

## AMENDMENTS TO HOUSE BILL NO. 941

Sponsor: REPRESENTATIVE HEFFLEY

Printer's No. 1748

1 Amend Bill, page 1, lines 1 through 4, by striking out all of  
2 said lines and inserting

3 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An  
4 act to consolidate, editorially revise, and codify the public  
5 welfare laws of the Commonwealth," in public assistance,  
6 further providing for medical assistance pharmacy services.

7 Amend Bill, page 1, lines 7 through 17; pages 2 through 6,  
8 lines 1 through 30; page 7, line 1; by striking out all of said  
9 lines on said pages and inserting

10 Section 1. Section 449 of the act of June 13, 1967 (P.L.31,  
11 No.21), known as the Human Services Code, is amended to read:

12 Section 449. Medical Assistance Pharmacy Services.--(a) Any  
13 managed care [entity] organization under contract to the  
14 department must contract on an equal basis with any pharmacy  
15 qualified to participate in the Medical Assistance Program that  
16 is willing to comply with the managed care [entity's]  
17 organization's pharmacy payment rates and terms and to adhere to  
18 quality standards established by the managed care [entity]  
19 organization.

20 (b) The department may conduct an audit or review of an  
21 entity. In the course of an audit or review under this  
22 subsection, a managed care organization utilizing a pharmacy  
23 benefit manager shall provide medical assistance-specific  
24 information from a pharmacy contract or agreement to the  
25 department.

26 (c) A contract or agreement between an entity and a pharmacy  
27 may not include any of the following:

28 (1) A confidentiality provision that prohibits the  
29 disclosure of information to the department.

30 (2) Any provision that restricts the disclosure of  
31 information to or communication with a managed care organization  
32 or the department.

33 (d) An entity shall maintain records sufficient to disclose,  
34 upon the department's request, information regarding the  
35 provision of pharmacy services eligible for payment by the

1 medical assistance program.

2 (e) Information disclosed or produced by an entity to the  
3 department under this section shall not be subject to the act of  
4 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

5 (f) If an entity approves a claim for payment under the  
6 medical assistance program, the entity may not retroactively  
7 deny or modify the payment unless any of the following apply:

8 (1) The claim was fraudulent.

9 (2) The claim was duplicative of a previously paid claim.

10 (3) The pharmacy did not dispense the pharmacy service on  
11 the claim.

12 (g) A managed care organization or pharmacy benefit manager  
13 may not do any of the following:

14 (1) Mandate that a medical assistance recipient use a  
15 specific pharmacy or other entity if any of the following apply:

16 (i) The managed care organization or pharmacy benefit  
17 manager has an ownership interest in the pharmacy or other  
18 entity.

19 (ii) The pharmacy or other entity has an ownership interest  
20 in the managed care organization or pharmacy benefit manager.

21 (2) Provide an incentive to a medical assistance recipient  
22 to encourage the use of a specific pharmacy.

23 (h) A pharmacy benefit manager or pharmacy services  
24 administration organization may not do any of the following:

25 (1) Require that a pharmacist or pharmacy participate in a  
26 network managed by the pharmacy benefit manager or pharmacy  
27 services administration organization as a condition for the  
28 pharmacist or pharmacy to participate in another network managed  
29 by the same pharmacy benefit manager or pharmacy services  
30 administration organization.

31 (2) Automatically enroll or disenroll a pharmacist or  
32 pharmacy without cause in a contract or modify an existing  
33 agreement without written agreement of the pharmacist or  
34 pharmacy.

35 (3) Charge or retain a differential between what is billed  
36 to a managed care organization as a reimbursement for a pharmacy  
37 service and what is paid to pharmacies by the pharmacy benefit  
38 manager or pharmacy services administration organization for the  
39 pharmacy service.

40 (4) Charge pharmacy transmission fees.

41 (i) A managed care organization or pharmacy benefit manager  
42 shall provide payment for a pharmacy service that is a covered  
43 benefit if the pharmacy service is performed by a licensed  
44 pharmacist in accordance with all of the following:

45 (1) The pharmacy service performed is within the scope of  
46 practice of the licensed pharmacist.

47 (2) The managed care organization or pharmacy benefit  
48 manager would cover the pharmacy service if the pharmacy service  
49 was performed by a physician, an advanced practice registered  
50 nurse or a physician assistant.

51 (j) As used in this section, the following words and phrases

1 shall have the meanings given to them in this subsection:

2 "Entity" means a pharmacy, pharmacy benefit manager, pharmacy  
3 services administration organization or other entity that  
4 manages, processes, influences the payment for or dispenses  
5 pharmacy services to medical assistance recipients in the  
6 managed care delivery system.

7 "Pharmacy benefit management" means any of the following:

8 (1) The procurement of prescription drugs at a negotiated  
9 contracted rate for distribution within this Commonwealth.

10 (2) The administration or management of prescription drug  
11 benefits provided by a managed care organization.

12 (3) The administration of pharmacy benefits, including any  
13 of the following:

14 (i) Operating a mail-service pharmacy.

15 (ii) Processing claims.

16 (iii) Managing a retail pharmacy network.

17 (iv) Paying claims to pharmacies, including retail,  
18 specialty or mail-order pharmacies, for prescription drugs  
19 dispensed to medical assistance recipients receiving services in  
20 the managed care delivery system via a retail or mail-order  
21 pharmacy.

22 (v) Developing and managing a clinical formulary or  
23 preferred drug list, utilization management or quality assurance  
24 programs.

25 (vi) Rebate contracting and administration.

26 (vii) Managing a patient compliance, therapeutic  
27 intervention and generic substitution program.

28 (viii) Operating a disease management program.

29 (ix) Setting pharmacy payment pricing and methodologies,  
30 including maximum allowable cost and determining single or  
31 multiple source drugs.

32 "Pharmacy benefit manager" means a person, business or other  
33 entity that performs pharmacy benefit management. The term  
34 includes a wholly-owned subsidiary of a managed care  
35 organization that performs pharmacy benefits management.

36 "Pharmacy services administration organization" means a  
37 person, business or other entity that performs any of the  
38 following:

39 (1) Negotiates or contracts with a managed care organization  
40 or pharmacy benefit manager on behalf of its pharmacy members.

41 (2) Negotiates payment rates, payments or audit terms on  
42 behalf of its pharmacy members.

43 (3) Collects or reconciles payments on behalf of its  
44 pharmacy members.

45 Section 2. The amendment of section 449 of the act shall  
46 apply to any agreement or contract relating to pharmacy services  
47 to medical assistance recipients in the managed care delivery  
48 system entered into or amended on or after the effective date of  
49 this section.

50 Section 3. This act shall take effect in 60 days.