

## AMENDMENTS TO HOUSE BILL NO. 947

Sponsor: REPRESENTATIVE FABRIZIO

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1 Amend Bill, page 2, line 8, by striking out "Department of  
2 Health of the Commonwealth" and inserting

3 Insurance Department of the Commonwealth

4 Amend Bill, page 2, lines 12 through 14, by striking out all  
5 of said lines

6 Amend Bill, page 2, by inserting between lines 19 and 20

7 "Multiple source generic list." A list of drugs, medical  
8 products or devices, or both, for which a maximum allowable cost  
9 has been established by a pharmacy benefits manager.

10 Amend Bill, page 4, line 11, by inserting a period after  
11 "department"

12 Amend Bill, page 4, lines 11 through 30; page 5, lines 1  
13 through 20; by striking out "annually by:" in line 11, all of  
14 lines 12 through 30 on page 4 and all of lines 1 through 20 on  
15 page 5 and inserting

16 The department shall promulgate regulations to implement  
17 this section.

18 Amend Bill, page 5, line 21, by striking out "Maximum  
19 allowable cost" and inserting

20 Multiple source generic

21 Amend Bill, page 5, lines 22 through 30; page 6, lines 1  
22 through 10; by striking out "Before a PBM places a drug on a  
23 maximum" in line 22, all of lines 23 through 30 on page 5 and  
24 all of lines 1 through 10 on page 6 and inserting

1 In order to place a particular drug on a multiple source  
2 generic list, a PBM shall, at a minimum, ensure that:  
3 (1) the drug is listed as "A," "B," "NR" or "NA" rated  
4 in the most recent version of the Food and Drug  
5 Administration's "Approved Drug Products with Therapeutic  
6 Equivalence Evaluations," commonly known as the orange book;  
7 and  
8 (2) the drug is available for purchase by all pharmacies  
9 in this State from national or regional wholesalers and is  
10 not obsolete or temporarily unavailable.  
11 (b) Removal from listing.--A PBM must maintain a procedure  
12 to eliminate drugs from the list of drugs subject to multiple  
13 source drug pricing or modify the maximum allowable cost in a  
14 timely fashion.  
15 (c) Substitutions.--A PBM may not penalize a pharmacist or  
16 pharmacy on audit if the pharmacist or pharmacy performs a  
17 generic substitution pursuant to the act of November 24, 1976  
18 (P.L.1163, No.259), referred to as the Generic Equivalent Drug  
19 Law.

20 Amend Bill, page 6, line 11, by striking out "maximum  
21 allowable cost" and inserting  
22 multiple source generic

23 Amend Bill, page 6, line 12, by inserting before "Upon"

24 (a) General rule.--

25 Amend Bill, page 6, lines 12 and 13, by striking out "make  
26 available"

27 Amend Bill, page 6, lines 15 through 30; pages 7 and 8, lines  
28 1 through 30; by striking out all of said lines on said pages

29 Amend Bill, page 9, lines 1 through 8, by striking out all of  
30 said lines and inserting

31 representative or agent such as PSAO:

32 (1) Include in the contract the sources utilized to  
33 determine multiple source drug pricing, including, if  
34 applicable, the maximum allowable cost or any successive  
35 pricing formula of the PBM.

36 (2) Update the pricing information every seven calendar  
37 days.

38 (3) Establish a reasonable process by which pharmacies  
39 have a method to access relevant or current maximum allowable  
40 cost pricing lists in effect and any successive pricing  
41 formulas in a timely fashion.

42 (b) Confidentiality provision.--Nothing in this section may

1 prohibit a PBM from establishing a reasonable confidentiality  
2 provision with a pharmacy's or pharmacist's contracting  
3 representative agent such as a PSAO.

4 Section 6. Multiple source generic drug pricing appeals  
5 process.

6 (a) Process to be established.--All contracts between a PBM  
7 or a pharmacy, or alternatively, a pharmacy's contracting agent,  
8 such a PSAO, shall include a process to appeal, investigate and  
9 resolve disputes regarding multiple source drug pricing. The  
10 contract provision establishing the process shall include the  
11 following:

12 (1) The right to appeal shall be limited to 14 calendar  
13 days following the initial claim.

14 (2) The appeal shall be investigated and resolved by the  
15 PBM through an internal process within 14 calendar days of  
16 receipt of the appeal by the PBM.

17 (3) A telephone number at which a pharmacy may contact  
18 the PBM and speak with an individual who is involved in the  
19 appeals process.

20 (b) Denial.--If a PBM denies an appeal, the PBM shall  
21 provide the reason for the denial and identify the national drug  
22 code of an equivalent drug that is available for purchase by  
23 network retail pharmacies in this Commonwealth from wholesalers  
24 at a price that is equal to or less than the maximum allowable  
25 cost for the appealed drug as determined by the PBM.

26 (c) Approval.--If a PBM grants an appeal, the PBM shall make  
27 the price correction, permit the reporting pharmacy to reverse  
28 and rebill the appealed claim and make the price correction  
29 effective for all similarly situated pharmacies from the date of  
30 the approved appeal.

31 Amend Bill, page 9, line 9, by striking out "8" and inserting

32 7

33 Amend Bill, page 9, line 10, by striking out "(a) Action by  
34 the department.--"

35 Amend Bill, page 9, lines 14 through 23, by striking out all  
36 of said lines

37 Amend Bill, page 9, line 24, by striking out "9" and  
38 inserting

39 8

40 Amend Bill, page 9, by inserting between lines 26 and 27

41 Section 9. Applicability.

42 This act shall apply to all contracts and agreements for

1 pharmacy benefits management services executed or renewed on or  
2 after the effective date of this section.