

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 270 Session of 2017

INTRODUCED BY FARRY, SAMUELSON, BAKER, STAATS, WATSON, MILLARD, DRISCOLL, FREEMAN, MATZIE, PICKETT, LONGIETTI, SOLOMON, DAVIS, BULLOCK, SCHLOSSBERG, KAVULICH, KINSEY, A. HARRIS, IRVIN, NEILSON, GALLOWAY, D. COSTA, MULLERY, KAUFER, SIMS, WARD, DONATUCCI, THOMAS, NELSON, PASHINSKI, MADDEN, McCARTER, W. KELLER, TOOHL, GODSHALL, RAVENSTAHL, MASSER, ROZZI, McNEILL, SANTORA, DALEY, COMITTA, KORTZ, BARBIN AND DUSH, MARCH 16, 2017

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, OCTOBER 10, 2018

AN ACT

1 Amending the act of August 26, 1971 (P.L.351, No.91), entitled
2 "An act providing for a State Lottery and administration
3 thereof; authorizing the creation of a State Lottery
4 Commission; prescribing its powers and duties; disposition of
5 funds; violations and penalties therefor; exemption of prizes
6 from State and local taxation and making an appropriation,"
7 in pharmaceutical assistance for the elderly, further
8 providing for definitions, providing for medication
9 synchronization, further providing for the Pharmaceutical
10 Assistance Contract for the Elderly Needs Enhancement Tier
11 and for board and, providing for medication therapy <--
12 management AND FURTHER PROVIDING FOR COORDINATION OF <--
13 BENEFITS.

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

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

20 Section 502. Definitions.

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

4 * * *

5 "Board." The Pharmaceutical Assistance [Review] Advisory
6 Board.

7 * * *

8 "LEP" OR "LATE ENROLLMENT PENALTY." THE AMOUNT ADDED TO THE <--
9 PART D PLAN PREMIUM OF EITHER:

10 (1) AN INDIVIDUAL WHO DID NOT OBTAIN CREDITABLE
11 PRESCRIPTION DRUG COVERAGE AS DEFINED UNDER 42 CFR § 423.56
12 (RELATING TO PROCEDURES TO DETERMINE AND DOCUMENT CREDITABLE
13 STATUS OF PRESCRIPTION DRUG COVERAGE) WHEN THE INDIVIDUAL WAS
14 FIRST ELIGIBLE FOR PART D; OR

15 (2) AN INDIVIDUAL WHO HAD A BREAK IN CREDITABLE
16 PRESCRIPTION DRUG COVERAGE OF AT LEAST 63 CONSECUTIVE DAYS
17 AND THAT IS CONSIDERED A PART OF THE PLAN PREMIUM.

18 * * *

19 "MAINTENANCE MEDICATION." A MEDICATION PRESCRIBED FOR A
20 CHRONIC, LONG-TERM CONDITION AND TAKEN ON A REGULAR, RECURRING
21 BASIS.

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

27 * * *

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

30 (a) Prorated daily cost-sharing ~~rate~~ FEES.--The program <--

1 shall permit and apply a prorated daily cost-sharing rate FEE to <--
2 prescription drugs that are dispensed by a pharmacy for less
3 than a 30 days' supply if the pharmacist or prescriber
4 determines the fill or refill to be in the best interest of the
5 program participant and the program participant requests or
6 agrees to less than a 30 days' supply for the purpose of
7 medication synchronization. THE PROGRAM MAY NOT USE PAYMENT <--
8 STRUCTURES INCORPORATING PRORATED DISPENSING FEES.

9 (B) FULL PAYMENT.--DISPENSING FEES FOR A PARTIAL SUPPLY OR
10 REFILLED PRESCRIPTION SHALL BE PAID IN FULL FOR EACH MAINTENANCE
11 MEDICATION DISPENSED, REGARDLESS OF ANY PRORATED COPAY FOR THE
12 BENEFICIARY OR FEE PAID FOR ALIGNMENT SERVICES.

