

17:48-6

LEGISLATIVE HISTORY CHECKLIST
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(Pharmacists--health insurance)

NJSA: 17:48-6

LAWS OF: 1993 CHAPTER: 378

BILL NO: S886

SPONSOR(S): Cardinale and others

S886 ORIG. BILL ENCLOSED
A1221 " " IDENTICAL-
NOT ENCLOSED

DATE INTRODUCED: June 1, 1992

COMMITTEE: ASSEMBLY: ---

SENATE: Commerce

AMENDED DURING PASSAGE: Yes Amendments during passage
Substitute for substitute denoted by asterisks
S886/A1221(1R)

DATE OF PASSAGE: ASSEMBLY: December 13, 1993 Re-enacted 1-10-94

SENATE: December 2, 1993 Re-enacted 1-10-94

DATE OF APPROVAL: January 11, 1994

FOLLOWING STATEMENTS ARE ATTACHED IF AVAILABLE:

SPONSOR STATEMENT: Yes

COMMITTEE STATEMENT: ASSEMBLY: No

SENATE: Yes

FISCAL NOTE: No

VETO MESSAGE: Yes

MESSAGE ON SIGNING: No

FOLLOWING WERE PRINTED:

REPORTS: No

HEARINGS: No

See newspaper clipping--attached:

KBG:pp "SMALL DRUGSTORES GET INSURANCE BOOST"
THE [BERGEN] RECORD 1-11-94

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[FIRST REPRINT]

SENATE SUBSTITUTE FOR
SENATE SUBSTITUTE FOR
SENATE, No. 886 and ASSEMBLY, No. 1221

STATE OF NEW JERSEY

ADOPTED NOVEMBER 4, 1993

Sponsored by Senators CARDINALE, SCOTT,
Assemblyman FELICE and Senator O'Connor

1 AN ACT concerning certain prescription drug plans and
2 supplementing P.L.1938, c.366 (C.17:48-1 et seq.), P.L.1940,
3 c.74 (C.17:48A-1 et seq.), P.L.1985, c.236 (C.17:48E-1 et seq.),
4 chapter 26 of Title 17B of the New Jersey Statutes, chapter 27
5 of Title 17B of the New Jersey Statutes, and P.L.1973, c.337
6 (C.26:2J-1 et seq.).

7
8 BE IT ENACTED by the Senate and General Assembly of the
9 State of New Jersey:

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

17 (1) Permits the subscriber ¹[to select the] , at the time of
18 issuance, amendment or renewal, to select benefit coverage
19 allowing the subscriber to choose a¹ pharmacy or pharmacist ¹[of
20 the subscriber's choice]¹ for the provision of prescription drugs
21 or pharmacy services, provided that any pharmacist or pharmacy
22 selected by the subscriber is registered pursuant to R.S.45:14-1
23 et seq.;

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

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

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

38 b. Nothing in this section shall be construed to operate to add
39 any benefit, to increase the scope of any benefit, or to increase
40 any benefit level under any ¹[group]¹ contract

EXPLANATORY - Matter enclosed in red faced brackets [thus] in the
above bill is not enacted and is intended to be included in the law.

Matter underlined [thus] in the above bill
Matter enclosed in brackets [thus] in the above bill is intended to be included in the law.
Matter enclosed in brackets [thus] in the above bill is intended to be included in the law.
Matter enclosed in brackets [thus] in the above bill is intended to be included in the law.

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

4 2. a. Notwithstanding any other provision of law to the
5 contrary, no group or individual medical service corporation
6 contract which provides benefits for pharmacy services,
7 prescription drugs, or for participation in a prescription drug
8 plan, shall be delivered, issued, executed or renewed in this State
9 or approved for issuance in this State¹ on or after the effective
10 date of this act, unless the contract:

11 (1) Permits the subscriber to select the , at the time of
12 issuance, amendment or renewal, to select benefit coverage
13 allowing the subscriber to choose a¹ pharmacy or pharmacist ¹[of
14 the subscriber's choice]¹ for the provision of prescription drugs
15 or pharmacy services, provided that any pharmacist or pharmacy
16 selected by the subscriber is registered pursuant to R.S.45:14-1
17 et seq.;

