

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library [609 278-2640 ext.103](tel:6092782640) or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: No

RH/CL

P.L. 2017, CHAPTER 383, *approved January 16, 2018*
Assembly, No. 4676 (*Third Reprint*)

1 AN ACT concerning pharmacy benefits managers and amending
2 P.L.1999, c.409 and supplementing P.L.2015, c.179 (C.17B:27F-
3 1 et seq.).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 ¹**[1.** (New section) This act shall be known and may be cited as
9 the “Prescription Drug Patient Protection Act.”**]**¹
10

11 ¹**[2.** (New section) a. After the effective date of this act, no
12 person, corporation, partnership or other entity shall operate as a
13 pharmacy benefits manager in this State except in accordance with
14 the provisions of this act.

15 b. (1) A pharmacy benefits manager operating in this State on
16 the effective date of this act shall submit an application, as provided
17 in section 3 of this act, to the Commissioner of Banking and
18 Insurance for a certificate of authority to operate as a pharmacy
19 benefits manager no later than nine months after the effective date
20 of this act.

21 (2) The pharmacy benefits manager may continue to operate
22 during the pendency of its application, but in no event more than 18
23 months after the effective date of this act unless the commissioner
24 has approved the application.

25 (3) If the commissioner denies the application, the applicant
26 shall then be treated as a pharmacy benefits manager whose
27 certificate has been revoked pursuant to paragraph (2) of subsection
28 c. of section 3 of this act.

29 (4) Nothing in this act shall operate to impair any contract
30 which was entered into by a pharmacy benefits manager before the
31 effective date of this act.

32 c. A pharmacy benefits manager that seeks to commence
33 operations in this State after the effective date of this act shall
34 submit an application, as provided in section 3 of this act, to the
35 Commissioner of Banking and Insurance for a certificate of
36 authority to operate as a pharmacy benefits manager.**]**¹
37

38 ¹**[3.** (New section) a. A pharmacy benefits manager shall
39 submit an application for a certificate of authority on a form and in

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Senate SCM committee amendments adopted December 14, 2017.

²Senate SBA committee amendments adopted January 5, 2018.

³Senate floor amendments adopted January 8, 2018.

1 a manner to be prescribed by the commissioner by regulation. The
2 application shall be signed under oath by the chief executive officer
3 of the pharmacy benefits manager or by a legal representative of the
4 pharmacy benefits manager, and shall include the following:

5 (1) the name, address, telephone number, and normal business
6 hours of the pharmacy benefits manager;

7 (2) the name, address, and telephone number of a person who is
8 employed by, or otherwise represents, the pharmacy benefits
9 manager and who is available to answer questions concerning the
10 application that may be posed by representatives of the Department
11 of Banking and Insurance;

12 (3) the proposed plan of operation for the pharmacy benefits
13 manager, including the manner in which pharmacy benefits
14 management services will be provided;

15 (4) a copy of the most recent financial statement audited by an
16 independent certified public accountant; and

17 (5) such other information as the commissioner may require to
18 ensure that the pharmacy benefits manager can and will comply
19 with the provisions of this act.

20 If there is a material change in any of the information included in
21 the application for a certificate of authority subsequent to its initial
22 submission, including a change subsequent to the issuance or
23 renewal of the certificate, the pharmacy benefits manager shall
24 inform the commissioner of the change on a form and in a manner
25 to be prescribed by the commissioner by regulation.

26 b. The commissioner shall issue a certificate of authority to
27 operate in this State to a pharmacy benefits manager if, in the
28 determination of the commissioner, the application demonstrates
29 that the pharmacy benefits manager:

30 (1) will provide pharmacy benefits management services in
31 compliance with the provisions of this act and P.L.2015, c.179;

32 (2) will provide a complaint resolution mechanism that includes
33 reasonable procedures for the resolution of complaints by
34 pharmacists, prescribers, and covered persons;

35 (3) is financially sound and may reasonably be expected to meet
36 its obligations to purchasers and covered persons;

37 (4) has a procedure to establish and maintain a uniform system
38 of cost accounting approved by the commissioner and a uniform
39 system of reporting and auditing, which meet the requirements of
40 the commissioner; and

41 (5) has adopted procedures to ensure compliance with all State
42 and federal laws governing the confidentiality of its records with
43 respect to pharmacists, prescribers, and covered persons.

44 c. (1) If the commissioner rejects an application by a
45 pharmacy benefits manager for a certificate of authority, the
46 commissioner shall specify in what respect the application fails to
47 comply with the requirements for certification.

1 (2) If the commissioner revokes a certificate of authority for a
2 pharmacy benefits manager, the pharmacy benefits manager shall
3 proceed, immediately following the effective date of the order of
4 revocation, to pay all outstanding pharmacy benefits claims of
5 covered persons and shall conduct no further business except as
6 may be essential to the orderly conclusion of the affairs of the
7 pharmacy benefits manager. The commissioner may permit such
8 further operation of the pharmacy benefits manager as the
9 commissioner may find to be in the best interest of the purchaser
10 and covered persons.

11 d. A certificate of authority issued pursuant to this act shall be
12 valid for three years from the date of issuance by the commissioner,
13 and shall be renewed every three years thereafter.

14 e. The commissioner shall establish fees for an application for
15 a certificate of authority and for a renewal of a certificate of
16 authority, the amounts of which shall be no greater than is
17 reasonably necessary to enable the Department of Banking and
18 Insurance to carry out the provisions of this act.

19 f. The provisions of this act shall not apply to a pharmacy
20 benefits manager that is an affiliate of a carrier and provides
21 pharmacy benefits management services solely to that carrier. **1**¹

22
23 **3**²**1.** (New section) This act shall be known and may be cited as
24 the "Prescription Drug Patient Protection Act."**2**³**3**

25
26 **3**²**2.** (New section) a. After the effective date of this act, no
27 person, corporation, partnership or other entity shall operate as a
28 pharmacy benefits manager in this State except in accordance with
29 the provisions of this act.

30 b. (1) A pharmacy benefits manager operating in this State on
31 the effective date of this act shall submit an application, as provided
32 in section 3 of this act, to the Commissioner of Banking and
33 Insurance for a certificate of authority to operate as a pharmacy
34 benefits manager no later than nine months after the effective date
35 of this act.

36 (2) The pharmacy benefits manager may continue to operate
37 during the pendency of its application, but in no event more than 18
38 months after the effective date of this act unless the commissioner
39 has approved the application.

40 (3) If the commissioner denies the application, the applicant
41 shall then be treated as a pharmacy benefits manager whose
42 certificate has been revoked pursuant to paragraph (2) of subsection
43 c. of section 3 of this act.

44 (4) Nothing in this act shall operate to impair any contract
45 which was entered into by a pharmacy benefits manager before the
46 effective date of this act.

47 c. A pharmacy benefits manager that seeks to commence
48 operations in this State after the effective date of this act shall

1 submit an application, as provided in section 3 of this act, to the
2 Commissioner of Banking and Insurance for a certificate of
3 authority to operate as a pharmacy benefits manager.²]³
4

5 ³[²3. (New section) a. A pharmacy benefits manager shall
6 submit an application for a certificate of authority on a form and in
7 a manner to be prescribed by the commissioner by regulation. The
8 application shall be signed under oath by the chief executive officer
9 of the pharmacy benefits manager or by a legal representative of the
10 pharmacy benefits manager, and shall include the following:

11 (1) the name, address, telephone number, and normal business
12 hours of the pharmacy benefits manager;

13 (2) the name, address, and telephone number of a person who is
14 employed by, or otherwise represents, the pharmacy benefits
15 manager and who is available to answer questions concerning the
16 application that may be posed by representatives of the Department
17 of Banking and Insurance;

18 (3) the proposed plan of operation for the pharmacy benefits
19 manager, including the manner in which pharmacy benefits
20 management services will be provided;

21 (4) a copy of the most recent financial statement audited by an
22 independent certified public accountant; and

23 (5) such other information as the commissioner may require to
24 ensure that the pharmacy benefits manager can and will comply
25 with the provisions of this act.

26 If there is a material change in any of the information included in
27 the application for a certificate of authority subsequent to its initial
28 submission, including a change subsequent to the issuance or
29 renewal of the certificate, the pharmacy benefits manager shall
30 inform the commissioner of the change on a form and in a manner
31 to be prescribed by the commissioner by regulation.

32 b. The commissioner shall issue a certificate of authority to
33 operate in this State to a pharmacy benefits manager if, in the
34 determination of the commissioner, the application demonstrates
35 that the pharmacy benefits manager:

36 (1) will provide pharmacy benefits management services in
37 compliance with the provisions of this act and P.L.2015, c.179;

38 (2) will provide a complaint resolution mechanism that includes
39 reasonable procedures for the resolution of complaints by
40 pharmacists, prescribers, and covered persons;

41 (3) is financially sound and may reasonably be expected to meet
42 its obligations to purchasers and covered persons;

43 (4) has a procedure to establish and maintain a uniform system
44 of cost accounting approved by the commissioner and a uniform
45 system of reporting and auditing, which meet the requirements of
46 the commissioner; and

1 (5) has adopted procedures to ensure compliance with all State
 2 and federal laws governing the confidentiality of its records with
 3 respect to pharmacists, prescribers, and covered persons.

