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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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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 03, 2016

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" or "MAC" means the maximum amount that a pharmacy  
6 benefits manager will pay toward the cost of a drug;

7           (2) "Nationally available" means that there is an adequate supply available from regional  
8 or national wholesalers and that the product is not obsolete or temporarily unavailable;

9           (3) "Pharmacy benefit manager" or "PBM" means an entity doing business in this state  
10 that contracts to administer or manage prescription drug benefits on behalf of any carrier that  
11 provides prescription drug benefits to residents of this state.

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

15           (1) Include in such contracts a requirement to update pricing information on the MAC list  
16 at least every ten (10) calendar days;

17           (2) Maintain a procedure to eliminate products from the list of drugs subject to such  
18 pricing, or modify MAC rates within ten (10) calendar days when such drugs do not meet the  
19 standards and requirements of this section as set forth in order to remain consistent with pricing

1 changes in the marketplace.

2 (c) PBM requirements for inclusion of products on a list of drugs subject to MAC pricing.

3 In order to place a particular prescription drug on a MAC list, the PBM must, at a minimum,  
4 ensure that:

5 (1) The product must be listed as "A", "AB", or "B" rated in the most recent version of  
6 the United States Food and Drug Administration's approved drug products with therapeutic  
7 equivalence evaluations, also known as the orange book, or has an "NR" or "NA" rating or  
8 similar rating by a nationally recognized reference; and

9 (2) The product must be nationally available.

10 (d) Standards for pharmacy appeals. All contracts between a PBM, a contracted  
11 pharmacy or, alternatively, a PBM and a pharmacy's contracting representative or agent such as a  
12 pharmacy services administrative organization (PSAO) shall include a process to appeal,  
13 investigate, and resolve disputes regarding MAC pricing. The process shall include the following  
14 provisions:

15 (1) The right to appeal shall be limited to fifteen (15) days following the initial claim;

16 (2) The appeal shall be investigated and resolved within fifteen (15) days following  
17 receipt of the appeal;

18 (3) A process by which a network pharmacy may contact the PBM regarding the appeals  
19 process;

20 (4) If the appeal is denied, the PBM shall provide the reason for the denial and identify  
21 the national drug code of a drug product that is available in adequate supply;

22 (5) If an appeal is upheld, the PBM shall make an adjustment to the list effective no later  
23 than one day after the date of determination; and

24 (6) The department of health shall exercise oversight and enforcement of this section.

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

27 **27-19-26.1. Pharmacy benefit manager requirements with respect to multi-source**  
28 **generic pricing updates to pharmacies. – (a) Definitions. As used herein:**

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

31 (2) "Nationally available" means that there is an adequate supply available from regional  
32 or national wholesalers and that the product is not obsolete or temporarily unavailable;

33 (3) "Pharmacy benefit manager" or "PBM" means an entity doing business in this state  
34 that contracts to administer or manage prescription drug benefits on behalf of any carrier that

1 provides prescription drug benefits to residents of this state.

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

5 (1) Include in such contracts a requirement to update pricing information on the MAC list  
6 at least every ten (10) calendar days;

7 (2) Maintain a procedure to eliminate products from the list of drugs subject to such  
8 pricing, or modify MAC rates within ten (10) calendar days when such drugs do not meet the  
9 standards and requirements of this section as set forth in order to remain consistent with pricing  
10 changes in the marketplace.

11 (c) PBM requirements for inclusion of products on a list of drugs subject to MAC pricing.  
12 In order to place a particular prescription drug on a MAC list, the PBM must, at a minimum,  
13 ensure that:

14 (1) The product must be listed as "A", "AB", or "B" rated in the most recent version of  
15 the United States Food and Drug Administration's approved drug products with therapeutic  
16 equivalence evaluations, also known as the orange book, or has an "NR" or "NA" rating or  
17 similar rating by a nationally recognized reference; and

18 (2) The product must be nationally available.