13 (C) PARTIAL SUPPLY.--THE PROGRAM MAY NOT DENY COVERAGE FOR
14 THE DISPENSING OF A MAINTENANCE MEDICATION THAT IS DISPENSED BY
15 A NETWORK PHARMACY ON THE BASIS THAT THE DISPENSING IS FOR A
16 PARTIAL SUPPLY IF THE PRESCRIBER OR PHARMACIST DETERMINES THE
17 FILL OR REFILL IS IN THE BEST INTEREST OF THE PATIENT AND THE
18 PATIENT REQUESTS OR AGREES TO A PARTIAL SUPPLY FOR THE PURPOSE
19 OF MEDICATION SYNCHRONIZATION.

20 (D) ANNUAL LIMITATION.--THE FILL OR REFILL UNDER THIS
21 SECTION SHALL BE LIMITED TO THREE TIMES A YEAR FOR EACH
22 MAINTENANCE MEDICATION FOR A COVERED INDIVIDUAL. FOR EACH
23 CLINICALLY NECESSARY SYNCHRONIZATION THEREAFTER, APPROVAL MAY BE
24 REQUIRED AT THE DISCRETION OF THE PROGRAM.

25 ~~(b)~~ (E) Override of denial codes.--The SUBJECT TO SECTION <--
26 520(C.1), THE program shall allow a pharmacy to override any
27 denial codes indicating that a prescription drug is being
28 refilled too soon for the purposes of medication
29 synchronization. UTILIZING THE SUBMISSION CLARIFICATION AND <--
30 MESSAGE CODES AS ADOPTED BY THE NATIONAL COUNCIL FOR

1 PRESCRIPTION DRUG PROGRAMS OR ALTERNATIVE CODES PROVIDED BY THE
2 PROGRAM.

3 (F) EXEMPTION.--THIS SECTION DOES NOT APPLY TO PRESCRIPTION
4 DRUGS THAT ARE EITHER:

5 (1) UNIT-OF-USE PACKAGING FOR WHICH MEDICATION
6 SYNCHRONIZATION IS NOT POSSIBLE; OR

7 (2) CONTROLLED SUBSTANCES CLASSIFIED IN SCHEDULE II
8 UNDER SECTION 4(2) OF THE ACT OF APRIL 14, 1972 (P.L.233,
9 NO.64), KNOWN AS THE CONTROLLED SUBSTANCE, DRUG, DEVICE AND
10 COSMETIC ACT.

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

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

15 * * *

16 (b) PACENET eligibility.--A person with an annual income of
17 not less than \$14,500 and not more than [\$23,500] ~~\$31,000~~ <--
18 \$27,500 in the case of a single person and of not less than <--
19 \$17,700 and not more than [\$31,500] ~~\$41,000~~ \$35,500 in the case <--
20 of the combined income of persons married to each other shall be
21 eligible for enhanced pharmaceutical assistance under this
22 section. A person may, in reporting income to the department,
23 round the amount of each source of income and the income total
24 to the nearest whole dollar, whereby any amount which is less
25 than 50¢ is eliminated.

26 * * *

27 Section 520. Board.

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

1 fiscally responsible manner without excessively hampering the
2 pharmaceutical industry.

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

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

7 (2) The Secretary of Revenue.

8 (3) The Secretary of Health.

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

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

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

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

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

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

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

7 (A) One representative from the pharmaceutical
8 industry.

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

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

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

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

1 (1) The development and implementation of the department<--
2 proposals for medication synchronization and medication
3 therapy management programs and reimbursement methodologies.

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

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

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

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

12 PACE shall, in consultation with the board, develop a
13 proposal for a medication therapy management program by using
14 retail community pharmacies enrolled in the program. PACE, in
15 consultation with the board, shall submit the proposal to the
16 General Assembly no later than ~~one year~~ SIX MONTHS after the <--
17 effective date of this section.

18 SECTION 5. SECTION 534 OF THE ACT IS AMENDED BY ADDING A <--
19 SUBSECTION TO READ:

20 SECTION 534. COORDINATION OF BENEFITS.

21 * * *

22 (C.1) AUTHORIZATION.--THE DEPARTMENT MAY PAY THE LEP OF PART
23 D ENROLLEES IN EXCESS OF THE REGIONAL BENCHMARK PREMIUM.

24 * * *

25 Section ~~5~~ 6. This act shall take effect immediately. <--