4 c. (1) If the commissioner rejects an application by a pharmacy
 5 benefits manager for a certificate of authority, the commissioner
 6 shall specify in what respect the application fails to comply with the
 7 requirements for certification.

8 (2) If the commissioner revokes a certificate of authority for a
 9 pharmacy benefits manager, the pharmacy benefits manager shall
 10 proceed, immediately following the effective date of the order of
 11 revocation, to pay all outstanding pharmacy benefits claims of
 12 covered persons and shall conduct no further business except as
 13 may be essential to the orderly conclusion of the affairs of the
 14 pharmacy benefits manager. The commissioner may permit such
 15 further operation of the pharmacy benefits manager as the
 16 commissioner may find to be in the best interest of the purchaser
 17 and covered persons.

18 d. A certificate of authority issued pursuant to this act shall be
 19 valid for three years from the date of issuance by the commissioner,
 20 and shall be renewed every three years thereafter.

21 e. The commissioner shall establish fees for an application for
 22 a certificate of authority and for a renewal of a certificate of
 23 authority, the amounts of which shall be no greater than is
 24 reasonably necessary to enable the Department of Banking and
 25 Insurance to carry out the provisions of this act.

26 f. The provisions of this act shall not apply to a pharmacy
 27 benefits manager that is an affiliate of a carrier and provides
 28 pharmacy benefits management services solely to that carrier.²³
 29

30 ¹[4.] ²[1.] ³[4.] ¹.³ Section 1 of P.L.1999, c.409
 31 (C.17:48H-1) is amended to read as follows:

32 1. As used in this act:

33 "Affiliate" means a person that directly, or indirectly through one
 34 or more intermediaries, controls, or is controlled by, or is under
 35 common control with, the organized delivery system.

36 "Capitation" means a fixed per member, per month, payment or
 37 percentage of premium payment for which the provider assumes the
 38 risk for the cost of contracted services without regard to the type,
 39 value or frequency of the services provided.

40 "Carrier" means an insurer authorized to transact the business of
 41 health insurance as defined at N.J.S.17B:17-4, a hospital service
 42 corporation authorized to transact business in accordance with
 43 P.L.1938, c.366 (C.17:48-1 et seq.), a medical service corporation
 44 authorized to transact business in accordance with P.L.1940, c.74
 45 (C.17:48A-1 et seq.), a health service corporation authorized to
 46 transact business in accordance with P.L.1985, c.236 (C.17:48E-1 et
 47 seq.) or a health maintenance organization authorized to transact
 48 business pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.).

1 "Certified organized delivery system" means an organized
2 delivery system that is compensated on a basis which does not
3 entail the assumption of financial risk by the organized delivery
4 system and that is certified in accordance with this act.

5 "Comprehensive health care services" means the basic benefits
6 provided under a health benefits plan, including medical and
7 surgical services provided by licensed health care providers who
8 may include, but are not limited to, family physicians, internists,
9 cardiologists, psychiatrists, rheumatologists, dermatologists,
10 orthopedists, obstetricians, gynecologists, neurologists,
11 endocrinologists, radiologists, nephrologists, emergency services
12 physicians, ophthalmologists, pediatricians, pathologists, general
13 surgeons, osteopathic physicians, physical therapists and
14 chiropractors. Basic benefits may also include inpatient or
15 outpatient services rendered at a licensed hospital, covered services
16 performed at an ambulatory surgical facility and ambulance
17 services.

18 "Financial risk" means exposure to financial loss that is
19 attributable to the liability of an organized delivery system for the
20 payment of claims or other losses arising from covered benefits for
21 treatment or services other than those performed directly by the
22 person or organized delivery system liable for payment, including a
23 loss sharing arrangement. A payment method wherein a provider
24 accepts reimbursement in the form of a capitation payment for
25 which it undertakes to provide health care services on a prepayment
26 basis shall not be considered financial risk.

27 "Health benefits plan" means a ¹【benefits plan which pays or
28 provides hospital and medical expense benefits for covered
29 services, and is delivered or issued for delivery in this State by or
30 through a carrier. Health benefits plan includes, but is not limited
31 to, Medicare supplement coverage and risk contracts to the extent
32 not otherwise prohibited by federal law. For the purposes of this
33 act, health benefits plan shall not include the following plans,
34 policies or contracts: accident only, credit, disability, long-term
35 care, 【CHAMPUS】 TRICARE supplement coverage, coverage
36 arising out of a workers' compensation or similar law, automobile
37 medical payment insurance, personal injury protection insurance
38 issued pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.) or hospital
39 confinement indemnity coverage】 hospital and medical expense
40 insurance policy; health service corporation contract; hospital
41 service corporation contract; medical service corporation contract;
42 health maintenance organization subscriber contract; or other plan
43 for medical care delivered or issued for delivery in this State.
44 Health benefits plan shall not include one or more, or any
45 combination of, the following: coverage only for accident, or
46 disability income insurance, or any combination thereof; coverage
47 issued as a supplement to liability insurance; liability insurance,
48 including general liability insurance and automobile liability

1 insurance; stop loss or excess risk insurance; workers' compensation
2 or similar insurance; automobile medical payment insurance; credit-
3 only insurance; coverage for on-site medical clinics; and other
4 similar insurance coverage, as specified in federal regulations,
5 under which benefits for medical care are secondary or incidental to
6 other insurance benefits. Health benefits plans shall not include the
7 following benefits if they are provided under a separate policy,
8 certificate or contract of insurance or are otherwise not an integral
9 part of the plan: limited scope dental or vision benefits; benefits for
10 long-term care, nursing home care, home health care, community-
11 based care, or any combination thereof; and such other similar,
12 limited benefits as are specified in Federal regulations. Health
13 benefits plan shall not include hospital confinement indemnity
14 coverage if the benefits are provided under a separate policy,
15 certificate or contract of insurance, there is no coordination between
16 the provision of the benefits and any exclusion of benefits under
17 any group health benefits plan maintained by the same plan
18 sponsor, and those benefits are paid with respect to an event without
19 regard to whether benefits are provided with respect to such an
20 event under any group health plan maintained by the same plan
21 sponsor. Health benefits plan shall not include the following if it is
22 offered as a separate policy, certificate or contract of insurance:
23 Medicare supplemental health insurance as defined under section
24 1882(g)(1) of the Federal Social Security Act (42 U.S.C.
25 s.1395ss(g)(1)); and coverage supplemental to the coverage
26 provided under chapter 55 of Title 10, United States Code (10
27 U.S.C. s.1071 et seq.); and similar supplemental coverage provided
28 to coverage under a group health plan¹.

29 "Licensed organized delivery system" means an organized
30 delivery system that is compensated on a basis which entails the
31 assumption of financial risk by the organized delivery system and
32 that is licensed in accordance with this act.

33 "Limited health care services" means a health service or benefit
34 which a carrier has elected to subcontract for as a separate service,
35 which may include, but shall not be limited to, substance ¹**[abuse]**
36 use disorder¹ services, vision care services, mental health services,
37 podiatric care services, chiropractic services, pharmaceutical
38 services or rehabilitation services. Limited health care services
39 shall not include **[pharmaceutical services,]** case management
40 services or employee assistance plan services.

41 "Organized delivery system" or "system" means an organization
42 with defined governance that:

43 a. is organized for the purpose of and has the capability of
44 contracting with a carrier to provide, or arrange to provide, under its
45 own management substantially all or a substantial portion of the
46 comprehensive health care services or benefits under the carrier's
47 benefits plan on behalf of the carrier, which may or may not include
48 the payment of hospital and ancillary benefits; or

1 b. is organized for the purpose of acting on behalf of a carrier
 2 to provide, or arrange to provide, limited health care services that
 3 the carrier elects to subcontract for as a separate category of
 4 benefits and services apart from its delivery of benefits under its
 5 comprehensive benefits plan, which limited services are provided
 6 on a separate contractual basis and under different terms and
 7 conditions than those governing the delivery of benefits and
 8 services under the carrier's comprehensive benefits plan.

9 An organized delivery system shall not include an entity
 10 otherwise authorized or licensed in this State to provide
 11 comprehensive or limited health care services on a prepayment or
 12 other basis in connection with a health benefits plan or a carrier.

13 "Provider" means a physician, health care professional, health
 14 care facility, or any other person who is licensed or otherwise
 15 authorized to provide health care services or other benefits in the
 16 state or jurisdiction in which they are furnished.

17 (cf: P.L.1999, c.409, s.1)

18
 19 ³[¹[5.] ²[2.1] 5.² (New section) ¹[The Commissioner of
 20 Banking and Insurance shall adopt, pursuant to the "Administrative
 21 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and
 22 regulations, including any penalty provisions the commissioner
 23 deems to be necessary, to effectuate the purposes of this act.] ²[A
 24 pharmacy benefits manager shall not require prior authorization for
 25 any prescription drug, unless there is an alternative drug that has a
 26 lower cost and is of equal quality and effectiveness to the
 27 prescribed drug, which alternative drug shall be provided without
 28 prior authorization.¹] The Commissioner of Banking and Insurance
 29 shall adopt, pursuant to the "Administrative Procedure Act,"
 30 P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations,
 31 including any penalty provisions the commissioner deems to be
 32 necessary, to effectuate the purposes of this act.²³

33
 34 ¹[6.] ²[3.1] ³[6.2] 2.³ This act shall take effect on the 90th
 35 day next following enactment.

