

Title 17.  
Chapter 48F (New)  
Prepaid Prescription  
Service  
§§1-29  
C. 17:48F-1  
To  
17:48F-29  
§30  
Note To  
§§1-29

P.L. 1997, CHAPTER 380, *approved January 19, 1998*  
Senate, No. 1405 (*Second Reprint*)

1 **AN ACT** concerning prepaid prescription service organizations and  
2 supplementing Title 17 of the Revised Statutes.

3

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

6

7 1. As used in this act:

8 "Affiliate" means a person that directly, or indirectly through one  
9 or more intermediaries, controls, or is controlled by, or is under  
10 common control with, the prepaid prescription service organization.

11 "Commissioner" means the Commissioner of Banking and<sup>1</sup>  
12 Insurance.

13 "Consumer Price Index" means the medical component of the  
14 Consumer Price Index for All Urban Consumers, as reported by the  
15 United States Department of Labor, shown as an average index for the  
16 New York-Northern New Jersey-Long Island region and the  
17 Philadelphia-Wilmington-Trenton region combined.

18 "Contract holder" means the person or organization which contracts  
19 with the prepaid prescription service provider.

20 "Enrollee" means a person and his dependents who are entitled to  
21 benefits provided under a prepaid prescription service organization  
22 contract.

23 "Evidence of coverage" means the certificate, agreement or contract  
24 issued pursuant to this act which sets forth the benefits or services to  
25 which the enrollee or contract holder is entitled.

26 "Net equity" means the excess of total assets over total liabilities,  
27 excluding liabilities which have been subordinated in a manner  
28 acceptable to the commissioner.

29 "Prepaid prescription service organization" or "organization" means  
30 any person, corporation, partnership, or other entity which, in return  
31 for a prepayment by a contract holder, undertakes to provide or

**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.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Senate SHH committee amendments adopted November 7, 1996.

<sup>2</sup> Assembly floor amendments adopted May 8, 1997.

1 arrange for the provision of prescription services to enrollees or  
2 contract holders. Prepaid prescription service organization shall not  
3 include: an entity otherwise authorized or licensed pursuant to the  
4 laws of this State <sup>2</sup>or an entity that contracts with such an otherwise  
5 authorized or licensed entity.<sup>2</sup> to provide a prescription service on a  
6 prepayment or other basis in connection with a health benefits plan;  
7 an entity licensed under Title 17 of the Revised Statutes or Title 17B  
8 of the New Jersey Statutes to do the business of insurance in this  
9 State; a provider or other entity who provides prescription services  
10 pursuant to a contract with a prepaid prescription service organization;  
11 or an entity which, for a fee, acts as administrator of a self-insured  
12 prescription plan on behalf of the self insurer.

13 "Prescription service" means any benefit or service to be provided  
14 to an enrollee or a contract holder by a <sup>1</sup>[pharmacy] provider <sup>1</sup>  
15 pursuant to a contract with a prepaid prescription service organization.  
16 Prescription service includes, but is not limited to, the provision of  
17 prescription drugs, utilization review and durable medical goods.

18 "Provider" means a pharmacist or pharmacy which provides benefits  
19 under a prepaid prescription services contract.

20 "Tangible net equity" means net equity reduced by the value  
21 assigned to intangible assets, including, but not limited to, goodwill,  
22 going concern value, organizational expense, start-up costs, long-term  
23 prepayments of deferred charges, nonreturnable deposits, and  
24 obligations of officers, directors, owners, or affiliates, except short-  
25 term obligations of affiliates for goods or services arising in the normal  
26 course of business which are payable on the same terms as equivalent  
27 transactions with nonaffiliates and which are not past due.

28

29 2. a. Beginning one year after the date of enactment of this act, no  
30 person, corporation, partnership, or other entity shall operate a  
31 prepaid prescription service organization in this State except in  
32 accordance with the provisions of this act. No person shall sell, offer  
33 to sell or solicit offers to purchase or receive advance or periodic  
34 consideration for prescription services without obtaining a certificate  
35 of authority pursuant to this act.

