

SENATE, No. 1405

STATE OF NEW JERSEY

INTRODUCED JULY 25, 1996

By Senator CARDINALE

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 Insurance.

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

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

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

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

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

28 "Prepaid prescription service organization" or "organization" means
29 any person, corporation, partnership, or other entity which, in return
30 for a prepayment by a contract holder, undertakes to provide or
31 arrange for the provision of prescription services to enrollees or
32 contract holders. Prepaid prescription service organization shall not
33 include: an entity otherwise authorized or licensed pursuant to the
34 laws of this State to provide a prescription service on a prepayment
35 or other basis in connection with a health benefits plan; an entity
36 licensed under Title 17 of the Revised Statutes or Title 17B of the
37 New Jersey Statutes to do the business of insurance in this State; a

1 provider or other entity who provides prescription services pursuant
2 to a contract with a prepaid prescription service organization; or an
3 entity which, for a fee, acts as administrator of a self-insured
4 prescription plan on behalf of the self insurer.

5 "Prescription service" means any benefit or service to be provided
6 to an enrollee or a contract holder by a pharmacy pursuant to a
7 contract with a prepaid prescription service organization. Prescription
8 service includes, but is not limited to, the provision of prescription
9 drugs, utilization review and durable medical goods.

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

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

20

21 2. a. Beginning one year after the date of enactment of this act, no
22 person, corporation, partnership, or other entity shall operate a
23 prepaid prescription service organization in this State except in
24 accordance with the provisions of this act. No person shall sell, offer
25 to sell or solicit offers to purchase or receive advance or periodic
26 consideration for prescription services without obtaining a certificate
27 of authority pursuant to this act.

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

39 c. Any person offering prescription services in a manner
40 substantially provided for in this act shall be presumed to be subject to
41 the provisions of the act unless the person is otherwise regulated under
42 State law.

43

44 3. Each application for a certificate of authority to operate a
45 prepaid prescription service organization shall be made to the
46 commissioner on a form prescribed by the commissioner, shall be

- 1 certified by an officer or authorized representative of the applicant,
2 and shall include the following:
- 3 a. A copy of the applicant's basic organizational document, such
4 as the articles of incorporation, if a corporation, articles of
5 association, partnership agreement, management agreement, trust
6 agreement, or other applicable documents and all amendments to such
7 documents;
- 8 b. A copy of the executed bylaws, rules and regulations, or similar
9 documents, regulating the conduct of the applicant's internal affairs;
- 10 c. A list, in a form approved by the commissioner, of the names,
11 addresses, and official positions of the persons who are to be
12 responsible for the conduct of the affairs of the applicant, including,
13 but not limited to, the members of the board of directors, executive
14 committee or other governing board or committee, the principal
15 officers, and any person or entity owning or having the right to acquire
16 10% or more of the voting securities of the applicant; in the case of a
17 partnership or association, the names of the partners or members; each
18 person who has loaned funds to the applicant for the operation of its
19 business; and a statement of any criminal convictions or enforcement
20 or regulatory action taken against any person who is a member of the
21 board, the executive committee or other governing board or
22 committee, or the principal officers;
- 23 d. A statement generally describing the applicant, its facilities,
24 personnel, and the prescription services to be offered by the
25 organization;
- 26 e. A copy of the standard form of any contract made or to be made
27 between the applicant and any providers relative to the provision of
28 prepaid prescription services to enrollees or contract holders;
- 29 f. A copy of the form of any contract made or to be made between
30 the applicant and contract holders or prospective contract holders;
- 31 g. A copy of the applicant's most recent financial statements
32 audited by an independent certified public accountant. If the financial
33 affairs of the applicant's parent company are audited by an
34 independent certified public accountant but those of the applicant are
35 not, then a copy of the most recent audited financial statement of the
36 applicant's parent company, certified by an independent certified
37 public accountant, attached to which are consolidating financial
38 statements of the applicant, shall satisfy this requirement unless the
39 commissioner determines that additional or more recent financial
40 information is required for the proper administration of this act;
- 41 h. A copy of the applicant's financial plan, including a three-year
42 projection of anticipated operating results, a statement of the sources
43 of working capital, and any other sources of funding and provisions
44 for contingencies;
- 45 i. A list of any affiliate of the applicant which provides services to
46 the applicant in this State and a description of any material transaction

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

1 b. If the certificate of authority is denied, the commissioner shall
2 notify the applicant and shall set forth the reasons for the denial in
3 writing. The applicant may request a hearing by notice to the
4 commissioner within 30 business days of receiving the notice of denial.
5 Upon such denial, the applicant shall submit to the commissioner a
6 plan for bringing the prepaid prescription service organization into
7 compliance or providing for the closing down of its business.