36
 37
 38
 39
 40 Regulates pharmacy benefits managers as organized delivery
 41 systems.

ASSEMBLY, No. 4676

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED MARCH 16, 2017

Sponsored by:

Assemblyman CRAIG J. COUGHLIN

District 19 (Middlesex)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblyman DANIEL R. BENSON

District 14 (Mercer and Middlesex)

Assemblywoman JOANN DOWNEY

District 11 (Monmouth)

Assemblyman ERIC HOUGHTALING

District 11 (Monmouth)

Co-Sponsored by:

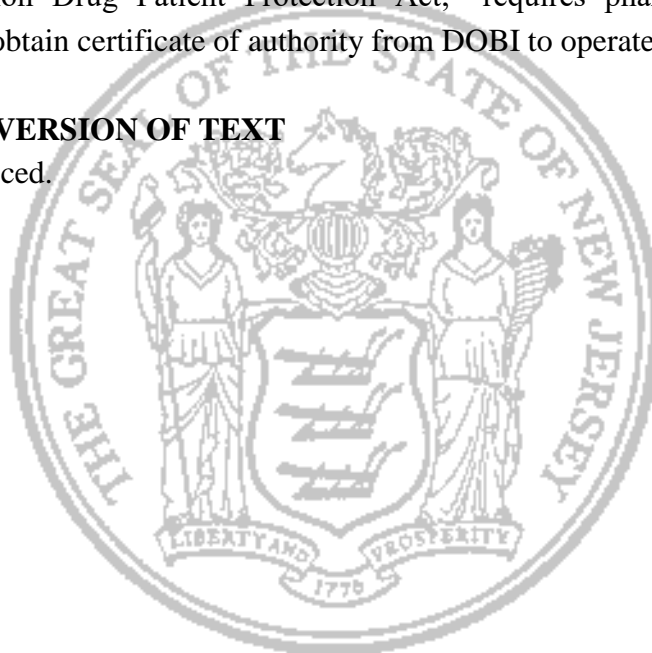
Assemblyman Giblin

SYNOPSIS

“Prescription Drug Patient Protection Act;” requires pharmacy benefits managers to obtain certificate of authority from DOBI to operate in the State.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/9/2017)

1 AN ACT concerning pharmacy benefits managers and amending
2 P.L.1999, c.409 and supplementing P.L.2015, c.179 (C.17B:27F-
3 1 et seq.).

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

7
8 1. (New section) This act shall be known and may be cited as
9 the “Prescription Drug Patient Protection Act.”

10
11 2. (New section) a. After the effective date of this act, no
12 person, corporation, partnership or other entity shall operate as a
13 pharmacy benefits manager in this State except in accordance with
14 the provisions of this act.

15 b. (1) A pharmacy benefits manager operating in this State on
16 the effective date of this act shall submit an application, as provided
17 in section 3 of this act, to the Commissioner of Banking and
18 Insurance for a certificate of authority to operate as a pharmacy
19 benefits manager no later than nine months after the effective date
20 of this act.

21 (2) The pharmacy benefits manager may continue to operate
22 during the pendency of its application, but in no event more than 18
23 months after the effective date of this act unless the commissioner
24 has approved the application.

25 (3) If the commissioner denies the application, the applicant
26 shall then be treated as a pharmacy benefits manager whose
27 certificate has been revoked pursuant to paragraph (2) of subsection
28 c. of section 3 of this act.

29 (4) Nothing in this act shall operate to impair any contract
30 which was entered into by a pharmacy benefits manager before the
31 effective date of this act.

32 c. A pharmacy benefits manager that seeks to commence
33 operations in this State after the effective date of this act shall
34 submit an application, as provided in section 3 of this act, to the
35 Commissioner of Banking and Insurance for a certificate of
36 authority to operate as a pharmacy benefits manager.

37
38 3. (New section) a. A pharmacy benefits manager shall submit
39 an application for a certificate of authority on a form and in a
40 manner to be prescribed by the commissioner by regulation. The
41 application shall be signed under oath by the chief executive officer
42 of the pharmacy benefits manager or by a legal representative of the
43 pharmacy benefits manager, and shall include the following:

44 (1) the name, address, telephone number, and normal business
45 hours of the pharmacy benefits manager;

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 (2) the name, address, and telephone number of a person who is
2 employed by, or otherwise represents, the pharmacy benefits
3 manager and who is available to answer questions concerning the
4 application that may be posed by representatives of the Department
5 of Banking and Insurance;

6 (3) the proposed plan of operation for the pharmacy benefits
7 manager, including the manner in which pharmacy benefits
8 management services will be provided;

9 (4) a copy of the most recent financial statement audited by an
10 independent certified public accountant; and

11 (5) such other information as the commissioner may require to
12 ensure that the pharmacy benefits manager can and will comply
13 with the provisions of this act.

14 If there is a material change in any of the information included in
15 the application for a certificate of authority subsequent to its initial
16 submission, including a change subsequent to the issuance or
17 renewal of the certificate, the pharmacy benefits manager shall
18 inform the commissioner of the change on a form and in a manner
19 to be prescribed by the commissioner by regulation.

20 b. The commissioner shall issue a certificate of authority to
21 operate in this State to a pharmacy benefits manager if, in the
22 determination of the commissioner, the application demonstrates
23 that the pharmacy benefits manager:

24 (1) will provide pharmacy benefits management services in
25 compliance with the provisions of this act and P.L.2015, c.179;

26 (2) will provide a complaint resolution mechanism that includes
27 reasonable procedures for the resolution of complaints by
28 pharmacists, prescribers, and covered persons;

29 (3) is financially sound and may reasonably be expected to meet
30 its obligations to purchasers and covered persons;

31 (4) has a procedure to establish and maintain a uniform system
32 of cost accounting approved by the commissioner and a uniform
33 system of reporting and auditing, which meet the requirements of
34 the commissioner; and

35 (5) has adopted procedures to ensure compliance with all State
36 and federal laws governing the confidentiality of its records with
37 respect to pharmacists, prescribers, and covered persons.

38 c. (1) If the commissioner rejects an application by a
39 pharmacy benefits manager for a certificate of authority, the
40 commissioner shall specify in what respect the application fails to
41 comply with the requirements for certification.

42 (2) If the commissioner revokes a certificate of authority for a
43 pharmacy benefits manager, the pharmacy benefits manager shall
44 proceed, immediately following the effective date of the order of
45 revocation, to pay all outstanding pharmacy benefits claims of
46 covered persons and shall conduct no further business except as
47 may be essential to the orderly conclusion of the affairs of the
48 pharmacy benefits manager. The commissioner may permit such

1 further operation of the pharmacy benefits manager as the
2 commissioner may find to be in the best interest of the purchaser
3 and covered persons.

4 d. A certificate of authority issued pursuant to this act shall be
5 valid for three years from the date of issuance by the commissioner,
6 and shall be renewed every three years thereafter.

7 e. The commissioner shall establish fees for an application for
8 a certificate of authority and for a renewal of a certificate of
9 authority, the amounts of which shall be no greater than is
10 reasonably necessary to enable the Department of Banking and
11 Insurance to carry out the provisions of this act.

12 f. The provisions of this act shall not apply to a pharmacy
13 benefits manager that is an affiliate of a carrier and provides
14 pharmacy benefits management services solely to that carrier.

15

16 4. Section 1 of P.L.1999, c.409 (C.17:48H-1) is amended to
17 read as follows:

18 1. As used in this act:

19 "Affiliate" means a person that directly, or indirectly through one
20 or more intermediaries, controls, or is controlled by, or is under
21 common control with, the organized delivery system.

22 "Capitation" means a fixed per member, per month, payment or
23 percentage of premium payment for which the provider assumes the
24 risk for the cost of contracted services without regard to the type,
25 value or frequency of the services provided.

26 "Carrier" means an insurer authorized to transact the business of
27 health insurance as defined at N.J.S.17B:17-4, a hospital service
28 corporation authorized to transact business in accordance with
29 P.L.1938, c.366 (C.17:48-1 et seq.), a medical service corporation
30 authorized to transact business in accordance with P.L.1940, c.74
31 (C.17:48A-1 et seq.), a health service corporation authorized to
32 transact business in accordance with P.L.1985, c.236 (C.17:48E-1 et
33 seq.) or a health maintenance organization authorized to transact
34 business pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.).

35 "Certified organized delivery system" means an organized
36 delivery system that is compensated on a basis which does not
37 entail the assumption of financial risk by the organized delivery
38 system and that is certified in accordance with this act.

