

**2016 -- H 7438 SUBSTITUTE A**

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LC004298/SUB A  
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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 reimburse 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 when such drugs do not meet the standards and requirements of  
19 this section as set forth in order to remain consistent with pricing changes in the marketplace.

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

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

8           (2) The product must be nationally available.

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

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

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

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

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

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

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

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

26           **27-19-26.1. Pharmacy benefit manager requirements with respect to multi-source**  
27 **generic pricing updates to pharmacies. – (a) Definitions. As used herein:**

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

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

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

1 (b) Upon each contract execution or renewal, a PBM shall, with respect to contracts  
2 between a 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 (1) Include in such contracts a requirement to update pricing information on the MAC list  
5 at least every ten (10) calendar days;

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

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

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

16 (2) The product must be nationally available.

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

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

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

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

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

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

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

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

34 **27-20-23.1. Pharmacy benefit manager requirements with respect to multi-source**

1 **generic pricing updates to pharmacies. -- (a) Definitions. As used herein:**

2 (1) "Maximum allowable cost" or "MAC" means the maximum amount that a pharmacy  
3 benefits manager will reimburse toward the cost of a drug;

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

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

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

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

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

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

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

24 (2) The product must be nationally available.

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

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

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

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

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

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

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

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

8 **27-20.1-15.1. Pharmacy benefit manager requirements with respect to multi-source**  
9 **generic pricing updates to pharmacies. -- (a) Definitions. As used herein:**

10 (1) "Maximum allowable cost" or "MAC" means the maximum amount that a pharmacy  
11 benefits manager will reimburse toward the cost of a drug;

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

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

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

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

22 (2) Maintain a procedure to eliminate products from the list of drugs subject to such  
23 pricing, or modify MAC rates when such drugs do not meet the standards and requirements of  
24 this section as set forth in order to remain consistent with pricing changes in the marketplace.

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

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

32 (2) The product must be nationally available.

33 (d) Standards for pharmacy appeals. All contracts between a PBM, a contracted  
34 pharmacy or, alternatively, a PBM and a pharmacy's contracting representative or agent such as a

1 pharmacy services administrative organization (PSAO) shall include a process to appeal,  
2 investigate, and resolve disputes regarding MAC pricing. The process shall include the following  
3 provisions:

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

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

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

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

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

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

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

16 **27-41-38.1. Pharmacy benefit manager requirements with respect to multi-source**  
17 **generic pricing updates to pharmacies. -- (a) Definitions. As used herein:**

18 (1) "Maximum allowable cost" or "MAC" means the maximum amount that a pharmacy  
19 benefits manager will reimburse toward the cost of a drug;

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

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

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

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

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

33 (c) PBM requirements for inclusion of products on a list of drugs subject to MAC pricing.  
34 In order to place a particular prescription drug on a MAC list, the PBM must, at a minimum,

1 ensure that:

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

6 (2) The product must be nationally available.

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

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

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

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

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

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

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

22 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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