THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL No. 1993 Session of 2024

INTRODUCED BY BENHAM, GAYDOS, KENYATTA, BURGOS, HARKINS,
DONAHUE, MADDEN, MAJOR, SANCHEZ, CERRATO, HILL-EVANS,
D'ORSIE, CIRESI, GREEN, DALEY, MATZIE, SOLOMON, MIHALEK,
ECKER, MCNEILL, SCHLOSSBERG, PICKETT, PISCIOTTANO, WEBSTER,
HOHENSTEIN, KRUEGER, BOROWSKI, NEILSON, FEE, KIM, KHAN,
BERNSTINE, MENTZER, O'MARA, FLEMING, GROVE, MULLINS,
KOSIEROWSKI, ISAACSON, HEFFLEY, OBERLANDER, ARMANINI,
GREGORY, E. NELSON, STAATS, WAXMAN, STEELE, SALISBURY,
KINKEAD, MCANDREW, KAUFFMAN, GIRAL, DELOZIER AND FRITZ,
APRIL 3, 2024

REFERRED TO COMMITTEE ON HEALTH, APRIL 3, 2024

AN ACT

1 2 3 4 5 6 7 8 9 10	Amending the act of November 21, 2016 (P.L.1318, No.169), entitled "An act providing for pharmacy audit procedures, for registration of pharmacy benefits managers and auditing entities, for maximum allowable cost transparency and for prescription drugs reimbursed under the PACE and PACENET program; and making related repeals," further providing for title of act; in preliminary provisions, further providing for short title and for definitions; in pharmacy audits, further providing for limitations; and providing for pharmacy benefits manager contract requirements and prohibited acts.
11	The General Assembly of the Commonwealth of Pennsylvania
12	hereby enacts as follows:
13	Section 1. The title and section 101 of the act of November
14	21, 2016 (P.L.1318, No.169), known as the Pharmacy Audit
15	Integrity and Transparency Act, are amended to read:
16	AN ACT
17	Providing for pharmacy audit procedures, for registration of
18	pharmacy benefits managers and auditing entities, for maximum

1 allowable cost transparency and for prescription drugs 2 reimbursed under the PACE and PACENET program and for pharmacy benefit managers contract requirements and 3 4 prohibited activities; and making related repeals. Section 101. Short title. 5 This act shall be known and may be cited as the [Pharmacy 6 Audit Integrity and Transparency] Community Pharmacy Protection 7 8 Act. 9 Section 2. Section 103 of the act is amended by adding definitions to read: 10 Section 103. Definitions. 11 The following words and phrases when used in this act shall 12 have the meanings given to them in this section unless the 13 14 context clearly indicates otherwise: 15 * * * "Brand effective rate." The reimbursement rate paid to the 16 pharmacy based on a percentage of the average wholesale cost for 17 brand-name drugs dispensed by the pharmacy under the contract 18 19 with the pharmacy benefit manager. 20 * * * "Effective rate contract." A contract that sets a specific 21 discount rate for all prescriptions filled by a member pharmacy 22 during the term of the contract. 23 24 * * * 25 "Generic effective rate." The reimbursement rate paid to the 26 pharmacy based on a percentage of the average wholesale cost for generic drugs dispensed by the pharmacy under the contract with 27 28 the pharmacy benefit manager. * * * 29 30 "Patient steering." One of the following:

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1	(1) When a pharmacy benefit manager directs a patient to
2	use a preferred pharmacy through mandatory mail order
3	requirements or the creation by the PBM of a restricted
4	network that consists only of pharmacies approved by the PBM.
5	(2) The use of co-pay differentials between PBM-
6	affiliated pharmacies and nonaffiliated pharmacies.
7	* * *
8	"Spread pricing." An act of a pharmacy benefit manager
9	reimbursing a pharmacy for a prescription and then billing an
10	insurer or an employer that provides health insurance at a
11	higher price for the same prescription.
12	Section 3. Section 303 of the act is amended by adding a
13	subsection to read:
14	Section 303. Limitations.
15	* * *
16	(c) Scrivener errorA scrivener error made by a pharmacy
17	not attributed to fraud, waste or abuse that is discovered
18	during an audit of the pharmacy by the PBM shall result in the
19	PBM recouping the dispensing fee for that particular
20	transaction, not the entire amount of the medication received by
21	the patient.
22	Section 4. The act is amended by adding a chapter to read:
23	<u>CHAPTER 6</u>
24	PHARMACY BENEFITS MANAGER CONTRACT
25	REQUIREMENTS AND PROHIBITED ACTS
26	Section 601. Contract provisions.
27	<u>A contract between a pharmacy benefit manager or a designee</u>
28	of the pharmacy benefit manager and a pharmacy may not:
29	(1) Require participation in the PBM's network
30	contingent on the pharmacy signing either an effective rate

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1	contract or a contract based on the National Average Drug
2	Acquisition Cost guidelines.
3	(2) Include provisions allowing for retroactive
4	recoupment of money paid to a pharmacy by the PBM, unless
5	both parties agree to that provision.
6	(3) Base reimbursement upon general effective rate or
7	the brand effective rate as a condition of entering a
8	network, unless both parties agree to that provision. Any
9	additional fees must be disclosed and applied at the time of
10	the adjudication of the claim. Fees may include:
11	(i) Transaction fees.
12	(ii) Chargebacks due to recalculation of the cost of
13	the ingredients used in a prescription drug.
14	(iii) Adjustments in the general effective rate,
15	brand effective rates or direct and indirect remuneration
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16	fees made by the PBM.
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16 17	fees made by the PBM. Section 602. Spread pricing participation prohibited.
16 17 18	fees made by the PBM. Section 602. Spread pricing participation prohibited. A pharmacy benefit manager may not conduct or participate in
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16 17 18 19 20 21 22 23 24 25	<pre>fees made by the PBM. Section 602. Spread pricing participation prohibited. A pharmacy benefit manager may not conduct or participate in spread pricing. Section 603. Patient steering prohibited. A pharmacy benefit manager may not conduct or participate in patient steering. Section 604. Duties of the department. The department shall: (1) Develop a process for receiving, hearing and</pre>
16 17 18 19 20 21 22 23 24 25 26	<pre>fees made by the PBM. Section 602. Spread pricing participation prohibited. A pharmacy benefit manager may not conduct or participate in spread pricing. Section 603. Patient steering prohibited. A pharmacy benefit manager may not conduct or participate in patient steering. Section 604. Duties of the department. The department shall: (1) Develop a process for receiving, hearing and resolving complaints a pharmacy filed against a PBM.</pre>
16 17 18 19 20 21 22 23 24 25 26 27	<pre>fees made by the PBM. Section 602. Spread pricing participation prohibited. A pharmacy benefit manager may not conduct or participate in spread pricing. Section 603. Patient steering prohibited. A pharmacy benefit manager may not conduct or participate in patient steering. Section 604. Duties of the department. The department shall:</pre>

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1	on manufacturer's invoices of those manufacturers who ship
2	drugs to this Commonwealth.
3	Section 605. Duties of pharmacy benefit managers.
4	Pharmacy benefit managers shall:
5	(1) Approve a request from a pharmacy to be a member of
6	the PBM's network within 30 days of the initial request to
7	join the network.
8	(2) Provide a dedicated telephone number and email
9	address for handling network admission requests.
10	Section 606. PBM for State Employee Health Plan.
11	<u>A PBM hired for the State Employee Health Plan shall have a</u>
12	transparent reimbursement methodology based on the National
13	Average Drug Acquisition Cost guidelines developed under
14	section 604(3) and a dispensing fee equal to or greater than the
15	maximum prevailing fee for service or PACE rate in this
16	Commonwealth.
17	Section 607. Reports by PBM.
18	<u>A PBM shall report to the department the amount of rebates</u>
19	and payments received from drug manufacturers and how the
20	rebates and payments were distributed by the PBM.
21	Section 5. This act shall take effect in 60 days.

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