

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 941 Session of
2019

INTRODUCED BY HEFFLEY, MATZIE, NEILSON, WARNER, BURGOS, SAINATO, FRANKEL, READSHAW, BARRAR, LONGIETTI, MILLARD, KEEFER, SIMS, DeLUCA, BERNSTINE, MULLINS, CRUZ, WHEELAND, MARSHALL, SCHWEYER, MOUL, BROWN, STRUZZI, KENYATTA, PYLE, McCLINTON, DEASY, EVERETT, KNOWLES, SCHMITT, HERSHEY, KLUNK, T. DAVIS, DUSH, FLYNN, BURNS, GREINER, KAUFFMAN, SAYLOR, SCHLOSSBERG, RIGBY, McNEILL, KORTZ, OWLETT, MASSER, ISAACSON, GAYDOS, QUINN, BOYLE, KOSIEROWSKI, PASHINSKI, MADDEN, WILLIAMS, ULLMAN, THOMAS, STURLA, WENTLING, TOOHL, GABLER, SOLOMON, HARKINS AND POLINCHOCK, MAY 7, 2019

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, OCTOBER 20, 2020

AN ACT

1 Amending the act of June 13, 1967 (P.L.31, No.21), entitled "An
2 act to consolidate, editorially revise, and codify the public
3 welfare laws of the Commonwealth," in public assistance, ~~in~~ ~~public assistance,~~ <--
4 ~~further providing for medical assistance pharmacy services.~~
5 IN PUBLIC ASSISTANCE, FURTHER PROVIDING FOR MEDICAL <--
6 ASSISTANCE PHARMACY SERVICES AND PROVIDING FOR PRESCRIPTION
7 DRUG PRICING STUDY.

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

10 ~~Section 1. Section 449 of the act of June 13, 1967 (P.L.31, <--~~
11 ~~No.21), known as the Human Services Code, is amended to read:~~
12 ~~Section 449. Medical Assistance Pharmacy Services. (a) Any~~
13 ~~managed care [entity] organization under contract to the~~
14 ~~department must contract on an equal basis with any pharmacy~~
15 ~~qualified to participate in the Medical Assistance Program that~~
16 ~~is willing to comply with the managed care [entity's]~~

1 ~~organization's pharmacy payment rates and terms and to adhere to~~
2 ~~quality standards established by the managed care [entity]~~
3 ~~organization.~~

4 ~~(b) The department may conduct an audit or review of an~~
5 ~~entity. In the course of an audit or review under this~~
6 ~~subsection, a managed care organization utilizing a pharmacy~~
7 ~~benefit manager shall provide medical assistance specific~~
8 ~~information from a pharmacy contract or agreement to the~~
9 ~~department.~~

10 ~~(c) A contract or agreement between an entity and a pharmacy~~
11 ~~may not include any of the following:~~

12 ~~(1) A confidentiality provision that prohibits the~~
13 ~~disclosure of information to the department.~~

14 ~~(2) Any provision that restricts the disclosure of~~
15 ~~information to or communication with a managed care organization~~
16 ~~or the department.~~

17 ~~(d) An entity shall maintain records sufficient to disclose,~~
18 ~~upon the department's request, information regarding the~~
19 ~~provision of pharmacy services eligible for payment by the~~
20 ~~medical assistance program.~~

21 ~~(e) Information disclosed or produced by an entity to the~~
22 ~~department under this section shall not be subject to QUALIFY AS <--~~
23 ~~AN EXEMPTION UNDER SECTION 708 OF the act of February 14, 2008~~
24 ~~(P.L.6, No.3), known as the Right to Know Law.~~

25 ~~(f) If an entity approves a claim for payment under the <--~~
26 ~~medical assistance program, the entity may not retroactively~~
27 ~~deny or modify the payment unless any of the following apply:~~

28 ~~(1) The claim was fraudulent.~~

29 ~~(2) The claim was duplicative of a previously paid claim.~~

30 ~~(3) The pharmacy did not dispense the pharmacy service on~~

1 ~~the claim.~~

2 ~~(g) A managed care organization or pharmacy benefit manager~~
3 ~~may not do any of the following:~~

