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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 944 Session of  
2019

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INTRODUCED BY FRITZ, MATZIE, MILLARD, T. DAVIS, KEEFER, STURLA,  
PASHINSKI, GAYDOS, BARRAR, RYAN, BERNSTINE, IRVIN, MOUL,  
HEFFLEY, OBERLANDER, GROVE, LAWRENCE, RAPP, DRISCOLL, DeLUCA,  
SIMS, MULLINS, WHEELAND, KNOWLES, CIRESI, WARNER, STRUZZI,  
BROWN, KENYATTA, LONGIETTI, PYLE AND GILLEN, APRIL 29, 2019

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REFERRED TO COMMITTEE ON HEALTH, APRIL 29, 2019

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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.

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 449.1. 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 contracts with a medical assistance managed care organization  
15 under contract with the department. The Department of the  
16 Auditor General may review all previous audits completed by the  
17 department and shall have access to all documents necessary to  
18 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) A pharmacy benefits manager, whether a contractor of the  
8 department or a contractor of a medical assistance managed care  
9 organization that is a party to a contract with the department,  
10 that receives State money, owes a duty of care and a duty of  
11 loyalty and is obligated to act in good faith in relation to the  
12 department and any medical assistance managed care organization  
13 with which the pharmacy benefits manager has contracted.

14 (d) As used in this section, the following words and phrases  
15 shall have the meanings given to them in this subsection:

16 "Medical assistance managed care organization" means a  
17 Medicaid managed care organization as defined in section 1903(m)  
18 (1)(a) of the Social Security Act (Public Law 74-271, 42 U.S.C.  
19 § 1396b(m)(1)(A)) that is a party to a Medicaid managed care  
20 contract with the department.

21 "Pharmacy benefits management" means any of the following:

22 (1) Procurement of prescription drugs at a negotiated  
23 contracted rate for distribution within this Commonwealth to  
24 covered individuals.

25 (2) Administration or management of prescription drug  
26 benefits provided by a covered entity for the benefit of covered  
27 individuals.

28 (3) Administration of pharmacy benefits, including:

29 (i) Operating a mail-service pharmacy.

30 (ii) Claims processing.

- 1 (iii) Managing a retail pharmacy network management.  
2 (iv) Paying claims to pharmacies for prescription drugs  
3 dispensed to covered individuals via retail or mail-order  
4 pharmacy.  
5 (v) Developing and managing a clinical formulary,  
6 utilization management and quality assurance programs.  
7 (vi) Rebate contracting and administration.  
8 (vii) Managing a patient compliance, therapeutic  
9 intervention and generic substitution program.  
10 (viii) Operating a disease management program.  
11 (ix) Setting pharmacy reimbursement pricing and  
12 methodologies, including maximum allowable cost, and determining  
13 single or multiple source drugs.  
14 "Pharmacy benefits manager" means a person, business or other  
15 entity that performs pharmacy benefits management. The term  
16 shall include a wholly owned subsidiary of a medical assistance  
17 managed care organization that performs pharmacy benefits  
18 management.

19 Section 2. This act shall take effect in 60 days.