8
9 5. a. An organization, unless otherwise provided for in this act,
10 shall not materially modify any matter or document furnished to the
11 commissioner pursuant to section 3 of this act, including any change
12 in rates or charges offered or to be offered under the contract, unless
13 the organization files with the commissioner at least 60 days prior to
14 use or adoption of the change, a notice of the change or modification,
15 together with such information as may be required by the
16 commissioner to explain the change or modification. If the
17 commissioner fails to affirmatively approve or disapprove the change
18 or modification within 60 days of submission of the notice, the notice
19 of modification shall be deemed approved. The commissioner may
20 extend the 60-day review period for not more than an additional 30
21 days by giving written notice of the extension before the expiration of
22 the 60-day period. If a change or modification is disapproved, the
23 commissioner shall notify the organization in writing and specify the
24 reason for the disapproval.

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

35 c. Prior to entering into any contract with a contract holder, an
36 organization shall file with the commissioner, for his approval, any
37 benefits which are offered or proposed to be offered under the plan,
38 as well as any modifications which may be made thereto. The filing
39 shall be made no later than 60 days prior to the date that the benefits
40 are intended to be in force. The commissioner shall either approve the
41 benefits or state in writing his reasons for their disapproval within 60
42 days of receipt of the filing.

43
44 6. Any insurer, hospital, medical or health service corporation or
45 health maintenance organization which is not otherwise authorized to
46 offer prescription services on a fixed prepayment basis may do so by

1 filing for approval with the commissioner such information as shall be
2 required by the commissioner pursuant to section 3 of this act.

3

4 7. A prepaid prescription service organization may:

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

9 b. Borrow money;

10 c. Loan funds to any person for the purpose of acquiring or
11 constructing facilities or in furtherance of a program providing
12 services to enrollees, or for any other purpose reasonably related to
13 the business of the organization;

14 d. Furnish prescription services to enrollees or contract holders
15 through providers which are under contract with or employed by the
16 organization;

17 e. Contract with any person for the performance of certain
18 functions such as marketing, enrollment and administration;

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

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

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

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

26 (3) Coverage for services from providers other than participating
27 providers, when referred in accordance with the terms of the contract;
28 and

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

31

32 8. A prepaid prescription services organization may contract with
33 any person to provide some or all of the services it normally performs
34 in providing prescription services and supplemental services to its
35 enrollees and contract holders, but no such contract shall be made
36 effective until it has been approved by the commissioner. The services
37 may include consultative and administrative services. In granting
38 approval, the commissioner may impose any limitations he deems
39 necessary for the protection of the organization's enrollees and
40 contract holders, and the actual and potential effect of providing such
41 services on the financial condition of the organization. Before entering
42 into such a contract, the organization shall provide the commissioner
43 with notice of the contract and such supporting documentation as the
44 commissioner determines necessary. If the commissioner does not
45 affirmatively approve or disapprove the contract within 60 days of the
46 date of submission, the contract shall be deemed approved. The

1 commissioner may extend the 60-day review period for not more than
2 30 additional days by giving written notice of the extension before the
3 expiration of the initial 60-day period. If the contract is disapproved,
4 the commissioner shall notify the organization in writing and specify
5 the reasons for disapproval.

6
7 9. Every contract holder and enrollee shall be issued an evidence
8 of coverage, which shall contain a clear and complete statement of:

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

10 b. Any limitation to which covered services are subject, including,
11 but not limited to, exclusions, deductibles, copayments or other
12 charges;

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

15 d. The method for resolving complaints.