4 ~~(1) Mandate that a medical assistance recipient use a~~
5 ~~specific pharmacy or other entity if any of the following apply:~~

6 ~~(i) The managed care organization or pharmacy benefit~~
7 ~~manager has an ownership interest in the pharmacy or other~~
8 ~~entity.~~

9 ~~(ii) The pharmacy or other entity has an ownership interest~~
10 ~~in the managed care organization or pharmacy benefit manager.~~

11 ~~(2) Provide an incentive to a medical assistance recipient~~
12 ~~to encourage the use of a specific pharmacy.~~

13 ~~(h) A pharmacy benefit manager or pharmacy services~~
14 ~~administration organization may not do any of the following:~~

15 ~~(1) Require that a pharmacist or pharmacy participate in a~~
16 ~~network managed by the pharmacy benefit manager or pharmacy~~
17 ~~services administration organization as a condition for the~~
18 ~~pharmacist or pharmacy to participate in another network managed~~
19 ~~by the same pharmacy benefit manager or pharmacy services~~
20 ~~administration organization.~~

21 ~~(2) Automatically enroll or disenroll a pharmacist or~~
22 ~~pharmacy without cause in a contract or modify an existing~~
23 ~~agreement without written agreement of the pharmacist or~~
24 ~~pharmacy.~~

25 ~~(3) Charge or retain a differential between what is billed~~
26 ~~to a managed care organization as a reimbursement for a pharmacy~~
27 ~~service and what is paid to pharmacies by the pharmacy benefit~~
28 ~~manager or pharmacy services administration organization for the~~
29 ~~pharmacy service.~~

30 ~~(4) Charge pharmacy transmission fees.~~

1 ~~(i) (F) A managed care organization or pharmacy benefit~~ <--
2 ~~manager shall provide payment for a pharmacy service that is a~~
3 ~~covered benefit if the pharmacy service is performed by a~~
4 ~~licensed pharmacist in accordance with all of the following:~~

5 ~~(1) The pharmacy service performed is within the scope of~~
6 ~~practice of the licensed pharmacist.~~

7 ~~(2) The managed care organization or pharmacy benefit~~
8 ~~manager would cover the pharmacy service if the pharmacy service~~
9 ~~was performed by a physician, an advanced practice registered~~
10 ~~nurse or a physician assistant. AS DETERMINED BY THE FEE~~ <--
11 ~~SCHEDULE PUBLISHED BY THE DEPARTMENT.~~

12 ~~(G) BEGINNING JANUARY 1, 2021, FOR EACH PRESCRIPTION FILLED,~~
13 ~~A PARTICIPATING PHARMACY SHALL RECEIVE REIMBURSEMENT FOR DRUG~~
14 ~~COST AT A RATE NO LESS THAN THE COST OF THE DRUG PRODUCT AS~~
15 ~~GENERALLY AVAILABLE TO RETAIL PHARMACIES, UTILIZING AN AVERAGE~~
16 ~~ACQUISITION COST REIMBURSEMENT METHODOLOGY, AND AFTER ANY~~
17 ~~PHARMACY BENEFIT MANAGER OR PAYER ADJUSTMENT TO THAT DRUG COST.~~
18 ~~THE PHARMACY SHALL ALSO RECEIVE A REASONABLE PROFESSIONAL~~
19 ~~DISPENSING FEE FOR EACH PRESCRIPTION FILLED AS DETERMINED BY THE~~
20 ~~DEPARTMENT.~~

21 ~~(j) (H) As used in this section, the following words and~~ <--
22 ~~phrases shall have the meanings given to them in this~~
23 ~~subsection:~~

24 ~~"Entity" means a pharmacy, pharmacy benefit manager, pharmacy~~
25 ~~services administration organization or other entity that~~
26 ~~manages, processes, influences the payment for or dispenses~~
27 ~~pharmacy services to medical assistance recipients in the~~
28 ~~managed care delivery system.~~