19 (d) Standards for pharmacy appeals. All contracts between a PBM, a contracted  
20 pharmacy or, alternatively, a PBM and a pharmacy's contracting representative or agent such as a  
21 pharmacy services administrative organization (PSAO) shall include a process to appeal,  
22 investigate, and resolve disputes regarding MAC pricing. The process shall include the following  
23 provisions:

24 (1) The right to appeal shall be limited to fifteen (15) days following the initial claim;

25 (2) The appeal shall be investigated and resolved within fifteen (15) days following  
26 receipt of the appeal;

27 (3) A process by which a network pharmacy may contact the PBM regarding the appeals  
28 process;

29 (4) If the appeal is denied, the PBM shall provide the reason for the denial and identify  
30 the national drug code of a drug product that is available in adequate supply;

31 (5) If an appeal is upheld, the PBM shall make an adjustment to the list effective no later  
32 than one day after the date of determination; and

33 (6) The department of health shall exercise oversight and enforcement of this section.

34 SECTION 3. Chapter 27-20 of the General Laws entitled "Nonprofit Medical Service

1 Corporations" is hereby amended by adding thereto the following section:

2 **27-20-23.1. Pharmacy benefit manager requirements with respect to multi-source**  
3 **generic pricing updates to pharmacies. -- (a) Definitions. As used herein:**

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

6 (2) "Nationally available" means that there is an adequate supply available from regional  
7 or national wholesalers and that the product is not obsolete or temporarily unavailable;

8 (3) "Pharmacy benefit manager" or "PBM" means an entity doing business in this state  
9 that contracts to administer or manage prescription drug benefits on behalf of any carrier that  
10 provides prescription drug benefits to residents of this state.

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

14 (1) Include in such contracts a requirement to update pricing information on the MAC list  
15 at least every ten (10) calendar days;

16 (2) Maintain a procedure to eliminate products from the list of drugs subject to such  
17 pricing, or modify MAC rates within ten (10) calendar days when such drugs do not meet the  
18 standards and requirements of this section as set forth in order to remain consistent with pricing  
19 changes in the marketplace.

20 (c) PBM requirements for inclusion of products on a list of drugs subject to MAC pricing.  
21 In order to place a particular prescription drug on a MAC list, the PBM must, at a minimum,  
22 ensure that:

23 (1) The product must be listed as "A", "AB", or "B" rated in the most recent version of  
24 the United States Food and Drug Administration's approved drug products with therapeutic  
25 equivalence evaluations, also known as the orange book, or has an "NR" or "NA" rating or  
26 similar rating by a nationally recognized reference; and

27 (2) The product must be nationally available.

28 (d) Standards for pharmacy appeals. All contracts between a PBM, a contracted  
29 pharmacy or, alternatively, a PBM and a pharmacy's contracting representative or agent such as a  
30 pharmacy services administrative organization (PSAO) shall include a process to appeal,  
31 investigate, and resolve disputes regarding MAC pricing. The process shall include the following  
32 provisions:

33 (1) The right to appeal shall be limited to fifteen (15) days following the initial claim;

34 (2) The appeal shall be investigated and resolved within fifteen (15) days following

1 receipt of the appeal;

2 (3) A process by which a network pharmacy may contact the PBM regarding the appeals  
3 process;

4 (4) If the appeal is denied, the PBM shall provide the reason for the denial and identify  
5 the national drug code of a drug product that is available in adequate supply;

6 (5) If an appeal is upheld, the PBM shall make an adjustment to the list effective no later  
7 than one day after the date of determination; and

8 (6) The department of health shall exercise oversight and enforcement of this section.

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

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

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

15 (2) "Nationally available" means that there is an adequate supply available from regional  
16 or national wholesalers and that the product is not obsolete or temporarily unavailable;

17 (3) "Pharmacy benefit manager" or "PBM" means an entity doing business in this state  
18 that contracts to administer or manage prescription drug benefits on behalf of any carrier that  
19 provides prescription drug benefits to residents of this state.

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

23 (1) Include in such contracts a requirement to update pricing information on the MAC list  
24 at least every ten (10) calendar days;

25 (2) Maintain a procedure to eliminate products from the list of drugs subject to such  
26 pricing, or modify MAC rates within ten (10) calendar days when such drugs do not meet the  
27 standards and requirements of this section as set forth in order to remain consistent with pricing  
28 changes in the marketplace.

