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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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A N A C T

RELATING TO INSURANCE - PRESCRIPTION DRUG BENEFITS

Introduced By: Representatives Kennedy, Azzinaro, Keable, Winfield, and Shekarchi

Date Introduced: February 25, 2015

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 27-18 of the General Laws entitled "Accident and Sickness
2 Insurance Policies" is hereby amended by adding thereto the following section:

3 **27-18-33.2. Pharmacy benefit manager requirements with respect to multi-source**
4 **generic pricing updates to pharmacies. – (a) Definitions. As used herein:**

5 (1) "Maximum allowable cost" means the maximum amount that a pharmacy benefits
6 manager will pay toward the cost of a drug;

7 (2) "Nationally available" means that all pharmacies in this state can purchase the drug,
8 without limitation, from regional or national wholesalers and that the product is not obsolete or
9 temporarily unavailable;

10 (3) "Therapeutically equivalent" means the equivalent determined by the United States
11 Food and Drug Administration.

12 (b) "Pharmacy benefit manager" (PBM) means and refers to all requirements with respect
13 to multi-source generic pricing updates to pharmacies:

14 (1) Upon each contract execution or renewal, a PBM shall, with respect to contracts
15 between PBM and a pharmacy or, alternatively, a PBM and a pharmacy's contracting
16 representative or agent such as a pharmacy services administrative organization (PSAO):

17 (i) Include in such contracts, the basis of the methodology and sources utilized to
18 determine multi-source generic drug pricing (i.e., maximum allowable cost (MAC)) or any
19 successive benchmark pricing formula) of the PBM, update such pricing information on such at

1 least every seven (7) calendar days, and establish a reasonable process for the prompt notification
2 of such pricing updates to network pharmacies; and

3 (ii) Maintain a procedure to eliminate products from the list of drugs subject to such
4 pricing or modify MAC rates within three (3) days when such drugs do not meet the standards
5 and requirements of this act as set forth in order to remain consistent with pricing changes in the
6 marketplace.

7 (c) PBM requirements for inclusion of products on a list of drugs subject to multi-source
8 generic pricing:

9 (1) In order to place a particular prescription drug on a multi-source generic list, the PBM
10 must, at a minimum, ensure that:

11 (i) The drug have at least three (3) or more nationally available, therapeutically
12 equivalent, multiple source generic drugs;

13 (ii) The products must be listed as therapeutically and pharmaceutically equivalent rated
14 by the Food and Drug Administration; and

15 (iii) The product must be available for purchase without limitations by all pharmacies in
16 the state from national or regional wholesalers, and not obsolete or temporarily unavailable.

17 (d) Standards for pharmacy appeals:

18 (1) All contracts between a PBM, a contracted pharmacy or, alternatively, a PBM and a
19 pharmacy's contracting representative or agent such as a pharmacy services administrative
20 organization (PSAO) shall include a process to appeal, investigate, and resolve disputes regarding
21 multi-source generic drug pricing. The process shall include the following provisions:

22 (i) The right to appeal shall be limited to sixty (60) days following the initial claim;

23 (ii) The appeal shall be investigated and resolved within seven (7) days;

24 (iii) A telephone number at which a network pharmacy may contact the PBM and speak
25 with an individual who is responsible for processing appeals;

26 (iv) If the appeal is denied, the PBM shall provide the reason for the denial and identify
27 the national drug code or UDI of a drug product that may be purchased by contracted pharmacies
28 at a price at or below the maximum allowable cost (or benchmark price as determined by the
29 PBM).

30 (2) If an appeal is upheld, the PBM shall make an adjustment retroactive to the date of
31 initial claim adjudication. The PBM shall make the adjustment effective for all similarly situated
32 pharmacies in this state that are within the network. Any adjustment must be made to all
33 pharmacies within five (5) business days.

34 (e) The department of business regulation shall exercise oversight and enforcement of

1 [this section.](#)

2 SECTION 2. Chapter 27-19 of the General Laws entitled "Nonprofit Hospital Service
3 Corporations" is hereby amended by adding thereto the following section:

4 **27-19-26.1. PBM requirements with respect to multi-source generic pricing updates**
5 **to pharmacies. -- (a) Definitions. As used herein:**

6 [\(1\) "Maximum allowable cost" means the maximum amount that a pharmacy benefits](#)
7 [manager will pay toward the cost of a drug;](#)

8 [\(2\) "Nationally available" means that all pharmacies in this state can purchase the drug,](#)
9 [without limitation, from regional or national wholesalers and that the product is not obsolete or](#)
10 [temporarily unavailable;](#)

11 [\(3\) "Therapeutically equivalent" means the equivalent determined by the United States](#)
12 [Food and Drug Administration.](#)