39 "Comprehensive health care services" means the basic benefits
40 provided under a health benefits plan, including medical and
41 surgical services provided by licensed health care providers who
42 may include, but are not limited to, family physicians, internists,
43 cardiologists, psychiatrists, rheumatologists, dermatologists,
44 orthopedists, obstetricians, gynecologists, neurologists,
45 endocrinologists, radiologists, nephrologists, emergency services
46 physicians, ophthalmologists, pediatricians, pathologists, general
47 surgeons, osteopathic physicians, physical therapists and
48 chiropractors. Basic benefits may also include inpatient or

1 outpatient services rendered at a licensed hospital, covered services
2 performed at an ambulatory surgical facility and ambulance
3 services.

4 "Financial risk" means exposure to financial loss that is
5 attributable to the liability of an organized delivery system for the
6 payment of claims or other losses arising from covered benefits for
7 treatment or services other than those performed directly by the
8 person or organized delivery system liable for payment, including a
9 loss sharing arrangement. A payment method wherein a provider
10 accepts reimbursement in the form of a capitation payment for
11 which it undertakes to provide health care services on a prepayment
12 basis shall not be considered financial risk.

13 "Health benefits plan" means a benefits plan which pays or
14 provides hospital and medical expense benefits for covered
15 services, and is delivered or issued for delivery in this State by or
16 through a carrier. Health benefits plan includes, but is not limited
17 to, Medicare supplement coverage and risk contracts to the extent
18 not otherwise prohibited by federal law. For the purposes of this
19 act, health benefits plan shall not include the following plans,
20 policies or contracts: accident only, credit, disability, long-term
21 care, **【CHAMPUS】** TRICARE supplement coverage, coverage
22 arising out of a workers' compensation or similar law, automobile
23 medical payment insurance, personal injury protection insurance
24 issued pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.) or hospital
25 confinement indemnity coverage.

26 "Licensed organized delivery system" means an organized
27 delivery system that is compensated on a basis which entails the
28 assumption of financial risk by the organized delivery system and
29 that is licensed in accordance with this act.

30 "Limited health care services" means a health service or benefit
31 which a carrier has elected to subcontract for as a separate service,
32 which may include, but shall not be limited to, substance abuse
33 services, vision care services, mental health services, podiatric care
34 services, chiropractic services, pharmaceutical services or
35 rehabilitation services. Limited health care services shall not
36 include **【pharmaceutical services,】** case management services or
37 employee assistance plan services.

38 "Organized delivery system" or "system" means an organization
39 with defined governance that:

40 a. is organized for the purpose of and has the capability of
41 contracting with a carrier to provide, or arrange to provide, under its
42 own management substantially all or a substantial portion of the
43 comprehensive health care services or benefits under the carrier's
44 benefits plan on behalf of the carrier, which may or may not include
45 the payment of hospital and ancillary benefits; or

46 b. is organized for the purpose of acting on behalf of a carrier
47 to provide, or arrange to provide, limited health care services that
48 the carrier elects to subcontract for as a separate category of

1 benefits and services apart from its delivery of benefits under its
2 comprehensive benefits plan, which limited services are provided
3 on a separate contractual basis and under different terms and
4 conditions than those governing the delivery of benefits and
5 services under the carrier's comprehensive benefits plan.

6 An organized delivery system shall not include an entity
7 otherwise authorized or licensed in this State to provide
8 comprehensive or limited health care services on a prepayment or
9 other basis in connection with a health benefits plan or a carrier.

10 "Provider" means a physician, health care professional, health
11 care facility, or any other person who is licensed or otherwise
12 authorized to provide health care services or other benefits in the
13 state or jurisdiction in which they are furnished.

14 (cf: P.L.1999, c.409, s.1)

15

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

21

22 6. This act shall take effect on the 90th day next following
23 enactment.

24

25 STATEMENT

26

27 This bill, entitled the "Prescription Drug Patient Protection Act,"
28 requires pharmacy benefits managers to obtain, in accordance with
29 the bill's provisions, a certificate of authority from the
30 Commissioner of Banking and Insurance in order to operate in this
31 State.

32 The bill requires a pharmacy benefits manager operating in this
33 State on the bill's effective date to submit an application for a
34 certificate of authority, within nine months of that date, on a form
35 and in a manner to be prescribed by the Commissioner of Banking
36 and Insurance by regulation. A pharmacy benefits manager that
37 seeks to commence operations in this State after the bill's effective
38 date must also submit an application.

39 The application shall be signed under oath by the chief executive
40 officer of the pharmacy benefits manager or by a legal
41 representative of the pharmacy benefits manager, and must include
42 contact information for the pharmacy benefits manager, the
43 proposed plan of operation, and an audited financial statement.

44 The bill requires the commissioner to issue a certificate of
45 authority to a pharmacy benefits manager if, in the determination of
46 the commissioner, the application demonstrates that the pharmacy
47 benefits manager:

1 (1) will provide pharmacy benefits management services in
2 compliance with the provisions of the bill and P.L.2015, c.179;

3 (2) will provide a complaint resolution mechanism that includes
4 reasonable procedures for the resolution of complaints by
5 pharmacists, prescribers, and covered persons;

6 (3) is financially sound and may reasonably be expected to meet
7 its obligations to purchasers and covered persons;

8 (4) has a procedure to establish and maintain a uniform system
9 of cost accounting approved by the commissioner and a uniform
10 system of reporting and auditing, which meet the requirements of
11 the commissioner; and

12 (5) has adopted procedures to ensure compliance with all State
13 and federal laws governing the confidentiality of its records with
14 respect to pharmacists, prescribers, and covered persons.

15 If the commissioner rejects an application by a pharmacy
16 benefits manager for a certificate of authority, the commissioner
17 shall specify in what respect the application fails to comply with the
18 requirements for certification.

19 If the commissioner revokes a certificate of authority for a
20 pharmacy benefits manager, the pharmacy benefits manager shall
21 proceed, immediately following the effective date of the order of
22 revocation, to pay all outstanding pharmacy benefits claims of
23 covered persons and shall conduct no further business except as
24 may be essential to the orderly conclusion of the affairs of the
25 pharmacy benefits manager. The commissioner may permit such
26 further operation of the pharmacy benefits manager as the
27 commissioner may find to be in the best interest of the purchaser of
28 pharmacy benefits management services and covered persons.

29 A certificate of authority issued pursuant to the bill shall be valid
30 for three years from the date of issuance by the commissioner, and
31 shall be renewed every three years thereafter.

32 The commissioner shall establish fees for an application for a
33 certificate of authority and for a renewal of a certificate of
34 authority, the amounts of which shall be no greater than is
35 reasonably necessary to enable the Department of Banking and
36 Insurance to carry out the provisions of the bill.

37 The provisions of this bill shall not apply to a pharmacy benefits
38 manager that is an affiliate of a carrier and provides pharmacy
39 benefits management services solely to that carrier.

40 The bill also amends the statutes governing organized delivery
41 systems, which are regulated by the Department of Banking and
42 Insurance. By defining "limited health care services" to include
43 pharmaceutical services, instead of excluding them, the bill is
44 intended to allow the department to regulate pharmacy benefit
45 managers that fall under the category of organized delivery systems
46 because they provide limited health care services.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4676

STATE OF NEW JERSEY

DATED: JUNE 1, 2017

The Assembly Financial Institutions and Insurance Committee reports favorably Assembly Bill No. 4676.

This bill, entitled the “Prescription Drug Patient Protection Act,” requires pharmacy benefits managers to obtain, in accordance with the bill’s provisions, a certificate of authority from the Commissioner of Banking and Insurance in order to operate in this State.

The bill requires a pharmacy benefits manager operating in this State on the bill’s effective date to submit an application for a certificate of authority, within nine months of that date, on a form and in a manner to be prescribed by the Commissioner of Banking and Insurance by regulation. A pharmacy benefits manager that seeks to commence operations in this State after the bill’s effective date must also submit an application.

The application shall be signed under oath by the chief executive officer of the pharmacy benefits manager or by a legal representative of the pharmacy benefits manager, and must include contact information for the pharmacy benefits manager, the proposed plan of operation, and an audited financial statement.

The bill requires the commissioner to issue a certificate of authority to a pharmacy benefits manager if, in the determination of the commissioner, the application demonstrates that the pharmacy benefits manager:

(1) will provide pharmacy benefits management services in compliance with the provisions of the bill and P.L.2015, c.179;

(2) will provide a complaint resolution mechanism that includes reasonable procedures for the resolution of complaints by pharmacists, prescribers, and covered persons;

(3) is financially sound and may reasonably be expected to meet its obligations to purchasers and covered persons;

(4) has a procedure to establish and maintain a uniform system of cost accounting approved by the commissioner and a uniform system of reporting and auditing, which meet the requirements of the commissioner; and

(5) has adopted procedures to ensure compliance with all State and federal laws governing the confidentiality of its records with respect to pharmacists, prescribers, and covered persons.

If the commissioner rejects an application by a pharmacy benefits manager for a certificate of authority, the commissioner shall specify in what respect the application fails to comply with the requirements for certification.

If the commissioner revokes a certificate of authority for a pharmacy benefits manager, the pharmacy benefits manager shall proceed, immediately following the effective date of the order of revocation, to pay all outstanding pharmacy benefits claims of covered persons and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the pharmacy benefits manager. The commissioner may permit such further operation of the pharmacy benefits manager as the commissioner may find to be in the best interest of the purchaser of pharmacy benefits management services and covered persons.

