2015 -- H 5602

========
LC001431
========

S T A T E O F R H O D E I S L A N D

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Standards for pharmacy appeals:

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

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

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

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

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

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

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

this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Standards for pharmacy appeals:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Standards for pharmacy appeals:

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

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

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

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

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

PBM).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Standards for pharmacy appeals:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Standards for pharmacy appeals:

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

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

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

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

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

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

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

SECTION 6. This act shall take effect upon passage.

========
LC001431
========

EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

A N A C T

RELATING TO INSURANCE - PRESCRIPTION DRUG BENEFITS

***

This act would regulate business relationship between pharmacy services providers/group health insurers/health service organizations with department of business regulation oversight.

This act would take effect upon passage.

========
LC001431
========