions of P.L. , c. (pending before the Legislature as  
9 this bill) shall apply to all policies delivered, issued or renewed on or  
10 after the effective date of P.L. , c. <sup>1</sup>.

11 b. Nothing in this section shall be construed to operate to add any  
12 benefit, to increase the scope of any benefit, or to increase any benefit  
13 level under any policy.

14 c. This section shall apply to all individual health insurance policies  
15 in which the insurer has reserved the right to change the premium.

16 (cf: P.L.1993, c.378, s.4)

17  
18 5. Section 5 of P.L.1993, c.378 (C.17B:27-46.1i) is amended to  
19 read as follows:

20 5. a. Notwithstanding any other provision of law to the contrary,  
21 no group health insurance policy which provides benefits for pharmacy  
22 services, prescription drugs, or for participation in a prescription drug  
23 plan, shall be delivered, issued, executed or renewed in this State, or  
24 approved for issuance or renewal in this State, on or after the effective  
25 date of this act, unless the policy:

26 (1) Permits the insured, at the time of issuance, amendment or  
27 renewal, to select benefit coverage allowing the insured to choose a  
28 pharmacy or pharmacist for the provision of prescription drugs or  
29 pharmacy services, provided that any pharmacist or pharmacy selected  
30 by the insured is registered pursuant to R.S.45:14-1 et seq.;

31 (2) Provides that no pharmacy or pharmacist shall be denied the  
32 right to participate as a preferred provider or as a contracting  
33 provider, under the same terms and conditions currently applicable to  
34 all other preferred or contracting providers, if the policy provides for  
35 coverage by contracted or preferred providers <sup>1</sup>for pharmaceutical  
36 services<sup>1</sup>, provided the pharmacy or pharmacist is registered pursuant  
37 to R.S.45:14-1 et seq., and accepts the terms <sup>1</sup>and conditions<sup>1</sup> of the  
38 policy;

39 (3) Provides that no copayment, fee, or other condition shall be  
40 imposed upon an insured selecting a participating or contracting  
41 pharmacist or pharmacy that is not also equally imposed upon all  
42 insureds selecting a participating or contracting pharmacist or  
43 pharmacy; [and]

44 (4) (a) Provides that no insured shall be required to obtain  
45 pharmacy services and prescription drugs from a mail <sup>2</sup>[order]service<sup>2</sup>  
46 pharmacy;

1       **(b)** Provides for no differential in any copayment applicable to any  
2 prescription drug of the same strength, quantity and days' supply,  
3 whether obtained from a mail <sup>2</sup>[order]service<sup>2</sup> pharmacy or a non-mail  
4 <sup>2</sup>[order]service<sup>2</sup> pharmacy <sup>2</sup>, provided that the non-mail service  
5 pharmacy agrees to the same terms, conditions, price and services  
6 applicable to the mail service pharmacy<sup>2</sup> ;<sup>1</sup>and

7       **(c)** Provides that the limit on days' supply is the same whether the  
8 prescription drug is obtained from a mail <sup>2</sup>[order]service<sup>2</sup> pharmacy  
9 or a non-mail <sup>2</sup>[order]service<sup>2</sup> pharmacy <sup>2</sup>, and that the limit shall not  
10 be less than 90 days<sup>2</sup> ;<sup>1</sup>

11       **(5)** Sets forth the auditing procedures to be used by the insurer and  
12 includes a provision that any audit shall take place at a time mutually  
13 agreeable to the pharmacy or pharmacist and the auditor. No audit by  
14 an insurer shall include a review of any document relating to any  
15 person or prescription plan other than those reimbursable by the  
16 insurer<sup>1</sup>, nor shall the insurer seek reimbursement from a pharmacy  
17 or pharmacist without due process<sup>1</sup>;

18       **(6)** <sup>1</sup>Provides that an insurer or any agent thereof shall remit  
19 payment to a pharmacy or pharmacist for every prescription eligible  
20 for reimbursement under the policy no later than the 15th calendar day  
21 following receipt of the claim. Interest on overdue payments shall bear  
22 interest at the rate of 10 percent simple interest per annum; and

23       **(7)**<sup>1</sup> Provides that the insurer<sup>1</sup>, or any agent or intermediary  
24 thereof, including a third party administrator,<sup>1</sup> shall not restrict or  
25 prohibit, directly or indirectly, a pharmacy <sup>1</sup>[or pharmacist that is a  
26 party to a pharmacy provider contract or is otherwise entitled to  
27 reimbursement pursuant to the provisions of this section]<sup>1</sup> from  
28 charging the insured <sup>1</sup>[any sum in addition to the insured's copayment,  
29 which charges may include, but not be limited to, a dispensing fee or  
30 a fee for patient counseling] for services rendered by the pharmacy  
31 that are in addition to charges for the drug, for dispensing the drug or  
32 for prescription counseling. Services rendered by the pharmacy for  
33 which additional charges are imposed shall be subject to the approval  
34 of the Board of Pharmacy. <sup>2</sup>A pharmacy shall disclose to the  
35 purchaser the charges for the additional services and the purchaser's  
36 out-of-pocket cost for those services prior to dispensing the drug.<sup>2</sup> A  
37 pharmacy shall not impose any additional charges for patient  
38 counseling or for other services required by the Board of Pharmacy or  
39 State or federal law.

40       **(7)** The provisions of P.L. , c. (pending before the Legislature as  
41 this bill) shall apply to all policies delivered, issued or renewed on or  
42 after the effective date of P.L. , c. <sup>1</sup>.

43       **b.** Nothing in this section shall be construed to operate to add any  
44 benefit, to increase the scope of any benefit, or to increase any benefit  
45 level under any policy.

46       **c.** This section shall apply to all group health insurance policies in  
47 which the insurer has reserved the right to change the premium.

1 (cf: P.L.1993, c.378, s.5)

2

3 6. Section 6 of P.L.1993, c.378 (C.26:2J-4.7) is amended to read  
4 as follows:

5 6. a. Notwithstanding any provision of law to the contrary, a  
6 certificate of authority to establish and operate a health maintenance  
7 organization in this State shall not be issued or continued on or after  
8 the effective date of this act for a health maintenance organization  
9 which provides pharmacy services, prescription drugs, or a  
10 prescription drug plan, unless the coverage for health care services:

11 (1) Permits the enrollee, at the time of enrollment, to select benefit  
12 coverage allowing the enrollee to choose a pharmacy or pharmacist for  
13 the provision of prescription drugs or pharmacy services, provided that  
14 any pharmacist or pharmacy selected by the enrollee is registered  
15 pursuant to R.S.45:14-1 et seq.;

16 (2) Provides that no pharmacy or pharmacist shall be denied the  
17 right to participate as a preferred provider or as a contracting  
18 provider, under the same terms and conditions currently applicable to  
19 all other preferred or contracting providers, if the health maintenance  
20 organization provides for coverage by contracted or preferred  
21 providers <sup>1</sup>for pharmaceutical services<sup>1</sup>, provided the pharmacy or  
22 pharmacist is registered pursuant to R.S.45:14-1 et seq., and accepts  
23 the terms <sup>1</sup>and conditions<sup>1</sup> of the health maintenance organization;

24 (3) Provides that no copayment, fee, or other condition shall be  
25 imposed upon an enrollee selecting a participating or contracting  
26 pharmacist or pharmacy that is not also equally imposed upon all  
27 enrollees selecting a participating or contracting pharmacist or  
28 pharmacy; [and]

29 (4) (a) Provides that no enrollee shall be required to obtain  
30 pharmacy services and prescription drugs from a mail <sup>2</sup>[order]service<sup>2</sup>  
31 pharmacy;

32 (b) Provides for no differential in any copayment applicable to any  
33 prescription drug of the same strength, quantity and days' supply,  
34 whether obtained from a mail <sup>2</sup>[order]service<sup>2</sup> pharmacy or a non-mail  
35 <sup>2</sup>[order]service<sup>2</sup> pharmacy <sup>2</sup>, provided that the non-mail service  
36 pharmacy agrees to the same terms, conditions, price and services  
37 applicable to the mail service pharmacy<sup>2</sup> ;<sup>1</sup>and

38 (c) Provides that the limit on days' supply is the same whether the  
39 prescription drug is obtained from a mail <sup>2</sup>[order]service<sup>2</sup> pharmacy or  
40 a non-mail <sup>2</sup>[order]service<sup>2</sup> pharmacy <sup>2</sup>, and that the limit shall not be  
41 less than 90 days<sup>2</sup> <sup>3</sup>except for any health care-related programs funded  
42 in whole or in part with State funds, including, but not limited to, the  
43 Medicaid program established pursuant to P.L.1968, c.413 (C.30:4D-1  
44 et seq.) and the "Children's Health Care Coverage Program"  
45 established pursuant to P.L.1997, c.272 (C.30:4I-1 et seq.)<sup>3</sup> ;<sup>1</sup>