29 (c) PBM requirements for inclusion of products on a list of drugs subject to MAC pricing.  
30 In order to place a particular prescription drug on a MAC list, the PBM must, at a minimum,  
31 ensure that:

32 (1) The product must be listed as "A", "AB", or "B" rated in the most recent version of  
33 the United States Food and Drug Administration's approved drug products with therapeutic  
34 equivalence evaluations, also known as the orange book, or has an "NR" or "NA" rating or

1 similar rating by a nationally recognized reference; and

2 (2) The product must be nationally available.

3 (d) Standards for pharmacy appeals. All contracts between a PBM, a contracted  
4 pharmacy or, alternatively, a PBM and a pharmacy's contracting representative or agent such as a  
5 pharmacy services administrative organization (PSAO) shall include a process to appeal,  
6 investigate, and resolve disputes regarding MAC pricing. The process shall include the following  
7 provisions:

8 (1) The right to appeal shall be limited to fifteen (15) days following the initial claim;

9 (2) The appeal shall be investigated and resolved within fifteen (15) days following  
10 receipt of the appeal;

11 (3) A process by which a network pharmacy may contact the PBM regarding the appeals  
12 process;

13 (4) If the appeal is denied, the PBM shall provide the reason for the denial and identify  
14 the national drug code of a drug product that is available in adequate supply;

15 (5) If an appeal is upheld, the PBM shall make an adjustment to the list effective no later  
16 than one day after the date of determination; and

17 (6) The department of health shall exercise oversight and enforcement of this section.

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

20 **27-41-38.1. Pharmacy benefit manager requirements with respect to multi-source**  
21 **generic pricing updates to pharmacies. -- (a) Definitions. As used herein:**

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

24 (2) "Nationally available" means that there is an adequate supply available from regional  
25 or national wholesalers and that the product is not obsolete or temporarily unavailable;

26 (3) "Pharmacy benefit manager" means an entity doing business in this state that  
27 contracts to administer or manage prescription drug benefits on behalf of any carrier that provides  
28 prescription drug benefits to residents of this state.

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

32 (1) Include in such contracts a requirement to update pricing information on the MAC list  
33 at least every ten (10) calendar days;

34 (2) Maintain a procedure to eliminate products from the list of drugs subject to such

1 pricing, or modify MAC rates within ten (10) calendar days when such drugs do not meet the  
2 standards and requirements of this section as set forth in order to remain consistent with pricing  
3 changes in the marketplace.

4 (c) PBM requirements for inclusion of products on a list of drugs subject to MAC pricing.  
5 In order to place a particular prescription drug on a MAC list, the PBM must, at a minimum,  
6 ensure that:

7 (1) The product must be listed as "A", "AB", or "B" rated in the most recent version of  
8 the United States Food and Drug Administration's approved drug products with therapeutic  
9 equivalence evaluations, also known as the orange book, or has an "NR" or "NA" rating or  
10 similar rating by a nationally recognized reference; and

11 (2) The product must be nationally available.

12 (d) Standards for pharmacy appeals. All contracts between a PBM, a contracted  
13 pharmacy or, alternatively, a PBM and a pharmacy's contracting representative or agent such as a  
14 pharmacy services administrative organization (PSAO) shall include a process to appeal,  
15 investigate, and resolve disputes regarding MAC pricing. The process shall include the following  
16 provisions:

17 (1) The right to appeal shall be limited to fifteen (15) days following the initial claim;

18 (2) The appeal shall be investigated and resolved within fifteen (15) days following  
19 receipt of the appeal;

20 (3) A process by which a network pharmacy may contact the PBM regarding the appeals  
21 process;

22 (4) If the appeal is denied, the PBM shall provide the reason for the denial and identify  
23 the national drug code of a drug product that is available in adequate supply;

24 (5) If an appeal is upheld, the PBM shall make an adjustment to the list effective no later  
25 than one day after the date of determination; and

26 (6) The department of health shall exercise oversight and enforcement of this section.

27 SECTION 6. This act shall take effect on September 30, 2016.

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

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- 1 This act would regulate business relationship between pharmacy services providers/group
- 2 health insurers/health service organizations with department of health oversight.
- 3 This act would take effect on September 30, 2016.

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