

SENATE HEALTH, HUMAN SERVICES AND SENIOR CITIZENS COMMITTEE

STATEMENT TO **SENATE, No. 249**

with committee amendments

STATE OF NEW JERSEY

DATED: JANUARY 27, 2020

The Senate Health, Human Services and Senior Citizens Committee reports favorably and with committee amendments Senate Bill No. 249.

As amended by the committee, this bill requires any contract or other arrangement entered into by a Medicaid managed care organization, or by the Division of Medical Assistance and Health Services in the Department of Human Services, for the provision of pharmacy benefits management services under the Medicaid Program to require the pharmacy benefits manager to disclose to the department:

(1) all sources and amounts of income, payments, and financial benefits received by the pharmacy benefits manager in relation to the provision and administration of pharmacy benefits management services on behalf of the managed care organization, including, but not limited to, any pricing discounts, rebates of any kind, inflationary payments, credits, clawbacks, fees, grants, chargebacks, reimbursements, or other benefits;

(2) all ingredient costs and dispensing fees or similar payments made by the pharmacy benefits manager to any pharmacy in connection with the contract or other arrangement; and

(3) the pharmacy benefits manager's payment model for administrative fees.

Information reported by pharmacy benefits managers under the bill will be confidential and will not be subject to disclosure under the "Open Public Records Act," P.L.1963, c.73 (C.47:1A-1 et seq.) and P.L.2001, c.404 (C.47:1A-5 et al.). In addition to any other penalty provided by law, a person who knowingly makes an unauthorized disclosure of information submitted by a pharmacy benefits manager under the bill will be guilty of a crime of the fourth degree, which is punishable by imprisonment for up to 18 months, up to a \$10,000 fine, or both. In addition, an unauthorized disclosure will be punishable by a civil penalty of up to \$10,000.

As defined in the bill, a "pharmacy benefits manager" means a corporation, business, or other entity, or unit within a corporation, business, or other entity, that administers prescription drug benefits on

behalf of a managed care organization. "Pharmacy benefits management services" is further defined to mean the provision of any of the following services on behalf of a managed care organization: the procurement of prescription drugs at a negotiated rate for dispensation within this State; the processing of prescription drug claims; or the administration of payments related to prescription drug claims.

This bill was pre-filed for introduction in the 2020-2021 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee amendments apply the provisions of the bill to any contract or other arrangement entered into by the Division of Medical Assistance and Health Services in the Department of Human Services for the provision of pharmacy benefits management services under the Medicaid program. As introduced, the bill only applied to any contract or other arrangement entered into by a managed care organization for the provision of pharmacy benefits management services under the Medicaid program.

The committee amendments add language providing that information submitted under the bill by a pharmacy benefits manager to the Department of Human Services is confidential and not subject to public disclosure. A person who knowingly makes an unauthorized disclosure of this information will be guilty of a crime of the fourth degree, which is punishable by imprisonment for up to 18 months and up to a \$10,000 fine, as well as a civil penalty of up to \$10,000.