

**ASSEMBLY, No. 5935**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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INTRODUCED JUNE 24, 2021

**Sponsored by:**

**Assemblyman JOHN F. MCKEON**

**District 27 (Essex and Morris)**

**SYNOPSIS**

Removes exception of self-insured health benefits plans from law concerning pharmacy benefits managers.

**CURRENT VERSION OF TEXT**

As introduced.



1 AN ACT concerning pharmacy benefits managers, and amending  
2 and supplementing P.L.2015, c.179.

3  
4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*

6  
7 1. Section 1 of P.L.2015, c.179 (C.17B:27F-1) is amended to  
8 read as follows:

9 1. As used in this act:

10 “Carrier” means an insurance company, health service  
11 corporation, hospital service corporation, medical service  
12 corporation, or health maintenance organization authorized to issue  
13 health benefits plans in this State.

14 “Contracted pharmacy” means a pharmacy that participates in  
15 the network of a pharmacy benefits manager through a contract  
16 with:

- 17 a. the pharmacy benefits manager directly;  
18 b. a pharmacy services administration organization or  
19 c. a pharmacy group purchasing organization.

20 “Covered person” means a person on whose behalf a carrier or  
21 other entity, who is the sponsor of the health benefits plan, is  
22 obligated to pay benefits pursuant to a health benefits plan.

23 “Drug” means a drug or device as defined in R.S.24:1-1.

24 “Health benefits plan” means a benefits plan which pays hospital  
25 or medical expense benefits for covered services, or prescription  
26 drug benefits for covered services, and is delivered or issued for  
27 delivery in this State by or through a carrier or any other sponsor.  
28 For the purposes of this act, health benefits plan shall not include  
29 the following plans, policies or contracts: accident only, credit  
30 disability, long-term care, Medicare supplement coverage;  
31 TRICARE supplement coverage, coverage for Medicare services  
32 pursuant to a contract with the United States government, the State  
33 Medicaid program established pursuant to P.L.1968, c. 413  
34 (C.30:4D-1 et seq.), coverage arising out of a worker’s  
35 compensation or similar law, the State Health Benefits Program, the  
36 School Employees’ Health Benefits Program, **[**or a self-insured  
37 health benefits plan governed by the provisions of the federal  
38 “Employee Retirement Income Security Act of 1974,” 29 U.S.C.  
39 s.1001 et seq.,**]** coverage under a policy of private passenger  
40 automobile insurance issued pursuant to P.L.1972, c. 70 (C.39:6A-1  
41 et seq.), or hospital confinement indemnity coverage.

42 “Pharmacy” means any place in the State where drugs are  
43 dispensed or pharmaceutical care is provided by a licensed  
44 pharmacist, but shall not include a medical office under the control  
45 of a licensed physician.

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

Matter underlined thus is new matter.

1 “Pharmacy benefits manager” means a corporation business, or  
2 other entity, or unit within a corporation, business, or other entity,  
3 that administers prescription drug benefits on behalf of a purchaser.

4 “Pharmacy benefits management services” means the provision  
5 of any of the following services on behalf of a purchaser: the  
6 procurement of prescription drugs at a negotiated rate for  
7 dispensation within this State; the processing of prescription drug  
8 claims; or the administration of payments related to prescription  
9 drug claims.

10 “Prescription” means a prescription as defined in section 5 of  
11 P.L.1977, c.240 (C.24:6E-4).

12 “Prescription drug benefits” means the benefits provided for  
13 prescription drugs and pharmacy services for covered services  
14 under a health benefits plan contract.

15 “Purchaser” means any sponsor of a health benefits plan who  
16 enters into an agreement with a pharmacy benefits management  
17 company for the provision of pharmacy benefits management  
18 services to covered persons.

19 (cf: P.L.2019, c.274, s.2)

20  
21 2. Section 6 of P.L.2019, c. 274 (C.17B:27F-9) is amended to  
22 read as follows:

23 6. P.L.2015, c. 179 (C.17B:27F-1 et seq.) shall apply to all  
24 pharmacy benefits managers operating in the State of New Jersey,  
25 except for any agreement by a pharmacy benefits manager to  
26 administer prescription drug benefits on behalf of the State Health  
27 Benefits Plan, the School Employees Health Benefits Plan, or the  
28 State Medicaid program established pursuant to P.L.1968, c. 413  
29 (C.30:4D-1 et seq.)**】**, or a self-insured health benefits plan governed  
30 by the provisions of the federal “Employee Retirement Income  
31 Security Act of 1974,” 29 U.S.C. s. 1001 et seq**】**.

32 (cf: P.L.2019, c.274, s.6)

33  
34 3. (New section) On or before December 31, 2021, the  
35 Department of Banking and Insurance shall issue a report, pursuant  
36 to section 2 of P.L.1991, c.164 (C.52:14-19.1), to the Senate  
37 Commerce Committee and the Assembly Financial Institutions and  
38 Insurance Committee examining the implications of Rutledge v.  
39 Pharmaceutical Care Management Association, \_\_\_ U.S. \_\_\_ (2020)  
40 (slip opinion at 1), on P.L.2015, c. 179 (C.17B:27F-1 et seq.).

41  
42 4. This act shall take effect on the first day of the fourth month  
43 next following enactment and shall apply to health benefits plans  
44 initiated or renewed on or after that date.

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47 STATEMENT

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49 This bill removes the exemption that exists under current law of

1 self-insured health benefits plans, governed by the federal  
2 Employee Retirement Income Security Act of 1974, from certain  
3 laws concerning pharmacy benefits managers. This bill also  
4 requires DOBI to report on the implications of a recent US Supreme  
5 Court opinion, Rutledge v. Pharmaceutical Care Management  
6 Association, \_\_\_ U.S. \_\_\_ (2020) (slip opinion at 1), on State law  
7 governing pharmacy benefits managers.