18 (2) Provides that no pharmacy or pharmacist shall be denied
19 the right to participate as a preferred provider or as a
20 contracting provider, if the contract provides for coverage by
21 contracted or preferred providers, provided the pharmacy or
22 pharmacist is registered pursuant to R.S.45:14-1 et seq., and
23 accepts the terms of the contract;

24 (3) Provides that no copayment, fee, or other condition shall
25 be imposed upon a subscriber selecting a participating or
26 contracting pharmacist or pharmacy of his own choice, that is not
27 also equally imposed upon all subscribers selecting a participating
28 or contracting pharmacist or pharmacy; and

29 (4) Provides that no subscriber shall be required to obtain
30 pharmacy services and prescription drugs from a mail order
31 pharmacy.

32 b. Nothing in this section shall be construed to operate to add
33 any benefit, to increase the scope of any benefit, or to increase
34 any benefit level under any ¹[group]¹ contract.

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

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

45 (1) Permits the subscriber to select the , at the time of
46 issuance, amendment or renewal, to select benefit coverage
47 allowing the subscriber to choose a¹ pharmacy or pharmacist ¹[of
48 the subscriber's choice]¹ for the provision of prescription drugs
49 or pharmacy services, provided that any pharmacist or pharmacy
50 selected by the subscriber is registered pursuant to R.S.45:14-1
51 et seq.;

52 (2) Provides that no pharmacy or pharmacist shall be denied
53 the right to participate as a preferred provider or as a
54 contracting provider, if the contract provides for coverage by

1 contracted or preferred providers, provided the pharmacy or
2 pharmacist is registered pursuant to R.S.45:14-1 et seq., and
3 accepts the terms of the contract;

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

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

12 b. Nothing in this section shall be construed to operate to add
13 any benefit, to increase the scope of any benefit, or to increase
14 any benefit level under any ¹[group]¹ contract.

15 c. This section shall apply to all health service corporation
16 contracts in which the health service corporation has reserved
17 the right to change the subscriber charge.

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

25 (1) Permits the insured ¹[to select the] at the time of
26 issuance, amendment or renewal, to select benefit coverage
27 allowing the insured to choose a¹ pharmacy or pharmacist ¹[of
28 the insured's choice]¹ for the provision of prescription drugs or
29 pharmacy services, provided that any pharmacist or pharmacy
30 selected by the insured is registered pursuant to R.S.45:14-1
31 et seq.;

32 (2) Provides that no pharmacy or pharmacist shall be denied
33 the right to participate as a preferred provider or as a
34 contracting provider, if the policy provides for coverage by
35 contracted or preferred providers, provided the pharmacy or
36 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
39 be imposed upon an insured selecting a participating or
40 contracting pharmacist or pharmacy that is not also equally
41 imposed upon all insureds selecting a participating or contracting
42 pharmacist or pharmacy; and

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

46 b. Nothing in this section shall be construed to operate to add
47 any benefit, to increase the scope of any benefit, or to increase
48 any benefit level under any ¹[group]¹ policy.

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

52 5. a. Notwithstanding any other provision of law to the
53 contrary, no group health insurance policy which provides
54 benefits for pharmacy services, prescription drugs, or for

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

5 (1) Permits the insured ¹[to select the] , at the time of
6 issuance, amendment or renewal, to select benefit coverage
7 allowing the insured to choose a¹ pharmacy or pharmacist ¹[of
8 the insured's choice]¹ for the provision of prescription drugs or
9 pharmacy services, provided that any pharmacist or pharmacy
10 selected by the insured is registered pursuant to R.S.45:14-1
11 et seq.;

12 (2) Provides that no pharmacy or pharmacist shall be denied
13 the right to participate as a preferred provider or as a
14 contracting provider, if the policy provides for coverage by
15 contracted or preferred providers, provided the pharmacy or
16 pharmacist is registered pursuant to R.S.45:14-1 et seq., and
17 accepts the terms of the policy;

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

23 (4) Provides that no insured shall be required to obtain
24 pharmacy services and prescription drugs from a mail order
25 pharmacy.