46 (5) Sets forth the auditing procedures to be used by the health

1 maintenance organization and includes a provision that any audit shall  
2 take place at a time mutually agreeable to the pharmacy or pharmacist  
3 and the auditor<sup>3</sup>, unless authorized by the Division of Medical  
4 Assistance and Health Services in the Department of Human Services  
5 with regard to any health care-related programs funded in whole or in  
6 part with State funds, including, but not limited to, the Medicaid  
7 program and "Children's Health Care Coverage Program"<sup>3</sup>. No audit  
8 by a health maintenance organization shall include a review of any  
9 document relating to any person or prescription plan other than those  
10 reimbursable by the health maintenance organization<sup>1</sup> [, nor shall the  
11 health maintenance organization seek reimbursement from a pharmacy  
12 or pharmacist without due process]<sup>1 3</sup>, unless authorized by the  
13 Division of Medical Assistance and Health Services in the Department  
14 of Human Services with regard to any health care-related programs  
15 funded in whole or in part with State funds, including, but not limited  
16 to, the Medicaid program and "Children's Health Care Coverage  
17 Program"<sup>3</sup>;

18 (6) <sup>1</sup>[ Provides that a health maintenance organization or any agent  
19 thereof shall remit payment to a pharmacy or pharmacist for every  
20 prescription eligible for reimbursement under the enrollment agreement  
21 no later than the 15th calendar day following receipt of the claim.  
22 Interest on overdue payments shall bear interest at the rate of 10  
23 percent simple interest per annum; and

24 (7) <sup>1</sup> Provides that the health maintenance organization <sup>1</sup> or any  
25 agent or intermediary thereof, including a third party administrator,<sup>1</sup>  
26 shall not restrict or prohibit, directly or indirectly, a pharmacy <sup>1</sup> [or  
27 pharmacist that is a party to a pharmacy provider contract or is  
28 otherwise entitled to reimbursement pursuant to the provisions of this  
29 section]<sup>1</sup> from charging the enrollee <sup>1</sup> [any sum in addition to the  
30 enrollee's copayment, which charges may include, but not be limited  
31 to, a dispensing fee or a fee for patient counseling] for services  
32 rendered by the pharmacy that are in addition to charges for the drug,  
33 for dispensing the drug or for prescription counseling. Services  
34 rendered by the pharmacy for which additional charges are imposed  
35 shall be subject to the approval of the Board of Pharmacy. <sup>2</sup> A  
36 pharmacy shall disclose to the purchaser the charges for the additional  
37 services and the purchaser's out-of-pocket cost for those services prior  
38 to dispensing the drug.<sup>2</sup> A pharmacy shall not impose any additional  
39 charges for patient counseling or for other services required by the  
40 Board of Pharmacy <sup>3</sup> or the Division of Medical Assistance and Health  
41 Services in the Department of Human Services<sup>3</sup> or State or federal  
42 law.

43 (7) The provisions of P.L. , c. (pending before the Legislature as  
44 this bill) shall apply to all health maintenance organization contracts  
45 delivered, issued or renewed on or after the effective date of P.L. ,  
46 c. <sup>1</sup>.

1       b. Nothing in this section shall be construed to operate to add any  
2 coverage for health care services, to increase the scope of any  
3 coverage for health care services, or to increase the level of any health  
4 care services provided by a health maintenance organization.

5       c. This section shall apply to health maintenance organization plans  
6 in which the right to change the enrollee charge has been reserved.  
7 (cf: P.L.1993, c.378, s.6)

8  
9       7. This act shall take effect <sup>2</sup>[immediately] on the 90th day after  
10 enactment<sup>2</sup> and shall apply to all contracts, policies and certificates of  
11 authority issued or renewed on or after the effective date of this act.

12

13

14

15

16 Prohibits health insurers that provide prescription benefits from  
17 imposing different terms and conditions based on type of pharmacy.

**SENATE, No. 1533**

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**STATE OF NEW JERSEY**  
**208th LEGISLATURE**

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INTRODUCED DECEMBER 10, 1998

**Sponsored by:**

**Senator GERALD CARDINALE**

**District 39 (Bergen)**

**SYNOPSIS**

Prohibits health insurers that provide prescription benefits from imposing different terms and conditions based on type of pharmacy.

**CURRENT VERSION OF TEXT**

As introduced.



S1533 CARDINALE

2

1 AN ACT concerning certain prescription drug plans and amending  
2 P.L.1993, c.378.

3

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

6

7 1. Section 1 of P.L.1993, c.378 (C.17:48-6j) is amended to read as  
8 follows:

9 1. a. Notwithstanding any other provision of law to the contrary,  
10 no group or individual hospital service corporation contract which  
11 provides benefits for pharmacy services, prescription drugs, or for  
12 participation in a prescription drug plan, shall be delivered, issued,  
13 executed or renewed in this State, or approved for issuance or renewal  
14 in this State on or after the effective date of this act, unless the  
15 contract:

16 (1) Permits the subscriber, at the time of issuance, amendment or  
17 renewal, to select benefit coverage allowing the subscriber to choose  
18 a pharmacy or pharmacist for the provision of prescription drugs or  
19 pharmacy services, provided that any pharmacist or pharmacy selected  
20 by the subscriber is registered pursuant to R.S.45:14-1 et seq.;

21 (2) Provides that no pharmacy or pharmacist shall be denied the  
22 right to participate as a preferred provider or as a contracting  
23 provider, under the same terms and conditions currently applicable to  
24 all other preferred or contracting providers, if the contract provides  
25 for coverage by contracted or preferred providers, provided the  
26 pharmacy or pharmacist is registered pursuant to R.S.45:14-1 et seq.,  
27 and accepts the terms of the contract;

28 (3) Provides that no copayment, fee, or other condition shall be  
29 imposed upon a subscriber selecting a participating or contracting  
30 pharmacist or pharmacy that is not also equally imposed upon all  
31 subscribers selecting a participating or contracting pharmacist or  
32 pharmacy; **[and]**

33 (4) (a) Provides that no subscriber shall be required to obtain  
34 pharmacy services and prescription drugs from a mail order pharmacy;

35 (b) Provides for no differential in any copayment applicable to any  
36 prescription drug of the same strength, quantity and days' supply,  
37 whether obtained from a mail order pharmacy or a non-mail order  
38 pharmacy;

39 (5) Sets forth the auditing procedures to be used by the hospital  
40 service corporation and includes a provision that any audit shall take  
41 place at a time mutually agreeable to the pharmacy or pharmacist and  
42 the auditor. No audit by a hospital service corporation shall include  
43 a review of any document relating to any person or prescription plan

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.



1 other than those reimbursable by the hospital service corporation, nor  
2 shall the hospital service corporation seek reimbursement from a  
3 pharmacy or pharmacist without due process;

4 (6) Provides that a hospital service corporation or any agent  
5 thereof shall remit payment to a pharmacy or pharmacist for every  
6 prescription eligible for reimbursement under the hospital service  
7 corporation contract no later than the 15th calendar day following  
8 receipt of the claim. Interest on overdue payments shall bear interest  
9 at the rate of 10 percent simple interest per annum; and

10 (7) Provides that the hospital service corporation shall not restrict  
11 or prohibit, directly or indirectly, a pharmacy or pharmacist that is a  
12 party to a pharmacy provider contract or is otherwise entitled to  
13 reimbursement pursuant to the provisions of this section from charging  
14 the subscriber any sum in addition to the subscriber's copayment,  
15 which charges may include, but not be limited to, a dispensing fee or  
16 a fee for patient counseling.

17 b. Nothing in this section shall be construed to operate to add any  
18 benefit, to increase the scope of any benefit, or to increase any benefit  
19 level under any contract.

20 c. This section shall apply to all hospital service corporation  
21 contracts in which the hospital service corporation has reserved the  
22 right to change the subscriber charge.

