

**CONSUMER PRESCRIPTION DRUG PRICING AND FREEDOM DISCLOSURE ACT-
ENACTMENT**

Act of Jul. 23, 2020, P.L. 663, No. 67

Cl. 35

An Act

Providing for consumer prescription drug pricing disclosure and pharmacy freedom to communicate.

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

Section 1. Short title.

This act shall be known and may be cited as the Consumer Prescription Drug Pricing and Freedom Disclosure Act.

Section 2. Definitions.

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

"Contract." A contract administered by a pharmacy benefit manager or pharmacy services administration organization.

"Covered entity." A contract holder or policy holder providing pharmacy benefits to a covered individual under a health insurance policy pursuant to a contract administered by a pharmacy benefit manager.

"Covered individual." A member, participant, enrollee or beneficiary of a covered entity who is provided health coverage by the covered entity. The term includes a dependent or other person provided health coverage through the policy or contract of a covered individual.

"Health insurance policy." A policy, subscriber contract, certificate or plan that provides prescription drug coverage. The term includes both comprehensive and limited benefit health policies.

"Pharmacist." As defined in section 2(10) of the act of September 27, 1961 (P.L.1700, No.699), known as the Pharmacy Act.

"Pharmacy." As defined in section 2(12) of the Pharmacy Act.

"Pharmacy benefit management." Any of the following:

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

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

(3) Administration of pharmacy benefits, including:

(i) Operating a mail-service pharmacy.

(ii) Claims processing.

(iii) Retail pharmacy network management.

(iv) Paying claims to pharmacies for prescription drugs dispensed to covered individuals by a retail, specialty or mail-order pharmacy.

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

(vi) Rebate contracting and administration.

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

(viii) Operating a disease management program.

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

"Pharmacy benefit manager." A person, business or other entity that performs pharmacy benefit management for covered entities. The term does not include an entity that holds a valid license by the Insurance Department with accident and health authority to issue a health insurance policy and governed under any of the following:

(1) The act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, including section 630 and Article XXIV of that act.

(2) The act of December 29, 1972 (P.L.1701, No.364), known as the Health Maintenance Organization Act.

(3) 40 Pa.C.S. Ch. 61 (relating to hospital plan corporations) or 63 (relating to professional health services plan corporations).

"Pharmacy services administration organization." A person, business or other entity that performs any of the following:

(1) Negotiates and contracts with managed care organizations or pharmacy benefit managers on behalf of their pharmacy members.

(2) Negotiates reimbursement rates, payment and audit terms on behalf of their pharmacy members.

(3) Provides payment collection or reconciliation services on behalf of their pharmacy members.

Section 3. Disclosure of prescription drug costs.

(a) Information to covered individual.--A pharmacy or pharmacist shall have the right to provide a covered individual with information concerning the cost of a prescription drug, including the individual's cost share.

(b) No prohibition or penalization.--A pharmacy, pharmacist or contracting agent of a pharmacy or pharmacist may not be prohibited from or penalized by a pharmacy benefit manager or pharmacy services administration organization for discussing the information under subsection (a), disclosing the availability of therapeutically equivalent alternative medications or selling to the covered individual a more affordable alternative if an affordable alternative is available.

Section 4. Effective date.

This act shall take effect immediately.