29 ~~"Pharmacy benefit management" means any of the following:~~

30 ~~(1) The procurement of prescription drugs at a negotiated~~

1 ~~contracted rate for distribution within this Commonwealth.~~

2 ~~(2) The administration or management of prescription drug~~
3 ~~benefits provided by a managed care organization.~~

4 ~~(3) The administration of pharmacy benefits, including any~~
5 ~~of the following:~~

6 ~~(i) Operating a mail service pharmacy.~~

7 ~~(ii) Processing claims.~~

8 ~~(iii) Managing a retail pharmacy network.~~

9 ~~(iv) Paying claims to pharmacies, including retail,~~
10 ~~specialty or mail order pharmacies, for prescription drugs~~
11 ~~dispensed to medical assistance recipients receiving services in~~
12 ~~the managed care delivery system via a retail or mail order~~
13 ~~pharmacy.~~

14 ~~(v) Developing and managing a clinical formulary or~~
15 ~~preferred drug list, utilization management or quality assurance~~
16 ~~programs.~~

17 ~~(vi) Rebate contracting and administration.~~

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

20 ~~(viii) Operating a disease management program.~~

21 ~~(ix) Setting pharmacy payment pricing and methodologies,~~
22 ~~including maximum allowable cost and determining single or~~
23 ~~multiple source drugs.~~

24 ~~"Pharmacy benefit manager" means a person, business or other~~
25 ~~entity that performs pharmacy benefit management. The term~~ <--
26 ~~includes a wholly owned subsidiary of a managed care~~
27 ~~organization that performs pharmacy benefits management. THE~~ <--
28 ~~TERM DOES NOT INCLUDE AN ENTITY THAT HOLDS A VALID LICENSE FROM~~
29 ~~THE INSURANCE DEPARTMENT WITH ACCIDENT AND HEALTH AUTHORITY TO~~
30 ~~ISSUE A HEALTH INSURANCE POLICY AND GOVERNED UNDER ANY OF THE~~

1 FOLLOWING:

2 ~~(1) THE ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN AS THE~~
3 ~~INSURANCE COMPANY LAW OF 1921.~~

4 ~~(2) THE ACT OF DECEMBER 29, 1972 (P.L.1701, NO.364), KNOWN~~
5 ~~AS THE HEALTH MAINTENANCE ORGANIZATION ACT.~~

6 ~~(3) 40 PA.C.S. CH. 61 (RELATING TO HOSPITAL PLAN~~
7 ~~CORPORATIONS) OR 63 (RELATING TO PROFESSIONAL HEALTH SERVICES~~
8 ~~PLAN CORPORATIONS).~~

9 ~~"Pharmacy services administration organization" means a~~
10 ~~person, business or other entity that performs any of the~~
11 ~~following:~~

12 ~~(1) Negotiates or contracts with a managed care organization~~
13 ~~or pharmacy benefit manager on behalf of its pharmacy members.~~

14 ~~(2) Negotiates payment rates, payments or audit terms on~~
15 ~~behalf of its pharmacy members.~~

16 ~~(3) Collects or reconciles payments on behalf of its~~
17 ~~pharmacy members.~~

18 ~~Section 2. The amendment of section 449 of the act shall~~
19 ~~apply to any agreement or contract relating to pharmacy services~~
20 ~~to medical assistance recipients in the managed care delivery~~
21 ~~system entered into or amended on or after the effective date of~~
22 ~~this section.~~

23 ~~Section 3. This act shall take effect in 60 days.~~

24 SECTION 1. SECTION 449 OF THE ACT OF JUNE 13, 1967 (P.L.31, <--
25 NO.21), KNOWN AS THE HUMAN SERVICES CODE, IS AMENDED TO READ:

26 SECTION 449. MEDICAL ASSISTANCE PHARMACY SERVICES.--(A) ANY
27 MANAGED CARE [ENTITY] ORGANIZATION UNDER CONTRACT TO THE
28 DEPARTMENT, OR AN ENTITY WITH WHICH THE MANAGED CARE
29 ORGANIZATION CONTRACTS, MUST CONTRACT ON AN EQUAL BASIS WITH ANY
30 PHARMACY QUALIFIED TO PARTICIPATE IN THE MEDICAL ASSISTANCE

1 PROGRAM THAT IS WILLING TO COMPLY WITH THE MANAGED CARE
2 [ENTITY'S] ORGANIZATION'S OR ENTITY'S PHARMACY PAYMENT RATES AND
3 TERMS AND TO ADHERE TO QUALITY STANDARDS ESTABLISHED BY THE
4 MANAGED CARE [ENTITY] ORGANIZATION OR ENTITY.

5 (B) THE FOLLOWING SHALL APPLY:

6 (1) THE DEPARTMENT MAY CONDUCT AN AUDIT OR REVIEW OF AN
7 ENTITY FOR THE PURPOSE OF DETERMINING COMPLIANCE WITH THIS
8 SECTION.

9 (2) IN THE COURSE OF AN AUDIT OR REVIEW UNDER PARAGRAPH (1),
10 AN ENTITY SHALL PROVIDE MEDICAL ASSISTANCE-SPECIFIC INFORMATION
11 FROM A PHARMACY CONTRACT OR AGREEMENT TO THE DEPARTMENT.

12 (C) A CONTRACT OR AGREEMENT BETWEEN AN ENTITY AND A PHARMACY
13 MAY NOT INCLUDE ANY OF THE FOLLOWING:

14 (1) A CONFIDENTIALITY PROVISION THAT PROHIBITS THE
15 DISCLOSURE OF INFORMATION TO THE DEPARTMENT.

16 (2) ANY PROVISION THAT RESTRICTS THE DISCLOSURE OF
17 INFORMATION TO OR COMMUNICATION WITH A MANAGED CARE ORGANIZATION
18 OR THE DEPARTMENT.

19 (D) AN ENTITY SHALL MAINTAIN RECORDS REGARDING PHARMACY
20 SERVICES ELIGIBLE FOR PAYMENT BY THE MEDICAL ASSISTANCE PROGRAM
21 AND SHALL DISCLOSE THE INFORMATION TO THE DEPARTMENT UPON ITS
22 REQUEST.

23 (E) INFORMATION DISCLOSED OR PRODUCED BY AN ENTITY TO THE
24 DEPARTMENT UNDER THIS SECTION SHALL NOT BE SUBJECT TO PUBLIC
25 ACCESS UNDER THE ACT OF FEBRUARY 14, 2008 (P.L.6, NO.3), KNOWN
26 AS THE "RIGHT-TO-KNOW LAW."

27 (F) THE FOLLOWING SHALL APPLY:

28 (1) IF AN ENTITY APPROVES A CLAIM FOR PAYMENT UNDER THE
29 MEDICAL ASSISTANCE PROGRAM, THE ENTITY MAY NOT RETROACTIVELY
30 DENY OR MODIFY THE ADJUDICATED CLAIM UNLESS ANY OF THE FOLLOWING

1 APPLY:

2 (I) THE CLAIM WAS FRAUDULENT.

3 (II) THE CLAIM WAS DUPLICATIVE OF A PREVIOUSLY PAID CLAIM.

4 (III) THE PHARMACY DID NOT DISPENSE THE PHARMACY SERVICE ON
5 THE CLAIM.

6 (2) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO
7 PROHIBIT THE RECOVERY OF AN ADJUDICATED CLAIM THAT WAS
8 DETERMINED TO BE AN OVERPAYMENT OR UNDERPAYMENT RESULTING FROM
9 AUDIT, REVIEW OR INVESTIGATION BY A FEDERAL OR STATE AGENCY OR
10 MANAGED CARE ORGANIZATION.