23 (cf: P.L.1993, c.378, s.1)

24  
25 2. Section 2 of P.L.1993, c.378 (C.17:48A-7i) is amended to read  
26 as follows:

27 2. a. Notwithstanding any other provision of law to the contrary,  
28 no group or individual medical service corporation contract which  
29 provides benefits for pharmacy services, prescription drugs, or for  
30 participation in a prescription drug plan, shall be delivered, issued,  
31 executed or renewed in this State or approved for issuance in this  
32 State on or after the effective date of this act, unless the contract:

33 (1) Permits the subscriber, at the time of issuance, amendment or  
34 renewal, to select benefit coverage allowing the subscriber to choose  
35 a pharmacy or pharmacist for the provision of prescription drugs or  
36 pharmacy services, provided that any pharmacist or pharmacy selected  
37 by the subscriber is registered pursuant to R.S.45:14-1 et seq.;

38 (2) Provides that no pharmacy or pharmacist shall be denied the  
39 right to participate as a preferred provider or as a contracting  
40 provider, under the same terms and conditions currently applicable to  
41 all other preferred or contracting providers, if the contract provides  
42 for coverage by contracted or preferred providers, provided the  
43 pharmacy or pharmacist is registered pursuant to R.S.45:14-1 et seq.,  
44 and accepts the terms of the contract;

45 (3) Provides that no copayment, fee, or other condition shall be  
46 imposed upon a subscriber selecting a participating or contracting

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1 pharmacist or pharmacy [of his own choice,] that is not also equally  
2 imposed upon all subscribers selecting a participating or contracting  
3 pharmacist or pharmacy; [and]

4 (4) (a) Provides that no subscriber shall be required to obtain  
5 pharmacy services and prescription drugs from a mail order pharmacy;

6 (b) Provides for no differential in any copayment applicable to any  
7 prescription drug of the same strength, quantity and days' supply,  
8 whether obtained from a mail order pharmacy or a non-mail order  
9 pharmacy;

10 (5) Sets forth the auditing procedures to be used by the medical  
11 service corporation and includes a provision that any audit shall take  
12 place at a time mutually agreeable to the pharmacy or pharmacist and  
13 the auditor. No audit by a medical service corporation shall include a  
14 review of any document relating to any person or prescription plan  
15 other than those reimbursable by the medical service corporation, nor  
16 shall the medical service corporation seek reimbursement from a  
17 pharmacy or pharmacist without due process;

18 (6) Provides that a medical service corporation or any agent  
19 thereof shall remit payment to a pharmacy or pharmacist for every  
20 prescription eligible for reimbursement under the medical service  
21 corporation contract no later than the 15th calendar day following  
22 receipt of the claim. Interest on overdue payments shall bear interest  
23 at the rate of 10 percent simple interest per annum; and

24 (7) Provides that the medical service corporation shall not restrict  
25 or prohibit, directly or indirectly, a pharmacy or pharmacist that is a  
26 party to a pharmacy provider contract or is otherwise entitled to  
27 reimbursement pursuant to the provisions of this section from charging  
28 the subscriber any sum in addition to the subscriber's copayment,  
29 which charges may include, but not be limited to, a dispensing fee or  
30 a fee for patient counseling.

31 b. Nothing in this section shall be construed to operate to add any  
32 benefit, to increase the scope of any benefit, or to increase any benefit  
33 level under any contract.

34 c. This section shall apply to all medical service corporation  
35 contracts in which the medical service corporation has reserved the  
36 right to change the subscriber charge.

37 (cf: P.L.1993, c.378, s.2)

38

39 3. Section 3 of P.L.1993, c.378 (C.17:48E-35.7) is amended to  
40 read as follows:

41 3. a. Notwithstanding any other provisions of law to the contrary,  
42 no group or individual health service corporation contract which  
43 provides benefits for pharmacy services, prescription drugs, or for  
44 participation in a prescription drug plan, shall be delivered, issued,  
45 executed or renewed in this State, or approved for issuance or renewal  
46 in this State on or after the effective date of this act, unless the

1 contract:

2 (1) Permits the subscriber, at the time of issuance, amendment or  
3 renewal, to select benefit coverage allowing the subscriber to choose  
4 a pharmacy or pharmacist for the provision of prescription drugs or  
5 pharmacy services, provided that any pharmacist or pharmacy selected  
6 by the subscriber is registered pursuant to R.S.45:14-1 et seq.;

7 (2) Provides that no pharmacy or pharmacist shall be denied the  
8 right to participate as a preferred provider or as a contracting  
9 provider, under the same terms and conditions currently applicable to  
10 all other preferred or contracting providers, if the contract provides  
11 for coverage by contracted or preferred providers, provided the  
12 pharmacy or pharmacist is registered pursuant to R.S.45:14-1 et seq.,  
13 and accepts the terms of the contract;

14 (3) Provides that no copayment, fee, or other condition shall be  
15 imposed upon a subscriber selecting a participating or contracting  
16 pharmacist or pharmacy that is not also equally imposed upon all  
17 subscribers selecting a participating or contracting pharmacist or  
18 pharmacy; **[and]**

19 (4) (a) Provides that no subscriber shall be required to obtain  
20 pharmacy services and prescription drugs from a mail order pharmacy;

21 (b) Provides for no differential in any copayment applicable to any  
22 prescription drug of the same strength, quantity and days' supply,  
23 whether obtained from a mail order pharmacy or a non-mail order  
24 pharmacy;

25 (5) Sets forth the auditing procedures to be used by the health  
26 service corporation and includes a provision that any audit shall take  
27 place at a time mutually agreeable to the pharmacy or pharmacist and  
28 the auditor. No audit by a health service corporation shall include a  
29 review of any document relating to any person or prescription plan  
30 other than those reimbursable by the health service corporation, nor  
31 shall the health service corporation seek reimbursement from a  
32 pharmacy or pharmacist without due process;

33 (6) Provides that a health service corporation or any agent thereof  
34 shall remit payment to a pharmacy or pharmacist for every prescription  
35 eligible for reimbursement under the health service corporation  
36 contract no later than the 15th calendar day following receipt of the  
37 claim. Interest on overdue payments shall bear interest at the rate of  
38 10 percent simple interest per annum; and

39 (7) Provides that the health service corporation shall not restrict or  
40 prohibit, directly or indirectly, a pharmacy or pharmacist that is a party  
41 to a pharmacy provider contract or is otherwise entitled to  
42 reimbursement pursuant to the provisions of this section from charging  
43 the subscriber any sum in addition to the subscriber's copayment,  
44 which charges may include, but not be limited to, a dispensing fee or  
45 a fee for patient counseling.

46 b. Nothing in this section shall be construed to operate to add any

1 benefit, to increase the scope of any benefit, or to increase any benefit  
2 level under any contract.

3 c. This section shall apply to all health service corporation  
4 contracts in which the health service corporation has reserved the right  
5 to change the subscriber charge.

6 (cf: P.L.1993, c.378, s.3)

7

8 4. Section 4 of P.L.1993, c.378 (C.17B:26-2.1i) is amended to  
9 read as follows:

10 4. a. Notwithstanding any other provision of law to the contrary,  
11 no individual health insurance policy which provides benefits for  
12 pharmacy services, prescription drugs, or for participation in a  
13 prescription drug plan, shall be delivered, issued, executed or renewed  
14 in this State, or approved for issuance or renewal in this State on or  
15 after the effective date of this act, unless the policy:

16 (1) Permits the insured, at the time of issuance, amendment or  
17 renewal, to select benefit coverage allowing the insured to choose a  
18 pharmacy or pharmacist for the provision of prescription drugs or  
19 pharmacy services, provided that any pharmacist or pharmacy selected  
20 by the insured is registered pursuant to R.S.45:14-1 et seq.;

21 (2) Provides that no pharmacy or pharmacist shall be denied the  
22 right to participate as a preferred provider or as a contracting  
23 provider, under the same terms and conditions currently applicable to  
24 all other preferred or contracting providers, if the policy provides for  
25 coverage by contracted or preferred providers, provided the pharmacy  
26 or pharmacist is registered pursuant to R.S.45:14-1 et seq., and  
27 accepts the terms of the policy;

28 (3) Provides that no copayment, fee, or other condition shall be  
29 imposed upon an insured selecting a participating or contracting  
30 pharmacist or pharmacy that is not also equally imposed upon all  
31 insureds selecting a participating or contracting pharmacist or  
32 pharmacy; **[and]**

33 (4) (a) Provides that no insured shall be required to obtain  
34 pharmacy services and prescription drugs from a mail order pharmacy;

35 (b) Provides for no differential in any copayment applicable to any  
36 prescription drug of the same strength, quantity and days' supply,  
37 whether obtained from a mail order pharmacy or a non-mail order  
38 pharmacy;

39 (5) Sets forth the auditing procedures to be used by the insurer and  
40 includes a provision that any audit shall take place at a time mutually  
41 agreeable to the pharmacy or pharmacist and the auditor. No audit by  
42 an insurer shall include a review of any document relating to any  
43 person or prescription plan other than those reimbursable by the  
44 insurer, nor shall the insurer seek reimbursement from a pharmacy or  
45 pharmacist without due process;

46 (6) Provides that an insurer or any agent thereof shall remit

1 payment to a pharmacy or pharmacist for every prescription eligible  
2 for reimbursement under the policy no later than the 15th calendar day  
3 following receipt of the claim. Interest on overdue payments shall  
4 bear interest at the rate of 10 percent simple interest per annum; and

5 (7) Provides that the insurer shall not restrict or prohibit, directly  
6 or indirectly, a pharmacy or pharmacist that is a party to a pharmacy  
7 provider contract or is otherwise entitled to reimbursement pursuant  
8 to the provisions of this section from charging the insured any sum in  
9 addition to the insured's copayment, which charges may include, but  
10 not be limited to, a dispensing fee or a fee for patient counseling.

11 b. Nothing in this section shall be construed to operate to add any  
12 benefit, to increase the scope of any benefit, or to increase any benefit  
13 level under any policy.

14 c. This section shall apply to all individual health insurance policies  
15 in which the insurer has reserved the right to change the premium.