13 [\(b\) "Pharmacy benefit manager" \(PBM\) means and refers to all requirements with respect](#)
14 [to multi-source generic pricing updates to pharmacies.](#)

15 [\(1\) Upon each contract execution or renewal, a PBM shall, with respect to contracts](#)
16 [between PBM and a pharmacy or, alternatively, a PBM and a pharmacy's contracting](#)
17 [representative or agent such as a pharmacy services administrative organization \(PSAO\):](#)

18 [\(i\) Include in such contracts, the basis of the methodology and sources utilized to](#)
19 [determine multi-source generic drug pricing \(i.e., maximum allowable cost \(MAC\)\) or any](#)
20 [successive benchmark pricing formula\) of the PBM, update such pricing information on such at](#)
21 [least every seven \(7\) calendar days, and establish a reasonable process for the prompt notification](#)
22 [of such pricing updates to network pharmacies; and](#)

23 [\(ii\) Maintain a procedure to eliminate products from the list of drugs subject to such](#)
24 [pricing or modify MAC rates within three \(3\) days when such drugs do not meet the standards](#)
25 [and requirements of this act as set forth in order to remain consistent with pricing changes in the](#)
26 [marketplace.](#)

27 [\(c\) PBM requirements for inclusion of products on a list of drugs subject to multi-source](#)
28 [generic pricing:](#)

29 [\(1\) In order to place a particular prescription drug on a multi-source generic list, the PBM](#)
30 [must, at a minimum, ensure that:](#)

31 [\(i\) The drug have at least three \(3\) or more nationally available, therapeutically](#)
32 [equivalent, multiple source generic drugs;](#)

33 [\(ii\) The products must be listed as therapeutically and pharmaceutically equivalent rated](#)
34 [by the Food and Drug Administration; and](#)

1 (iii) The product must be available for purchase without limitations by all pharmacies in
2 the state from national or regional wholesalers, and not obsolete or temporarily unavailable.

3 (d) Standards for pharmacy appeals:

4 (1) All contracts between a PBM, a contracted pharmacy or, alternatively, a PBM and a
5 pharmacy's contracting representative or agent such as a pharmacy services administrative
6 organization (PSAO) shall include a process to appeal, investigate, and resolve disputes regarding
7 multi-source generic drug pricing. The process shall include the following provisions:

8 (i) The right to appeal shall be limited to sixty (60) days following the initial claim;

9 (ii) The appeal shall be investigated and resolved within seven (7) days;

10 (iii) A telephone number at which a network pharmacy may contact the PBM and speak
11 with an individual who is responsible for processing appeals;

12 (iv) If the appeal is denied, the PBM shall provide the reason for the denial and identify
13 the national drug code or UDI of a drug product that may be purchased by contracted pharmacies
14 at a price at or below the maximum allowable cost (or benchmark price as determined by the
15 PBM).

16 (2) If an appeal is upheld, the PBM shall make an adjustment retroactive to the date of
17 initial claim adjudication. The PBM shall make the adjustment effective for all similarly situated
18 pharmacies in this state that are within the network. Any adjustment must be made to all
19 pharmacies within five (5) business days.

20 (e) The department of business regulation shall exercise oversight and enforcement of
21 this section.

22 SECTION 3. Chapter 27-20 of the General Laws entitled "Nonprofit Medical Service
23 Corporations" is hereby amended by adding thereto the following section:

24 **27-20-23.1. Pharmacy benefit manager requirements with respect to multi-source**
25 **generic pricing updates to pharmacies. -- (a) Definitions. As used herein:**

26 (1) "Maximum allowable cost" means the maximum amount that a pharmacy benefits
27 manager will pay toward the cost of a drug;

28 (2) "Nationally available" means that all pharmacies in this state can purchase the drug,
29 without limitation, from regional or national wholesalers and that the product is not obsolete or
30 temporarily unavailable;

31 (3) "Therapeutically equivalent" means the equivalent determined by the United States
32 Food and Drug Administration.

33 (b) "Pharmacy benefit manager" (PBM) means and refers to all requirements with respect
34 to multi-source generic pricing updates to pharmacies.

1 (1) Upon each contract execution or renewal, a PBM shall, with respect to contracts
2 between PBM and a pharmacy or, alternatively, a PBM and a pharmacy's contracting
3 representative or agent such as a pharmacy services administrative organization (PSAO):

4 (i) Include in such contracts, the basis of the methodology and sources utilized to
5 determine multi-source generic drug pricing (i.e., maximum allowable cost (MAC)) or any
6 successive benchmark pricing formula) of the PBM, update such pricing information on such at
7 least every seven (7) calendar days, and establish a reasonable process for the prompt notification
8 of such pricing updates to network pharmacies; and

9 (ii) Maintain a procedure to eliminate products from the list of drugs subject to such
10 pricing or modify MAC rates within three (3) days when such drugs do not meet the standards
11 and requirements of this act as set forth in order to remain consistent with pricing changes in the
12 marketplace.

