

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1669 Session of
1979

INTRODUCED BY IRVIS, MANDERINO, COLE AND STUBAN,
AUGUST 1, 1979

REFERRED TO COMMITTEE ON HEALTH AND WELFARE, AUGUST 1, 1979

AN ACT

1 Amending the act of November 24, 1976 (P.L.1163, No.259),
2 entitled "An act relating to the prescribing and dispensing
3 of generic equivalent drugs," providing for reimbursements by
4 the Department of Public Welfare.

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

7 Section 1. Subsection (b) of section 5, act of November 24,
8 1976 (P.L.1163, No.259), referred to as the Generic Equivalent
9 Drug Law, is amended to read:

10 Section 5. * * *

11 (b) The Secretary of Health in cooperation with the
12 Pennsylvania Drug, Device and Cosmetic Board shall within 180
13 days of the effective date of this act establish a formulary of
14 generically equivalent drugs and the name of their
15 manufacturers. In compiling the list of generic and brand name
16 drug products for inclusion in the formulary, the secretary may
17 adopt in whole or in part formularies adopted by the United
18 States Department of Health, Education and Welfare for their
19 maximum allowable cost program for drug reimbursements under

1 Title XVIII and Title XIX of the Social Security Act.
2 Reimbursement by the Department of Public Welfare for all drugs
3 listed in Department of Health Generic Drug Formulary shall be
4 in accordance with the average price as determined by the
5 Department of Public Welfare: Provided, That the average price
6 established for any drug shall not apply to a brand of that drug
7 prescribed for a patient which the prescriber has certified in
8 his own handwriting to be a "brand medically necessary" for that
9 patient. In the event of an emergency, as determined by the
10 secretary to affect the health or safety of the public, the
11 secretary may remove a drug product from the list without public
12 hearings. If the formulary for the maximum allowable cost
13 program is adopted by the secretary, formal hearings as required
14 in [the act of June 4, 1945 (P.L.1388, No.422),] Chapters 5A and
15 7A of Title 2 (Administrative Law and Procedure) of the
16 Pennsylvania Consolidated Statutes, known as the "Administrative
17 Agency Law," may be waived otherwise the inclusions of all drugs
18 in the formulary shall be in compliance with the provisions of
19 the "Administrative Agency Law." The formulary may be added to
20 or deleted from upon the motion of the secretary or on the
21 petition of any interested party however before such addition or
22 deletion the secretary shall request the advice in writing from
23 the Drug, Device and Cosmetic Board whether a drug should be
24 added or deleted. Such advice shall be rendered to the secretary
25 within a reasonable time. After considering the available facts,
26 the secretary shall make a finding with respect to such drug and
27 may issue a regulation on its substitution for a period of one
28 year. The status of such drugs as well as the formulary shall be
29 reviewed annually by the secretary.

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