A certificate of authority issued pursuant to the bill shall be valid for three years from the date of issuance by the commissioner, and shall be renewed every three years thereafter.

The commissioner shall establish fees for an application for a certificate of authority and for a renewal of a certificate of authority, the amounts of which shall be no greater than is reasonably necessary to enable the Department of Banking and Insurance to carry out the provisions of the bill.

The provisions of this bill shall not apply to a pharmacy benefits manager that is an affiliate of a carrier and provides pharmacy benefits management services solely to that carrier.

The bill also amends the statutes governing organized delivery systems, which are regulated by the Department of Banking and Insurance. By defining "limited health care services" to include pharmaceutical services, instead of excluding them, the bill is intended to allow the department to regulate pharmacy benefit managers that fall under the category of organized delivery systems because they provide limited health care services.

SENATE COMMERCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 4676

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 14, 2017

The Senate Commerce Committee reports favorably and with committee amendments Assembly Bill No. 4676.

This amended bill amends the statutes governing organized delivery systems, which are regulated by the Department of Banking and Insurance. By defining “limited health care services” to include pharmaceutical services, instead of excluding them, the bill is intended to allow the department to regulate pharmacy benefit managers that fall under the category of organized delivery systems because they provide limited health care services.

The amended bill also supplements P.L.2015, c.179 (C.17B:27F-1 et seq.) to provide that a pharmacy benefits manager shall not require prior authorization for any prescription drug, unless there is an alternative drug that has a lower cost and is of equal quality and effectiveness to the prescribed drug, which alternative drug shall be provided without prior authorization.

As amended and reported by the committee, Assembly Bill No. 4676 is identical to Senate Bill No. 3185, as also amended and reported by the committee today.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- remove the requirement, and regulatory framework that established the process, for a pharmacy benefits manager operating in this State to submit an application for a certificate of authority to the Department of Banking and Insurance;
- provide that a pharmacy benefits manager shall not require prior authorization for any prescription drug, unless there is an alternative drug that has a lower cost and is of equal quality and effectiveness to the prescribed drug, which alternative drug shall be provided without prior authorization;
- make a technical update to the definition of “health benefits plan” contained in the law regulating organized delivery systems to conform with federal law and certain other State laws; and

- update the reference to “substance abuse” in the current law to the more preferred term “substance use disorder.”

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 4676

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 5, 2018

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 4676 (1R), with committee amendments.

As amended, this bill entitled the “Prescription Drug Patient Protection Act,” requires pharmacy benefits managers to obtain, in accordance with the bill’s provisions, a certificate of authority from the Commissioner of Banking and Insurance in order to operate in this State.

The bill requires a pharmacy benefits manager operating in this State on the bill’s effective date to submit an application for a certificate of authority, within nine months of that date, on a form and in a manner to be prescribed by the Commissioner of Banking and Insurance by regulation. A pharmacy benefits manager that seeks to commence operations in this State after the bill’s effective date must also submit an application.

The application shall be signed under oath by the chief executive officer of the pharmacy benefits manager or by a legal representative of the pharmacy benefits manager, and must include contact information for the pharmacy benefits manager, the proposed plan of operation, and an audited financial statement.

The bill requires the commissioner to issue a certificate of authority to a pharmacy benefits manager if, in the determination of the commissioner, the application demonstrates that the pharmacy benefits manager:

- (1) will provide pharmacy benefits management services in compliance with the provisions of the bill and P.L.2015, c.179;
- (2) will provide a complaint resolution mechanism that includes reasonable procedures for the resolution of complaints by pharmacists, prescribers, and covered persons;
- (3) is financially sound and may reasonably be expected to meet its obligations to purchasers and covered persons;
- (4) has a procedure to establish and maintain a uniform system of cost accounting approved by the commissioner and a uniform system of reporting and auditing, which meet the requirements of the commissioner; and

(5) has adopted procedures to ensure compliance with all State and federal laws governing the confidentiality of its records with respect to pharmacists, prescribers, and covered persons.

If the commissioner rejects an application by a pharmacy benefits manager for a certificate of authority, the commissioner shall specify in what respect the application fails to comply with the requirements for certification.

If the commissioner revokes a certificate of authority for a pharmacy benefits manager, the pharmacy benefits manager shall proceed, immediately following the effective date of the order of revocation, to pay all outstanding pharmacy benefits claims of covered persons and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the pharmacy benefits manager. The commissioner may permit such further operation of the pharmacy benefits manager as the commissioner may find to be in the best interest of the purchaser of pharmacy benefits management services and covered persons.

A certificate of authority issued pursuant to the bill shall be valid for three years from the date of issuance by the commissioner, and shall be renewed every three years thereafter.

The commissioner shall establish fees for an application for a certificate of authority and for a renewal of a certificate of authority, the amounts of which shall be no greater than is reasonably necessary to enable the Department of Banking and Insurance to carry out the provisions of the bill.

The provisions of this bill shall not apply to a pharmacy benefits manager that is an affiliate of a carrier and provides pharmacy benefits management services solely to that carrier.

The bill also amends the statutes governing organized delivery systems, which are regulated by the Department of Banking and Insurance. By defining "limited health care services" to include pharmaceutical services, instead of excluding them, the bill is intended to allow the department to regulate pharmacy benefit managers that fall under the category of organized delivery systems because they provide limited health care services.

The bill makes a technical change to the definition of "health benefits plan" contained in the law regulating organized delivery systems to conform with federal law and certain other State laws. The bill also updates the reference to "substance abuse" in the current law to the more preferred term "substance use disorder."

As amended and reported, this bill is identical to Senate Bill No. 3185 (1R), as also amended and reported by the committee.

COMMITTEE AMENDMENTS:

The committee amendments:

- restore the requirement, and regulatory framework that established the process in the bill as introduced, for a pharmacy benefits manager

operating in this State to submit an application for a certificate of authority to the Department of Banking and Insurance; and

- remove the provision that provides that a pharmacy benefits manager shall not require prior authorization for any prescription drug, unless there is an alternative drug that has a lower cost and is of equal quality and effectiveness to the prescribed drug, which alternative drug shall be provided without prior authorization.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that this bill will result in an annual indeterminate increase in State expenditures due to costs incurred by the Department of Banking and Insurance (DOBI) in administering and enforcing the provisions of this bill, which include any administrative expenses related to regulating pharmacy benefits managers as organized delivery systems. The OLS expects the expenditures to be largely offset by an annual indeterminate increase in State revenue due to the collection of: 1) pharmacy benefits manager certificate of authority application and renewal fees; and 2) penalties paid by pharmacy benefits managers for violations of applicable legal requirements.

The bill requires DOBI to establish application and renewal fee amounts that are no greater than what is reasonably necessary for the department to carry out the provisions of the bill. The OLS, therefore, expects that administrative and enforcement costs incurred by DOBI under the bill will be largely offset by revenue generated from the collection of fees.

The OLS lacks the information needed, such as the penalty structure that will be utilized by the department, to quantify any potential revenue increase from the collection of penalties. Furthermore, the OLS is unable to predict the number and nature of violations that may be committed on an annual basis.

STATEMENT TO
[Second Reprint]
ASSEMBLY, No. 4676

with Senate Floor Amendments
(Proposed by Senator GREENSTEIN)

ADOPTED: JANUARY 8, 2018

These Senate amendments remove the requirement, and regulatory framework that established the process, for a pharmacy benefits manager to submit an application for a certificate of authority to the Department of Banking and Insurance to operate in the State.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 4676
STATE OF NEW JERSEY
217th LEGISLATURE

DATED: DECEMBER 12, 2017

SUMMARY

Synopsis: “Prescription Drug Patient Protection Act;” requires pharmacy benefits managers to obtain certificate of authority from DOBI to operate in the State.

Type of Impact: Annual expenditure and revenue increases; State General Fund.

Agencies Affected: Department of Banking and Insurance.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Increase	Indeterminate – See comments below.
State Revenue Increase	Indeterminate – See comments below.

- The Office of Legislative Services (OLS) estimates that this bill will result in an annual indeterminate increase in State expenditures due to costs incurred by the Department of Banking and Insurance (DOBI) in administering and enforcing the provisions of this bill, which include any administrative expenses related to regulating pharmacy benefits managers as organized delivery systems. The OLS expects the expenditures to be largely offset by an annual indeterminate increase in State revenue due to the collection of: 1) pharmacy benefits manager certificate of authority application and renewal fees; and 2) penalties paid by pharmacy benefits managers for violations of applicable legal requirements.
- This bill requires DOBI to establish application and renewal fee amounts that are no greater than what is reasonably necessary for the department to carry out the provisions of the bill. The OLS, therefore, expects that administrative and enforcement costs incurred by DOBI under the bill will be largely offset by revenue generated from the collection of fees.
- The OLS lacks the information needed, such as the penalty structure that will be utilized by the department, to quantify any potential revenue increase from the collection of penalties. Furthermore, the OLS is unable to predict the number and nature of violations that may be committed on an annual basis.