13 (c) PBM requirements for inclusion of products on a list of drugs subject to multi-source
14 generic pricing:

15 (1) In order to place a particular prescription drug on a multi-source generic list, the PBM
16 must, at a minimum, ensure that:

17 (i) The drug have at least three (3) or more nationally available, therapeutically
18 equivalent, multiple source generic drugs;

19 (ii) The products must be listed as therapeutically and pharmaceutically equivalent rated
20 by the Food and Drug Administration; and

21 (iii) The product must be available for purchase without limitations by all pharmacies in
22 the state from national or regional wholesalers, and not obsolete or temporarily unavailable.

23 (d) Standards for pharmacy appeals:

24 (1) All contracts between a PBM, a contracted pharmacy or, alternatively, a PBM and a
25 pharmacy's contracting representative or agent such as a pharmacy services administrative
26 organization (PSAO) shall include a process to appeal, investigate, and resolve disputes regarding
27 multi-source generic drug pricing. The process shall include the following provisions:

28 (i) The right to appeal shall be limited to sixty (60) days following the initial claim;

29 (ii) The appeal shall be investigated and resolved within seven (7) days;

30 (iii) A telephone number at which a network pharmacy may contact the PBM and speak
31 with an individual who is responsible for processing appeals;

32 (iv) If the appeal is denied, the PBM shall provide the reason for the denial and identify
33 the national drug code or UDI of a drug product that may be purchased by contracted pharmacies
34 at a price at or below the maximum allowable cost (or benchmark price as determined by the

1 PBM).

2 (2) If an appeal is upheld, the PBM shall make an adjustment retroactive to the date of
3 initial claim adjudication. The PBM shall make the adjustment effective for all similarly situated
4 pharmacies in this state that are within the network. Any adjustment must be made to all
5 pharmacies within five (5) business days.

6 (e) The department of business regulation shall exercise oversight and enforcement of
7 this section.

8 SECTION 4. Chapter 27-20.1 of the General Laws entitled "Nonprofit Dental Service
9 Corporations" is hereby amended by adding thereto the following section:

10 **27-20.1-15.1. Pharmacy benefit manager requirements with respect to multi-source**
11 **generic pricing updates to pharmacies. -- (a) Definitions. As used herein:**

12 (1) "Maximum allowable cost" means the maximum amount that a pharmacy benefits
13 manager will pay toward the cost of a drug;

14 (2) "Nationally available" means that all pharmacies in this state can purchase the drug,
15 without limitation, from regional or national wholesalers and that the product is not obsolete or
16 temporarily unavailable;

17 (3) "Therapeutically equivalent" means the equivalent determined by the United States
18 Food and Drug Administration.

19 (b) "Pharmacy benefit manager (PBM)" means and refers to all requirements with respect
20 to multi-source generic pricing updates to pharmacies.

21 (1) Upon each contract execution or renewal, a PBM shall, with respect to contracts
22 between PBM and a pharmacy or, alternatively, a PBM and a pharmacy's contracting
23 representative or agent such as a pharmacy services administrative organization (PSAO):

24 (i) Include in such contracts, the basis of the methodology and sources utilized to
25 determine multi-source generic drug pricing (i.e., maximum allowable cost (MAC)) or any
26 successive benchmark pricing formula) of the PBM, update such pricing information on such at
27 least every seven (7) calendar days, and establish a reasonable process for the prompt notification
28 of such pricing updates to network pharmacies; and

29 (ii) Maintain a procedure to eliminate products from the list of drugs subject to such
30 pricing or modify MAC rates within three (3) days when such drugs do not meet the standards
31 and requirements of this act as set forth in order to remain consistent with pricing changes in the
32 marketplace.

33 (c) PBM requirements for inclusion of products on a list of drugs subject to multi-source
34 generic pricing:

1 (1) In order to place a particular prescription drug on a multi-source generic list, the PBM
2 must, at a minimum, ensure that:

3 (i) The drug have at least three (3) or more nationally available, therapeutically
4 equivalent, multiple source generic drugs;

5 (ii) The products must be listed as therapeutically and pharmaceutically equivalent rated
6 by the Food and Drug Administration; and

7 (iii) The product must be available for purchase without limitations by all pharmacies in
8 the state from national or regional wholesalers, and not obsolete or temporarily unavailable.