16 (cf: P.L.1993, c.378, s.4)

17

18 5. Section 5 of P.L.1993, c.378 (C.17B:27-46.1i) is amended to  
19 read as follows:

20 5. a. Notwithstanding any other provision of law to the contrary,  
21 no group health insurance policy which provides benefits for pharmacy  
22 services, prescription drugs, or for participation in a prescription drug  
23 plan, shall be delivered, issued, executed or renewed in this State, or  
24 approved for issuance or renewal in this State, on or after the effective  
25 date of this act, unless the policy:

26 (1) Permits the insured, at the time of issuance, amendment or  
27 renewal, to select benefit coverage allowing the insured to choose a  
28 pharmacy or pharmacist for the provision of prescription drugs or  
29 pharmacy services, provided that any pharmacist or pharmacy selected  
30 by the insured is registered pursuant to R.S.45:14-1 et seq.;

31 (2) Provides that no pharmacy or pharmacist shall be denied the  
32 right to participate as a preferred provider or as a contracting  
33 provider, under the same terms and conditions currently applicable to  
34 all other preferred or contracting providers, if the policy provides for  
35 coverage by contracted or preferred providers, provided the pharmacy  
36 or pharmacist is registered pursuant to R.S.45:14-1 et seq., and  
37 accepts the terms of the policy;

38 (3) Provides that no copayment, fee, or other condition shall be  
39 imposed upon an insured selecting a participating or contracting  
40 pharmacist or pharmacy that is not also equally imposed upon all  
41 insureds selecting a participating or contracting pharmacist or  
42 pharmacy; **[and]**

43 (4) (a) Provides that no insured shall be required to obtain  
44 pharmacy services and prescription drugs from a mail order pharmacy;

45 (b) Provides for no differential in any copayment applicable to any  
46 prescription drug of the same strength, quantity and days' supply.

1 whether obtained from a mail order pharmacy or a non-mail order  
2 pharmacy:

3 (5) Sets forth the auditing procedures to be used by the insurer and  
4 includes a provision that any audit shall take place at a time mutually  
5 agreeable to the pharmacy or pharmacist and the auditor. No audit by  
6 an insurer shall include a review of any document relating to any  
7 person or prescription plan other than those reimbursable by the  
8 insurer, nor shall the insurer seek reimbursement from a pharmacy or  
9 pharmacist without due process;

10 (6) Provides that an insurer or any agent thereof shall remit  
11 payment to a pharmacy or pharmacist for every prescription eligible  
12 for reimbursement under the policy no later than the 15th calendar day  
13 following receipt of the claim. Interest on overdue payments shall  
14 bear interest at the rate of 10 percent simple interest per annum; and

15 (7) Provides that the insurer shall not restrict or prohibit, directly  
16 or indirectly, a pharmacy or pharmacist that is a party to a pharmacy  
17 provider contract or is otherwise entitled to reimbursement pursuant  
18 to the provisions of this section from charging the insured any sum in  
19 addition to the insured's copayment, which charges may include, but  
20 not be limited to, a dispensing fee or a fee for patient counseling.

21 b. Nothing in this section shall be construed to operate to add any  
22 benefit, to increase the scope of any benefit, or to increase any benefit  
23 level under any policy.

24 c. This section shall apply to all group health insurance policies in  
25 which the insurer has reserved the right to change the premium.

26 (cf: P.L.1993, c.378, s.5)

27

28 6. Section 6 of P.L.1993, c.378 (C.26:2J-4.7) is amended to read  
29 as follows:

30 6. a. Notwithstanding any provision of law to the contrary, a  
31 certificate of authority to establish and operate a health maintenance  
32 organization in this State shall not be issued or continued on or after  
33 the effective date of this act for a health maintenance organization  
34 which provides pharmacy services, prescription drugs, or a  
35 prescription drug plan, unless the coverage for health care services:

36 (1) Permits the enrollee, at the time of enrollment, to select benefit  
37 coverage allowing the enrollee to choose a pharmacy or pharmacist for  
38 the provision of prescription drugs or pharmacy services, provided that  
39 any pharmacist or pharmacy selected by the enrollee is registered  
40 pursuant to R.S.45:14-1 et seq.;

41 (2) Provides that no pharmacy or pharmacist shall be denied the  
42 right to participate as a preferred provider or as a contracting  
43 provider, under the same terms and conditions currently applicable to  
44 all other preferred or contracting providers, if the health maintenance  
45 organization provides for coverage by contracted or preferred  
46 providers, provided the pharmacy or pharmacist is registered pursuant

1 to R.S.45:14-1 et seq., and accepts the terms of the health  
2 maintenance organization;

3 (3) Provides that no copayment, fee, or other condition shall be  
4 imposed upon an enrollee selecting a participating or contracting  
5 pharmacist or pharmacy that is not also equally imposed upon all  
6 enrollees selecting a participating or contracting pharmacist or  
7 pharmacy; **[and]**

8 (4) (a) Provides that no enrollee shall be required to obtain  
9 pharmacy services and prescription drugs from a mail order pharmacy;

10 (b) Provides for no differential in any copayment applicable to any  
11 prescription drug of the same strength, quantity and days' supply,  
12 whether obtained from a mail order pharmacy or a non-mail order  
13 pharmacy;

14 (5) Sets forth the auditing procedures to be used by the health  
15 maintenance organization and includes a provision that any audit shall  
16 take place at a time mutually agreeable to the pharmacy or pharmacist  
17 and the auditor. No audit by a health maintenance organization shall  
18 include a review of any document relating to any person or  
19 prescription plan other than those reimbursable by the health  
20 maintenance organization, nor shall the health maintenance  
21 organization seek reimbursement from a pharmacy or pharmacist  
22 without due process;

23 (6) Provides that a health maintenance organization or any agent  
24 thereof shall remit payment to a pharmacy or pharmacist for every  
25 prescription eligible for reimbursement under the enrollment agreement  
26 no later than the 15th calendar day following receipt of the claim.  
27 Interest on overdue payments shall bear interest at the rate of 10  
28 percent simple interest per annum; and

29 (7) Provides that the health maintenance organization shall not  
30 restrict or prohibit, directly or indirectly, a pharmacy or pharmacist  
31 that is a party to a pharmacy provider contract or is otherwise entitled  
32 to reimbursement pursuant to the provisions of this section from  
33 charging the enrollee any sum in addition to the enrollee's copayment,  
34 which charges may include, but not be limited to, a dispensing fee or  
35 a fee for patient counseling.

36 b. Nothing in this section shall be construed to operate to add any  
37 coverage for health care services, to increase the scope of any  
38 coverage for health care services, or to increase the level of any health  
39 care services provided by a health maintenance organization.

40 c. This section shall apply to health maintenance organization plans  
41 in which the right to change the enrollee charge has been reserved.

42 (cf: P.L.1993, c.378, s.6)

43

44 7. This act shall take effect immediately and shall apply to all  
45 contracts, policies and certificates of authority issued or renewed on  
46 or after the effective date of this act.

STATEMENT

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This bill amends P.L.1993, c.378 concerning pharmacy choice to provide that:

(1) The same terms and conditions must apply to all pharmacy providers in a pharmacy plan;

(2) Whether the prescription is filled by a mail order pharmacy or a non-mail order pharmacy, a covered person shall pay the same copayment and receive the same strength, quantity and days' supply of a prescription drug;

(3) An insurer's auditing procedures must be set forth in the contract; an audit may only occur at a mutually agreeable time; and an audit may concern only documents related to the insurer's prescription plan;

(4) An insurer may only seek reimbursement from a pharmacy using due process;

(5) An insurer must pay a pharmacy claim within 15 calendar days of receiving the claim;

(6) Overdue claim payments carry a 10 percent rate of interest; and

(7) An insurer shall not prohibit a pharmacy from charging a cover person a dispensing fee or a fee for patient counseling, in addition to any copayment.

The provisions of the bill apply to hospital, medical and health service corporations, commercial insurers and health maintenance organizations.



# ASSEMBLY HEALTH COMMITTEE

## STATEMENT TO

[First Reprint]

## **SENATE, No. 1533**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: DECEMBER 2, 1999

The Assembly Health Committee reports favorably and with committee amendments Senate Bill No. 1533 (1R).

As amended by the committee, this bill amends P.L.1993, c.378 concerning pharmacy choice to provide that:

- the same terms and conditions must apply to all pharmacy providers in a pharmacy plan;
- whether the prescription is filled by a mail service pharmacy or a non-mail service pharmacy, a covered person shall pay the same copayment and receive the same strength, quantity and days' supply of a prescription drug, provided that the non-mail service pharmacy agrees to the same terms, conditions, price and services as the mail service pharmacy;
- the limit on days' supply for a prescription drug shall not be less than 90 days, whether obtained from a mail service pharmacy or a non-mail service pharmacy;
- an insurer's auditing procedures must be set forth in the contract; an audit may only occur at a mutually agreeable time; and an audit may concern only documents related to the insurer's prescription plan; and
- an insurer or its agent or intermediary (including a third party administrator) shall not prohibit a pharmacy from charging a covered person for any services rendered by the pharmacy that are in addition to charges for the drug, for dispensing the drug or for prescription counseling. Services rendered by the pharmacy for which additional charges are imposed shall be subject to the approval of the Board of Pharmacy. A pharmacy shall disclose to a purchaser the charges for any additional services rendered by the pharmacy that are in addition to charges for a drug, for dispensing the drug or for prescription counseling, and the purchaser's out-of-pocket cost for those services prior to dispensing the drug. A pharmacy shall not impose any additional charges for patient counseling or for other services required by the Board of Pharmacy or State or federal law.