BILL DESCRIPTION

Assembly Bill No. 4676 of 2017, entitled the “Prescription Drug Patient Protection Act,” requires pharmacy benefits managers to obtain a certificate of authority from DOBI in order to operate in this State.

The bill requires a pharmacy benefits manager that intends to operate in this State to submit an application for a certificate of authority on a form and in a manner to be prescribed by DOBI. The department is to issue a certificate of authority if, in its determination, the application demonstrates that the pharmacy benefits manager meets certain criteria. If DOBI rejects an application, it must specify in what respect the application fails to comply with the requirements for certification. A certificate of authority is valid for three years from the date of issuance and must be renewed every three years thereafter.

Under the bill, DOBI is required to establish application and renewal fees for a certificate of authority, the amounts of which must be no greater than is reasonably necessary to enable the department to carry out the provisions of the bill. The DOBI is also required to adopt rules and regulations, including any penalty provisions, to effectuate the purposes of the bill.

The bill also amends existing statutes so as to allow DOBI to regulate pharmacy benefits managers as organized delivery systems.

Finally, the provisions of this bill do not apply to a pharmacy benefits manager that is an affiliate of a carrier and provides pharmacy benefits management services solely to that carrier.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill will result in an annual indeterminate increase in State expenditures due to costs incurred by DOBI in administering and enforcing the provisions of this bill, which include any administrative expenses related to regulating pharmacy benefits managers as organized delivery systems. The OLS expects the expenditures to be largely offset by an annual indeterminate increase in State revenue due to the collection of: 1) pharmacy benefits manager certificate of authority application and renewal fees; and 2) penalties paid by pharmacy benefits managers for violations of applicable legal requirements.

This bill requires DOBI to establish application and renewal fee amounts that are no greater than what is reasonably necessary for the department to carry out the provisions of the bill. The OLS, therefore, expects that administrative and enforcement costs incurred by DOBI under the bill will be largely offset by revenue generated from the collection of fees.

In addition, the OLS lacks the information needed to quantify any potential revenue increase from the collection of penalties. Most importantly, it is unclear what penalty structure the department will implement. The bill authorizes the department to adopt via regulation any necessary penalty provisions. However, under existing law (N.J.S.A.17:48H-10 and N.J.S.A.17:48H-28), the department may, upon notice and hearing, assess a civil administrative penalty in an amount not less than \$250 or more than \$10,000 for each day that an organized delivery system is in violation of the law. The DOBI may choose to establish a new penalty structure in regard to pharmacy benefits managers or defer to existing law governing organized

delivery systems which under the bill will newly apply to pharmacy benefits managers. Furthermore, the OLS is unable to predict the number and nature of violations that may be committed by pharmacy benefits managers on an annual basis.

Section: *Commerce, Labor and Industry*
Analyst: *Schmidt, Sarah M.*
 Associate Research Analyst
Approved: *Frank W. Haines III*
 Legislative Budget and Finance Officer

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

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

SENATE, No. 3185

STATE OF NEW JERSEY
217th LEGISLATURE

INTRODUCED MAY 15, 2017

Sponsored by:

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

SYNOPSIS

“Prescription Drug Patient Protection Act;” requires pharmacy benefits managers to obtain certificate of authority from DOBI to operate in the State.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning pharmacy benefits managers and amending
2 P.L.1999, c.409 and supplementing P.L.2015, c.179 (C.17B:27F-
3 1 et seq.).

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

7
8 1. (New section) This act shall be known and may be cited as
9 the “Prescription Drug Patient Protection Act.”

10
11 2. (New section) a. After the effective date of this act, no
12 person, corporation, partnership or other entity shall operate as a
13 pharmacy benefits manager in this State except in accordance with
14 the provisions of this act.

15 b. (1) A pharmacy benefits manager operating in this State on
16 the effective date of this act shall submit an application, as provided
17 in section 3 of this act, to the Commissioner of Banking and
18 Insurance for a certificate of authority to operate as a pharmacy
19 benefits manager no later than nine months after the effective date
20 of this act.

21 (2) The pharmacy benefits manager may continue to operate
22 during the pendency of its application, but in no event more than 18
23 months after the effective date of this act unless the commissioner
24 has approved the application.

25 (3) If the commissioner denies the application, the applicant
26 shall then be treated as a pharmacy benefits manager whose
27 certificate has been revoked pursuant to paragraph (2) of subsection
28 c. of section 3 of this act.

29 (4) Nothing in this act shall operate to impair any contract
30 which was entered into by a pharmacy benefits manager before the
31 effective date of this act.

32 c. A pharmacy benefits manager that seeks to commence
33 operations in this State after the effective date of this act shall
34 submit an application, as provided in section 3 of this act, to the
35 Commissioner of Banking and Insurance for a certificate of
36 authority to operate as a pharmacy benefits manager.

37
38 3. (New section) a. A pharmacy benefits manager shall submit
39 an application for a certificate of authority on a form and in a
40 manner to be prescribed by the commissioner by regulation. The
41 application shall be signed under oath by the chief executive officer
42 of the pharmacy benefits manager or by a legal representative of the
43 pharmacy benefits manager, and shall include the following:

44 (1) the name, address, telephone number, and normal business
45 hours of the pharmacy benefits manager;

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 (2) the name, address, and telephone number of a person who is
2 employed by, or otherwise represents, the pharmacy benefits
3 manager and who is available to answer questions concerning the
4 application that may be posed by representatives of the Department
5 of Banking and Insurance;

6 (3) the proposed plan of operation for the pharmacy benefits
7 manager, including the manner in which pharmacy benefits
8 management services will be provided;

9 (4) a copy of the most recent financial statement audited by an
10 independent certified public accountant; and

11 (5) such other information as the commissioner may require to
12 ensure that the pharmacy benefits manager can and will comply
13 with the provisions of this act.

14 If there is a material change in any of the information included in
15 the application for a certificate of authority subsequent to its initial
16 submission, including a change subsequent to the issuance or
17 renewal of the certificate, the pharmacy benefits manager shall
18 inform the commissioner of the change on a form and in a manner
19 to be prescribed by the commissioner by regulation.

20 b. The commissioner shall issue a certificate of authority to
21 operate in this State to a pharmacy benefits manager if, in the
22 determination of the commissioner, the application demonstrates
23 that the pharmacy benefits manager:

24 (1) will provide pharmacy benefits management services in
25 compliance with the provisions of this act and P.L.2015, c.179;

26 (2) will provide a complaint resolution mechanism that includes
27 reasonable procedures for the resolution of complaints by
28 pharmacists, prescribers, and covered persons;

29 (3) is financially sound and may reasonably be expected to meet
30 its obligations to purchasers and covered persons;

31 (4) has a procedure to establish and maintain a uniform system
32 of cost accounting approved by the commissioner and a uniform
33 system of reporting and auditing, which meet the requirements of
34 the commissioner; and

35 (5) has adopted procedures to ensure compliance with all State
36 and federal laws governing the confidentiality of its records with
37 respect to pharmacists, prescribers, and covered persons.

38 c. (1) If the commissioner rejects an application by a pharmacy
39 benefits manager for a certificate of authority, the commissioner
40 shall specify in what respect the application fails to comply with the
41 requirements for certification.

42 (2) If the commissioner revokes a certificate of authority for a
43 pharmacy benefits manager, the pharmacy benefits manager shall
44 proceed, immediately following the effective date of the order of
45 revocation, to pay all outstanding pharmacy benefits claims of
46 covered persons and shall conduct no further business except as
47 may be essential to the orderly conclusion of the affairs of the
48 pharmacy benefits manager. The commissioner may permit such

1 further operation of the pharmacy benefits manager as the
2 commissioner may find to be in the best interest of the purchaser
3 and covered persons.

4 d. A certificate of authority issued pursuant to this act shall be
5 valid for three years from the date of issuance by the commissioner,
6 and shall be renewed every three years thereafter.

7 e. The commissioner shall establish fees for an application for
8 a certificate of authority and for a renewal of a certificate of
9 authority, the amounts of which shall be no greater than is
10 reasonably necessary to enable the Department of Banking and
11 Insurance to carry out the provisions of this act.

12 f. The provisions of this act shall not apply to a pharmacy
13 benefits manager that is an affiliate of a carrier and provides
14 pharmacy benefits management services solely to that carrier.

15

16 4. Section 1 of P.L.1999, c.409 (C.17:48H-1) is amended to
17 read as follows:

18 1. As used in this act:

19 "Affiliate" means a person that directly, or indirectly through one
20 or more intermediaries, controls, or is controlled by, or is under
21 common control with, the organized delivery system.

22 "Capitation" means a fixed per member, per month, payment or
23 percentage of premium payment for which the provider assumes the
24 risk for the cost of contracted services without regard to the type,
25 value or frequency of the services provided.

26 "Carrier" means an insurer authorized to transact the business of
27 health insurance as defined at N.J.S.17B:17-4, a hospital service
28 corporation authorized to transact business in accordance with
29 P.L.1938, c.366 (C.17:48-1 et seq.), a medical service corporation
30 authorized to transact business in accordance with P.L.1940,
31 c.74 (C.17:48A-1 et seq.), a health service corporation authorized to
32 transact business in accordance with P.L.1985, c.236 (C.17:48E-1 et
33 seq.) or a health maintenance organization authorized to transact
34 business pursuant to P.L.1973, c.337 (C.26:2J-1 et seq.).