36 b. A prepaid prescription service organization operating in this  
37 State on the effective date of this act shall submit an application for a  
38 certificate of authority to the commissioner within nine months of the  
39 date of enactment of this act. The organization may continue to  
40 operate during the pendency of its application, but in no case longer  
41 than 18 months after the date of enactment of this act. In the event  
42 the application is denied, the applicant shall then be treated as a  
43 prepaid prescription service organization whose certificate of authority  
44 has been revoked pursuant to section 18 of this act. Nothing in this  
45 subsection shall operate to impair any contract which was entered into  
46 before the effective date of this act.

1 c. Any person offering prescription services in a manner  
2 substantially provided for in this act shall be presumed to be subject to  
3 the provisions of the act unless the person is otherwise regulated under  
4 State law.

5  
6 3. Each application for a certificate of authority to operate a  
7 prepaid prescription service organization shall be made to the  
8 commissioner on a form prescribed by the commissioner, shall be  
9 certified by an officer or authorized representative of the applicant,  
10 and shall include the following:

11 a. A copy of the applicant's basic organizational document, such  
12 as the articles of incorporation, if a corporation, articles of  
13 association, partnership agreement, management agreement, trust  
14 agreement, or other applicable documents and all amendments to such  
15 documents;

16 b. A copy of the executed bylaws, rules and regulations, or similar  
17 documents, regulating the conduct of the applicant's internal affairs;

18 c. A list, in a form approved by the commissioner, of the names,  
19 addresses, and official positions of the persons who are to be  
20 responsible for the conduct of the affairs of the applicant, including,  
21 but not limited to, the members of the board of directors, executive  
22 committee or other governing board or committee, the principal  
23 officers, and any person or entity owning or having the right to acquire  
24 10% or more of the voting securities of the applicant; in the case of a  
25 partnership or association, the names of the partners or members; each  
26 person who has loaned funds to the applicant for the operation of its  
27 business; and a statement of any criminal convictions or enforcement  
28 or regulatory action taken against any person who is a member of the  
29 board, the executive committee or other governing board or  
30 committee, or the principal officers;

31 d. A statement generally describing the applicant, its facilities,  
32 personnel, and the prescription services to be offered by the  
33 organization;

34 e. A copy of the standard form of any contract made or to be made  
35 between the applicant and any providers relative to the provision of  
36 <sup>1</sup>[prepaid]<sup>1</sup> prescription services to enrollees or contract holders;

37 f. A copy of the form of any contract made or to be made between  
38 the applicant and contract holders or prospective contract holders;

39 g. A copy of the applicant's most recent financial statements  
40 audited by an independent certified public accountant. If the financial  
41 affairs of the applicant's parent company are audited by an  
42 independent certified public accountant but those of the applicant are  
43 not, then a copy of the most recent audited financial statement of the  
44 applicant's parent company, certified by an independent certified  
45 public accountant, attached to which are consolidating financial  
46 statements of the applicant, shall satisfy this requirement unless the

- 1 commissioner determines that additional or more recent financial  
2 information is required for the proper administration of this act;
- 3 h. A copy of the applicant's financial plan, including a three-year  
4 projection of anticipated operating results, a statement of the sources  
5 of working capital, and any other sources of funding and provisions  
6 for contingencies;
- 7 i. A list of any affiliate of the applicant which provides services to  
8 the applicant in this State and a description of any material transaction  
9 between the affiliate and the applicant;
- 10 j. A schedule of rates and charges;
- 11 k. A description of the proposed method of marketing;
- 12 l. A description of the complaint procedures instituted by the  
13 applicant;
- 14 m. A description of the quality control and utilization review  
15 procedures established by the applicant;
- 16 n. A power of attorney, if the applicant is not domiciled in this  
17 State, duly executed by the applicant, appointing the commissioner and  
18 his successors in office as the true and lawful attorney of the applicant  
19 in and for this State upon whom all lawful process in any legal action  
20 or proceeding against the organization on a cause of action arising in  
21 this State may be served;
- 22 o. A description of the means which will be utilized to assure the  
23 availability and accessibility of the services to enrollees.
- 24 p. A plan, in the event of insolvency, for continuation of the  
25 benefits to be provided for under the contract; and
- 26 q. Such other information as may be required by the commissioner.  
27
- 28 4. Following receipt of an application, the commissioner shall  
29 review it and notify the applicant of any deficiencies contained therein.
- 30 a. The commissioner shall issue a certificate of authority to an  
31 applicant in a timely manner, if the following conditions are met:
- 32 (1) All of the material required by section 3 of this act has been  
33 filed;
- 34 (2) The persons responsible for conducting the applicant's affairs  
35 are competent, trustworthy and possess good reputations, and have  
36 had appropriate experience, training and education;
- 37 (3) The applicant is financially sound and may reasonably be  
38 expected to meet its obligations to enrollees and the contract holder.  
39 In making this determination, the commissioner shall consider:
- 40 (a) The financial soundness of the applicant's arrangements for  
41 prescription services and the minimum standard rates, deductibles,  
42 copayments and other enrollee charges used in connection therewith;
- 43 (b) The adequacy of working capital, other sources of funding and  
44 provisions for contingencies;
- 45 (c) Whether any deposit of cash or securities, or any other  
46 evidence of financial protection submitted meets the requirements set

