

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1000 Session of
2024

INTRODUCED BY J. WARD, TARTAGLIONE, KEARNEY, DUSH, HUTCHINSON,
BREWSTER, COLEMAN, MASTRIANO, CULVER, PENNYCUICK, LAUGHLIN,
FLYNN, STEFANO, ARGALL, AUMENT AND BARTOLOTTA,
JANUARY 8, 2024

REFERRED TO HEALTH AND HUMAN SERVICES, JANUARY 8, 2024

AN ACT

1 Amending the act of November 21, 2016 (P.L.1318, No.169),
2 entitled "An act providing for pharmacy audit procedures, for
3 registration of pharmacy benefits managers and auditing
4 entities, for maximum allowable cost transparency and for
5 prescription drugs reimbursed under the PACE and PACENET
6 program; and making related repeals," further providing for
7 title of act; in preliminary provisions, further providing
8 for short title and for definitions; in pharmacy audits,
9 further providing for limitations; and providing for pharmacy
10 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:

AN ACT

17 Providing for pharmacy audit procedures, for registration of
18 pharmacy benefits managers and auditing entities, for maximum
19 allowable cost transparency and for prescription drugs
20 reimbursed under the PACE and PACENET program and for
21 pharmacy benefit managers contract requirements and

1 prohibited activities; and making related repeals.

2 Section 101. Short title.

3 This act shall be known and may be cited as the [Pharmacy
4 Audit Integrity and Transparency] Community Pharmacy Protection
5 Act.

6 Section 2. Section 103 of the act is amended by adding
7 definitions to read:

8 Section 103. Definitions.

9 The following words and phrases when used in this act shall
10 have the meanings given to them in this section unless the
11 context clearly indicates otherwise:

12 * * *

13 "Brand effective rate." The reimbursement rate paid to the
14 pharmacy based on a percentage of the average wholesale cost for
15 brand-name drugs dispensed by the pharmacy under the contract
16 with the pharmacy benefit manager.

17 * * *

18 "Effective rate contract." A contract that sets a specific
19 discount rate for all prescriptions filled by a member pharmacy
20 during the term of the contract.

21 * * *

22 "Generic effective rate." The reimbursement rate paid to the
23 pharmacy based on a percentage of the average wholesale cost for
24 generic drugs dispensed by the pharmacy under the contract with
25 the pharmacy benefit manager.

26 * * *

27 "Patient steering." One of the following:

28 (1) When a pharmacy benefit manager directs a patient to
29 use a preferred pharmacy through mandatory mail order
30 requirements or the creation by the PBM of a restricted

1 network that consists only of pharmacies approved by the PBM.

2 (2) The use of co-pay differentials between PBM-
3 affiliated pharmacies and nonaffiliated pharmacies.

4 * * *

5 "Spread pricing." An act of a pharmacy benefit manager
6 reimbursing a pharmacy for a prescription and then billing an
7 insurer or an employer that provides health insurance at a
8 higher price for the same prescription.

9 Section 3. Section 303 of the act is amended by adding a
10 subsection to read:

11 Section 303. Limitations.

12 * * *

13 (c) Scrivener error.--A scrivener error made by a pharmacy
14 not attributed to fraud, waste or abuse that is discovered
15 during an audit of the pharmacy by the PBM shall result in the
16 PBM recouping the dispensing fee for that particular
17 transaction, not the entire amount of the medication received by
18 the patient.

19 Section 4. The act is amended by adding a chapter to read:

20 CHAPTER 6

21 PHARMACY BENEFITS MANAGER CONTRACT

22 REQUIREMENTS AND PROHIBITED ACTS

23 Section 601. Contract provisions.

24 A contract between a pharmacy benefit manager or a designee
25 of the pharmacy benefit manager and a pharmacy may not:

26 (1) Require participation in the PBM's network
27 contingent on the pharmacy signing either an effective rate
28 contract or a contract based on the National Average Drug
29 Acquisition Cost guidelines.

30 (2) Include provisions allowing for retroactive

1 recoupment of money paid to a pharmacy by the PBM, unless
2 both parties agree to that provision.

3 (3) Base reimbursement upon general effective rate or
4 the brand effective rate as a condition of entering a
5 network, unless both parties agree to that provision. Any
6 additional fees must be disclosed and applied at the time of
7 the adjudication of the claim. Fees may include:

8 (i) Transaction fees.

9 (ii) Chargebacks due to recalculation of the cost of
10 the ingredients used in a prescription drug.

11 (iii) Adjustments in the general effective rate,
12 brand effective rates or direct and indirect remuneration
13 fees made by the PBM.

14 Section 602. Spread pricing participation prohibited.

15 A pharmacy benefit manager may not conduct or participate in
16 spread pricing.

17 Section 603. Patient steering prohibited.

18 A pharmacy benefit manager may not conduct or participate in
19 patient steering.

20 Section 604. Duties of the department.

21 The department shall:

22 (1) Develop a process for receiving, hearing and
23 resolving complaints a pharmacy filed against a PBM.

24 (2) Have the ability to set fixed amounts for PBM claim
25 processing fees and administrative fees.

26 (3) Develop a Statewide National Average Drug
27 Acquisition Cost guideline that uses wholesale pricing based
28 on manufacturer's invoices of those manufacturers who ship
29 drugs to this Commonwealth.

30 Section 605. Duties of pharmacy benefit managers.

1 Pharmacy benefit managers shall:

2 (1) Approve a request from a pharmacy to be a member of
3 the PBM's network within 30 days of the initial request to
4 join the network.

5 (2) Provide a dedicated telephone number and email
6 address for handling network admission requests.

7 Section 606. PBM for State Employee Health Plan.

8 A PBM hired for the State Employee Health Plan shall have a
9 transparent reimbursement methodology based on the National
10 Average Drug Acquisition Cost guidelines developed under
11 section 604(3) and a dispensing fee equal to or greater than the
12 maximum prevailing fee for service or PACE rate in this
13 Commonwealth.

14 Section 607. Reports by PBM.

15 A PBM shall report to the department the amount of rebates
16 and payments received from drug manufacturers and how the
17 rebates and payments were distributed by the PBM.

18 Section 5. This act shall take effect in 60 days.