35 "Certified organized delivery system" means an organized
36 delivery system that is compensated on a basis which does not
37 entail the assumption of financial risk by the organized delivery
38 system and that is certified in accordance with this act.

39 "Comprehensive health care services" means the basic benefits
40 provided under a health benefits plan, including medical and
41 surgical services provided by licensed health care providers who
42 may include, but are not limited to, family physicians, internists,
43 cardiologists, psychiatrists, rheumatologists, dermatologists,
44 orthopedists, obstetricians, gynecologists, neurologists,
45 endocrinologists, radiologists, nephrologists, emergency services
46 physicians, ophthalmologists, pediatricians, pathologists, general
47 surgeons, osteopathic physicians, physical therapists and
48 chiropractors. Basic benefits may also include inpatient or

1 outpatient services rendered at a licensed hospital, covered services
2 performed at an ambulatory surgical facility and ambulance
3 services.

4 "Financial risk" means exposure to financial loss that is
5 attributable to the liability of an organized delivery system for the
6 payment of claims or other losses arising from covered benefits for
7 treatment or services other than those performed directly by the
8 person or organized delivery system liable for payment, including a
9 loss sharing arrangement. A payment method wherein a provider
10 accepts reimbursement in the form of a capitation payment for
11 which it undertakes to provide health care services on a prepayment
12 basis shall not be considered financial risk.

13 "Health benefits plan" means a benefits plan which pays or
14 provides hospital and medical expense benefits for covered
15 services, and is delivered or issued for delivery in this State by or
16 through a carrier. Health benefits plan includes, but is not limited
17 to, Medicare supplement coverage and risk contracts to the extent
18 not otherwise prohibited by federal law. For the purposes of this
19 act, health benefits plan shall not include the following plans,
20 policies or contracts: accident only, credit, disability, long-term
21 care, **【CHAMPUS】** TRICARE supplement coverage, coverage
22 arising out of a workers' compensation or similar law, automobile
23 medical payment insurance, personal injury protection insurance
24 issued pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.) or hospital
25 confinement indemnity coverage.

26 "Licensed organized delivery system" means an organized
27 delivery system that is compensated on a basis which entails the
28 assumption of financial risk by the organized delivery system and
29 that is licensed in accordance with this act.

30 "Limited health care services" means a health service or benefit
31 which a carrier has elected to subcontract for as a separate service,
32 which may include, but shall not be limited to, substance abuse
33 services, vision care services, mental health services, podiatric care
34 services, chiropractic services, pharmaceutical services or
35 rehabilitation services. Limited health care services shall not
36 include **【pharmaceutical services,】** case management services or
37 employee assistance plan services.

38 "Organized delivery system" or "system" means an organization
39 with defined governance that:

40 a. is organized for the purpose of and has the capability of
41 contracting with a carrier to provide, or arrange to provide, under its
42 own management substantially all or a substantial portion of the
43 comprehensive health care services or benefits under the carrier's
44 benefits plan on behalf of the carrier, which may or may not include
45 the payment of hospital and ancillary benefits; or

46 b. is organized for the purpose of acting on behalf of a carrier
47 to provide, or arrange to provide, limited health care services that
48 the carrier elects to subcontract for as a separate category of

1 benefits and services apart from its delivery of benefits under its
2 comprehensive benefits plan, which limited services are provided
3 on a separate contractual basis and under different terms and
4 conditions than those governing the delivery of benefits and
5 services under the carrier's comprehensive benefits plan.

6 An organized delivery system shall not include an entity
7 otherwise authorized or licensed in this State to provide
8 comprehensive or limited health care services on a prepayment or
9 other basis in connection with a health benefits plan or a carrier.

10 "Provider" means a physician, health care professional, health
11 care facility, or any other person who is licensed or otherwise
12 authorized to provide health care services or other benefits in the
13 state or jurisdiction in which they are furnished.

14 (cf: P.L.1999, c.409, s.1)

15

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

21

22 6. This act shall take effect on the 90th day next following
23 enactment.

24

25

26

STATEMENT

27

28 This bill, entitled the "Prescription Drug Patient Protection Act,"
29 requires pharmacy benefits managers to obtain, in accordance with
30 the bill's provisions, a certificate of authority from the
31 Commissioner of Banking and Insurance in order to operate in this
32 State.

33 The bill requires a pharmacy benefits manager operating in this
34 State on the bill's effective date to submit an application for a
35 certificate of authority, within nine months of that date, on a form
36 and in a manner to be prescribed by the Commissioner of Banking
37 and Insurance by regulation. A pharmacy benefits manager that
38 seeks to commence operations in this State after the bill's effective
39 date must also submit an application.

40 The application shall be signed under oath by the chief executive
41 officer of the pharmacy benefits manager or by a legal
42 representative of the pharmacy benefits manager, and must include
43 contact information for the pharmacy benefits manager, the
44 proposed plan of operation, and an audited financial statement.

45 The bill requires the commissioner to issue a certificate of
46 authority to a pharmacy benefits manager if, in the determination of
47 the commissioner, the application demonstrates that the pharmacy
48 benefits manager:

1 (1) will provide pharmacy benefits management services in
2 compliance with the provisions of the bill and P.L.2015, c.179;

3 (2) will provide a complaint resolution mechanism that includes
4 reasonable procedures for the resolution of complaints by
5 pharmacists, prescribers, and covered persons;

6 (3) is financially sound and may reasonably be expected to meet
7 its obligations to purchasers and covered persons;

8 (4) has a procedure to establish and maintain a uniform system
9 of cost accounting approved by the commissioner and a uniform
10 system of reporting and auditing, which meet the requirements of
11 the commissioner; and

12 (5) has adopted procedures to ensure compliance with all State
13 and federal laws governing the confidentiality of its records with
14 respect to pharmacists, prescribers, and covered persons.

15 If the commissioner rejects an application by a pharmacy
16 benefits manager for a certificate of authority, the commissioner
17 shall specify in what respect the application fails to comply with the
18 requirements for certification.

19 If the commissioner revokes a certificate of authority for a
20 pharmacy benefits manager, the pharmacy benefits manager shall
21 proceed, immediately following the effective date of the order of
22 revocation, to pay all outstanding pharmacy benefits claims of
23 covered persons and shall conduct no further business except as
24 may be essential to the orderly conclusion of the affairs of the
25 pharmacy benefits manager. The commissioner may permit such
26 further operation of the pharmacy benefits manager as the
27 commissioner may find to be in the best interest of the purchaser of
28 pharmacy benefits management services and covered persons.

29 A certificate of authority issued pursuant to the bill shall be valid
30 for three years from the date of issuance by the commissioner, and
31 shall be renewed every three years thereafter.

32 The commissioner shall establish fees for an application for a
33 certificate of authority and for a renewal of a certificate of
34 authority, the amounts of which shall be no greater than is
35 reasonably necessary to enable the Department of Banking and
36 Insurance to carry out the provisions of the bill.

37 The provisions of this bill shall not apply to a pharmacy benefits
38 manager that is an affiliate of a carrier and provides pharmacy
39 benefits management services solely to that carrier.

40 The bill also amends the statutes governing organized delivery
41 systems, which are regulated by the Department of Banking and
42 Insurance. By defining "limited health care services" to include
43 pharmaceutical services, instead of excluding them, the bill is
44 intended to allow the department to regulate pharmacy benefit
45 managers that fall under the category of organized delivery systems
46 because they provide limited health care services.

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 3185

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 14, 2017

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 3185.

This amended bill amends the statutes governing organized delivery systems, which are regulated by the Department of Banking and Insurance. By defining “limited health care services” to include pharmaceutical services, instead of excluding them, the bill is intended to allow the department to regulate pharmacy benefit managers that fall under the category of organized delivery systems because they provide limited health care services.

The amended bill also supplements P.L.2015, c.179 (C.17B:27F-1 et seq.) to provide that a pharmacy benefits manager shall not require prior authorization for any prescription drug, unless there is an alternative drug that has a lower cost and is of equal quality and effectiveness to the prescribed drug, which alternative drug shall be provided without prior authorization.

As amended and reported by the committee, Senate Bill No. 3185 is identical to Assembly Bill No. 4676, as also amended and reported by the committee today.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- remove the requirement, and regulatory framework that established the process, for a pharmacy benefits manager operating in this State to submit an application for a certificate of authority to the Department of Banking and Insurance;
- provide that a pharmacy benefits manager shall not require prior authorization for any prescription drug, unless there is an alternative drug that has a lower cost and is of equal quality and effectiveness to the prescribed drug, which alternative drug shall be provided without prior authorization;
- make a technical update to the definition of “health benefits plan” contained in the law regulating organized delivery systems to conform with federal law and certain other State laws; and

- update the reference to “substance abuse” in the current law to the more preferred term “substance use disorder.”

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 3185

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 5, 2018

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 3185 (1R), with committee amendments.

As amended, this bill entitled the “Prescription Drug Patient Protection Act,” requires pharmacy benefits managers to obtain, in accordance with the bill’s provisions, a certificate of authority from the Commissioner of Banking and Insurance in order to operate in this State.