The provisions of the bill apply to hospital, medical and health service corporations, commercial insurers and health maintenance organizations.

The committee amendments:

-- change the term "mail order pharmacy" to "mail service pharmacy";

-- condition the requirement that a covered person pay the same copayment for a prescription, whether filled by a mail service pharmacy or a non-mail service pharmacy, and receive the same strength, quantity and days' supply of the prescription drug, on the non-mail service pharmacy agreeing to the same terms, conditions, price and services as the mail service pharmacy;

-- provide that the limit on days' supply for a prescription drug shall not be less than 90 days, whether obtained from a mail service pharmacy or a non-mail service pharmacy;

-- require that a pharmacy disclose to a purchaser the charges for any additional services rendered by the pharmacy that are in addition to charges for a drug, for dispensing the drug or for prescription counseling, and the purchaser's out-of-pocket cost for those services prior to dispensing the drug; and

-- change the effective date of the bill from immediately to the 90th day after enactment.

As reported by the committee, this bill is identical to Assembly Bill No. 3179 Aca (Felice), which the committee also reported on this date.

# SENATE HEALTH COMMITTEE

## STATEMENT TO

### **SENATE, No. 1533**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 14, 1999

The Senate Health Committee reports favorably and with committee amendments Senate Bill No. 1533.

As amended by committee, this bill amends P.L.1993, c.378 concerning pharmacy choice to provide that:

(1) The same terms and conditions must apply to all pharmacy providers in a pharmacy plan;

(2) Whether the prescription is filled by a mail order pharmacy or a non-mail order pharmacy, a covered person shall pay the same copayment and receive the same strength, quantity and days' supply of a prescription drug;

(3) An insurer's auditing procedures must be set forth in the contract; an audit may only occur at a mutually agreeable time; and an audit may concern only documents related to the insurer's prescription plan; and

(4) An insurer or its agent or intermediary (including a third party administrator) shall not prohibit a pharmacy from charging a covered person for any services rendered by the pharmacy that are in addition to charges for the drug, for dispensing the drug or for prescription counseling. Services rendered by the pharmacy for which additional charges are imposed shall be subject to the approval of the Board of Pharmacy and a pharmacy shall not impose any additional charges for patient counseling or for other services required by the Board of Pharmacy or State or federal law.

The provisions of the bill apply to hospital, medical and health service corporations, commercial insurers and health maintenance organizations.

The committee amended the bill to:

- clarify that a pharmacy or pharmacist may participate as a preferred provider or contracting provider if the pharmacy or pharmacist accepts the conditions, as well as the terms, of the contract or policy;

- provide that the limit on days' supply shall be the same whether the prescription drug is obtained from a mail order pharmacy or a non-mail order pharmacy;

- delete language prohibiting an insurance carrier from seeking reimbursement from a pharmacy or pharmacist without due process;
- delete language regarding the prompt payment of claims;
- provide that an insurance carrier shall not restrict or prohibit a pharmacy from charging the covered person for services rendered by the pharmacy that are in addition to charges for the drug, for dispensing the drug or for prescription counseling. The extra services rendered by the pharmacy for which additional charges are imposed shall be subject to the approval of the Board of Pharmacy and a pharmacy shall not impose any additional charges for patient counseling or for other services required by the Board of Pharmacy or State or federal law; and
- provide that the provisions of this bill shall apply to contracts and policies delivered, issued or renewed on or after the effective date of the bill.

# ASSEMBLY, No. 3179

## STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED MAY 24, 1999

**Sponsored by:**

**Assemblyman NICHOLAS R. FELICE**

**District 40 (Bergen and Passaic)**

**Assemblyman KENNETH C. LEFEVRE**

**District 2 (Atlantic)**

**Co-Sponsored by:**

**Assemblymen Bodine and Thompson**

**SYNOPSIS**

Prohibits health insurers that provide prescription benefits from imposing different terms and conditions based on type of pharmacy.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 12/3/1999)**

1 AN ACT concerning certain prescription drug plans and amending  
2 P.L.1993, c.378.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6  
7 1. Section 1 of P.L.1993, c.378 (C.17:48-6j) is amended to read as  
8 follows:

9 1. a. Notwithstanding any other provision of law to the contrary,  
10 no group or individual hospital service corporation contract which  
11 provides benefits for pharmacy services, prescription drugs, or for  
12 participation in a prescription drug plan, shall be delivered, issued,  
13 executed or renewed in this State, or approved for issuance or renewal  
14 in this State on or after the effective date of this act, unless the  
15 contract:

16 (1) Permits the subscriber, at the time of issuance, amendment or  
17 renewal, to select benefit coverage allowing the subscriber to choose  
18 a pharmacy or pharmacist for the provision of prescription drugs or  
19 pharmacy services, provided that any pharmacist or pharmacy selected  
20 by the subscriber is registered pursuant to R.S.45:14-1 et seq.;

21 (2) Provides that no pharmacy or pharmacist shall be denied the  
22 right to participate as a preferred provider or as a contracting  
23 provider, under the same terms and conditions currently applicable to  
24 all other preferred or contracting providers, if the contract provides  
25 for coverage by contracted or preferred providers for pharmaceutical  
26 services, provided the pharmacy or pharmacist is registered pursuant  
27 to R.S.45:14-1 et seq., and accepts the terms and conditions of the  
28 contract;

29 (3) Provides that no copayment, fee, or other condition shall be  
30 imposed upon a subscriber selecting a participating or contracting  
31 pharmacist or pharmacy that is not also equally imposed upon all  
32 subscribers selecting a participating or contracting pharmacist or  
33 pharmacy; **[and]**

34 (4) (a) Provides that no subscriber shall be required to obtain  
35 pharmacy services and prescription drugs from a mail order pharmacy;

36 (b) Provides for no differential in any copayment applicable to any  
37 prescription drug of the same strength, quantity and days' supply,  
38 whether obtained from a mail order pharmacy or a non-mail order  
39 pharmacy; and

40 (c) Provides that the limit on days' supply is the same whether the  
41 prescription drug is obtained from a mail order pharmacy or a non-mail  
42 order pharmacy;

43 (5) Sets forth the auditing procedures to be used by the hospital

**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.**

1 service corporation and includes a provision that any audit shall take  
2 place at a time mutually agreeable to the pharmacy or pharmacist and  
3 the auditor. No audit by a hospital service corporation shall include  
4 a review of any document relating to any person or prescription plan  
5 other than those reimbursable by the hospital service corporation, nor  
6 shall the hospital service corporation seek to recapture funds after a  
7 claim has been adjudicated and paid from a pharmacy or pharmacist  
8 without due process;

9 (6) Provides that a hospital service corporation or any agent or  
10 intermediary thereof, including a third party administrator, shall remit  
11 payment to a pharmacy or pharmacist for every prescription eligible  
12 for reimbursement under the hospital service corporation contract no  
13 later than the 15th calendar day following receipt of the claim.  
14 Interest on overdue payments shall bear interest at the rate of 10  
15 percent simple interest per annum; and

16 (7) Provides that the hospital service corporation, or any agent or  
17 intermediary thereof, including a third party administrator, shall not  
18 restrict or prohibit, directly or indirectly, a pharmacy from charging  
19 the subscriber for services rendered by the pharmacy that are in  
20 addition to charges for the drug, for dispensing the drug or for  
21 prescription counseling. Any provision of a pharmacy provider  
22 contract that restricts a pharmacy from charging and collecting for an  
23 additional service is unenforceable and in violation of this act.

24 b. Nothing in this section shall be construed to operate to add any  
25 benefit, to increase the scope of any benefit, or to increase any benefit  
26 level under any contract.

27 c. This section shall apply to all hospital service corporation  
28 contracts in which the hospital service corporation has reserved the  
29 right to change the subscriber charge.