1 forth in this act or by the commissioner; and

2 (d) The applicant's rates and rating methodology;

3 (4) The agreements with providers for the provision of prescription  
4 services comply with the provisions of this act;

5 (5) Any deficiencies identified by the commissioner have been  
6 corrected; and

7 (6) Any other factors determined by the commissioner to be  
8 relevant have been addressed to the satisfaction of the commissioner.

9 b. If the certificate of authority is denied, the commissioner shall  
10 notify the applicant and shall set forth the reasons for the denial in  
11 writing. The applicant may request a hearing by notice to the  
12 commissioner within 30 business days of receiving the notice of denial.  
13 Upon such denial, the applicant shall submit to the commissioner a  
14 plan for bringing the prepaid prescription service organization into  
15 compliance or providing for the closing down of its business.

16

17 5. a. An organization, unless otherwise provided for in this act,  
18 shall not materially modify any matter or document furnished to the  
19 commissioner pursuant to section 3 of this act, including any change  
20 in rates or charges offered or to be offered under the contract, unless  
21 the organization files with the commissioner at least 60 days prior to  
22 use or adoption of the change, a notice of the change or modification,  
23 together with such information as may be required by the  
24 commissioner to explain the change or modification. If the  
25 commissioner fails to affirmatively approve or disapprove the change  
26 or modification within 60 days of submission of the notice, the notice  
27 of modification shall be deemed approved. The commissioner may  
28 extend the 60-day review period for not more than an additional 30  
29 days by giving written notice of the extension before the expiration of  
30 the 60-day period. If a change or modification is disapproved, the  
31 commissioner shall notify the organization in writing and specify the  
32 reason for the disapproval.

33 b. Charges under any contract shall be established in accordance  
34 with sound actuarial principles and shall not be excessive, inadequate,  
35 or unfairly discriminatory. If at any time the commissioner finds that  
36 the rates or benefits offered under the plan are inadequate, excessive,  
37 or unfairly discriminatory, he may order that they be rescinded or  
38 modified. If the commissioner orders that the plans be rescinded or  
39 modified, he shall notify the organization and specify the reasons for  
40 the order. The organization may, within 30 business days of receiving  
41 the order, request a hearing, which shall be held no later than 45 days  
42 after the receipt of the request by the commissioner.

43 c. Prior to entering into any contract with a contract holder, an  
44 organization shall file with the commissioner, for his approval, any  
45 benefits which are offered or proposed to be offered under the plan,  
46 as well as any modifications which may be made thereto. The filing

1 shall be made no later than 60 days prior to the date that the benefits  
2 are intended to be in force. The commissioner shall either approve the  
3 benefits or state in writing his reasons for their disapproval within 60  
4 days of receipt of the filing.

5  
6 6. Any insurer, hospital, medical or health service corporation or  
7 health maintenance organization which is not otherwise authorized to  
8 offer prescription services on a fixed prepayment basis may do so by  
9 filing for approval with the commissioner such information as shall be  
10 required by the commissioner pursuant to section 3 of this act.

