

ASSEMBLY, No. 5578

STATE OF NEW JERSEY

222nd LEGISLATURE

INTRODUCED OCTOBER 5, 2026

Sponsored by:

Assemblyman STERLEY S. STANLEY

District 18 (Middlesex)

Assemblyman ROY FREIMAN

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

Assemblywoman SHANIQUE SPEIGHT

District 29 (Essex and Hudson)

SYNOPSIS

Establishes and requires use of Medicaid preferred drug list.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT establishing a Medicaid preferred drug list and
2 supplementing Title 30 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 “Board” means the Drug Utilization Review Board established
9 pursuant to P.L.1993, c.16 (C.30:4D-17.16 et seq.).

10 “Division” means the Division of Medical Assistance and Health
11 Services.

12 “Pharmacy benefits manager fee” means a payment that covers
13 the cost of providing pharmacy benefits management services for
14 preferred drug list.

15 “Preferred drug list” means the list of drugs and other products
16 established pursuant to section 2 of this act.

17 “Product” means any drug or non-drug product managed on the
18 preferred drug list.

19
20 2. a. The Division of Medical Assistance and Health Services
21 shall establish and maintain a preferred drug list for use by
22 managed care organizations and other Medicaid payers in this State.

23 b. The preferred drug list shall be comprised of drugs and non-
24 drug items where preferred products and non-preferred products
25 within the same or similar therapeutic categories are chosen on their
26 clinical and economic merits. All products may be subject to
27 utilization management, including prior authorization; non-
28 preferred products will be subject to the same utilization
29 management as preferred products, but also be subject to the
30 specific criteria of the preferred drug list. The division shall have
31 authority to seek supplemental rebates with drug manufacturers and
32 related entities on behalf of payers in the State, with the purpose of
33 controlling the cost of drugs for covered persons, while enhancing
34 compliance and quality of care and improving health-related
35 outcomes.

36 A managed care organization shall be prohibited from
37 negotiating rebates on any products included on the preferred drug
38 list. The contract regarding supplemental rebates shall exist
39 between the manufacturer and the division. A rebate agreement
40 between the division and a pharmaceutical manufacturer or other
41 entity shall be separate from and invoiced in addition to the federal
42 rebates and in compliance with sections 1927(a)(1) and 1927(a)(4)
43 of the Social Security Act. A managed care organization shall remit
44 the entirety of any supplemental rebate collected on behalf of the
45 State to the State.

46 c. The program shall ensure that the reimbursement
47 methodology, including the professional dispensing fee, is the same
48 for all products within a preferred drug list therapeutic class chosen

1 as preferred or non-preferred, regardless of brand, generic or
2 biosimilar status.

3 d. The program shall collect and maintain the following
4 information:

5 (1) all sources and amounts of income, payments, and financial
6 benefits negotiated by the program in relation to the provision and
7 administration of the preferred drug list, including, but not limited
8 to, any pricing discounts, rebates of any kind, inflationary
9 payments, credits, clawbacks, fees, grants, chargebacks,
10 reimbursements, or other benefits;

11 (2) all ingredient costs and pharmacy dispensing fees
12 determined by the program;

13 (3) the program's payment model for administrative fees; and

14 (4) any differences between the amount paid pursuant to the
15 preferred drug list and the amount charged to the Medicaid program
16 for that prescription drug.

17 e. The division shall base final decisions on the clinical
18 efficacy of products, clinical recommendations from the Drug
19 Utilization Review Board, and the price of competing products,
20 minus federal and State rebates. The division may contract with an
21 outside agency or contractor to conduct negotiations for
22 supplemental rebates and develop the preferred drug list; all final
23 decisions shall remain with the division.

24 f. The Drug Utilization Review Board shall review therapeutic
25 classes, conduct clinical reviews of specific products, recommend
26 additions or deletions to the preferred drug list, assist in the
27 development and administration of the preferred drug list, and
28 perform other functions as required by the department. The board
29 shall be expanded to include one pharmacist from each managed
30 care organization as a voting member. The board may expand upon
31 its current bylaws that set out its makeup, function, administration,
32 and maintenance for preferred drug list activities. The division
33 shall retain final administrative authority over all pharmacy
34 services.

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36 3. a. A pharmacy benefits manager shall not negotiate,
37 administer, or retain a manufacturer rebate on any products on the
38 preferred drug list.

39 b. A pharmacy benefit manager shall not derive income from
40 pharmacy benefits services provided to a State Medicaid program
41 payer in this State for products on the preferred drug list except for
42 income derived from a pharmacy benefits manager fee. The amount
43 of any pharmacy benefits manager fees required for administration
44 of the preferred drug list shall be set forth in the agreement between
45 the pharmacy benefits manager and the payer.