30 (cf: P.L.1993, c.378, s.1)

31  
32 2. Section 2 of P.L.1993, c.378 (C.17:48A-7i) is amended to read  
33 as follows:

34 2. a. Notwithstanding any other provision of law to the contrary,  
35 no group or individual medical service corporation contract which  
36 provides benefits for pharmacy services, prescription drugs, or for  
37 participation in a prescription drug plan, shall be delivered, issued,  
38 executed or renewed in this State or approved for issuance in this  
39 State on or after the effective date of this act, unless the contract:

40 (1) Permits the subscriber, at the time of issuance, amendment or  
41 renewal, to select benefit coverage allowing the subscriber to choose  
42 a pharmacy or pharmacist for the provision of prescription drugs or  
43 pharmacy services, provided that any pharmacist or pharmacy selected  
44 by the subscriber is registered pursuant to R.S.45:14-1 et seq.;

45 (2) Provides that no pharmacy or pharmacist shall be denied the  
46 right to participate as a preferred provider or as a contracting

1 provider, under the same terms and conditions currently applicable to  
2 all other preferred or contracting providers, if the contract provides  
3 for coverage by contracted or preferred providers for pharmaceutical  
4 services, provided the pharmacy or pharmacist is registered pursuant  
5 to R.S.45:14-1 et seq., and accepts the terms and conditions of the  
6 contract;

7 (3) Provides that no copayment, fee, or other condition shall be  
8 imposed upon a subscriber selecting a participating or contracting  
9 pharmacist or pharmacy 【of his own choice,】 that is not also equally  
10 imposed upon all subscribers selecting a participating or contracting  
11 pharmacist or pharmacy; 【and】

12 (4) (a) Provides that no subscriber shall be required to obtain  
13 pharmacy services and prescription drugs from a mail order pharmacy;

14 (b) Provides for no differential in any copayment applicable to any  
15 prescription drug of the same strength, quantity and days' supply,  
16 whether obtained from a mail order pharmacy or a non-mail order  
17 pharmacy; and

18 (c) Provides that the limit on days' supply is the same whether the  
19 prescription drug is obtained from a mail order pharmacy or a non-mail  
20 order pharmacy;

21 (5) Sets forth the auditing procedures to be used by the medical  
22 service corporation and includes a provision that any audit shall take  
23 place at a time mutually agreeable to the pharmacy or pharmacist and  
24 the auditor. No audit by a medical service corporation shall include a  
25 review of any document relating to any person or prescription plan  
26 other than those reimbursable by the medical service corporation, nor  
27 shall the medical service corporation seek to recapture funds after a  
28 claim has been adjudicated and paid from a pharmacy or pharmacist  
29 without due process;

30 (6) Provides that a medical service corporation or any agent or  
31 intermediary thereof, including a third party administrator, shall remit  
32 payment to a pharmacy or pharmacist for every prescription eligible  
33 for reimbursement under the medical service corporation contract no  
34 later than the 15th calendar day following receipt of the claim.  
35 Interest on overdue payments shall bear interest at the rate of 10  
36 percent simple interest per annum; and

37 (7) Provides that the medical service corporation, or any agent or  
38 intermediary thereof, including a third party administrator, shall not  
39 restrict or prohibit, directly or indirectly, a pharmacy from charging  
40 the subscriber for services rendered by the pharmacy that are in  
41 addition to charges for the drug, for dispensing the drug or for  
42 prescription counseling. Any provision of a pharmacy provider  
43 contract that restricts a pharmacy from charging and collecting for an  
44 additional service is unenforceable and in violation of this act.

45 b. Nothing in this section shall be construed to operate to add any  
46 benefit, to increase the scope of any benefit, or to increase any benefit



1 level under any contract.

2 c. This section shall apply to all medical service corporation  
3 contracts in which the medical service corporation has reserved the  
4 right to change the subscriber charge.

5 (cf: P.L.1993, c.378, s.2)

6

7 3. Section 3 of P.L.1993, c.378 (C.17:48E-35.7) is amended to  
8 read as follows:

9 3. a. Notwithstanding any other provisions of law to the contrary,  
10 no group or individual health service corporation contract which  
11 provides benefits for pharmacy services, prescription drugs, or for  
12 participation in a prescription drug plan, shall be delivered, issued,  
13 executed or renewed in this State, or approved for issuance or renewal  
14 in this State on or after the effective date of this act, unless the  
15 contract:

16 (1) Permits the subscriber, at the time of issuance, amendment or  
17 renewal, to select benefit coverage allowing the subscriber to choose  
18 a pharmacy or pharmacist for the provision of prescription drugs or  
19 pharmacy services, provided that any pharmacist or pharmacy selected  
20 by the subscriber is registered pursuant to R.S.45:14-1 et seq.;

21 (2) Provides that no pharmacy or pharmacist shall be denied the  
22 right to participate as a preferred provider or as a contracting  
23 provider, under the same terms and conditions currently applicable to  
24 all other preferred or contracting providers, if the contract provides  
25 for coverage by contracted or preferred providers for pharmaceutical  
26 services, provided the pharmacy or pharmacist is registered pursuant  
27 to R.S.45:14-1 et seq., and accepts the terms and conditions of the  
28 contract;

29 (3) Provides that no copayment, fee, or other condition shall be  
30 imposed upon a subscriber selecting a participating or contracting  
31 pharmacist or pharmacy that is not also equally imposed upon all  
32 subscribers selecting a participating or contracting pharmacist or  
33 pharmacy; **[and]**

34 (4) (a) Provides that no subscriber shall be required to obtain  
35 pharmacy services and prescription drugs from a mail order pharmacy;

36 (b) Provides for no differential in any copayment applicable to any  
37 prescription drug of the same strength, quantity and days' supply,  
38 whether obtained from a mail order pharmacy or a non-mail order  
39 pharmacy; and

40 (c) Provides that the limit on days' supply is the same whether the  
41 prescription drug is obtained from a mail order pharmacy or a non-mail  
42 order pharmacy; and

43 (5) Sets forth the auditing procedures to be used by the health  
44 service corporation and includes a provision that any audit shall take  
45 place at a time mutually agreeable to the pharmacy or pharmacist and  
46 the auditor. No audit by a health service corporation shall include a

1 review of any document relating to any person or prescription plan  
2 other than those reimbursable by the health service corporation, nor  
3 shall the health service corporation seek to recapture funds after a  
4 claim has been adjudicated and paid from a pharmacy or pharmacist  
5 without due process;

6 (6) Provides that a health service corporation or any agent or  
7 intermediary thereof, including a third party administrator, shall remit  
8 payment to a pharmacy or pharmacist for every prescription eligible  
9 for reimbursement under the health service corporation contract no  
10 later than the 15th calendar day following receipt of the claim.  
11 Interest on overdue payments shall bear interest at the rate of 10  
12 percent simple interest per annum; and

13 (7) Provides that the health service corporation, or any agent or  
14 intermediary thereof, including a third party administrator, shall not  
15 restrict or prohibit, directly or indirectly, a pharmacy from charging  
16 the subscriber for services rendered by the pharmacy that are in  
17 addition to charges for the drug, for dispensing the drug or for  
18 prescription counseling. Any provision of a pharmacy provider  
19 contract that restricts a pharmacy from charging and collecting for an  
20 additional service is unenforceable and in violation of this act.

21 b. Nothing in this section shall be construed to operate to add any  
22 benefit, to increase the scope of any benefit, or to increase any benefit  
23 level under any contract.

24 c. This section shall apply to all health service corporation contracts  
25 in which the health service corporation has reserved the right to  
26 change the subscriber charge.

27 (cf: P.L.1993, c.378, s.3)

28

29 4. Section 4 of P.L.1993, c.378 (C.17B:26-2.1i) is amended to  
30 read as follows:

31 4. a. Notwithstanding any other provision of law to the contrary,  
32 no individual health insurance policy which provides benefits for  
33 pharmacy services, prescription drugs, or for participation in a  
34 prescription drug plan, shall be delivered, issued, executed or renewed  
35 in this State, or approved for issuance or renewal in this State on or  
36 after the effective date of this act, unless the policy:

37 (1) Permits the insured, at the time of issuance, amendment or  
38 renewal, to select benefit coverage allowing the insured to choose a  
39 pharmacy or pharmacist for the provision of prescription drugs or  
40 pharmacy services, provided that any pharmacist or pharmacy selected  
41 by the insured is registered pursuant to R.S.45:14-1 et seq.;

42 (2) Provides that no pharmacy or pharmacist shall be denied the  
43 right to participate as a preferred provider or as a contracting  
44 provider, under the same terms and conditions currently applicable to  
45 all other preferred or contracting providers, if the policy provides for  
46 coverage by contracted or preferred providers for pharmaceutical

1 services, provided the pharmacy or pharmacist is registered pursuant  
2 to R.S.45:14-1 et seq., and accepts the terms and conditions of the  
3 policy;

4 (3) Provides that no copayment, fee, or other condition shall be  
5 imposed upon an insured selecting a participating or contracting  
6 pharmacist or pharmacy that is not also equally imposed upon all  
7 insureds selecting a participating or contracting pharmacist or  
8 pharmacy; **【and】**

9 (4) (a) Provides that no insured shall be required to obtain  
10 pharmacy services and prescription drugs from a mail order pharmacy;

11 (b) Provides for no differential in any copayment applicable to any  
12 prescription drug of the same strength, quantity and days' supply,  
13 whether obtained from a mail order pharmacy or a non-mail order  
14 pharmacy; and