11  
12 7. A prepaid prescription service organization may:

13 a. Purchase, lease, construct, renovate, operate and maintain such  
14 facilities, ancillary equipment and property which may be required for  
15 its principal office or for any other purposes deemed necessary in the  
16 business transactions of the organization;

17 b. Borrow money;

18 c. Loan funds to any person for the purpose of acquiring or  
19 constructing facilities or in furtherance of a program providing  
20 services to enrollees, or for any other purpose reasonably related to  
21 the business of the organization;

22 d. Furnish prescription services to enrollees or contract holders  
23 through providers which are under contract with or employed by the  
24 organization;

25 e. Contract with any person for the performance of certain  
26 functions such as marketing, enrollment and administration<sup>1</sup>, subject  
27 to the provisions of section 8 of this act<sup>1</sup>;

28 f. Contract with an insurer licensed in this State for the provision  
29 of insurance, indemnity coverage, or reimbursement against the cost  
30 of services provided by the organization; and

31 g. In addition to basic services provided by the organization to  
32 contract holders and enrollees, may provide:

33 (1) Additional services as approved by the commissioner;

34 (2) Indemnity benefits covering urgent care or emergency services;

35 (3) Coverage for services from providers other than participating  
36 providers, when referred in accordance with the terms of the contract;  
37 and

38 (4) Any other function provided by law, in the organization's  
39 articles of incorporation or in the certificate of authority.

40  
41 8. A prepaid prescription services organization may contract with  
42 any person to provide some or all of the services it normally performs  
43 in providing prescription services and supplemental services to its  
44 enrollees and contract holders, but no such contract shall be made  
45 effective until it has been approved by the commissioner. The services  
46 may include consultative and administrative services. In granting

1 approval, the commissioner may impose any limitations he deems  
2 necessary for the protection of the organization's enrollees and  
3 contract holders, and the actual and potential effect of providing such  
4 services on the financial condition of the organization. Before entering  
5 into such a contract, the organization shall provide the commissioner  
6 with notice of the contract and such supporting documentation as the  
7 commissioner determines necessary. If the commissioner does not  
8 affirmatively approve or disapprove the contract within 60 days of the  
9 date of submission, the contract shall be deemed approved. The  
10 commissioner may extend the 60-day review period for not more than  
11 30 additional days by giving written notice of the extension before the  
12 expiration of the initial 60-day period. If the contract is disapproved,  
13 the commissioner shall notify the organization in writing and specify  
14 the reasons for disapproval.

15

16 9. Every contract holder and enrollee shall be issued an evidence  
17 of coverage, which shall contain a clear and complete statement of:

18 a. The coverage to which each enrollee is entitled;

19 b. Any limitation to which covered services are subject, including,  
20 but not limited to, exclusions, deductibles, copayments or other  
21 charges;

22 c. Where information is available as to where and how services  
23 may be obtained; and

24 d. The method for resolving complaints.

25 If any part of the benefits offered under the contract are  
26 subcontracted, the document issued to the contract holder by the  
27 organization may contain the information required herein on behalf of  
28 the subcontractor.

29

30 10. a. A prepaid prescription service organization which is  
31 organized under the laws of this State shall be deemed to be a  
32 domestic insurer for the purposes of P.L.1970, c.22 (C.17:27A-1 et  
33 seq.).

34 b. An organization shall be subject to the provisions of  
35 N.J.S.17B:30-1 et seq.

36 c. The capital, surplus and other funds of an organization shall be  
37 invested in accordance with the provisions of N.J.S.17B:20-1 et seq.  
38 and guidelines established by the commissioner by regulation.

39

40 11. A prepaid prescription service organization shall establish and  
41 maintain a complaint system providing reasonable procedures for  
42 resolving written complaints which are initiated by enrollees and  
43 providers, in accordance with minimum standards established by the  
44 commissioner by regulation. The complaint procedure shall be in  
45 writing and filed with the commissioner, and shall be made available

1 to providers as well as contract holders and enrollees as provided for  
2 in this act.

3  
4 12. The commissioner may conduct an examination of a prepaid  
5 prescription service organization as often as he deems necessary in  
6 order to protect the interests of providers, contract holders, enrollees,  
7 and the residents of this State. An organization shall make its relevant  
8 books and records available for examination by the commissioner, and  
9 retain its records in accordance with a schedule established by the  
10 commissioner by regulation. The reasonable expenses of the  
11 examination shall be borne by the organization being examined. In lieu  
12 of such examination, the commissioner may accept the report of an  
13 examination made by the commissioner of another state.