26 b. Nothing in this section shall be construed to operate to add
27 any benefit, to increase the scope of any benefit, or to increase
28 any benefit level under any ¹[group]¹ policy.

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

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

39 (1) Permits the enrollee ¹[to select the] , at the time of
40 enrollment, to select benefit coverage allowing the enrollee to
41 choose a¹ pharmacy or pharmacist ¹[of the enrollee's choice]¹
42 for the provision of prescription drugs or pharmacy services,
43 provided that any pharmacist or pharmacy selected by the
44 enrollee is registered pursuant to R.S.45:14-1 et seq.;

45 (2) Provides that no pharmacy or pharmacist shall be denied
46 the right to participate as a preferred provider or as a
47 contracting provider, if the health maintenance organization
48 provides for coverage by contracted or preferred providers,
49 provided the pharmacy or pharmacist is registered pursuant to
50 R.S.45:14-1 et seq., and accepts the terms of the health
51 maintenance organization;

52 (3) Provides that no copayment, fee, or other condition shall
53 be imposed upon an enrollee selecting a participating or
54 contracting pharmacist or pharmacy that is not also equally

1 imposed upon all enrollees selecting a participating or
2 contracting pharmacist or pharmacy; and

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

6 b. Nothing in this section shall be construed to operate to add
7 any coverage for health care services, to increase the scope of
8 any coverage for health care services, or to increase the level of
9 any health care services provided by a health maintenance
10 organization.

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

14 7. This act shall take effect on the 180th day after enactment.

15

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19 Modifies closed panel pharmacies of health insurers and HMO's.

SENATE, No. 886

STATE OF NEW JERSEY

INTRODUCED JUNE 1, 1992

By Senators CARDINALE, SCOTT, Bubba, Sinagra,
Haines and Dimon

1 AN ACT concerning certain prescription drug plans and
2 supplementing P.L.1938, c.366 (C.17:48-1 et seq.), P.L.1940,
3 c.74 (C.17:48A-1 et seq.), P.L.1985, c.236 (C.17:48E-1 et seq.),
4 chapter 26 of Title 17B of the New Jersey Statutes, chapter 27
5 of Title 17B of the New Jersey Statutes, and P.L.1973, c.337
6 (C.26:2J-1 et seq.).
7

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

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

17 (1) Permits the subscriber to select the pharmacy or
18 pharmacist of the subscriber's choice for the provision of
19 prescription drugs or pharmacy services, provided that any
20 pharmacist or pharmacy selected by the subscriber is registered
21 pursuant to R.S.45:14-1 et seq.;

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

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

33 (4) Provides that: (a) no subscriber shall be required to obtain
34 pharmacy services and prescription drugs from a mail order
35 pharmacy; and (b) no copayment charged to a subscriber who uses
36 a mail order pharmacy or pharmacist shall be less than a
37 copayment charged to a subscriber who uses a non-mail order
38 pharmacy or pharmacist.

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

42 c. This section shall apply to all hospital service corporation
43 contracts in which the hospital service corporation has reserved
44 the right to change the subscriber charge.

45 2. a. Notwithstanding any other provision of law to the

1 contrary, no group or individual medical service corporation
2 contract which provides benefits for pharmacy services,
3 prescription drugs, or for participation in a prescription drug
4 plan, shall be delivered, issued, executed or renewed in this State
5 on or after the effective date of this act, unless the contract:

6 (1) Permits the subscriber to select the pharmacy or
7 pharmacist of the subscriber's choice for the provision of
8 prescription drugs or pharmacy services, provided that any
9 pharmacist or pharmacy selected by the subscriber is registered
10 pursuant to R.S.45:14-1 et seq.;

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

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

22 (4) Provides that: (a) no subscriber shall be required to obtain
23 pharmacy services and prescription drugs from a mail order
24 pharmacy; and (b) no copayment charged to a subscriber who uses
25 a mail order pharmacy or pharmacist shall be less than a
26 copayment charged to a subscriber who uses a non-mail order
27 pharmacy or pharmacist.

28 b. Nothing in this section shall be construed to operate to add
29 any benefit, to increase the scope of any benefit, or to increase
30 any benefit level under any group contract.

