

# ASSEMBLY, No. 4790

## STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED OCTOBER 8, 2020

**Sponsored by:**

**Assemblywoman JOANN DOWNEY**

**District 11 (Monmouth)**

**Assemblyman DANIEL R. BENSON**

**District 14 (Mercer and Middlesex)**

**SYNOPSIS**

“Medicaid Prescription Drug Quality, Cost, and Transparency Act”; establishes requirements for single entity to administer prescription drug benefits under Medicaid program.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning prescription drug services provided under the  
2 Medicaid program and supplementing Title 30 of the Revised  
3 Statutes.

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

7  
8 1. This act shall be known and may be cited as the “Medicaid  
9 Prescription Drug Quality, Cost, and Transparency Act.”

10  
11 2. The Legislature finds and declares:

12 a. The State has a continuing responsibility to ensure that funds  
13 expended under the Medicaid program are used appropriately and  
14 efficiently to promote the public health;

15 b. Opportunities exist for improved health outcomes and  
16 increased efficiencies in the provision of prescription drug services  
17 in the Medicaid program.

18 c. Other states and the federal government have utilized  
19 varying strategies such as consolidated benefit purchasing,  
20 increased transparency, and enhanced medication therapy  
21 management programs to increase cost-efficiency, improve  
22 medication safety, and improve overall health outcomes in the  
23 provision of prescription drug services.

24 d. As prescription drug prices continue to rise, the State must  
25 employ innovative policy initiatives that help cover the costs of  
26 Medicaid services and prevent harmful benefit reductions for  
27 Medicaid recipients; and

28 e. It is therefore in the best interests of the State to undertake  
29 steps to foster safety and quality, efficient purchasing, and  
30 increased transparency in prescription drug benefits under the  
31 Medicaid program in order to realize cost savings to the State and  
32 improve health outcomes for Medicaid recipients in the State.

33  
34 3. The Division of Medical Assistance and Health Services in  
35 the Department of Human Services shall contract with a third party  
36 entity to apply a risk reduction model to prescription drug services  
37 provided under the Medicaid program established pursuant to  
38 P.L.1968, c.413 (C.30:4D-1 et seq.), for the purpose of identifying  
39 and reducing simultaneous, multi-drug medication-related risk and  
40 adverse drug events, enhancing compliance and quality of care, and  
41 improving health-related outcomes while reducing total cost of care  
42 in a measurable and reportable manner. In carrying out this  
43 purpose, the model, at a minimum, shall leverage Medicaid  
44 prescription drug claims data, pharmacokinetic and  
45 pharmacodynamic sciences, appropriate technologies, clinical call  
46 centers located in New Jersey and staffed by board-certified  
47 pharmacists licensed pursuant to P.L.2003, c.280 (C.45:14-40 et  
48 seq.), and include coordination of services with a network of local

1 community pharmacies located throughout the State. For the  
2 duration of the contract, the division shall share the medical and  
3 pharmacy claims data for all Medicaid beneficiaries with the third  
4 party administering the model for the purposes of effectuating the  
5 model, which claims data shall include historical data.

6  
7 4. No later than 60 days after the effective date of this act, the  
8 Department of the Treasury shall prepare and issue a report that  
9 includes a determination of the most cost-effective way to:  
10 administer prescription drug services provided under the Medicaid  
11 program through one entity; and procure prescription drug services  
12 provided by the single entity. The report shall include, but shall not  
13 be limited to, a determination as to whether the services shall be  
14 administered using a fee-for-service model and whether the services  
15 shall be administered directly by the State via the State Fiscal Agent  
16 or via a single pharmacy benefits manager.

17  
18 5. a. The Department of the Treasury shall, based on the  
19 findings of the report produced by the department pursuant to  
20 section 4 of this act, issue a request for proposals for a single entity  
21 to administer the prescription drug services provided under the  
22 Medicaid program. The department shall award a contract for a  
23 single entity to administer prescription drug benefits under the  
24 Medicaid program no later than July 1, 2021. The request for  
25 proposals and any contract awarded based on that request for  
26 proposals shall require the selected entity to disclose the following  
27 information, at a minimum and as appropriate, to the Department of  
28 Human Services:

29 (1) all sources and amounts of income, payments, and financial  
30 benefits received by the entity in relation to the provision and  
31 administration of prescription drug services on behalf of the State,  
32 including, but not limited to, any pricing discounts, rebates of any  
33 kind, inflationary payments, credits, clawbacks, fees, grants,  
34 chargebacks, reimbursements, or other benefits;

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

38 (3) the entity's payment model for administrative fees; and

39 (4) any differences between the amount paid by the entity to a  
40 pharmacy for each prescription drug dispensed and the amount  
41 charged to the Medicaid program for that prescription drug.

42 b. A contract entered into pursuant to a request for proposals  
43 issued pursuant to subsection a. of this section shall specify the  
44 detail, methodology, time and manner of the disclosures required of  
45 the entity under subsection a. of this section. All disclosures shall  
46 be subject to audit and penalties for willful failure to disclose.