14  
15 13. All prepaid prescription service organization contracts with  
16 providers or with entities subcontracting for the provision of  
17 prescription services shall contain the following terms and conditions:

18 a. In the event that the organization fails to pay for prescription  
19 services for any reason whatsoever, including, but not limited to,  
20 insolvency or breach of contract, neither the contract holder nor the  
21 enrollee shall be liable to the provider for any sums owed to the  
22 provider under the contract.

23 b. No provider, agent, trustee or assignee thereof may maintain an  
24 action at law or attempt to collect from the contract holder or enrollee  
25 sums owed to the provider by the organization, but this shall not be  
26 construed to prohibit collection of uncovered charges consented to or  
27 lawfully owed to providers by a contract holder or enrollee.

28  
29 14. a. Except as provided in subsection b. of this section, each  
30 prepaid prescription service organization shall, at all times, have and  
31 maintain tangible net equity equal to the greater of:

32 (1) \$50,000; or

33 (2) 2% of the organization's annual gross premium income, up to  
34 a maximum of the required capital and surplus of an admitted health  
35 insurer.

36 b. An organization which has uncovered expenses in excess of  
37 \$50,000, as reported on the most recent annual financial statement  
38 filed with the commissioner, shall maintain tangible net equity equal to  
39 25% of the uncovered expense in excess of \$50,000, in addition to the  
40 tangible net equity required by subsection a. of this section.

41 c. The dollar amounts specified in subsections a. and b. of this  
42 section shall be adjusted annually by the commissioner, by regulation,  
43 in accordance with changes in the Consumer Price Index.

44  
45 15. a. A prepaid prescription service organization shall deposit  
46 with the commissioner or with an entity or trustee acceptable to the

1 commissioner through which a custodial or controlled account is  
2 utilized, cash, securities, or any combination of these or other  
3 measures that is acceptable to the commissioner in an amount equal to  
4 \$25,000, which amount shall be adjusted annually by the  
5 commissioner, by regulation, in accordance with changes in the  
6 Consumer Price Index, plus 25% of the tangible net equity required by  
7 section 14 of this act; except that the deposit shall not be required to  
8 exceed \$100,000, which amount may be adjusted by the commissioner  
9 annually in accordance with changes in the Consumer Price Index.  
10 The deposit shall be deemed an admitted asset of the organization in  
11 the determination of tangible net equity.

12 b. All income from deposits shall be an asset of the organization.  
13 An organization may withdraw a deposit or any part thereof after  
14 making a substitute deposit of equal amount and value, except that a  
15 security may not be substituted unless it has been approved by the  
16 commissioner.

17 c. Amounts on deposit shall be used to protect the interests of the  
18 organization's enrollees in the State and to assure continuation of  
19 limited health care services to enrollees of an organization which is in  
20 rehabilitation or liquidation. If an organization is placed in  
21 rehabilitation or liquidation, the deposit shall be treated as an asset  
22 subject to the provisions of N.J.S.17B:32-1 et seq.

23 d. The commissioner may, by regulation, adjust the amount of  
24 required net worth that an organization may have in order to provide  
25 adequate protection against contingencies affecting the organization's  
26 financial position which are not fully covered by reserves and other  
27 liabilities and supporting assets.

28

29 16. A prepaid prescription service organization shall maintain in  
30 force a fidelity bond in its own name on its officers and employees, in  
31 an amount established by the commissioner by regulation. In lieu of  
32 the bond, the organization may deposit with the commissioner cash or  
33 securities or other investments approved by the commissioner.

34

35 17. A prepaid prescription service organization shall file an annual  
36 report with the commissioner, on or before March 1 of each year,  
37 attested to by at least two principal officers, which covers the  
38 preceding calendar year. The report shall be on a form prescribed by  
39 the commissioner and shall include:

40 a. A financial statement of the organization, including its balance  
41 sheet, income statement and statement of changes in financial position  
42 for the preceding year, certified by an independent public accountant,  
43 or a consolidated audited financial statement of its parent company  
44 certified by an independent certified public accountant, attached to  
45 which shall be consolidating financial statements of the organization;

46 b. The number of enrollees at the beginning of the year, the number

1 of enrollees as of the end of the year, and the number of enrollments  
2 during the year;

3 c. At the discretion of the commissioner, a statement by a qualified  
4 actuary setting forth his opinion as to the adequacy of reserves; and

5 d. Any other information relating to the performance of the  
6 organization as may be required by the commissioner.