11 (G) A MANAGED CARE ORGANIZATION OR PHARMACY BENEFIT MANAGER
12 MAY NOT MANDATE THAT A MEDICAL ASSISTANCE RECIPIENT USE A
13 SPECIFIC PHARMACY UNLESS IT IS CONSISTENT WITH SUBSECTION (A)
14 AND IS PREAPPROVED BY THE DEPARTMENT.

15 (H) A PHARMACY BENEFIT MANAGER OR PHARMACY SERVICES
16 ADMINISTRATION ORGANIZATION MAY NOT DO ANY OF THE FOLLOWING:

17 (1) REQUIRE THAT A PHARMACIST OR PHARMACY PARTICIPATE IN A
18 NETWORK MANAGED BY THE PHARMACY BENEFIT MANAGER OR PHARMACY
19 SERVICES ADMINISTRATION ORGANIZATION AS A CONDITION FOR THE
20 PHARMACIST OR PHARMACY TO PARTICIPATE IN ANOTHER NETWORK MANAGED
21 BY THE SAME PHARMACY BENEFIT MANAGER OR PHARMACY SERVICES
22 ADMINISTRATION ORGANIZATION.

23 (2) AUTOMATICALLY ENROLL OR DISENROLL A PHARMACIST OR
24 PHARMACY WITHOUT CAUSE.

25 (3) CHARGE OR RETAIN A DIFFERENTIAL BETWEEN WHAT IS BILLED
26 TO A MANAGED CARE ORGANIZATION AS A REIMBURSEMENT FOR A PHARMACY
27 SERVICE AND WHAT IS PAID TO PHARMACIES BY THE PHARMACY BENEFIT
28 MANAGER OR PHARMACY SERVICES ADMINISTRATION ORGANIZATION FOR THE
29 PHARMACY SERVICE.

30 (4) CHARGE PHARMACY TRANSMISSION FEES UNLESS THE AMOUNT OF

1 THE FEE IS DISCLOSED AND APPLIED AT THE TIME OF CLAIM
2 ADJUDICATION.

3 (I) A MANAGED CARE ORGANIZATION SHALL SUBMIT ITS POLICIES
4 AND PROCEDURES, AND ANY REVISIONS, FOR DEVELOPMENT OF NETWORK
5 PHARMACY PAYMENT METHODOLOGY TO THE DEPARTMENT. THE DEPARTMENT
6 SHALL REVIEW ALL CHANGES TO PHARMACY PAYMENT METHODOLOGY PRIOR
7 TO IMPLEMENTATION.

8 (J) A MANAGED CARE ORGANIZATION UTILIZING A PHARMACY BENEFIT
9 MANAGER SHALL REPORT TO THE DEPARTMENT INFORMATION RELATED TO
10 EACH OUTPATIENT DRUG ENCOUNTER, INCLUDING THE FOLLOWING:

11 (1) THE AMOUNT PAID TO THE PHARMACY BENEFIT MANAGER BY THE
12 MANAGED CARE ORGANIZATION.

13 (2) THE AMOUNT PAID BY THE PHARMACY BENEFIT MANAGER TO THE
14 PHARMACY.

15 (3) ANY DIFFERENCES BETWEEN THE AMOUNT PAID IN PARAGRAPH (1)
16 AND THE AMOUNT PAID IN PARAGRAPH (2).

17 (4) OTHER INFORMATION AS REQUESTED BY THE DEPARTMENT.

18 (K) A PHARMACY SHALL, UPON REQUEST, SUBMIT THE ACTUAL
19 ACQUISITION COST OF PRESCRIPTIONS DISPENSED TO MEDICAL
20 ASSISTANCE BENEFICIARIES.

21 (L) AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES
22 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION:

23 "ADJUDICATED CLAIM" MEANS A CLAIM THAT HAS BEEN PROCESSED TO
24 PAYMENT OR DENIAL.