15 (c) Provides that the limit on days' supply is the same whether the  
16 prescription drug is obtained from a mail order pharmacy or a non-mail  
17 order pharmacy;

18 (5) Sets forth the auditing procedures to be used by the insurer and  
19 includes a provision that any audit shall take place at a time mutually  
20 agreeable to the pharmacy or pharmacist and the auditor. No audit by  
21 an insurer shall include a review of any document relating to any  
22 person or prescription plan other than those reimbursable by the  
23 insurer, nor shall the insurer seek to recapture funds after a claim has  
24 been adjudicated and paid from a pharmacy or pharmacist without due  
25 process;

26 (6) Provides that an insurer or any agent or intermediary thereof,  
27 including a third party administrator, shall remit payment to a  
28 pharmacy or pharmacist for every prescription eligible for  
29 reimbursement under the policy no later than the 15th calendar day  
30 following receipt of the claim. Interest on overdue payments shall  
31 bear interest at the rate of 10 percent simple interest per annum; and

32 (7) Provides that the insurer, or any agent or intermediary thereof,  
33 including a third party administrator, shall not restrict or prohibit,  
34 directly or indirectly, a pharmacy from charging the insured for  
35 services rendered by the pharmacy that are in addition to charges for  
36 the drug, for dispensing the drug or for prescription counseling. Any  
37 provision of a pharmacy provider contract that restricts a pharmacy  
38 from charging and collecting for an additional service is unenforceable  
39 and in violation of this act.

40 b. Nothing in this section shall be construed to operate to add any  
41 benefit, to increase the scope of any benefit, or to increase any benefit  
42 level under any policy.

43 c. This section shall apply to all individual health insurance policies  
44 in which the insurer has reserved the right to change the premium.

45 (cf: P.L.1993, c.378, s.4)

1       5. Section 5 of P.L.1993, c.378 (C.17B:27-46.1i) is amended to  
2 read as follows:

3       5. a. Notwithstanding any other provision of law to the contrary,  
4 no group health insurance policy which provides benefits for pharmacy  
5 services, prescription drugs, or for participation in a prescription drug  
6 plan, shall be delivered, issued, executed or renewed in this State, or  
7 approved for issuance or renewal in this State, on or after the effective  
8 date of this act, unless the policy:

9       (1) Permits the insured, at the time of issuance, amendment or  
10 renewal, to select benefit coverage allowing the insured to choose a  
11 pharmacy or pharmacist for the provision of prescription drugs or  
12 pharmacy services, provided that any pharmacist or pharmacy selected  
13 by the insured is registered pursuant to R.S.45:14-1 et seq.;

14       (2) Provides that no pharmacy or pharmacist shall be denied the  
15 right to participate as a preferred provider or as a contracting  
16 provider, under the same terms and conditions currently applicable to  
17 all other preferred or contracting providers, if the policy provides for  
18 coverage by contracted or preferred providers for pharmaceutical  
19 services, provided the pharmacy or pharmacist is registered pursuant  
20 to R.S.45:14-1 et seq., and accepts the terms and conditions of the  
21 policy;

22       (3) Provides that no copayment, fee, or other condition shall be  
23 imposed upon an insured selecting a participating or contracting  
24 pharmacist or pharmacy that is not also equally imposed upon all  
25 insureds selecting a participating or contracting pharmacist or  
26 pharmacy; **【and】**

27       (4) (a) Provides that no insured shall be required to obtain  
28 pharmacy services and prescription drugs from a mail order pharmacy;

29       (b) Provides for no differential in any copayment applicable to any  
30 prescription drug of the same strength, quantity and days' supply,  
31 whether obtained from a mail order pharmacy or a non-mail order  
32 pharmacy; and

33       (c) Provides that the limit on days' supply is the same whether the  
34 prescription drug is obtained from a mail order pharmacy or a non-mail  
35 order pharmacy;

36       (5) Sets forth the auditing procedures to be used by the insurer and  
37 includes a provision that any audit shall take place at a time mutually  
38 agreeable to the pharmacy or pharmacist and the auditor. No audit by  
39 an insurer shall include a review of any document relating to any  
40 person or prescription plan other than those reimbursable by the  
41 insurer, nor shall the insurer seek to recapture funds after a claim has  
42 been adjudicated and paid from a pharmacy or pharmacist without due  
43 process;

44       (6) Provides that an insurer or any agent or intermediary thereof,  
45 including a third party administrator, shall remit payment to a  
46 pharmacy or pharmacist for every prescription eligible for

1 reimbursement under the policy no later than the 15th calendar day  
2 following receipt of the claim. Interest on overdue payments shall  
3 bear interest at the rate of 10 percent simple interest per annum; and  
4 (7) Provides that the insurer, or any agent or intermediary thereof,  
5 including a third party administrator, shall not restrict or prohibit,  
6 directly or indirectly, a pharmacy from charging the insured for  
7 services rendered by the pharmacy that are in addition to charges for  
8 the drug, for dispensing the drug or for prescription counseling. Any  
9 provision of a pharmacy provider contract that restricts a pharmacy  
10 from charging and collecting for an additional service is unenforceable  
11 and in violation of this act.

12 b. Nothing in this section shall be construed to operate to add any  
13 benefit, to increase the scope of any benefit, or to increase any benefit  
14 level under any policy.

15 c. This section shall apply to all group health insurance policies in  
16 which the insurer has reserved the right to change the premium.

17 (cf: P.L.1993, c.378, s.5)

18

19 6. Section 6 of P.L.1993, c.378 (C.26:2J-4.7) is amended to read  
20 as follows:

21 6. a. Notwithstanding any provision of law to the contrary, a  
22 certificate of authority to establish and operate a health maintenance  
23 organization in this State shall not be issued or continued on or after  
24 the effective date of this act for a health maintenance organization  
25 which provides pharmacy services, prescription drugs, or a  
26 prescription drug plan, unless the coverage for health care services:

27 (1) Permits the enrollee, at the time of enrollment, to select benefit  
28 coverage allowing the enrollee to choose a pharmacy or pharmacist for  
29 the provision of prescription drugs or pharmacy services, provided that  
30 any pharmacist or pharmacy selected by the enrollee is registered  
31 pursuant to R.S.45:14-1 et seq.;

32 (2) Provides that no pharmacy or pharmacist shall be denied the  
33 right to participate as a preferred provider or as a contracting  
34 provider, under the same terms and conditions currently applicable to  
35 all other preferred or contracting providers, if the health maintenance  
36 organization provides for coverage by contracted or preferred  
37 providers for pharmaceutical services, provided the pharmacy or  
38 pharmacist is registered pursuant to R.S.45:14-1 et seq., and accepts  
39 the terms and conditions of the health maintenance organization;

40 (3) Provides that no copayment, fee, or other condition shall be  
41 imposed upon an enrollee selecting a participating or contracting  
42 pharmacist or pharmacy that is not also equally imposed upon all  
43 enrollees selecting a participating or contracting pharmacist or  
44 pharmacy; **[and]**

45 (4) (a) Provides that no enrollee shall be required to obtain  
46 pharmacy services and prescription drugs from a mail order pharmacy;

1       **(b) Provides for no differential in any copayment applicable to any**  
2 **prescription drug of the same strength, quantity and days' supply,**  
3 **whether obtained from a mail order pharmacy or a non-mail order**  
4 **pharmacy; and**

5       **(c) Provides that the limit on days' supply is the same whether the**  
6 **prescription drug is obtained from a mail order pharmacy or a non-mail**  
7 **order pharmacy;**

8       **(5) Sets forth the auditing procedures to be used by the health**  
9 **maintenance organization and includes a provision that any audit shall**  
10 **take place at a time mutually agreeable to the pharmacy or pharmacist**  
11 **and the auditor. No audit by a health maintenance organization shall**  
12 **include a review of any document relating to any person or**  
13 **prescription plan other than those reimbursable by the health**  
14 **maintenance organization, nor shall the health maintenance**  
15 **organization seek to recapture funds after a claim has been adjudicated**  
16 **and paid from a pharmacy or pharmacist without due process;**

17       **(6) Provides that a health maintenance organization or any agent**  
18 **or intermediary thereof, including a third party administrator, shall**  
19 **remit payment to a pharmacy or pharmacist for every prescription**  
20 **eligible for reimbursement under the enrollment agreement no later**  
21 **than the 15th calendar day following receipt of the claim. Interest on**  
22 **overdue payments shall bear interest at the rate of 10 percent simple**  
23 **interest per annum; and**

24       **(7) Provides that the health maintenance organization, or any agent**  
25 **or intermediary thereof, including a third party administrator, shall not**  
26 **restrict or prohibit, directly or indirectly, a pharmacy from charging**  
27 **the enrollee for services rendered by the pharmacy that are in addition**  
28 **to charges for the drug, for dispensing the drug or for prescription**  
29 **counseling. Any provision of a pharmacy provider contract that**  
30 **restricts a pharmacy from charging and collecting for an additional**  
31 **service is unenforceable and in violation of this act.**

32       b. Nothing in this section shall be construed to operate to add any  
33 coverage for health care services, to increase the scope of any  
34 coverage for health care services, or to increase the level of any health  
35 care services provided by a health maintenance organization.

