

STATE LOTTERY LAW - MEDICATION SYNCHRONIZATION, PHARMACEUTICAL
ASSISTANCE CONTRACT FOR THE ELDERLY NEEDS ENHANCEMENT TIER,
BOARD, MEDICATION THERAPY MANAGEMENT AND COORDINATION OF
BENEFITS

Act of Oct. 23, 2018, P.L. 579, No. 87

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Session of 2018
No. 2018-87

HB 270

AN ACT

Amending the act of August 26, 1971 (P.L.351, No.91), entitled "An act providing for a State Lottery and administration thereof; authorizing the creation of a State Lottery Commission; prescribing its powers and duties; disposition of funds; violations and penalties therefor; exemption of prizes from State and local taxation and making an appropriation," in pharmaceutical assistance for the elderly, further providing for definitions, providing for medication synchronization, further providing for the Pharmaceutical Assistance Contract for the Elderly Needs Enhancement Tier and for board, providing for medication therapy management and further providing for coordination of benefits.

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

Section 1. The definition of "board" in section 502 of the act of August 26, 1971 (P.L.351, No.91), known as the State Lottery Law, is amended and the section is amended by adding definitions to read:

Section 502. 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:

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"Board." The Pharmaceutical Assistance [Review] **Advisory** Board.

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"LEP" or "late enrollment penalty." The amount added to the Part D plan premium of either:

(1) an individual who did not obtain creditable prescription drug coverage as defined under 42 CFR § 423.56 (relating to procedures to determine and document creditable status of prescription drug coverage) when the individual was first eligible for Part D; or

(2) an individual who had a break in creditable prescription drug coverage of at least 63 consecutive days. The LEP is considered a part of the plan premium.

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"Maintenance medication." A medication prescribed for a chronic, long-term condition and taken on a regular, recurring basis.

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"Medication synchronization." The coordination of prescription drug filling or refilling by a pharmacy or dispensing physician for a program participant taking two or more medications for the purpose of improving medication adherence.

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Section 2. The act is amended by adding a section to read:
Section 515.1. Medication synchronization.

(a) Prorated daily cost-sharing fees.--The program shall permit and apply a prorated daily cost-sharing fee to prescription drugs that are dispensed by a pharmacy for less than a 30 days' supply if the pharmacist or prescriber determines the fill or refill to be in the best interest of the program participant and the program participant requests or agrees to less than a 30 days' supply for the purpose of medication synchronization. The program may not use payment structures incorporating prorated dispensing fees.

(b) Full payment.--Dispensing fees for a partial supply or refilled prescription shall be paid in full for each maintenance medication dispensed, regardless of any prorated copay for the beneficiary or fee paid for alignment services.

(c) Partial supply.--The program may not deny coverage for the dispensing of a maintenance medication that is dispensed by a network pharmacy on the basis that the dispensing is for a partial supply if the prescriber or pharmacist determines the fill or refill is in the best interest of the patient and the patient requests or agrees to a partial supply for the purpose of medication synchronization.

(d) Annual limitation.--The fill or refill under this section shall be limited to three times a year for each maintenance medication for a covered individual. For each clinically necessary synchronization thereafter, approval may be required at the discretion of the program.

(e) Override of denial codes.--Subject to section 520(c.1), the program shall allow a pharmacy to override any denial codes indicating that a prescription drug is being refilled too soon for the purposes of medication synchronization utilizing the submission clarification and message codes as adopted by the National Council for Prescription Drug Programs or alternative codes provided by the program.

(f) Exemption.--This section does not apply to prescription drugs that are either:

(1) unit-of-use packaging for which medication synchronization is not possible; or

(2) controlled substances classified in Schedule II under section 4(2) of the act of April 14, 1972 (P.L.233, No.64), known as The Controlled Substance, Drug, Device and Cosmetic Act.

Section 3. Sections 519(b) and 520 of the act are amended to read:

Section 519. The Pharmaceutical Assistance Contract for the Elderly Needs Enhancement Tier.