25 "ENTITY" MEANS A PHARMACY, PHARMACY BENEFIT MANAGER, PHARMACY
26 SERVICES ADMINISTRATION ORGANIZATION OR OTHER ENTITY THAT
27 MANAGES, PROCESSES, OR INFLUENCES THE PAYMENT FOR OR DISPENSES
28 PHARMACY SERVICES TO MEDICAL ASSISTANCE RECIPIENTS IN THE
29 MANAGED CARE DELIVERY SYSTEM.

30 "PHARMACY BENEFIT MANAGEMENT" MEANS ANY OF THE FOLLOWING:

1 (1) THE PROCUREMENT OF PRESCRIPTION DRUGS AT A NEGOTIATED
2 CONTRACTED RATE FOR DISTRIBUTION WITHIN THIS COMMONWEALTH.

3 (2) THE ADMINISTRATION OR MANAGEMENT OF PRESCRIPTION DRUG
4 BENEFITS PROVIDED BY A MANAGED CARE ORGANIZATION.

5 (3) THE ADMINISTRATION OF PHARMACY BENEFITS, INCLUDING ANY
6 OF THE FOLLOWING:

7 (I) OPERATING A MAIL-SERVICE PHARMACY.

8 (II) PROCESSING CLAIMS.

9 (III) MANAGING A RETAIL PHARMACY NETWORK.

10 (IV) PAYING CLAIMS TO PHARMACIES, INCLUDING RETAIL,
11 SPECIALTY OR MAIL-ORDER PHARMACIES, FOR PRESCRIPTION DRUGS
12 DISPENSED TO MEDICAL ASSISTANCE RECIPIENTS RECEIVING SERVICES IN
13 THE MANAGED CARE DELIVERY SYSTEM VIA A RETAIL OR MAIL-ORDER
14 PHARMACY.

15 (V) DEVELOPING AND MANAGING A CLINICAL FORMULARY OR
16 PREFERRED DRUG LIST, UTILIZATION MANAGEMENT OR QUALITY ASSURANCE
17 PROGRAMS.

18 (VI) REBATE CONTRACTING AND ADMINISTRATION.

19 (VII) MANAGING A PATIENT COMPLIANCE, THERAPEUTIC
20 INTERVENTION AND GENERIC SUBSTITUTION PROGRAM.

21 (VIII) OPERATING A DISEASE MANAGEMENT PROGRAM.

22 (IX) SETTING PHARMACY PAYMENT PRICING AND METHODOLOGIES,
23 INCLUDING MAXIMUM ALLOWABLE COST AND DETERMINING SINGLE OR
24 MULTIPLE SOURCE DRUGS.

25 "PHARMACY BENEFIT MANAGER" MEANS A BUSINESS THAT PERFORMS
26 PHARMACY BENEFIT MANAGEMENT. THE TERM DOES NOT INCLUDE A
27 BUSINESS THAT HOLDS A VALID LICENSE FROM THE INSURANCE
28 DEPARTMENT WITH ACCIDENT AND HEALTH AUTHORITY TO ISSUE A HEALTH
29 INSURANCE POLICY AND GOVERNED UNDER ANY OF THE FOLLOWING:

30 (1) THE ACT OF MAY 17, 1921 (P.L.682, NO.284), KNOWN AS "THE

1 INSURANCE COMPANY LAW OF 1921."

2 (2) THE ACT OF DECEMBER 29, 1972 (P.L.1701, NO.364), KNOWN
3 AS THE "HEALTH MAINTENANCE ORGANIZATION ACT."

4 (3) 40 PA.C.S. CH. 61 (RELATING TO HOSPITAL PLAN
5 CORPORATIONS) OR 63 (RELATING TO PROFESSIONAL HEALTH SERVICES
6 PLAN CORPORATIONS).

7 "PHARMACY SERVICES ADMINISTRATION ORGANIZATION" MEANS AN
8 ORGANIZATION COMPRISED OF PHARMACY MEMBERS THAT PERFORMS ANY OF
9 THE FOLLOWING:

10 (1) NEGOTIATES OR CONTRACTS WITH A MANAGED CARE ORGANIZATION
11 OR PHARMACY BENEFIT MANAGER ON BEHALF OF ITS PHARMACY MEMBERS.

