AMENDMENTS TO HOUSE BILL NO. 946

Sponsor: SENATOR BROWNE

Printer's No. 3933

Amend Bill, page 1, line 3, by striking out "AND" and inserting a comma

Amend Bill, page 1, line 3, by inserting after "TRANSPARENCY" and for prescription drugs reimbursed under the PACE and PACENET program; and making related repeals

Amend Bill, page 21, by inserting after line 30

CHAPTER 7

PACE AND PACENET PROGRAM PAYMENTS

Section 701. Definitions.

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

"A-rated generic therapeutically equivalent drug." A drug product that the Commissioner of Food and Drugs of the United States Food and Drug Administration has approved as safe and effective and has determined to be therapeutically equivalent, as listed in "The Approved Drug Products with Therapeutic Equivalence Evaluations" (Food and Drug Administration "Orange Book"), with a specific "A" code designation only.

"Claimant." An eligible person who is enrolled in the program.

"Department." The Department of Aging of the Commonwealth.

"Less expensive." The lowest net cost to the program. The net cost shall include the amount paid by the Commonwealth to a pharmacy for a drug under a current retail pharmacy reimbursement formula less any discount or rebates, including those paid during the previous calendar quarter and inclusive of all dispensing fees.

"NADAC per unit." The current National Average Drug Acquisition Cost per unit.

"Prescription drug." All drugs requiring a prescription in this Commonwealth, insulin, insulin syringes and insulin needles. Experimental drugs or drugs prescribed for wrinkle removal or hair growth are prohibited.

"Program." The Pharmaceutical Assistance Contract for the

Elderly (PACE) and the Pharmaceutical Assistance Contract for the Elderly Needs Enhancement Tier (PACENET) as established by the act of August 26, 1971 (P.L.351, No.91), known as the State Lottery Law.

"Provider." A pharmacy, dispensing physician or certified registered nurse practitioner enrolled as a provider in the program.

"Wholesale acquisition cost." The cost of a dispensed drug based upon the price published in a national drug pricing system in current use by the Department of Aging as the wholesale acquisition cost of a prescription drug in the most common package size.

Section 702. Program payment.

In addition to the requirements under section 509 of the act of August 26, 1971 (P.L.351, No.91), known as the State Lottery Law, the department shall administer the program in accordance with the following:

(1) If the NADAC per unit is available, the program payment shall be the lower of the following amounts:

(i) the NADAC per unit:

(A) with the addition of a professional dispensing fee of $13 per prescription; and

(B) the subtraction of the copayment; or

(ii) the pharmacy's usual and customary charge for the drug dispensed with the subtraction of the copayment.

(2) If the NADAC per unit is unavailable, the program payment shall be the lower of the following amounts:

(i) the wholesale acquisition cost plus 3.2%:

(A) with the addition of a professional dispensing fee of $13 per prescription; and

(B) the subtraction of the copayment; or

(ii) the pharmacy's usual and customary charge for the drug dispensed with the subtraction of the copayment.

Section 703. Generic drugs.

(a) General rule.--Notwithstanding any other statute or regulation, a brand name product shall be dispensed and not substituted with an A-rated generic therapeutically equivalent drug if it is less expensive to the program. If a less expensive A-rated generic therapeutically equivalent drug is available for dispensing to a claimant, the provider shall dispense the A-rated generic therapeutically equivalent drug to the claimant. The department shall reimburse providers based upon the most current listing of the NADAC per unit plus a professional dispensing fee of $13 per prescription. The department shall not reimburse providers for brand name products except in the following circumstances:

(1) There is no A-rated generic therapeutically equivalent drug available on the market. This paragraph does not apply to the lack of availability of an A-rated generic therapeutically equivalent drug in the providing pharmacy unless it can be shown to the department that the provider

made reasonable attempts to obtain the A-rated generic therapeutically equivalent drug or that there was an unforeseeable demand and depletion of the supply of the A-rated generic therapeutically equivalent drug. In either case, the department shall reimburse the provider for the NADAC per unit plus a professional dispensing fee of $13 per prescription.

(2) An A-rated generic therapeutically equivalent drug is deemed by the department, in consultation with a utilization review committee, to have too narrow a therapeutic index for safe and effective dispensing in the community setting. The department shall notify providing pharmacies of A-rated generic therapeutically equivalent drugs that are identified pursuant to this paragraph on a regular basis.

(3) The Department of Health has determined that a drug shall not be recognized as an A-rated generic therapeutically equivalent drug for purpose of substitution under section 5(b) of the act of November 24, 1976 (P.L.1163, No.259), referred to as the Generic Equivalent Drug Law.

(4) At the time of dispensing, the provider has a prescription on which the brand name drug dispensed is billed to the program by the provider at a usual and customary charge which is equal to or less than the least expensive usual and customary charge of any A-rated generic therapeutically equivalent drug reasonably available on the market to the provider.

(5) The brand name drug is less expensive to the program.

(b) Generic not accepted.--If a claimant chooses not to accept the A-rated generic therapeutically equivalent drug required by subsection (a), the claimant shall be liable for the copayment and the NADAC per unit.

Amend Bill, page 22, by inserting between lines 2 and 3

Section 1101. Repeals.

Repeals are as follows:

(1) The General Assembly declares that the repeals under paragraph (2) are necessary to effectuate Chapter 7.

(2) Sections 509(6) and 510(a) and (b) of the act of August 26, 1971 (P.L.351, No.91), known as the State Lottery Law, are repealed.

Amend Bill, page 22, line 3, by striking out "1101" and inserting

1102

Amend Bill, page 22, by inserting between lines 4 and 5

(1) The following provisions shall take effect

immediately:

(i) This section.

(ii) Chapter 7.

Amend Bill, page 22, line 5, by striking out "(1) THE ADDITION OF " and inserting

(2)

Amend Bill, page 22, line 7, by striking out "(2)" and inserting

(3)