7 The commissioner may assess a fine of up to \$100 per day for each  
8 day a required report is late. The commissioner may require the  
9 submission of additional reports from time to time, as he deems  
10 necessary.

11

12 18. The commissioner may suspend or revoke the certificate of  
13 authority issued to a prepaid prescription service organization  
14 pursuant to this act upon his determination that:

15 a. The organization is operating significantly in contravention of its  
16 basic organizational document;

17 b. The organization issues an evidence of coverage or uses rates or  
18 charges which do not comply with the requirements of this act;

19 c. The organization is unable to fulfill its obligations to enrollees  
20 or prospective enrollees;

21 d. The tangible net equity of the organization is less than that  
22 required by this act, or the organization has failed to correct any  
23 deficiency in its tangible net equity as required by the commissioner;

24 e. The organization has failed to implement in a reasonable manner  
25 the complaint system required to be established by this act;

26 f. The continued operation of the organization would be hazardous  
27 to the health and welfare of its enrollees;

28 g. The organization has failed to file any report required pursuant  
29 to this act; or

30 h. The organization has otherwise failed to comply with this act.

31

32 19. If the commissioner has cause to believe that grounds exist for  
33 the suspension or revocation of a certificate of authority, he shall  
34 notify the prepaid prescription service organization in writing,  
35 specifically stating the grounds for suspension or revocation and fixing  
36 a time for a hearing in accordance with the "Administrative Procedure  
37 Act," P.L.1968, c.410 (C.52:14B-1 et seq.). If a certificate of  
38 authority is revoked, the organization shall submit a plan to the  
39 commissioner within 15 days of the revocation, for the winding up of  
40 its affairs, and shall conduct no further business except as may be  
41 essential to the orderly conclusion of its business. The commissioner  
42 may, by written order, permit such further operation of the  
43 organization as he may find to be in the best interest of enrollees, to  
44 the end that enrollees will be afforded the greatest practical  
45 opportunity to obtain continuing prescription services.

1       20. The commissioner may require, in connection with the plan for  
2 insolvency required pursuant to subsection p. of section 3 of this act,  
3 that a prepaid prescription service organization maintain insurance to  
4 cover the expenses to be paid for continued benefits following a  
5 determination of insolvency, or make other arrangements to ensure  
6 that benefits are continued for the period determined in the insolvency  
7 plan.

8  
9       21. Any rehabilitation, liquidation or conservation of a prepaid  
10 prescription service organization shall be subject to the provisions of  
11 N.J.S.17B:32-1 et seq. and shall be conducted under the supervision  
12 of the commissioner; except that the commissioner shall have the  
13 authority to regulate any prepaid prescription service organization  
14 doing business in this State as a domestic insurer. The commissioner  
15 may apply for an order directing him to rehabilitate, liquidate,  
16 reorganize or conserve an organization upon any one or more  
17 applicable grounds as stated for insurers in N.J.S.17B:32-1 et seq. or  
18 any other provision of Title 17B of the New Jersey Statutes or when  
19 in his opinion the organization fails to satisfy the requirements for the  
20 issuance of a certificate of authority relating to solvency or the  
21 requirements for solvency protection as set forth in this act.

22  
23       22. If an order of rehabilitation issued pursuant to this act directs  
24 or provides for the continued operation of the prepaid prescription  
25 service organization, including the receipt of payments from, and the  
26 provision of prescription services to enrollees, the order may  
27 authorize the rehabilitator to make the payments necessary for  
28 continued operation, including those expenses necessary for the  
29 conduct of the rehabilitation.

