
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2392 Session of
2012

INTRODUCED BY MASSER, BENNINGHOFF, BRENNAN, CREIGHTON, CUTLER,
EVERETT, FABRIZIO, FARRY, GABLER, GROVE, HARHAI, HENNESSEY,
HESS, KAUFFMAN, KOTIK, KULA, LONGIETTI, METZGAR, MOUL, MUNDY,
PASHINSKI, PICKETT, PYLE, REED, SABATINA, SANTARSIERO, STERN
AND GIBBONS, MAY 21, 2012

REFERRED TO COMMITTEE ON HEALTH, MAY 21, 2012

AN ACT

1 Providing for the Fair Pharmaceuticals Pricing and Payment Act;
2 imposing duties on the Department of Public Welfare; and
3 abrogating a regulation.

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

6 Section 1. Short title.

7 This act shall be known and may be cited as the Fair
8 Pharmaceuticals Pricing and Payment Act.

9 Section 2. Legislative findings.

10 The General Assembly finds and declares as follows:

11 (1) The Department of Public Welfare has taken steps to
12 align its pharmaceutical payment structure with managed care
13 organizations in this Commonwealth absent consideration of
14 the outdated fee-for-service medical assistance pricing and
15 payment policies in this Commonwealth.

16 (2) Many Medicaid managed care organizations and other
17 third-party payors update their drug pricing databases on a

1 daily or weekly basis while the Medical Assistance Fee for
2 Service Program in this Commonwealth updates its pricing
3 sources only once a month.

4 (3) This practice results in Pennsylvania pharmacies
5 getting paid significantly less than the cost to acquire and
6 dispense drugs to medical assistance beneficiaries and cost
7 Pennsylvania pharmacies nearly \$5,500,000 in 2011.

8 (4) Most managed care organizations and private payors
9 pay pharmacy claims on a weekly basis, while the Medical
10 Assistance Fee for Service Program pays claim as late as 30
11 days after drugs are dispensed, which creates cash flow
12 problems for pharmacies in this Commonwealth that do not
13 occur under other health plans.

14 (5) Requiring the department to update its drug pricing
15 data and remit payment for claims to Pennsylvania pharmacies
16 on a weekly basis would bring medical assistance in line with
17 managed care organizations and other third-party private
18 payors and must remain a priority of the General Assembly.

19 Section 3. Definitions.

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

23 "Department." The Department of Public Welfare of the
24 Commonwealth.

25 "EAC." The estimated acquisition cost as defined in 42 CFR
26 447.502 (relating to definitions).

27 "Pricing service." A third-party source that compiles and
28 provides drug-specific information needed to maintain the drug
29 reference file under this act.

30 Section 4. Medical Assistance Fee for Service Program drug

1 pricing and payment of claims.

2 In administering the Medical Assistance Fee for Service
3 Program in this Commonwealth, the department shall:

4 (1) update the EAC for individual drugs on a weekly
5 basis as it appears in available nationally recognized
6 pricing services; and

7 (2) remit payment for claims to pharmacies in this
8 Commonwealth within seven days of receiving the claim.

9 Section 19. Repeal.

10 The provisions of 55 Pa. Code § 1121.56(b) are abrogated
11 insofar as they are inconsistent with this act.

12 Section 20. Effective date.

13 This act shall take effect in 60 days.