

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 1630 Session of  
2021

INTRODUCED BY FRITZ, HEFFLEY, RYAN, BOBACK, RADER, HAMM,  
MILLARD, CIRESI, PEIFER, DeLUCA, GROVE, R. BROWN, ZIMMERMAN,  
ROAE, FARRY, WELBY AND WEBSTER, JUNE 15, 2021

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, OCTOBER 25, 2022

## AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An  
2 act to consolidate, editorially revise, and codify the public  
3 welfare laws of the Commonwealth," in public assistance,  
4 providing for pharmacy benefits manager audit and  
5 obligations; AND ABROGATING REGULATIONS. <--

6 The General Assembly of the Commonwealth of Pennsylvania  
7 hereby enacts as follows:

8 Section 1. The act of June 13, 1967 (P.L.31, No.21), known  
9 as the Human Services Code, is amended by adding a section to  
10 read:

11 Section 449.2. Pharmacy Benefits Manager Audit and  
12 Obligations.--(a) The Department of the Auditor General may  
13 conduct an audit and review of a pharmacy benefits manager that  
14 provides pharmacy benefits management to a medical assistance  
15 managed care organization under contract with the department.  
16 The Department of the Auditor General may review all previous  
17 audits completed by the department and shall have access to all  
18 documents it deems necessary to complete the review and audit.

1 (b) Any information disclosed or produced by a pharmacy  
2 benefits manager or a medical assistance managed care  
3 organization for the use of the department or the Department of  
4 the Auditor General under this section shall not be subject to  
5 the act of February 14, 2008 (P.L.6, No.3), known as the "Right-  
6 to-Know Law."

7 (c) As used in this section, the following words and phrases  
8 shall have the meanings given to them in this subsection:

9 "Medical assistance managed care organization" means a  
10 Medicaid managed care organization as defined in section 1903(m)  
11 (1)(a) of the Social Security Act (49 Stat. 620, 42 U.S.C. §  
12 1396b(m)(1)(A)) that is a party to a Medicaid managed care  
13 contract with the department.

14 "Pharmacy benefits management" means any of the following: <--

15 (1) Procurement of prescription drugs at a negotiated  
16 contracted rate for distribution within this Commonwealth to  
17 covered individuals.

18 (2) Administration or management of prescription drug  
19 benefits provided by a covered entity for the benefit of covered  
20 individuals.

21 (3) Administration of pharmacy benefits, including:

22 (i) Operating a mail service pharmacy.

23 (ii) Claims processing.

24 (iii) Managing a retail pharmacy network management.

25 (iv) Paying claims to pharmacies for prescription drugs  
26 dispensed to covered individuals by a retail, specialty or mail  
27 order pharmacy.

28 (v) Developing and managing a clinical formulary,  
29 utilization management and quality assurance programs.

30 (vi) Rebate contracting and administration.

1 ~~(vii) Managing a patient compliance, therapeutic~~  
2 ~~intervention and generic substitution program.~~  
3 ~~(viii) Operating a disease management program.~~  
4 ~~(ix) Setting pharmacy reimbursement pricing and~~  
5 ~~methodologies, including maximum allowable cost, and determining~~  
6 ~~single or multiple source drugs. SHALL HAVE THE SAME MEANING AS~~ <--  
7 ~~IN SECTION 449.~~

8 "Pharmacy benefits manager" means a person, business or other  
9 entity that performs pharmacy benefits management. The term  
10 shall include any affiliated ownership of a medical assistance  
11 managed care organization that performs pharmacy benefits  
12 management.

13 ~~Section 2. This act shall take effect in 60 days.~~ <--

14 SECTION 2. THE FOLLOWING PROVISIONS OF 55 PA. CODE ARE <--  
15 ABROGATED:

16 (1) SECTION 1153.14(1) (RELATING TO NONCOVERED  
17 SERVICES).

18 (2) SECTION 1223.14(2) (RELATING TO NONCOVERED  
19 SERVICES).

20 (3) SECTION 5230.55(C) (RELATING TO SUPERVISION) TO THE  
21 EXTENT THAT IT REQUIRES A FACE-TO-FACE MEETING.

22 (4) SECTION 1121.53(C) (RELATING TO LIMITATIONS ON  
23 PAYMENT) TO THE EXTENT THAT PAYMENT FOR PRESCRIPTIONS IS  
24 LIMITED TO A 34-DAY SUPPLY OR 100 UNITS.

25 (5) TO THE EXTENT PERMITTED UNDER FEDERAL LAW:

26 (I) SECTION 1249.52(A)(1) (RELATING TO PAYMENT  
27 CONDITIONS FOR VARIOUS SERVICES) AND SECTION 1249.53(A)  
28 (1) (RELATING TO PAYMENT CONDITIONS FOR SKILLED NURSING  
29 CARE) TO THE EXTENT THAT HOME HEALTH SERVICES ARE ONLY  
30 COVERED AND REIMBURSABLE UNDER THE MEDICAL ASSISTANCE

1 PROGRAM IF A PHYSICIAN ORDERS THE SERVICES AND  
2 ESTABLISHES THE PLAN OF TREATMENT.

3 (II) SECTION 1249.54(A)(3) (RELATING TO PAYMENT  
4 CONDITIONS FOR HOME HEALTH AIDE SERVICES) TO THE EXTENT  
5 THAT A HOME HEALTH AIDE SERVICE IS ONLY COVERED AND  
6 REIMBURSABLE UNDER THE MEDICAL ASSISTANCE PROGRAM IF A  
7 PHYSICIAN ESTABLISHES THE WRITTEN PLAN OF TREATMENT AND,  
8 IF SKILLED CARE IS NOT REQUIRED, CERTIFIES THAT THE  
9 PERSONAL CARE SERVICES ARE MEDICALLY NECESSARY.

10 SECTION 3. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

11 (1) THIS SECTION SHALL TAKE EFFECT IMMEDIATELY.

12 (2) SECTION 2 OF THIS ACT SHALL TAKE EFFECT IMMEDIATELY.

13 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 60  
14 DAYS.