31 c. This section shall apply to all medical service corporation
32 contracts in which the medical service corporation has reserved
33 the right to change the subscriber charge.

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

41 (1) Permits the subscriber to select the pharmacy or
42 pharmacist of the subscriber's choice for the provision of
43 prescription drugs or pharmacy services, provided that any
44 pharmacist or pharmacy selected by the subscriber is registered
45 pursuant to R.S.45:14-1 et seq.;

46 (2) Provides that no pharmacy or pharmacist shall be denied
47 the right to participate as a preferred provider or as a
48 contracting provider, if the contract provides for coverage by
49 contracted or preferred providers, provided the pharmacy or
50 pharmacist is registered pursuant to R.S.45:14-1 et seq., and
51 accepts the terms of the contract;

52 (3) Provides that no copayment, fee, or other condition shall
53 be imposed upon a subscriber selecting a participating or
54 contracting pharmacist or pharmacy that is not also equally

1 imposed upon all subscribers selecting a participating or
2 contracting pharmacist or pharmacy; and

3 (4) Provides that (a) no subscriber shall be required to obtain
4 pharmacy services and prescription drugs from a mail order
5 pharmacy; and (b) no copayment charged to a subscriber who uses
6 a mail order pharmacy or pharmacist shall be less than a
7 copayment charged to a subscriber who uses a non-mail order
8 pharmacy or pharmacist.

9 b. Nothing in this section shall be construed to operate to add
10 any benefit, to increase the scope of any benefit, or to increase
11 any benefit level under any group contract.

12 c. This section shall apply to all health service corporation
13 contracts in which the health service corporation has reserved
14 the right to change the subscriber charge.

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

22 (1) Permits the insured to select the pharmacy or pharmacist
23 of the insured's choice for the provision of prescription drugs or
24 pharmacy services, provided that any pharmacist or pharmacy
25 selected by the insured is registered pursuant to R.S.45:14-1 et
26 seq.;

27 (2) Provides that no pharmacy or pharmacist shall be denied
28 the right to participate as a preferred provider or as a
29 contracting provider, if the policy provides for coverage by
30 contracted or preferred providers, provided the pharmacy or
31 pharmacist is registered pursuant to R.S.45:14-1 et seq., and
32 accepts the terms of the policy;

33 (3) Provides that no copayment, fee, or other condition shall
34 be imposed upon an insured selecting a participating or
35 contracting pharmacist or pharmacy that is not also equally
36 imposed upon all insureds selecting a participating or contracting
37 pharmacist or pharmacy; and

38 (4) Provides that: (a) no insured shall be required to obtain
39 pharmacy services and prescription drugs from a mail order
40 pharmacy; and (b) no copayment charged to an insured who uses a
41 mail order pharmacy or pharmacist shall be less than a
42 copayment charged to an insured who uses a non-mail order
43 pharmacy or pharmacist.

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

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

50 5. a. Notwithstanding any other provision of law to the
51 contrary, no group health insurance policy which provides
52 benefits for pharmacy services prescription drugs, or for
53 participation in a prescription drug plan, shall be delivered,
54 issued, executed or renewed in this State, or approved for

1 issuance or renewal in this State, on or after the effective date
2 of this act, unless the policy:

3 (1) Permits the insured to select the pharmacy or pharmacist
4 of the insured's choice for the provision of prescription drugs or
5 pharmacy services, provided that any pharmacist or pharmacy
6 selected by the insured is registered pursuant to R.S.45:14-1 et
7 seq.;

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

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

19 (4) Provides that: (a) no insured shall be required to obtain
20 pharmacy services and prescription drugs from a mail order
21 pharmacy; and (b) no copayment charged to an insured who uses a
22 mail order pharmacy or pharmacist shall be less than a
23 copayment charged to an insured who uses a non-mail order
24 pharmacy or pharmacist.