47 c. Information disclosed by an entity pursuant to subsection a.  
48 of this section shall be confidential and not be subject to public

1 disclosure under P.L.1963, c.73 (C.47:1A-1 et seq.) or P.L.2001,  
2 c.404 (C.47:1A-5 et al.). In addition to any other penalty provided  
3 by law, a person who is authorized to access information submitted  
4 pursuant to subsection a. of this section who knowingly discloses  
5 such information to any person or entity who is not authorized to  
6 access the information shall be guilty of a crime of the fourth  
7 degree and shall be subject to a civil penalty in an amount not to  
8 exceed \$10,000. A civil penalty imposed under this subsection  
9 shall be collected by the Commissioner of Health in summary  
10 proceedings before a court of competent jurisdiction pursuant to the  
11 "Penalty Enforcement Law of 1999," P.L.1999, c.274 (C.2A:58-10  
12 et seq.).

13 d. The entity administering Medicaid prescription drug services  
14 for the State shall negotiate supplemental rebates above the  
15 mandatory federal minimum with drug manufacturers, which may  
16 include, as appropriate, entering into multi-state coalitions for  
17 negotiation purposes and establishing a preferred drug list, in order  
18 to maximize cost savings under the Medicaid program.  
19

20 6. The Commissioner of Human Services shall apply for such  
21 State plan amendments or waivers as may be necessary to  
22 implement the provisions of this act and to secure federal financial  
23 participation for State Medicaid expenditures under the federal  
24 Medicaid program.  
25

26 7. The Commissioner of Human Services shall adopt rules and  
27 regulations pursuant to the "Administrative Procedure Act,"  
28 P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the purposes of  
29 this act.  
30

31 8. This act shall take effect immediately.  
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#### 34 STATEMENT

35  
36 The bill, which is designated as the "Medicaid Prescription Drug  
37 Quality, Cost, and Transparency Act," requires the Division of  
38 Medical Assistance and Health Services in the Department of Human  
39 Services (DHS) to contract with a third party entity to apply a risk  
40 reduction model to prescription drug services provided under the  
41 Medicaid program for the purpose of identifying and reducing  
42 simultaneous, multi-drug medication-related risk and adverse drug  
43 events, enhancing compliance and quality of care, and improving  
44 health-related outcomes while reducing total cost of care in a  
45 measurable and reportable manner. To carry out this purpose, the  
46 model will leverage Medicaid prescription drug claims data,  
47 pharmacokinetic and pharmacodynamic sciences, appropriate  
48 technologies, clinical call centers located in New Jersey and staffed by

1 board-certified pharmacists, and include coordination of services with  
2 a network of local community pharmacies located throughout the  
3 State. For the duration of the contract, the division will share the  
4 medical and pharmacy claims data for all Medicaid beneficiaries with  
5 the third party entity administering the model for the purposes of  
6 effectuating the model, which claims data will include historical data.

7 No later than 60 days after of the effective date of the bill, the  
8 Department of the Treasury will be required to prepare and issue a  
9 report that includes a determination of the most cost-effective way to  
10 administer prescription drug services provided under the Medicaid  
11 program through a single entity and procure prescription drug services  
12 provided by a single entity. The report will include, but not be limited  
13 to, a determination as to whether the services should be administered  
14 using a fee-for-service model and whether the services should be  
15 administered directly by the State via the State Fiscal Agent or via a  
16 single pharmacy benefits manager.

17 The Department of the Treasury will, based on the findings of the  
18 report, issue a request for proposals for a single entity to administer the  
19 prescription drug services provided under the Medicaid program. The  
20 department will be required to award a contract for a single entity to  
21 administer prescription drug benefits under the Medicaid program no  
22 later than July 1, 2021. The request for proposals and any contract  
23 awarded based on that request for proposals are to require the selected  
24 entity to disclose certain information to the DHS:

25 (1) all sources and amounts of income, payments, and financial  
26 benefits received by the entity in relation to the provision and  
27 administration of prescription drug services on behalf of the State,  
28 including, but not limited to, any pricing discounts, rebates of any  
29 kind, inflationary payments, credits, clawbacks, fees, grants,  
30 chargebacks, reimbursements, or other benefits;

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

34 (3) the entity's payment model for administrative fees; and

35 (4) any differences between the amount paid by the entity to a  
36 pharmacy for each prescription drug dispensed and the amount  
37 charged to the Medicaid program for that prescription drug.

38 The contract is to specify the detail, methodology, time and  
39 manner of these disclosures, which will be subject to audit and  
40 penalties for willful failure to disclose. Information disclosed by the  
41 entity will be confidential and will not be subject to the State's open  
42 public records laws. In addition to any other penalty provided by law,  
43 a person who is authorized to access information disclosed under the  
44 bill who knowingly provides the information to any person or entity  
45 who is not authorized to access the information will be guilty of a  
46 crime of the fourth degree and will be subject to a civil penalty in an  
47 amount not to exceed \$10,000. A crime of the fourth degree is

1 punishable by imprisonment for up to 18 months, a \$10,000 fine, or  
2 both.

3 In addition, the entity administering Medicaid prescription drug  
4 services for the State will be required to negotiate supplemental  
5 rebates above the mandatory federal minimum with drug  
6 manufacturers, which may include, as appropriate, entering into multi-  
7 state coalitions for negotiation purposes and establishing a preferred  
8 drug list, in order to maximize cost savings under the Medicaid  
9 program.

10 The Commissioner of Human Services will apply for such State  
11 plan amendments or waivers as may be necessary to implement the  
12 provisions of this bill and to secure federal financial participation for  
13 State Medicaid expenditures under the federal Medicaid program.