

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 944 Session of 2019

INTRODUCED BY FRITZ, MATZIE, MILLARD, T. DAVIS, KEEFER, STURLA, PASHINSKI, GAYDOS, BARRAR, RYAN, BERNSTINE, IRVIN, MOUL, HEFFLEY, OBERLANDER, GROVE, LAWRENCE, RAPP, DRISCOLL, DeLUCA, SIMS, MULLINS, WHEELAND, KNOWLES, CIRESI, WARNER, STRUZZI, BROWN, KENYATTA, LONGIETTI, PYLE, GILLEN, EVERETT, KLUNK, BURNS, READSHAW, GREINER, DUSH, KAUFFMAN, SCHMITT, SAYLOR, SCHLOSSBERG, RIGBY, McNEILL, OWLETT AND MASSER, APRIL 29, 2019

AS REPORTED FROM COMMITTEE ON HEALTH, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 11, 2019

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,
4 providing for pharmacy benefits manager audit and
5 obligations.

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

8 Section 1. The act of June 13, 1967 (P.L.31, No.21), known
9 as the Human Services Code, is amended by adding a section to
10 read:

11 Section 449.1. Pharmacy Benefits Manager Audit and
12 Obligations.--(a) The Department of the Auditor General may
13 conduct an audit and review of a pharmacy benefits manager that
14 ~~contracts with~~ PROVIDES PHARMACY BENEFITS MANAGEMENT TO a <--
15 medical assistance managed care organization under contract with
16 the department. The Department of the Auditor General may review

1 all previous audits completed by the department and shall have
2 access to all documents IT DEEMS necessary to complete the <--
3 review and audit.

4 (b) Any information disclosed or produced by a pharmacy
5 benefits manager or a medical assistance managed care
6 organization for the use of the department or the Department of
7 the Auditor General under this section shall not be subject to
8 the act of February 14, 2008 (P.L.6, No.3), known as the "Right-
9 to-Know Law."

10 ~~(c) A pharmacy benefits manager, whether a contractor of the~~ <--
11 ~~department or a contractor of a medical assistance managed care~~
12 ~~organization that is a party to a contract with the department,~~
13 ~~that receives State money, owes a duty of care and a duty of~~
14 ~~loyalty and is obligated to act in good faith in relation to the~~
15 ~~department and any medical assistance managed care organization~~
16 ~~with which the pharmacy benefits manager has contracted.~~

17 ~~(d) (C) As used in this section, the following words and~~ <--
18 ~~phrases shall have the meanings given to them in this~~
19 ~~subsection:~~

20 "Medical assistance managed care organization" means a
21 Medicaid managed care organization as defined in section 1903(m)
22 (1)(A) of the Social Security Act (49 STAT. 620, 42 U.S.C. § <--
23 1396b(m)(1)(A)) that is a party to a Medicaid managed care
24 contract with the department.

25 "Pharmacy benefits management" means any of the following:

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

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

1 individuals.

2 (3) Administration of pharmacy benefits, including:

3 (i) Operating a mail-service pharmacy.

4 (ii) Claims processing.

5 (iii) Managing a retail pharmacy network management.

6 (iv) Paying claims to pharmacies for prescription drugs

7 dispensed to covered individuals ~~via retail~~ BY A RETAIL, <--

8 SPECIALTY or mail-order pharmacy.

9 (v) Developing and managing a clinical formulary,

10 utilization management and quality assurance programs.

11 (vi) Rebate contracting and administration.

12 (vii) Managing a patient compliance, therapeutic

13 intervention and generic substitution program.

14 (viii) Operating a disease management program.

15 (ix) Setting pharmacy reimbursement pricing and

16 methodologies, including maximum allowable cost, and determining

17 single or multiple source drugs.

18 "Pharmacy benefits manager" means a person, business or other

19 entity that performs pharmacy benefits management. The term

20 shall include ~~a wholly owned subsidiary~~ ANY AFFILIATED OWNERSHIP <--

21 of a medical assistance managed care organization that performs

22 pharmacy benefits management.

23 Section 2. This act shall take effect in 60 days.