16 If any part of the benefits offered under the contract are
17 subcontracted, the document issued to the contract holder by the
18 organization may contain the information required herein on behalf of
19 the subcontractor.

20
21 10. a. A prepaid prescription service organization which is
22 organized under the laws of this State shall be deemed to be a
23 domestic insurer for the purposes of P.L.1970, c.22 (C.17:27A-1 et
24 seq.).

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

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

30
31 11. A prepaid prescription service organization shall establish and
32 maintain a complaint system providing reasonable procedures for
33 resolving written complaints which are initiated by enrollees and
34 providers, in accordance with minimum standards established by the
35 commissioner by regulation. The complaint procedure shall be in
36 writing and filed with the commissioner, and shall be made available
37 to providers as well as contract holders and enrollees as provided for
38 in this act.

39
40 12. The commissioner may conduct an examination of a prepaid
41 prescription service organization as often as he deems necessary in
42 order to protect the interests of providers, contract holders, enrollees,
43 and the residents of this State. An organization shall make its relevant
44 books and records available for examination by the commissioner, and
45 retain its records in accordance with a schedule established by the
46 commissioner by regulation. The reasonable expenses of the

1 examination shall be borne by the organization being examined. In lieu
2 of such examination, the commissioner may accept the report of an
3 examination made by the commissioner of another state.

4
5 13. All prepaid prescription service organization contracts with
6 providers or with entities subcontracting for the provision of
7 prescription services shall contain the following terms and conditions:

8 a. In the event that the organization fails to pay for prescription
9 services for any reason whatsoever, including, but not limited to,
10 insolvency or breach of contract, neither the contract holder nor the
11 enrollee shall be liable to the provider for any sums owed to the
12 provider under the contract.

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

18
19 14. a. Except as provided in subsection b. of this section, each
20 prepaid prescription service organization shall, at all times, have and
21 maintain tangible net equity equal to the greater of:

22 (1) \$50,000; or

23 (2) 2% of the organization's annual gross premium income, up to
24 a maximum of the required capital and surplus of an admitted health
25 insurer.

26 b. An organization which has uncovered expenses in excess of
27 \$50,000, as reported on the most recent annual financial statement
28 filed with the commissioner, shall maintain tangible net equity equal to
29 25% of the uncovered expense in excess of \$50,000, in addition to the
30 tangible net equity required by subsection a. of this section.

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

34
35 15. a. A prepaid prescription service organization shall deposit
36 with the commissioner or with an entity or trustee acceptable to the
37 commissioner through which a custodial or controlled account is
38 utilized, cash, securities, or any combination of these or other
39 measures that is acceptable to the commissioner in an amount equal to
40 \$25,000, which amount shall be adjusted annually by the
41 commissioner, by regulation, in accordance with changes in the
42 Consumer Price Index, plus 25% of the tangible net equity required by
43 section 14 of this act; except that the deposit shall not be required to
44 exceed \$100,000, which amount may be adjusted by the commissioner
45 annually in accordance with changes in the Consumer Price Index.
46 The deposit shall be deemed an admitted asset of the organization in

1 the determination of tangible net equity.

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

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

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

18

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

24

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

30 a. A financial statement of the organization, including its balance
31 sheet, income statement and statement of changes in financial position
32 for the preceding year, certified by an independent public accountant,
33 or a consolidated audited financial statement of its parent company
34 certified by an independent certified public accountant, attached to
35 which shall be consolidating financial statements of the organization;

36 b. The number of enrollees at the beginning of the year, the number
37 of enrollees as of the end of the year, and the number of enrollments
38 during the year;

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

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

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

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

4 a. The organization is operating significantly in contravention of its
5 basic organizational document;

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

8 c. The organization is unable to fulfill its obligations to enrollees
9 or prospective enrollees;

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

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

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

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

19 h. The organization has otherwise failed to comply with this act.
20

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

36 20. The commissioner may require, in connection with the plan for
37 insolvency required pursuant to subsection p. of section 3 of this act,
38 that a prepaid prescription service organization maintain insurance to
39 cover the expenses to be paid for continued benefits following a
40 determination of insolvency, or make other arrangements to ensure
41 that benefits are continued for the period determined in the insolvency
42 plan.
43

