

ASSEMBLY, No. 2238

STATE OF NEW JERSEY

INTRODUCED JUNE 24, 1996

By Assemblymen KAVANAUGH and LANCE

1 AN ACT to amend "AN ACT making appropriations for the support
2 of the State Government and the several public purposes for the
3 fiscal year ending June 30, 1997 and regulating the disbursement
4 thereof."

5
6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8
9 1. The following provisions in section 1 of P.L.1996, c. , the
10 fiscal year 1997 annual appropriations act (now pending before the
11 Legislature as Assembly, No.1000 of 1996), are amended to read as
12 follows:

13
14 **GENERAL FUND**

15 **DIRECT STATE SERVICES**

16 54 DEPARTMENT OF HUMAN SERVICES

17 *24 Special Health Services*

18 *7540 Division of Medical Assistance and Health Services*

19 [An amount not to exceed \$100,000 is appropriated from General Assistance
20 pharmaceutical rebate revenue for administration and collection of these
21 rebates by the Division of Medical Assistance and Health Services.]

22
23 **GRANTS-IN-AID**

24 54 DEPARTMENT OF HUMAN SERVICES

25 *24 Special Health Services*

26 *7540 Division of Medical Assistance and Health Services --*

27 *Grants-In-Aid*

28 Notwithstanding the provisions of any other law or regulation to the contrary,
29 effective July 1, 1996 or at the earliest date thereafter consistent with the
30 notice provisions of 42 CFR §447.205 where applicable, no funds
31 appropriated in the Payments for Medical Assistance Recipients --
32 Prescription Drugs account and in the Pharmaceutical Assistance to the Aged
33 and Disabled program classification shall be expended except under the
34 following conditions: (a) reimbursement for prescription drugs shall be
35 based on the Average Wholesale Price less a 10% discount, (b)

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 [prescription] legend and non-legend drugs dispensed by a retail pharmacy
2 shall be limited to a 34-day or 100 unit dose supply, whichever is greater, (c)
3 the current prescription drug dispensing fee structure set as a variable rate
4 of \$3.73 to \$4.07 in effect on June 30, 1996 shall remain in effect through
5 fiscal year 1997, including the current increments for patient consultation,
6 impact allowances, and allowances for 24 hour emergency services, (d)
7 subject to coverage provisions, reimbursement for non-legend drugs
8 including protein replacement supplements, specialized infant formulas and
9 food oils, devices or supplies shall be on the basis of the Estimated
10 Acquisition Cost (EAC), identified in current national price compendia for
11 other appropriate sources, and their supplements, minus the appropriate
12 regression, plus dispensing fee, and (e) reimbursement shall continue for all
13 providers who supply protein nutritional supplements and specialized infant
14 formulas, subject to all applicable regulations established by the
15 Commissioner of Human Services, and provided further, however, that the
16 Commissioner of Human Services may, after an audit or other equivalent
17 documentation demonstrating provider non-compliance, terminate any
18 agreements with such provider.

19 Notwithstanding the provisions of any other law or regulation to the contrary,
20 effective July 1, 1996, each prescription order dispensed in the
21 Pharmaceutical Assistance to the Aged and Disabled program shall state
22 "Brand Medically Necessary" in the prescriber's own handwriting in order to
23 override generic substitution of Maximum Allowable Cost (MAC) drugs,
24 and each prescription order shall follow the requirements of P.L.1977, c.240
25 (C.24:6E-1 et seq.). The list of drugs substituted shall conform to the Drug
26 Utilization Review Council approved list of substitutable drugs and [any
27 other] all requirements pertaining to drug substitution and federal upper
28 limits for MAC drugs as [established]administered by the State Medicaid
29 Program.

30 Notwithstanding the provisions of any law to the contrary, subject to the notice
31 provisions of 42 CFR §447.205, no funds appropriated for Medicaid in-State
32 inpatient hospital services for DRG hospital reimbursement shall be
33 expended in excess of the methodology contained herein. Inpatient hospital
34 reimbursement for Graduate Medical Education (GME) and Indirect Medical
35 Education (IME) is calculated based on Medicare Principles of
36 reimbursement to major teaching hospitals. Major teaching hospitals is
37 defined as those hospitals which had a minimum of 45 resident full-time
38 equivalents (FTEs) in all approved and accredited residences from the 1993
39 Medicare first finalized audited cost report. The amount calculated shall be
40 distributed to all teaching hospitals based on the hospital-specific percentage
41 to total weighted FTEs, where weighted FTEs equals the hospital-specific
42 current FTEs times the hospital-specific Medicaid fee-for-service days
43 divided by the total Medicaid fee-for-service days for all teaching hospitals.
44 The source for the FTEs and the Medicaid fee-for-services days is the
45 Medicare audited cost report for 1996 for 1996 services and 1997 for 1997
46 services. Payments for GME and IME will be paid in a monthly lump sum
47 from the appropriation for in-patient hospital services and will be reconciled
48 to 1996 and 1997 cost reports. Therefore, all direct and indirect costs
49 related to the GME program will be excluded from the cost base when
50 calculating the DRG rates. The standard rate for each DRG shall be based

1 on the Statewide Median. These changes shall be effective [July] October
 2 1, 1996, after federally mandated findings and assurances analyses are
 3 completed.