9 (d) Standards for pharmacy appeals:

10 (1) All contracts between a PBM, a contracted pharmacy or, alternatively, a PBM and a
11 pharmacy's contracting representative or agent such as a pharmacy services administrative
12 organization (PSAO) shall include a process to appeal, investigate, and resolve disputes regarding
13 multi-source generic drug pricing. The process shall include the following provisions:

14 (i) The right to appeal shall be limited to sixty (60) days following the initial claim;

15 (ii) The appeal shall be investigated and resolved within seven (7) days;

16 (iii) A telephone number at which a network pharmacy may contact the PBM and speak
17 with an individual who is responsible for processing appeals;

18 (iv) If the appeal is denied, the PBM shall provide the reason for the denial and identify
19 the national drug code or UDI of a drug product that may be purchased by contracted pharmacies
20 at a price at or below the maximum allowable cost (or benchmark price as determined by the
21 PBM).

22 (2) If an appeal is upheld, the PBM shall make an adjustment retroactive to the date of
23 initial claim adjudication. The PBM shall make the adjustment effective for all similarly situated
24 pharmacies in this state that are within the network. Any adjustment must be made to all
25 pharmacies within five (5) business days.

26 (e) The department of business regulation shall exercise oversight and enforcement of
27 this section.

28 SECTION 5. Chapter 27-41 of the General Laws entitled "Health Maintenance
29 Organizations" is hereby amended by adding thereto the following section:

30 **27-41-38.1. Pharmacy benefit manager requirements with respect to multi-source**
31 **generic pricing updates to pharmacies. -- (a) Definitions. As used herein:**

32 (1) "Maximum allowable cost" means the maximum amount that a pharmacy benefits
33 manager will pay toward the cost of a drug;

34 (2) "Nationally available" means that all pharmacies in this state can purchase the drug,

1 without limitation, from regional or national wholesalers and that the product is not obsolete or
2 temporarily unavailable;

3 (3) "Therapeutically equivalent" means the equivalent determined by the United States
4 Food and Drug Administration.

5 (b) "Pharmacy benefit manager" (PBM) means and refers to all requirements with respect
6 to multi-source generic pricing updates to pharmacies.

7 (1) Upon each contract execution or renewal, a PBM shall, with respect to contracts
8 between PBM and a pharmacy or, alternatively, a PBM and a pharmacy's contracting
9 representative or agent such as a pharmacy services administrative organization (PSAO):

10 (i) Include in such contracts, the basis of the methodology and sources utilized to
11 determine multi-source generic drug pricing (i.e., maximum allowable cost (MAC)) or any
12 successive benchmark pricing formula) of the PBM, update such pricing information on such at
13 least every seven (7) calendar days, and establish a reasonable process for the prompt notification
14 of such pricing updates to network pharmacies; and

15 (ii) Maintain a procedure to eliminate products from the list of drugs subject to such
16 pricing or modify MAC rates within three (3) days when such drugs do not meet the standards
17 and requirements of this act as set forth in order to remain consistent with pricing changes in the
18 marketplace.

19 (c) PBM requirements for inclusion of products on a list of drugs subject to multi-source
20 generic pricing:

21 (1) In order to place a particular prescription drug on a multi-source generic list, the PBM
22 must, at a minimum, ensure that:

23 (i) The drug have at least three (3) or more nationally available, therapeutically
24 equivalent, multiple source generic drugs;

25 (ii) The products must be listed as therapeutically and pharmaceutically equivalent rated
26 by the Food and Drug Administration; and

27 (iii) The product must be available for purchase without limitations by all pharmacies in
28 the state from national or regional wholesalers, and not obsolete or temporarily unavailable.

29 (d) Standards for pharmacy appeals:

30 (1) All contracts between a PBM, a contracted pharmacy or, alternatively, a PBM and a
31 pharmacy's contracting representative or agent such as a pharmacy services administrative
32 organization (PSAO) shall include a process to appeal, investigate, and resolve disputes regarding
33 multi-source generic drug pricing. The process shall include the following provisions:

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

- 1 (ii) The appeal shall be investigated and resolved within seven (7) days;
- 2 (iii) A telephone number at which a network pharmacy may contact the PBM and speak
3 with an individual who is responsible for processing appeals;
- 4 (iv) If the appeal is denied, the PBM shall provide the reason for the denial and identify
5 the national drug code or UDI of a drug product that may be purchased by contracted pharmacies
6 at a price at or below the maximum allowable cost (or benchmark price as determined by the
7 PBM).
- 8 (2) If an appeal is upheld, the PBM shall make an adjustment retroactive to the date of
9 initial claim adjudication. The PBM shall make the adjustment effective for all similarly situated
10 pharmacies in this state that are within the network. Any adjustment must be made to all
11 pharmacies within five (5) business days.
- 12 (e) The department of business regulation shall exercise oversight and enforcement of
13 this section.

14 SECTION 6. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO INSURANCE - PRESCRIPTION DRUG BENEFITS

- 1 This act would regulate business relationship between pharmacy services providers/group
- 2 health insurers/health service organizations with department of business regulation oversight.
- 3 This act would take effect upon passage.

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