30  
31       23. In the event that an order of rehabilitation or liquidation is  
32 granted, the order may enjoin providers from billing enrollees and their  
33 beneficiaries for health care services provided. In the course of a  
34 rehabilitation proceeding, the court may allow reformation of enrollee  
35 and provider contracts, or other restructuring of outstanding liabilities,  
36 or transfer of the business to another prepaid prescription service  
37 organization. A primary goal of the restructuring or transfer shall be  
38 the provision of uninterrupted services to enrollees of the  
39 organization. In the course of a rehabilitation proceeding, a plan for  
40 settling the claims of general creditors shall not be deemed to be  
41 inequitable or to constitute preferential treatment if the amount of  
42 reimbursement for an outstanding claim depends, in part, on the  
43 estimated increase or decrease in future or prior claims of the creditor.

44  
45       24. A prepaid prescription service organization shall not be subject  
46 to the "New Jersey Life and Health Insurance Guaranty Association

1 Act," P.L.1991, c.208 (C.17B:32A-1 et seq.), and the New Jersey  
2 Life and Health Insurance Guaranty Association established pursuant  
3 to that act shall not provide protection to any individuals entitled to  
4 receive prescription services from a prepaid prescription service  
5 organization.

6  
7 25. A prepaid prescription service organization subject to the  
8 provisions of this act shall pay to the commissioner such application  
9 fees and examination fees for applying for a certificate of authority as  
10 established by regulation by the commissioner.

11  
12 26. a. The commissioner may, upon notice and hearing, levy an  
13 administrative penalty in an amount not less than \$1,000 nor more than  
14 \$30,000 for each violation, per contract or enrollee. Penalties  
15 imposed by the commissioner pursuant to this section may be in lieu  
16 of, or in addition to, suspension or revocation of a certificate of  
17 authority pursuant to this act. A penalty may be recovered in a  
18 summary proceeding pursuant to "the penalty enforcement law,"  
19 N.J.S.2A:58-1 et seq.

20 b. If the commissioner believes that any violation of this act has  
21 occurred or is threatened, the commissioner may give notice to the  
22 prepaid prescription service organization, its representatives, or any  
23 other persons who appear to be involved in the alleged violation. The  
24 commissioner may arrange a conference with the alleged violators or  
25 their authorized representatives to ascertain the facts relating to the  
26 alleged violation. In the event that it appears that a violation has  
27 occurred or is threatened, the commissioner may implement the  
28 necessary measures to correct or prevent the violation. Appeals under  
29 this section shall be conducted pursuant to the "Administrative  
30 Procedure Act." P.L.1968, c.410 (C.52:14B-1 et seq.)

31  
32 27. a. The commissioner may issue an order directing a prepaid  
33 prescription service organization to cease and desist from engaging in  
34 any act or practice which is in violation of the provisions of this act.  
35 The order shall be subject to review pursuant to the "Administrative  
36 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

37 b. In the event of noncompliance with a cease and desist order  
38 issued pursuant to subsection a. of this section, or if the commissioner  
39 elects not to issue a cease and desist order in the case of a violation of  
40 any provision of this act, the commissioner may institute a proceeding  
41 to obtain injunctive relief, in accordance with the applicable  
42 procedures provided in the Rules of Court.

43  
44 28. Any data or information relating to the diagnosis, treatment or  
45 health of an enrollee or prospective enrollee obtained by a prepaid  
46 prescription service organization from the contract holder, enrollee,

1 prospective enrollee or any provider shall be confidential and shall not  
2 be disclosed to any person except:

3 a. To the extent that it may be necessary to carry out the purposes  
4 of this act;

5 b. Upon the express consent of the enrollee or prospective  
6 enrollee;

7 c. Pursuant to statute or court order for the production of evidence  
8 or the discovery thereof; or

9 d. In the event of a claim or litigation between an enrollee or a  
10 prospective enrollee and the organization wherein such data or  
11 information is relevant. An organization shall be entitled to claim any  
12 statutory privilege against disclosure which the provider who furnished  
13 the information to the organization is entitled to claim.

14

15 29. The commissioner shall adopt rules and regulations pursuant  
16 to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1  
17 et seq.), to effectuate the purposes of this act.

18

19 30. This act shall take effect 180 days after enactment, but the  
20 commissioner may take such anticipatory administrative action in  
21 advance of the effective date as shall be necessary for the  
22 implementation of the act.

23

24

25

26

27 Requires prepaid prescription service organizations to obtain  
28 certificate of authority from Department of Banking and Insurance.