

SENATE COMMITTEE SUBSTITUTE FOR
SENATE, No. 887

STATE OF NEW JERSEY
219th LEGISLATURE

ADOPTED SEPTEMBER 14, 2020

Sponsored by:

Senator STEPHEN M. SWEENEY

District 3 (Cumberland, Gloucester and Salem)

Senator LINDA R. GREENSTEIN

District 14 (Mercer and Middlesex)

Co-Sponsored by:

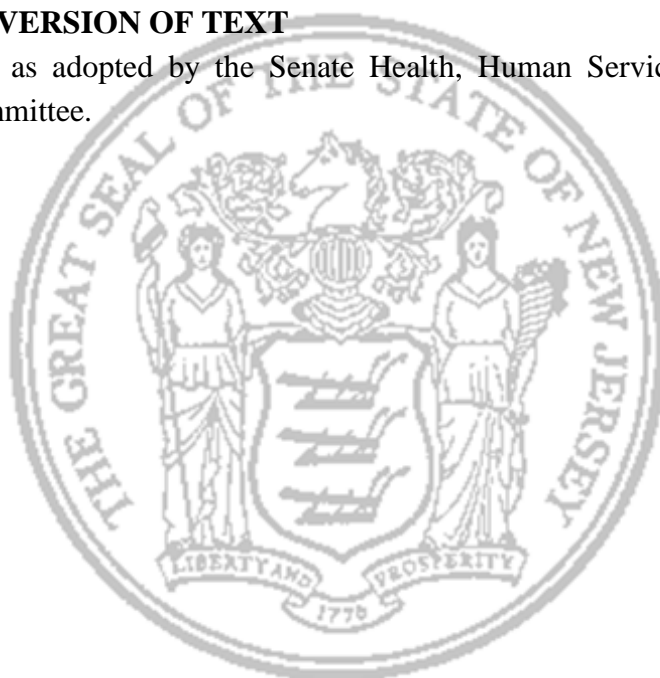
Senator Gopal

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

Substitute as adopted by the Senate Health, Human Services and Senior Citizens Committee.



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. of
48 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.