

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 917 Session of 2021

INTRODUCED BY AUMENT, PHILLIPS-HILL, MARTIN, FONTANA, LAUGHLIN,
 J. WARD, MUTH, STEFANO, MENSCH, SCHWANK, SABATINA, KEARNEY,
 PITTMAN AND KANE, OCTOBER 25, 2021

REFERRED TO HEALTH AND HUMAN SERVICES, OCTOBER 25, 2021

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 449.2. 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 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.

19 (b) Any information disclosed or produced by a pharmacy

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

6 (c) A pharmacy benefits manager, whether a contractor of the
7 department or a contractor of a medical assistance managed care
8 organization that is a party to a contract with the department,
9 that receives State money, owes a duty of care and a duty of
10 loyalty and is obligated to act in good faith in relation to the
11 department and any medical assistance managed care organization
12 with which the pharmacy benefits manager has contracted.

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

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

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

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

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

27 (3) Administration of pharmacy benefits, including:

28 (i) Operating a mail-service pharmacy.

29 (ii) Claims processing.

30 (iii) Managing a retail pharmacy network management.

1 (iv) Paying claims to pharmacies for prescription drugs
2 dispensed to covered individuals via retail or mail-order
3 pharmacy.

4 (v) Developing and managing clinical formulary, utilization
5 management and quality assurance programs.

6 (vi) Rebate contracting and administration.

7 (vii) Managing a patient compliance, therapeutic
8 intervention and generic substitution program.

9 (viii) Operating a disease management program.

10 (ix) Setting pharmacy reimbursement pricing and
11 methodologies, including maximum allowable cost, and determining
12 single or multiple source drugs.

13 "Pharmacy benefits manager" means a person, business or other
14 entity that performs pharmacy benefits management. The term
15 shall include a wholly owned subsidiary of a medical assistance
16 managed care organization that performs pharmacy benefits
17 management.

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