44 21. Any rehabilitation, liquidation or conservation of a prepaid
45 prescription service organization shall be subject to the provisions of
46 N.J.S.17B:32-1 et seq. and shall be conducted under the supervision

1 of the commissioner; except that the commissioner shall have the
2 authority to regulate any prepaid prescription service organization
3 doing business in this State as a domestic insurer. The commissioner
4 may apply for an order directing him to rehabilitate, liquidate,
5 reorganize or conserve an organization upon any one or more
6 applicable grounds as stated for insurers in N.J.S.17B:32-1 et seq. or
7 any other provision of Title 17B of the New Jersey Statutes or when
8 in his opinion the organization fails to satisfy the requirements for the
9 issuance of a certificate of authority relating to solvency or the
10 requirements for solvency protection as set forth in this act.

11

12 22. If an order of rehabilitation issued pursuant to this act directs
13 or provides for the continued operation of the prepaid prescription
14 service organization, including the receipt of payments from, and the
15 provision of prescription services to enrollees, the order may
16 authorize the rehabilitator to make the payments necessary for
17 continued operation, including those expenses necessary for the
18 conduct of the rehabilitation.

19

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

33

34 24. A prepaid prescription service organization shall not be subject
35 to the "New Jersey Life and Health Insurance Guaranty Association
36 Act," P.L.1991, c.208 (C.17B:32A-1 et seq.), and the New Jersey
37 Life and Health Insurance Guaranty Association established pursuant
38 to that act shall not provide protection to any individuals entitled to
39 receive prescription services from a prepaid prescription service
40 organization.

41

42 25. A prepaid prescription service organization subject to the
43 provisions of this act shall pay to the commissioner such application
44 fees and examination fees for applying for a certificate of authority as
45 established by regulation by the commissioner.

1 26. a. The commissioner may, upon notice and hearing, levy an
2 administrative penalty in an amount not less than \$1,000 nor more than
3 \$30,000 for each violation, per contract or enrollee. Penalties
4 imposed by the commissioner pursuant to this section may be in lieu
5 of, or in addition to, suspension or revocation of a certificate of
6 authority pursuant to this act. A penalty may be recovered in a
7 summary proceeding pursuant to "the penalty enforcement law,"
8 N.J.S.2A:58-1 et seq.

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

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

26 b. In the event of noncompliance with a cease and desist order
27 issued pursuant to subsection a. of this section, or if the commissioner
28 elects not to issue a cease and desist order in the case of a violation of
29 any provision of this act, the commissioner may institute a proceeding
30 to obtain injunctive relief, in accordance with the applicable
31 procedures provided in the Rules of Court.
32

33 28. Any data or information relating to the diagnosis, treatment or
34 health of an enrollee or prospective enrollee obtained by a prepaid
35 prescription service organization from the contract holder, enrollee,
36 prospective enrollee or any provider shall be confidential and shall not
37 be disclosed to any person except:

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

40 b. Upon the express consent of the enrollee or prospective
41 enrollee;

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

44 d. In the event of a claim or litigation between an enrollee or a
45 prospective enrollee and the organization wherein such data or
46 information is relevant. An organization shall be entitled to claim any

1 statutory privilege against disclosure which the provider who furnished
2 the information to the organization is entitled to claim.

3

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

7

8 30. This act shall take effect 180 days after enactment, but the
9 commissioner may take such anticipatory administrative action in
10 advance of the effective date as shall be necessary for the
11 implementation of the act.

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STATEMENT

15

16 This bill requires all prepaid prescription service organizations to
17 obtain a certificate of authority from the Department of Insurance in
18 order to operate in, and offer prepaid prescription services to
19 residents of, this State.

20 A prepaid prescription service organization is an entity which, in
21 return for a prepayment by a contract holder, undertakes to provide or
22 arrange for the provision of prescription services, such as prescription
23 drugs, utilization review and durable medical goods, to enrollees, their
24 dependents and contract holders.

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28

29 Requires prepaid prescription service organizations to obtain
30 certificate of authority from Department of Insurance.