12 (2) NEGOTIATES PAYMENT RATES, PAYMENTS OR AUDIT TERMS ON
13 BEHALF OF ITS PHARMACY MEMBERS.

14 (3) COLLECTS OR RECONCILES PAYMENTS ON BEHALF OF ITS
15 PHARMACY MEMBERS.

16 SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

17 SECTION 449.1. PRESCRIPTION DRUG PRICING STUDY.--(A) THE
18 LEGISLATIVE BUDGET AND FINANCE COMMITTEE SHALL CONDUCT A STUDY
19 ANALYZING PRESCRIPTION DRUG PRICING UNDER THE MEDICAL ASSISTANCE
20 MANAGED CARE PROGRAM. THE COMMITTEE SHALL DO ALL OF THE
21 FOLLOWING AS IT RELATES TO THE MEDICAL ASSISTANCE MANAGED CARE
22 PROGRAM ONLY:

23 (1) PROVIDE AN OVERVIEW OF THE DISTRIBUTION OF AND PAYMENT
24 FOR PHARMACEUTICALS IN THE MEDICAL ASSISTANCE MANAGED CARE
25 PROGRAM.

26 (2) REVIEW THE REIMBURSEMENT PRACTICES OF PHARMACY BENEFIT
27 MANAGERS TO PHARMACIES WITHIN THIS COMMONWEALTH.

28 (3) REVIEW THE REIMBURSEMENT PRACTICES OF MANAGED CARE
29 ORGANIZATIONS TO PHARMACY BENEFIT MANAGERS.

30 (4) INVESTIGATE AND COMPARE THE REIMBURSEMENT RATES PAID BY

1 PHARMACY BENEFIT MANAGERS TO INDEPENDENT PHARMACIES AND TO CHAIN
2 PHARMACIES.

3 (5) STUDY THE BEST PRACTICES AND LAWS ADOPTED BY OTHER
4 STATES TO ADDRESS CONCERNS WITH PHARMACY REIMBURSEMENT PRACTICES
5 OF PHARMACY BENEFIT MANAGERS.

6 (B) THE LEGISLATIVE BUDGET AND FINANCE COMMITTEE SHALL
7 REVIEW AND UTILIZE DATA FROM THE MOST RECENT TWELVE-MONTH
8 PERIOD.

9 (C) THE DEPARTMENT SHALL PROVIDE THE FOLLOWING DATA TO THE
10 LEGISLATIVE BUDGET AND FINANCE COMMITTEE:

11 (1) THE AMOUNT PAID TO A PHARMACY PROVIDER PER CLAIM,
12 INCLUDING INGREDIENT COST AND THE AMOUNT OF ANY COPAYMENT
13 DEDUCTED FROM THE PAYMENT.

14 (2) THE TRANSMISSION FEES CHARGED BY A PHARMACY BENEFIT
15 MANAGER TO A PHARMACY PROVIDER.

16 (3) THE AMOUNT CHARGED BY THE PHARMACY BENEFIT MANAGER TO
17 THE MEDICAL ASSISTANCE MANAGED CARE ORGANIZATION PER CLAIM,
18 INCLUDING ALL ADMINISTRATIVE FEES AND PROCESSING CHARGES
19 ASSOCIATED WITH THE CLAIM.

20 (4) REBATES PAID BY THE PHARMACY BENEFIT MANAGER TO THE
21 MANAGED CARE ORGANIZATION.

22 (5) ANY OTHER DATA THE LEGISLATIVE BUDGET AND FINANCE
23 COMMITTEE DEEMS NECESSARY.