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

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

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

38 (1) Permits the enrollee to select the pharmacy or pharmacist
39 of the enrollee's choice for the provision of prescription drugs or
40 pharmacy services, provided that any pharmacist or pharmacy
41 selected by the enrollee is registered pursuant to R.S.45:14-1 et
42 seq.;

43 (2) Provides that no pharmacy or pharmacist shall be denied
44 the right to participate as a preferred provider or as a
45 contracting provider, if the health maintenance organization
46 provides for coverage by contracted or preferred providers,
47 provided the pharmacy or pharmacist is registered pursuant to
48 R.S.45:14-1 et seq., and accepts the terms of the health
49 maintenance organization;

50 (3) Provides that no copayment, fee, or other condition shall
51 be imposed upon an enrollee selecting a participating or
52 contracting pharmacist or pharmacy that is not also equally
53 imposed upon all enrollees selecting a participating or
54 contracting pharmacist or pharmacy; and

1 (4) Provides that: (a) no enrollee shall be required to obtain
2 pharmacy services and prescription drugs from a mail order
3 pharmacy; and (b) no copayment charged to an enrollee who uses
4 a mail order pharmacy or pharmacist shall be less than a
5 copayment charged to an enrollee who uses a non-mail order
6 pharmacy or pharmacist.

7 b. Nothing in this section shall be construed to operate to add
8 any coverage for health care services, to increase the scope of
9 any coverage for health care services, or to increase the level of
10 any health care services provided by a health maintenance
11 organization.

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

15 7. This act shall take effect on the 180th day after its
16 enactment.

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STATEMENT

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21 This bill requires hospital service corporations (Blue Cross),
22 medical service corporations (Blue Shield), health service
23 corporations (Blue Cross/Blue Shield), commercial insurers and
24 health maintenance organizations which provide coverage for
25 pharmacy services, prescription drugs or for participation in a
26 prescription drug plan, to permit their subscribers, insureds or
27 enrollees to select their own pharmacists and pharmacies,
28 provided that the pharmacist or pharmacy is registered in this
29 State.

30 The bill would require health insurers that provide coverage
31 through preferred or contracted pharmacists or pharmacies to
32 allow all registered pharmacists and pharmacies to participate in
33 their plans as preferred or contracted providers, as long as they
34 comply with the terms of the policy, contract or plan.
35 Furthermore, the bill would prevent health care providers from
36 imposing any copayment, fee, or any other condition upon any
37 subscriber, insured or enrollee choosing a certain participating or
38 contracting pharmacist or pharmacy that it does not also equally
39 impose upon all subscribers choosing any other participating or
40 contracting pharmacist or pharmacy.

41 Finally, the bill provides that these health insurers may not
42 require their subscribers, insureds or enrollees to obtain
43 pharmacy services or prescription drugs through a mail order
44 pharmacy and that no copayment may be increased or decreased
45 based upon participation in a mail order pharmacy plan.

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50 Requires certain health insurers to allow freedom of choice in the
51 selection of pharmacists and pharmacy services.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 886

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 18, 1993

The Senate Commerce Committee reports with committee amendments and without recommendation Senate Bill No. 886.

This bill with the committee amendments does the following:

Sections 1 through 6 of the bill require health insurers (hospital service corporations, medical service corporations, health service corporations, commercial insurers and health maintenance organizations) that provide coverage for pharmacy services and prescription drugs through preferred or contracted pharmacists or pharmacies to allow all registered pharmacists and pharmacies registered pursuant to R.S.45:14-1 et seq. to participate in their plans as preferred or contracted providers, as long as they comply with the terms of the policy, contract or plan and are within the geographical service area of subscribers, insureds or enrollees. Furthermore, these sections prohibit a health insurer from imposing any copayment, fee, or any other condition upon any subscriber, insured or enrollee choosing a certain participating or contracting pharmacist or pharmacy that it does not also equally impose upon all subscribers, insureds or enrollees choosing any other participating or contracting pharmacist or pharmacy. Finally, these sections provide that these health insurers may not require their subscribers, insureds or enrollees to obtain pharmacy services or prescription drugs through a mail order pharmacy.

Sections 7 through 31 of the bill provide that every employer or other organization which employs or has 25 or more employees or members subscribing to a health insurance or health maintenance organization contract or policy which restricts employees or members of the group in the selection of their providers of pharmacy services and prescription drugs must offer each year to the employees or members the option of selecting alternative coverage which would permit them to choose their own providers of pharmacy services and prescription drugs. The employer or other organization would not be required to pay any amount greater than would have been paid under the restricted plan.