36       c. This section shall apply to health maintenance organization plans  
37 in which the right to change the enrollee charge has been reserved.

38 (cf: P.L.1993, c.378, s.6)

39  
40       7. This act shall take effect immediately and shall apply to all  
41 contracts, policies and certificates of authority issued or renewed on  
42 or after the effective date of this act.

1 STATEMENT

2

3 This bill amends P.L.1993, c.378 concerning pharmacy choice to  
4 provide that:

5 (1) The same terms and conditions must apply to all pharmacy  
6 providers in a pharmacy plan;

7 (2) Whether the prescription is filled by a mail order pharmacy or  
8 a non-mail order pharmacy, a covered person shall pay the same  
9 copayment and receive the same strength, quantity and days' supply of  
10 a prescription drug;

11 (3) An insurer's auditing procedures must be set forth in the  
12 contract; an audit may only occur at a mutually agreeable time; and an  
13 audit may concern only documents related to the insurer's prescription  
14 plan;

15 (4) An insurer may only seek reimbursement from a pharmacy  
16 using due process;

17 (5) An insurer must pay a pharmacy claim within 15 calendar days  
18 of receiving the claim;

19 (6) Overdue claim payments carry a 10 percent rate of interest; and

20 (7) An insurer shall not prohibit a pharmacy from charging a cover  
21 person a dispensing fee or a fee for patient counseling, in addition to  
22 any copayment.

23 The provisions of the bill apply to hospital, medical and health  
24 service corporations, commercial insurers and health maintenance  
25 organizations.

# ASSEMBLY HEALTH COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 3179**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: DECEMBER 2, 1999

The Assembly Health Committee reports favorably and with committee amendments Assembly Bill No. 3179.

As amended by the committee, this bill amends P.L.1993, c.378 concerning pharmacy choice to provide that:

- the same terms and conditions must apply to all pharmacy providers in a pharmacy plan;
- whether the prescription is filled by a mail service pharmacy or a non-mail service pharmacy, a covered person shall pay the same copayment and receive the same strength, quantity and days' supply of a prescription drug, provided that the non-mail service pharmacy agrees to the same terms, conditions, price and services as the mail service pharmacy;
- the limit on days' supply for a prescription drug shall not be less than 90 days, whether obtained from a mail service pharmacy or a non-mail service pharmacy;
- an insurer's auditing procedures must be set forth in the contract; an audit may only occur at a mutually agreeable time; and an audit may concern only documents related to the insurer's prescription plan; and
- an insurer or its agent or intermediary (including a third party administrator) shall not prohibit a pharmacy from charging a covered person for any services rendered by the pharmacy that are in addition to charges for the drug, for dispensing the drug or for prescription counseling. Services rendered by the pharmacy for which additional charges are imposed shall be subject to the approval of the Board of Pharmacy. A pharmacy shall disclose to a purchaser the charges for any additional services rendered by the pharmacy that are in addition to charges for a drug, for dispensing the drug or for prescription counseling, and the purchaser's out-of-pocket cost for those services prior to dispensing the drug. A pharmacy shall not impose any additional charges for patient counseling or for other services required by the Board of Pharmacy or State or federal law.

The provisions of the bill apply to hospital, medical and health service corporations, commercial insurers and health maintenance



organizations.

The committee amendments:

- change the term "mail order pharmacy" to "mail service pharmacy";

- condition the requirement that a covered person pay the same copayment for a prescription, whether filled by a mail service pharmacy or a non-mail service pharmacy, and receive the same strength, quantity and days' supply of the prescription drug, on the non-mail service pharmacy agreeing to the same terms, conditions, price and services as the mail service pharmacy;

- provide that the limit on days' supply for a prescription drug shall not be less than 90 days, whether obtained from a mail service pharmacy or a non-mail service pharmacy;

- delete language prohibiting an insurance carrier from seeking reimbursement from a pharmacy or pharmacist without due process;

- delete language regarding the prompt payment of claims;

- provide that an insurance carrier shall not restrict or prohibit a pharmacy from charging the covered person for services rendered by the pharmacy that are in addition to charges for the drug, for dispensing the drug or for prescription counseling;

- require that the extra services rendered by the pharmacy for which additional charges are imposed be subject to the approval of the Board of Pharmacy;

- require that a pharmacy disclose to a purchaser the charges for any additional services rendered by the pharmacy that are in addition to charges for a drug, for dispensing the drug or for prescription counseling, and the purchaser's out-of-pocket cost for those services prior to dispensing the drug;

- prohibit a pharmacy from imposing any additional charges for patient counseling or for other services required by the Board of Pharmacy or State or federal law;

- provide that the provisions of this bill shall apply to contracts and policies delivered, issued or renewed on or after the effective date of the bill; and

- change the effective date of the bill from immediately to the 90th day after enactment.

As reported by the committee, this bill is identical to Senate Bill No. 1533 (1R) Aca (Cardinale), which the committee also reported on this date.

**SENATE BILL NO. 1533  
(Second Reprint)**

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Senate Bill No. 1533 (Second Reprint), with my recommendations for reconsideration.

**SUMMARY OF THE BILL**

This bill provides that pharmacies seeking to join a network of pharmacies under contract with hospitals, medical and health service corporations, commercial insurers and health maintenance organizations (HMOs) would be subject to the same terms and conditions as any other pharmacy in the network. This bill is intended to eliminate marketing incentives which health service providers use to encourage patients to utilize mail service pharmacies rather than non-mail service pharmacies. The bill attempts to “level the playing field” between mail service pharmacies and traditional neighborhood drugstores by eliminating incentives used by health service providers so that non-mail service pharmacies can charge the same co-payments as mail service pharmacies, so long as the non-mail service pharmacy meets the same terms, conditions and price as a mail service pharmacy in its service provider agreement.

The bill also requires that a non-mail service pharmacy be able to fill a 90-day prescription. Additionally, the bill requires that a health service provider’s auditing procedures must be set forth in its contract with the pharmacy and audits may only occur at a mutually agreeable time, and may concern only documents related to the health service provider’s prescription plan. Finally, the bill provides that a health service provider shall not prohibit a pharmacy from charging a covered person a dispensing fee or a fee for patient counseling, in addition to any co-payment, if the fee is disclosed and approved by the State’s Board of Pharmacy.

**B. RECOMMENDED ACTION**

I commend the sponsors for their interest in attempting to “level the playing field” in order to help non-mail service pharmacies be more competitive with mail service

pharmacies so that local neighborhood drugstores can continue to provide the valuable services upon which our communities depend. According to the pharmacy industry, there are currently less than 700 independently-owned pharmacies in the State as compared to approximately 900 in 1996.

While I appreciate the Legislature's efforts to address issues of importance to the economic well-being of neighborhood drugstores, I am concerned that the bill does not provide for sufficient flexibility to appropriately administer prescription and auditing procedures for State-funded health care programs, such as New Jersey Medicaid and Children's Health Care Coverage programs. Since the bill already exempts the State Health Benefits Plan from its provisions, I am therefore recommending that other wholly or partially State-funded health care-related programs be exempted from the bill's auditing provisions concerning health maintenance organizations. Additionally, since Medicaid eligibility can change in less than a 90-day timeframe, I am also recommending that wholly or partially State-funded health care-related programs be exempted from the bill's provision requiring that non-mail service pharmacies be permitted to issue 90-day prescriptions.

Therefore, I herewith return Senate Bill No. 1533 (Second Reprint) and recommend that it be amended as follows:

Page 11, Section 6a., Line 42:

After "90 days" Insert "except for any health care-related programs funded in whole or in part with State funds, including, but not limited to, the Medicaid program established pursuant to P.L. 1968, c.413 (C.30:4D-1 et seq.) and the "Children's Health Care Coverage Program" established pursuant to P.L. 1997, c.272 (C.30:4I-1 et seq.)"

Page 11, Section 6a., Line 46:

After "and the auditor" Insert ", unless authorized by the Division of Medical Assistance and Health Services in the Department of Human Services with regard to any health care-related programs funded in whole or in part with State funds, including, but not limited to, the Medicaid program and "Children's Health Care Coverage Program"

Page 12, Section 6a., Line 2:

After "maintenance organization" Insert ", unless authorized by the Division of Medical Assistance and Health Services in the Department of Human Services with regard to any health care-related programs funded in whole or in part with

State funds, including, but not limited to, the Medicaid program and “Children’s Health Care Coverage Program””

Page 12, Section 6a., Line 27:

After “Board of Pharmacy” Insert “or the Division of Medical Assistance and Health Services in the Department of Human Services”

Respectfully,

Christine Todd Whitman  
Governor

Attest:

Richard S. Mroz  
Chief Counsel to the Governor