The bill requires a pharmacy benefits manager operating in this State on the bill’s effective date to submit an application for a certificate of authority, within nine months of that date, on a form and in a manner to be prescribed by the Commissioner of Banking and Insurance by regulation. A pharmacy benefits manager that seeks to commence operations in this State after the bill’s effective date must also submit an application.

The application shall be signed under oath by the chief executive officer of the pharmacy benefits manager or by a legal representative of the pharmacy benefits manager, and must include contact information for the pharmacy benefits manager, the proposed plan of operation, and an audited financial statement.

The bill requires the commissioner to issue a certificate of authority to a pharmacy benefits manager if, in the determination of the commissioner, the application demonstrates that the pharmacy benefits manager:

(1) will provide pharmacy benefits management services in compliance with the provisions of the bill and P.L.2015, c.179;

(2) will provide a complaint resolution mechanism that includes reasonable procedures for the resolution of complaints by pharmacists, prescribers, and covered persons;

(3) is financially sound and may reasonably be expected to meet its obligations to purchasers and covered persons;

(4) has a procedure to establish and maintain a uniform system of cost accounting approved by the commissioner and a uniform system of reporting and auditing, which meet the requirements of the commissioner; and

(5) has adopted procedures to ensure compliance with all State and federal laws governing the confidentiality of its records with respect to pharmacists, prescribers, and covered persons.

If the commissioner rejects an application by a pharmacy benefits manager for a certificate of authority, the commissioner shall specify in what respect the application fails to comply with the requirements for certification.

If the commissioner revokes a certificate of authority for a pharmacy benefits manager, the pharmacy benefits manager shall proceed, immediately following the effective date of the order of revocation, to pay all outstanding pharmacy benefits claims of covered persons and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the pharmacy benefits manager. The commissioner may permit such further operation of the pharmacy benefits manager as the commissioner may find to be in the best interest of the purchaser of pharmacy benefits management services and covered persons.

A certificate of authority issued pursuant to the bill shall be valid for three years from the date of issuance by the commissioner, and shall be renewed every three years thereafter.

The commissioner shall establish fees for an application for a certificate of authority and for a renewal of a certificate of authority, the amounts of which shall be no greater than is reasonably necessary to enable the Department of Banking and Insurance to carry out the provisions of the bill.

The provisions of this bill shall not apply to a pharmacy benefits manager that is an affiliate of a carrier and provides pharmacy benefits management services solely to that carrier.

The bill also amends the statutes governing organized delivery systems, which are regulated by the Department of Banking and Insurance. By defining "limited health care services" to include pharmaceutical services, instead of excluding them, the bill is intended to allow the department to regulate pharmacy benefit managers that fall under the category of organized delivery systems because they provide limited health care services.

The bill makes a technical change to the definition of "health benefits plan" contained in the law regulating organized delivery systems to conform with federal law and certain other State laws. The bill also updates the reference to "substance abuse" in the current law to the more preferred term "substance use disorder."

As amended and reported, this bill is identical to Assembly Bill No. 4676 (1R), as also amended and reported by the committee.

COMMITTEE AMENDMENTS:

The committee amendments:

- restore the requirement, and regulatory framework that established the process in the bill as introduced, for a pharmacy benefits manager

operating in this State to submit an application for a certificate of authority to the Department of Banking and Insurance; and

- remove the provision that provides that a pharmacy benefits manager shall not require prior authorization for any prescription drug, unless there is an alternative drug that has a lower cost and is of equal quality and effectiveness to the prescribed drug, which alternative drug shall be provided without prior authorization.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that this bill will result in an annual indeterminate increase in State expenditures due to costs incurred by the Department of Banking and Insurance (DOBI) in administering and enforcing the provisions of this bill, which include any administrative expenses related to regulating pharmacy benefits managers as organized delivery systems. The OLS expects the expenditures to be largely offset by an annual indeterminate increase in State revenue due to the collection of: 1) pharmacy benefits manager certificate of authority application and renewal fees; and 2) penalties paid by pharmacy benefits managers for violations of applicable legal requirements.

The bill requires DOBI to establish application and renewal fee amounts that are no greater than what is reasonably necessary for the department to carry out the provisions of the bill. The OLS, therefore, expects that administrative and enforcement costs incurred by DOBI under the bill will be largely offset by revenue generated from the collection of fees.

The OLS lacks the information needed, such as the penalty structure that will be utilized by the department, to quantify any potential revenue increase from the collection of penalties. Furthermore, the OLS is unable to predict the number and nature of violations that may be committed on an annual basis.

LEGISLATIVE FISCAL ESTIMATE

[Second Reprint]

SENATE, No. 3185

STATE OF NEW JERSEY 217th LEGISLATURE

DATED: FEBRUARY 2, 2018

SUMMARY

- Synopsis:** “Prescription Drug Patient Protection Act;” requires pharmacy benefits managers to obtain certificate of authority from DOBI to operate in the State.
- Type of Impact:** Annual expenditure and revenue increases; State General Fund.
- Agencies Affected:** Department of Banking and Insurance.

Office of Legislative Services Estimate

Fiscal Impact	<u>Annual</u>
State Expenditure Increase	Indeterminate – See comments below.
State Revenue Increase	Indeterminate – See comments below.

- The Office of Legislative Services (OLS) estimates that this bill will result in an annual indeterminate increase in State expenditures due to costs incurred by the Department of Banking and Insurance (DOBI) in administering and enforcing the provisions of this bill, which include any administrative expenses related to regulating pharmacy benefits managers as organized delivery systems. The OLS expects the expenditures to be largely offset by an annual indeterminate increase in State revenue due to the collection of: 1) pharmacy benefits manager certificate of authority application and renewal fees; and 2) penalties paid by pharmacy benefits managers for violations of applicable legal requirements.
- This bill requires DOBI to establish application and renewal fee amounts that are no greater than what is reasonably necessary for the department to carry out the provisions of the bill. The OLS, therefore, expects that administrative and enforcement costs incurred by DOBI under the bill will be largely offset by revenue generated from the collection of fees.
- The OLS lacks the information needed, such as the penalty structure that will be utilized by the department, to quantify any potential revenue increase from the collection of penalties. Furthermore, the OLS is unable to predict the number and nature of violations that may be committed on an annual basis.

BILL DESCRIPTION

Senate Bill No. 3185 (2R) of 2017, entitled the “Prescription Drug Patient Protection Act,” requires pharmacy benefits managers to obtain a certificate of authority from DOBI in order to operate in this State.

The bill requires a pharmacy benefits manager that intends to operate in this State to submit an application for a certificate of authority on a form and in a manner to be prescribed by DOBI. The department is to issue a certificate of authority if, in its determination, the application demonstrates that the pharmacy benefits manager meets certain criteria. If DOBI rejects an application, it must specify in what respect the application fails to comply with the requirements for certification. A certificate of authority is valid for three years from the date of issuance and must be renewed every three years thereafter.

Under the bill, DOBI is required to establish application and renewal fees for a certificate of authority, the amounts of which must be no greater than is reasonably necessary to enable the department to carry out the provisions of the bill. The DOBI is also required to adopt rules and regulations, including any penalty provisions, to effectuate the purposes of the bill.

The bill also amends existing statutes so as to allow DOBI to regulate pharmacy benefits managers as organized delivery systems.

Finally, the provisions of this bill do not apply to a pharmacy benefits manager that is an affiliate of a carrier and provides pharmacy benefits management services solely to that carrier.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS estimates that this bill will result in an annual indeterminate increase in State expenditures due to costs incurred by DOBI in administering and enforcing the provisions of this bill, which include any administrative expenses related to regulating pharmacy benefits managers as organized delivery systems. The OLS expects the expenditures to be largely offset by an annual indeterminate increase in State revenue due to the collection of: 1) pharmacy benefits manager certificate of authority application and renewal fees; and 2) penalties paid by pharmacy benefits managers for violations of applicable legal requirements.

This bill requires DOBI to establish application and renewal fee amounts that are no greater than what is reasonably necessary for the department to carry out the provisions of the bill. The OLS, therefore, expects that administrative and enforcement costs incurred by DOBI under the bill will be largely offset by revenue generated from the collection of fees.

In addition, the OLS lacks the information needed to quantify any potential revenue increase from the collection of penalties. Most importantly, it is unclear what penalty structure the department will implement. The bill authorizes the department to adopt via regulation any necessary penalty provisions. However, under existing law (N.J.S.A.17:48H-10 and N.J.S.A.17:48H-28), the department may, upon notice and hearing, assess a civil administrative penalty in an amount not less than \$250 or more than \$10,000 for each day that an organized delivery system is in violation of the law. The DOBI may choose to establish a new penalty

structure in regard to pharmacy benefits managers or defer to existing law governing organized delivery systems which under the bill will newly apply to pharmacy benefits managers. Furthermore, the OLS is unable to predict the number and nature of violations that may be committed by pharmacy benefits managers on an annual basis.

Section: Commerce, Labor and Industry

*Analyst: Schmidt, Sarah M.
Associate Research Analyst*

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

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

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