4

5 **STATE AID**

6 **54 DEPARTMENT OF HUMAN SERVICES**

7 ***50 Economic Planning, Development and Security***

8 ***53 Economic Assistance and Security -- State Aid***

9 ***7550 Division of Family Development***

10 Notwithstanding the provisions of any other law or regulation to the contrary,
 11 effective July 1, 1996, the following provisions shall apply to the dispensing
 12 of prescription drugs through the Payments to Municipalities for Cost of
 13 General Assistance account: (a) all prescription drugs dispensed shall state
 14 "Brand Medically Necessary" in the prescriber's own handwriting in order to
 15 override generic substitution of Maximum Allowable Cost (MAC) drugs,
 16 and (b) each prescription order shall follow the requirements of P.L.1977,
 17 c.240 (C.24:6E-1 et seq.). The list of drugs substituted shall conform to the
 18 Drug Utilization Review Council approved list of substitutable drugs and
 19 [any other] all requirements pertaining to drug substitution and federal
 20 upper limits for MAC drugs as [established]administered by the State
 21 Medicaid Program.

22

23 **CASINO REVENUE FUND**

24 **GRANTS-IN-AID**

25 **54 DEPARTMENT OF HUMAN SERVICES**

26 ***20 Physical and Mental Health***

27 ***24 Special Health Services***

28 ***7540 Division of Medical Assistance and Health Services --***

29 ***Grants-In-Aid***

30 Notwithstanding the provisions of any other law or regulation to the contrary,
 31 effective July 1, 1996 no funds appropriated in the Pharmaceutical
 32 Assistance for the Aged and Disabled program classification shall be
 33 expended except under the following conditions: (a) reimbursement for
 34 prescription drugs shall be based on the Average Wholesale Price less a 10%
 35 discount, (b) [prescription] legend and non-legend drugs dispensed by a
 36 retail pharmacy shall be limited to a 34-day or 100 unit dose supply,
 37 whichever is greater, (c) the current prescription drug dispensing fee
 38 structure set as a variable rate of \$3.73 to \$4.07 in effect on June 30, 1996
 39 shall remain in effect through fiscal year 1997, including the current
 40 increments for patient consultation, impact allowances, and allowances for
 41 24 hour emergency services, (d) subject to coverage provisions,
 42 reimbursement for non-legend drugs including protein replacement
 43 supplements, specialized infant formulas and food oils, devices or supplies
 44 shall be on the basis of the Estimated Acquisition Cost (EAC), identified in
 45 current national price compendia for other appropriate sources, and their
 46 supplements, minus the appropriate regression, plus dispensing fee, and (e)
 47 reimbursement will continue for all providers who supply protein nutritional
 48 supplements and specialized infant formulas, subject to all applicable
 49 regulations established by the Commissioner of Human Services, and

1 provided further, however, that the Commissioner of Human Services may,
2 after an audit or other equivalent documentation demonstrating provider non-
3 compliance, terminate any agreements with such provider.
4 Notwithstanding the provisions of any other law or regulation to the contrary,
5 effective July 1, 1996, each prescription order dispensed in the
6 Pharmaceutical Assistance to the Aged and Disabled program shall state
7 "Brand Medically Necessary" in the prescriber's own handwriting in order to
8 override generic substitution of Maximum Allowable Cost (MAC) drugs,
9 and each prescription order shall follow the requirements of P.L.1977, c.240
10 (C.24:6E-1 et seq.). The list of drugs substituted shall conform to the Drug
11 Utilization Review Council approved list of substitutable drugs and [any
12 other] all requirements pertaining to drug substitution and federal upper
13 limits for MAC drugs as [established]administered by the State Medicaid
14 Program.
15 (cf: P.L.1996, c. , s.1)

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17 2. This act shall take effect July 1, 1996 and if enacted after that
18 date shall be retroactive to July 1, 1996.
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21 STATEMENT

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23 This bill makes technical corrections to the fiscal year annual
24 appropriations bill in program conditions placed upon the
25 appropriations for certain programs in the Department of Human
26 Services as follows: (1) changes in the Medicaid and Pharmaceutical
27 Assistance to the Aged and Disabled (PAAD) drug programs clarify
28 that the maximum supply of 34-day or 100 unit doses under the
29 programs apply to both legend and non-legend drugs, (2) changes in
30 those programs' provisions to indicate that reimbursement for protein
31 replacement supplements are subject to program coverage provisions,
32 (3) corrects the effective date for changes to the Medicaid inpatient
33 hospital reimbursement methodology for Graduate Medical Education
34 (GME) and Indirect Medical Education (IME), (4) deletes an
35 administrative cost appropriation of certain General Assistance (GA)
36 pharmaceutical rebate revenue as no authority exists in the
37 appropriations act for this rebate program or revenue, and (5) and
38 clarifies that the Maximum Allowable Cost (MAC) program for PAAD
39 and GA will be identical with the current MAC program administered
40 by Medicaid with respect to drug substitution and costs.
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45 Makes technical corrections in programmatic conditions upon the
46 annual appropriations for certain programs in the Department of
47 Human Services.