46 c. The pharmacy benefits manager fee paid to a pharmacy
47 benefits manager by a payer for any product on the preferred drug
48 list shall not be directly or indirectly based or contingent upon:

1 (1) the acquisition cost or any other price metric of a drug;

2 (2) the amount of savings, rebates, or other fees charged,
3 realized, or collected by or generated based on the activity of the
4 pharmacy benefits manager; or

5 (3) the amount of premiums, deductibles, or other cost sharing
6 or fees charged, realized, or collected by the pharmacy benefits
7 manager from patients or other persons on behalf of a patient.

8 d. A pharmacy benefits manager fee shall not exceed the value
9 of the service performed by the pharmacy benefits manager.

10 e. A pharmacy benefits manager or payer shall reimburse a
11 pharmacy for dispensing a drug on the preferred drug list. Any
12 system of pharmacy reimbursement shall include the cost of the
13 drug or product and a professional dispensing fee. The system shall
14 be established to maximize cost savings for the State and shall
15 utilize the Medicaid Covered Outpatient Prescription Drug
16 Reimbursement methodology. Ingredient cost shall be based on the
17 National Average Drug Acquisition Cost (NADAC), or, if a
18 NADAC is unavailable, the Wholesale Acquisition Cost (WAC)
19 minus two percent, or, if neither is available, the Suggested
20 Wholesale Price (SWP) minus 19 percent. The professional
21 dispensing fee shall be the State Medicaid professional dispensing
22 fee.

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

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30 5. The Commissioner of Human Services shall, in accordance
31 with the "Administrative Procedure Act," P.L.1968, c.410
32 (C.52:14B-1 et seq.), adopt rules and regulations as necessary to
33 implement this act.

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35 6. This act shall take effect on the first day of the seventh
36 month next following the date of enactment and shall apply to
37 contracts and agreements entered into, renewed, modified, or
38 amended on or after the effective date, but the Commissioner of
39 Human Services may take such anticipatory administrative action in
40 advance thereof as shall be necessary for the implementation of the
41 act.

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STATEMENT

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46 This bill requires the Division of Medical Assistance and Health
47 Services (division) in the Department of Human Services to

1 establish and maintain a preferred drug list for use by the State
2 Medicaid program.

3 The bill provides that the preferred drug list is to be comprised of
4 drug and non-drug items where preferred products and non-
5 preferred products within the same or similar therapeutic categories
6 are chosen based on their clinical and economical merits. All
7 products may be subject to utilization management, including prior
8 authorization; non-referred drugs will be subject to the same
9 utilization management as preferred agents, but also be subject to
10 preferred drug list specific criteria.

11 The bill provides the division with the authority to seek
12 supplemental rebates that are in addition to those required by Title
13 XIX of the Social Security Act for products on the preferred drug
14 list, with drug manufacturers and related entities on behalf of payers
15 in the State, with the purpose of controlling the cost of drugs for
16 covered persons, while enhancing compliance and quality of care
17 and improving health-related outcomes.

18 The bill prohibits managed care organizations from negotiating
19 rebates on any products included on the preferred drug list. The bill
20 requires the division to contract with drug manufacturers regarding
21 supplemental rebates. The bill provides that rebate agreements
22 between the division and pharmaceutical manufacturers are separate
23 from the federal rebates and in compliance with federal law.

24 The bill requires the program to develop a consistent cost
25 methodology for pricing ingredients of drugs and professional
26 dispensing fees.

27 The bill also requires the program to collect and maintain the
28 following information:

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

35 (2) all ingredient costs and pharmacy dispensing fees determined
36 by the program;

37 (3) the program's payment model for administrative fees; and

38 (4) any differences between the amount paid pursuant to the
39 preferred drug list and the amount charged to the Medicaid program
40 for that prescription drug.

41 The bill prohibits pharmacy benefits managers from negotiating,
42 administering, or retaining manufacturer rebates on products on the
43 preferred drug list. Pharmacy benefit managers may not derive
44 income from pharmacy benefits services provided to a Medicaid
45 payer in this State for products on the preferred drug list except for
46 income derived from a pharmacy benefits manager fee. The bill
47 requires the amount of any pharmacy benefits manager fees for

1 products on the preferred drug list to be set forth in the agreement
2 between the pharmacy benefits manager and the payer.

3 The bill expands the purview of the Medicaid Drug Utilization
4 Review Board to assist the State in the clinical development and
5 administration of the preferred drug list. The bill provides that all
6 final decisions will remain with the division.