24 (D) PHARMACY BENEFIT MANAGERS AND MEDICAL ASSISTANCE MANAGED
25 CARE ORGANIZATIONS SHALL PROVIDE THE REQUIRED DATA UNDER
26 SUBSECTION (C) TO THE DEPARTMENT WITHIN 45 DAYS OF THE EFFECTIVE
27 DATE OF THIS SECTION FOR DISTRIBUTION TO THE LEGISLATIVE BUDGET
28 AND FINANCE COMMITTEE. THE PROVIDING OF DATA BY THE PHARMACY
29 BENEFIT MANAGERS AND MEDICAL ASSISTANCE MANAGED CARE
30 ORGANIZATIONS TO DEPARTMENT OR BY THE DEPARTMENT TO THE

1 LEGISLATIVE BUDGET AND FINANCE COMMITTEE SHALL NOT CONSTITUTE A
2 WAIVER OF ANY APPLICABLE PRIVILEGE OR CLAIM OF CONFIDENTIALITY.
3 ALL DATA SHALL BE GIVEN CONFIDENTIAL TREATMENT, SHALL NOT BE
4 SUBJECT TO SUBPOENA BY A THIRD PARTY ENTITY AND MAY NOT BE MADE
5 PUBLIC OR OTHERWISE SHARED BY THE DEPARTMENT, THE LEGISLATIVE
6 BUDGET AND FINANCE COMMITTEE OR ANY OTHER PERSON EXCEPT TO THE
7 EXTENT ALLOWED UNDER THIS SUBSECTION.

8 (E) ALL DATA PROVIDED UNDER SUBSECTION (B) FOR PURPOSES OF
9 CONDUCTING THE STUDY SHALL BE IN A FORM THAT IS DE-IDENTIFIED OF
10 PERSONAL HEALTH INFORMATION.

11 (F) THE LEGISLATIVE BUDGET AND FINANCE COMMITTEE SHALL
12 PUBLISH ONLY AGGREGATE DATA IN THE REPORT. ANY INFORMATION
13 DISCLOSED OR PRODUCED BY A PHARMACY BENEFIT MANAGER OR A MEDICAL
14 ASSISTANCE MANAGED CARE ORGANIZATION FOR THE PURPOSES OF THIS
15 STUDY SHALL BE CONFIDENTIAL AND NOT BE SUBJECT TO THE ACT OF
16 FEBRUARY 14, 2008 (P.L.6, NO.3), KNOWN AS THE "RIGHT-TO-KNOW
17 LAW."

18 (G) THE LEGISLATIVE BUDGET AND FINANCE COMMITTEE SHALL
19 SUBMIT A REPORT OF ITS FINDINGS AND RECOMMENDATIONS FOR
20 LEGISLATIVE ACTION TO THE GENERAL ASSEMBLY AND THE DEPARTMENT
21 WITHIN TWELVE MONTHS OF THE RECEIPT OF THE DATA FROM THE
22 DEPARTMENT IN SUBSECTION (C).

23 (H) AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES
24 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION:

25 "ADJUDICATED CLAIM" SHALL HAVE THE SAME MEANING AS THE TERM
26 DOES IN SECTION 449.

27 "ENTITY" SHALL HAVE THE SAME MEANING AS THE TERM DOES IN
28 SECTION 449.

29 "PHARMACY BENEFIT MANAGEMENT" SHALL HAVE THE SAME MEANING AS
30 THE TERM DOES IN SECTION 449.

1 "PHARMACY BENEFIT MANAGER" SHALL HAVE THE SAME MEANING AS THE
2 TERM DOES IN SECTION 449.

3 "PHARMACY SERVICES ADMINISTRATION ORGANIZATION" SHALL HAVE
4 THE SAME MEANING AS THE TERM DOES IN SECTION 449.

5 SECTION 3. THE AMENDMENT OF SECTION 449 OF THE ACT SHALL
6 APPLY TO ANY AGREEMENT OR CONTRACT RELATING TO PHARMACY SERVICES
7 TO MEDICAL ASSISTANCE RECIPIENTS IN THE MANAGED CARE DELIVERY
8 SYSTEM ENTERED INTO OR AMENDED ON OR AFTER THE EFFECTIVE DATE OF
9 THIS SECTION.

10 SECTION 4. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.