

[First Reprint]
SENATE, No. 234

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Senator INVERSO

1 AN ACT concerning Medicaid prescription drug benefits and
2 supplementing P.L.1968, c.413 (C.30:4D-1 et seq.) ¹[and Title 17
3 of the Revised Statutes]¹.

4

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

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8 1. This act shall be known and may be cited as the "Medicaid
9 Prescription Drug Benefit Act."

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11 2. The Legislature finds and declares that:

12 a. The Medicaid program in New Jersey is currently in the process
13 of shifting its AFDC-eligible recipient population into managed care
14 arrangements on a mandatory basis under a federal government waiver
15 pursuant to section 1915(b) of the federal Social Security Act
16 (42 U.S.C.§1396n) and is seeking to enroll other recipients by
17 application for a waiver pursuant to section 1115 of the Social
18 Security Act (42 U.S.C.§1315).

19 b. The managed care capitated payment methodology is very
20 different from the current Medicaid reimbursement system for
21 pharmacies which pays for every prescription dispensed to a Medicaid
22 recipient; however, the Medicaid program has been able to effectively
23 manage the provision of comprehensive pharmaceutical services for its
24 recipients under its current fee-for-service reimbursement system.

25 c. The current federal Medicaid program provides for a rebate to
26 be paid to the State by pharmaceutical manufacturers wishing to have
27 their products utilized in the State Medicaid program; however,
28 rebates from the pharmaceutical manufacturers will be eliminated if
29 Medicaid prescription drugs are provided to recipients under a
30 managed care plan, and the net effect would be a reduction in State
31 revenues.

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:

¹ Senate SBA committee amendments adopted October 28, 1996.

1 d. Preserving the current Medicaid fee-for-service reimbursement
2 system for pharmacies will ensure Medicaid recipients' continued
3 access to cost-effective pharmaceutical services, which would
4 otherwise be impeded by the inclusion of prescription drug benefits in
5 managed care plans that restrict a Medicaid recipient's choice of
6 pharmacy.

7 e. There is no proof that managed care plans effectively contain
8 drug costs and no compelling reason to dismantle the existing
9 Medicaid fee-for-service reimbursement system for pharmacies; and it
10 is, therefore, in the best interest of the State and its Medicaid
11 recipients to prohibit ¹[from the inclusion of] the Medicaid program
12 from requiring Medicaid recipients to accept¹ prescription drug
13 benefits ¹[in any] through a¹ managed care plan which provides
14 services to Medicaid recipients.

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16 3. As used in this act:

17 "Managed care plan" means a health benefits plan that integrates the
18 financing and delivery of appropriate health care services to covered
19 persons by arrangements with participating providers, who are selected
20 to participate on the basis of explicit standards, to furnish a
21 comprehensive set of health care services and financial incentives for
22 covered persons to use the participating providers and procedures
23 provided for in the plan. Managed care includes, but is not limited to,
24 a health maintenance organization or HMO, a preferred provider
25 organization or PPO, an exclusive provider organization or EPO, a
26 point-of-service plan or POS, or any other similar health benefits
27 delivery system, whether issued by or through a carrier.

28 "Prescription drug" means any drug which requires a prescription
29 in this State, including insulin, insulin syringes and insulin needles, and
30 does not include experimental drugs as designated by the federal Food
31 and Drug Administration.

32

33 4. Prescription drug benefits under the Medicaid program
34 established pursuant to P.L.1968, c.413 (C.30:4D-1 et seq.) shall be
35 provided ¹to Medicaid recipients¹ on a fee-for service basis based upon
36 reimbursement formulas established by the Commissioner of Human
37 Services [and shall not be included in] unless the Medicaid recipient
38 specifically requests in writing to receive prescription drug benefits
39 through a managed care plan offered in this State ¹, which may be
40 selected by the program or may be voluntarily selected by the
41 recipient, in accordance with regulations adopted by the
42 commissioner¹.

43 ¹Each current Medicaid recipient shall be notified in writing within
44 30 days after the effective date of P.L. _____, c. _____ (C. _____)(now
45 pending before the legislature as this bill), that the recipient may elect
46 to receive prescription drug benefits through a managed care plan.

1 and that if the recipient does not elect in writing to receive
2 prescription drug benefits through a managed care plan, the recipient
3 will receive prescription drug benefits through the fee-for-service
4 reimbursement system of the State Medicaid program. The recipient
5 shall be required to notify the program within 30 days after receipt of
6 the notice. The department shall promptly notify each person who
7 becomes eligible to receive Medicaid after the effective date of
8 P.L. _____, c. _____ (C. _____)(now pending before the Legislature as this
9 bill), of the option to receive prescription drug benefits through a
10 managed care plan.¹

11

12 ¹[5. The Commissioner of Insurance shall not approve for
13 utilization in the Medicaid program established pursuant to P.L.1968,
14 c.413 (C.30:4D-1 et seq.) a health benefits plan offered by an
15 insurance company, health service corporation, hospital service
16 corporation, medical service corporation or health maintenance
17 organization which provides prescription drug benefits.]¹

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19 ¹[6.] 5.¹ This act shall take effect on the 60th day after enactment.

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24 _____
Designated the "Medicaid Prescription Drug Benefit Act."