STATE OF NEW JERSEY
EXECUTIVE DEPARTMENT

January 10, 1994

SENATE SUBSTITUTE FOR
SENATE BILL NO. 886 AND ASSEMBLY BILL NO. 1221

To the Senate:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I herewith return Senate Substitute for Senate Bill No. 886 and Assembly Bill No. 1221 with my objections for reconsideration.

In recent years, financing and delivery systems that provide health care services through networks of health care providers have been developed in response to increasing demands by consumers for ways to moderate the rising costs associated with traditional fee-for-service health care. Economic studies have confirmed that these "managed care" arrangements help to control cost increases.

Among the types of managed care networks in existence in New Jersey are those involving contractual agreements between insurance companies and health maintenance organizations and pharmacies and pharmacists. Under these agreements, the health insurer directs its subscribers to a network of pharmacies established by it to fill their prescription and pharmacy service needs.

These managed care arrangements have been successful in New Jersey because they benefit pharmacies, health insurers and, most importantly, consumers. Pharmacies and pharmacists pursue the patronage of subscribers to preferred participant prescription plans and HMO programs because these arrangements not only generate business, but also enable the pharmacy to make cost savings possible to consumers from economies of scale.

Health insurers find the managed care networks attractive because the costs paid out for prescriptions are lower and pharmacies frequently agree to provide additional services to

STATE OF NEW JERSEY
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subscribers as a condition of participating in the network. The lower prices and additional services made possible through the managed care pharmacy networks help make the insurer's programs more attractive in the prepaid health care market to consumers, including employers which provide health care coverage to their employees.

Because of the lower prices and additional services made possible through these arrangements, consumers benefit from managed care programs. Although managed care systems are working, however, a tension still remains between consumers, who may want the "freedom of choosing" to use a pharmacy outside the network; health insurers which must decide which competing pharmacies to include in their managed care networks, and pharmacies, which need to have the fair opportunity to participate in these networks. In this regard, I believe that it is very important that, as we as a State move toward a system of managed competition with a greater emphasis on managed care networks, all pharmacies be permitted at least equal opportunity to participate in these developing networks of care.

Our challenge, therefore, is to balance the need to reduce and control health care costs, which can be accomplished through managed care networks; the ability of consumers to, at an appropriate point in the process of obtaining health care coverage, choose benefits to be obtained through a limited network of providers or through pharmacies selected by the consumer, and the ability of pharmacies to be able to participate in managed care networks. The bill that I am returning to the Legislature today goes a long way toward striking the appropriate balance. This bill would require health insurers that provide coverage for pharmacy services and prescription drugs through preferred or contracted pharmacists or pharmacies to permit subscribers, insureds and enrollees to select pharmacists and pharmacies to patronize and would allow all registered pharmacists and pharmacies to participate in managed care networks so long as they comply with the terms of the plan contract. The bill would also prohibit health insurers from

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imposing any copayment, fee or other condition upon any subscriber, insured or enrollee choosing a participating or contracting pharmacist or pharmacy that is not also equally imposed upon all enrollees selecting a participating or contracting pharmacist or pharmacy. Finally, the bill provides that health insurers may not require that their subscribers, insureds or enrollees obtain pharmacy services or prescription drugs through a mail order pharmacy.

I am returning this bill to the Legislature, however, because it lacks clarity in a critical respect and because a revision is needed to ensure that the managed care networks that are being developed work to everyone's benefit. The issue that needs to be clarified and resolved is the question of when the consumer should choose the pharmacists and pharmacies to be utilized. Under the bill as currently drafted, a consumer could choose to patronize one pharmacy one day, and another pharmacy the next. This would wreak havoc on the ability of pharmacies to offer lower prices for their services and products. A pharmacy, or a cooperative of pharmacies, offers discount prices to insurers because it will thereby attract a certain, planned volume of customers. Prices are kept low because of volume sales and because of reduced administrative and marketing costs. If this volume is decreased during the course of the agreement, these pharmacies will lose money and may be placed in danger of going out of business. The cost of premiums would rise for all consumers.