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(b) PACENET eligibility.--A person with an annual income of not less than \$14,500 and not more than [\$23,500] **\$27,500** in the case of a single person and of not less than \$17,700 and not more than [\$31,500] **\$35,500** in the case of the combined income of persons married to each other shall be eligible for enhanced pharmaceutical assistance under this section. A person may, in reporting income to the department, round the amount of each source of income and the income total to the nearest whole dollar, whereby any amount which is less than 50¢ is eliminated.

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Section 520. Board.

(a) Establishment.--The Pharmaceutical Assistance [Review] **Advisory** Board is continued to ensure that the program is providing and continues to provide the assistance intended in

a fiscally responsible manner without excessively hampering the pharmaceutical industry.

(b) Composition.--The board shall be comprised of the following [eight] persons:

(1) The Secretary of Aging, who shall serve as its chairman.

(2) The Secretary of Revenue.

(3) The Secretary of Health.

(4) [Five] **Nine** public members[, one appointed by the President pro tempore of the Senate, one appointed by the Minority Leader of the Senate, one appointed by the Speaker of the House of Representatives, one appointed by the Minority Leader of the House of Representatives and one appointed by the Governor. Those appointed by the legislative officers shall include two senior citizens who have not been a part of the pharmaceutical industry to serve as consumer advocates, one representative of the pharmaceutical industry and one practicing Pennsylvania pharmacist. The individual appointed by the Governor must be a physician. A public member who misses two consecutive meetings without good cause acceptable to the chairman shall be replaced by the appointing authority.] **appointed as follows:**

(i) **Four practicing Pennsylvania pharmacists whose names are jointly submitted by the Pennsylvania Pharmacists Association and the Pennsylvania Association of Chain Drug Stores and then appointed by the following:**

(A) **One member appointed by the President pro tempore of the Senate.**

(B) **One member appointed by the Minority Leader of the Senate.**

(C) **One member appointed by the Speaker of the House of Representatives.**

(D) **One member appointed by the Minority Leader of the House of Representatives.**

(ii) **Five individuals appointed by the Governor that include the following:**

(A) **One representative from the pharmaceutical industry.**

(B) **Four senior citizens who have not been a part of the pharmaceutical industry, two of whom may be senior advocates.**

(5) **Should a board vacancy not be filled by the appointing authority within 60 days, the power to appoint an individual to the vacancy shall be given to the Secretary of Aging.**

(c) Review.--Using the annual report submitted by the department pursuant to section 2102 and other appropriate data sources, the board shall conduct an annual review. The board shall develop recommendations concerning any changes in the level of copayment[, or deductible [or in the level of fees paid to participating pharmacists]]. The board shall review the department's therapeutic drug utilization review program on an ongoing basis. The board may also recommend other changes in the structure of the program and direct the department to enter into discussions with the private contractor concerning amendments to the contract, or the department may enter into such discussion if it deems necessary. The copayment or deductible schedule shall only be adjusted on an annual basis.

(c.1) **Powers and duties.--The board shall advise on the following:**

(1) The development and implementation of medication synchronization and medication therapy management programs and reimbursement methodologies.

(2) Adjustment of the dispensing fee, as needed.

(3) Cost-of-living adjustment increases for medication synchronization, medication therapy management and the dispensing fee.

(d) Meetings.--The board shall meet at least two times per year and not more than four times per year.

Section 4. The act is amended by adding a section to read:
Section 522.1. Medication therapy management.

PACE shall, in consultation with the board, develop a proposal for a medication therapy management program by using retail community pharmacies enrolled in the program. PACE, in consultation with the board, shall submit the proposal to the General Assembly no later than six months after the effective date of this section.

Section 5. Section 534 of the act is amended by adding a subsection to read:

Section 534. Coordination of benefits.

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(c.1) Authorization.--The department may pay the LEP of Part D enrollees in excess of the regional benchmark premium.

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Section 6. This act shall take effect immediately.

APPROVED--The 23rd day of October, A.D. 2018.

TOM WOLF