As discussed above, consumer freedom of choice is important, but it is best exercised at the time the consumer initially chooses the benefit program. Thus, under the revision of the bill I am recommending, subscribers, insureds and enrollees would, at the time of issuance or renewal of the policy, be permitted to choose a pharmacy or pharmacist for the provision of prescription drugs and pharmacy services, provided that the pharmacist or the pharmacy selected is registered pursuant to N.J.S.A. 45:14-1 et seq. This would enable consumers to comparison shop for the benefit program

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that best meets their needs. It would also enable pharmacies and insurers to make a rational decision whether to establish or participate in a network program and enable them to plan the program in such a way as to maximize cost savings and establish workable mechanisms for ensuring quality care. If, at the expiration of the policy, the consumer decided that a different benefit program was more appropriate, the consumer could change to that program. This revision, therefore, will maximize consumer choice and bring needed stability to the provision of prescription and pharmacy services in this State.

In addition to this revision, the bill contains a serious drafting error which must be corrected. In five sections of the bill, there is a provision providing that nothing in the section "shall be construed to operate to add any benefit, to increase the scope of any benefit, or to increase any benefit level under any group contract." (Emphasis added). Because the bill applies to both group and individual insurance policies, however, the provision cited above cannot be limited to "group" contracts. Therefore, I am recommending that the word "group" be deleted from these sections of the bill.

In sum, the bill that I am returning to the Legislature will, with the revisions I have recommended, ensure that consumers have the ability to choose, at the most appropriate point in the process, i.e. when a benefit program is selected, the pharmacies and pharmacists who will provide services to them. The bill, as revised, will also ensure that, as we move toward a system of managed competition, both on a State and on a national level, all pharmacies will be permitted the equal opportunity to participate in the developing networks of care. Finally, these revisions will ensure that, in these difficult times, insurers are able to control health care costs for all of us.

Therefore, I herewith return Senate Substitute for Senate Bill No. 886 and Assembly Bill No. 1221 and recommend that it be amended as follows:

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Page 1, Section 1, Line 17:

After "subscriber"
delete "to select the"
insert ", at the time of
issuance, amendment or
renewal, to select
benefit coverage
allowing the subscriber
to choose a"

Page 1, Section 1, Line 18:

After "pharmacist"
delete "of the
subscriber's choice"

Page 1, Section 1, Line 38:

After "any" delete
"group"

Page 2, Section 2, Line 1:

After "State" insert "or
approved for issuance in
this State"

Page 2, Section 2, Line 3:

After "subscriber"
delete "to select the"
insert ", at the time of
issuance, amendment or
renewal, to select
benefit coverage
allowing the subscriber
to choose a"

Page 2, Section 2, Line 4:

After "pharmacist"
delete "of the
subscriber's choice"

Page 2, Section 2, Line 24:

After "any" delete
"group"

Page 2, Section 3, Line 35:

After "subscriber"
delete "to select the"
insert ", at the time of
issuance, amendment or
renewal, to select
benefit coverage
allowing the subscriber
to choose a "

Page 2, Section 3, Line 36:

After "pharmacist"
delete "of the
subscriber's choice"

Page 3, Section 3, Line 3:

After "any" delete
"group"

Page 3, Section 4, Line 14:

After "insured" delete
"to select the" insert
", at the time of
issuance, amendment or
renewal, to select
benefit coverage
allowing the insured to
choose a"

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- Page 3, Section 4, Line 15: Delete "of the insured's choice"
- Page 3, Section 4, Line 35: After "any" delete "group"
- Page 3, Section 5, Line 46: After "insured" delete "to select the" insert ", at the time of issuance, amendment or renewal, to select benefit coverage allowing the insured to choose a"
- Page 3, Section 5, Line 47: Delete "of the insured's choice"
- Page 4, Section 5, Line 13: After "any" delete "group"
- Page 4, Section 6, Line 24: After "enrollee" delete "to select the" insert ", at the time of enrollment, to select benefit coverage allowing the enrollee to choose a"
- Page 4, Section 6, Line 25: Delete "of the enrollee's choice"

Respectfully,

/s/ James J. Florio

GOVERNOR

[seal]

Attest:

/s/ William Harla

Deputy Chief Counsel to the Governor