

ASSEMBLY, No. 5669

STATE OF NEW JERSEY

222nd LEGISLATURE

INTRODUCED OCTOBER 19, 2026

Sponsored by:

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District 18 (Middlesex)

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SYNOPSIS

Requires DHS to contract with State Medicaid pharmacy benefits manager to manage pharmacy benefits under Medicaid.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning the procurement of a pharmacy benefits
2 manager for Medicaid and supplementing P.L.1968, c.413
3 (C.30:4D-1 et seq.).
4

5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*
7

8 1. As used in this act:

9 “Department” means the Department of Human Services.

10 “Managed care organization” means a health maintenance
11 organization contracted with the department to provide benefits to
12 enrolled beneficiaries under the Medicaid program.

13 “Medicaid” means the program established pursuant to P.L.1968,
14 c.413 (C.30:4D-1 et seq.).

15 “Professional dispensing fee” means the same as defined
16 pursuant to 42 C.F.R. s.447.502.

17 “State Medicaid pharmacy benefits manager” means a
18 corporation or other business entity, or unit within a corporation or
19 other business entity that, pursuant to a contract with the
20 department, administers prescription drug benefits on behalf of the
21 department.
22

23 2. a. No later than January 1, 2030, the department shall issue
24 a request for proposals for a single third-party administrator to
25 serve as the State Medicaid pharmacy benefits manager to
26 administer all pharmacy benefits for Medicaid recipients, including
27 Medicaid recipients enrolled in a managed care organization with
28 which the department contracts for the delivery of Medicaid
29 services. The department shall:

30 (1) evaluate applications received pursuant to section 3 of this
31 act and choose an applicant to serve as the State Medicaid
32 pharmacy benefits manager; and

33 (2) enter into a contract with the State Medicaid pharmacy
34 benefits manager chosen pursuant to paragraph (1) of this section to
35 manage, direct, and coordinate:

36 (a) payments and rebates for any prescription drugs listed in the
37 contract; and

38 (b) all other services and payments relating to the provision of
39 prescription drugs under Medicaid.

40 b. The contract entered into pursuant to subsection a. of this
41 section shall:

42 (1) include the provisions required by section 4 of this act;

43 (2) require the State Medicaid pharmacy benefits manager to
44 disclose to the department any information relating to the services
45 covered by the contract, including, but not limited to:

46 (a) information concerning dispensing fees, including total
47 amount and calculation of total amounts;

48 (b) measures taken to control costs;

1 (c) rebates collected and paid;

2 (d) any additional fees and charges imposed by the State
3 Medicaid pharmacy benefits manager pursuant to the contract; and

4 (e) any other sources of payment received by the State Medicaid
5 pharmacy benefits manager for prescription drugs covered by the
6 contract;

7 (3) require the State Medicaid pharmacy benefits manager to
8 comply with all other applicable State and federal laws;

9 (4) require the State Medicaid pharmacy benefits manager to
10 provide the entire amount of any rebates received for the purchase
11 of prescription drugs, including, but not limited to, rebates for the
12 purchase of prescription drugs by an entity other than the
13 department, to the department; and

14 (5) require the State Medicaid pharmacy benefits manager to
15 pass through to the State in full all income, payments, and financial
16 benefits related to the provision and administration of pharmacy
17 benefits management services, including, but not limited to, any
18 pricing discounts, pharmacy discounts, inflationary payments,
19 credits, claw backs, fees, grants, chargebacks, reimbursements, or
20 other benefits. For the purposes of this paragraph, "income,
21 payments, and financial benefits" shall include any amounts
22 received, earned, retained, credited, or otherwise obtained, directly
23 or indirectly, by the State Medicaid pharmacy benefits manager or
24 through any affiliate, subsidiary, parent company, group purchasing
25 organization, rebate aggregator, or other entity acting on behalf of,
26 under common ownership or control with, or for the benefit of the
27 State Medicaid pharmacy benefits manager.

28 c. In addition to the requirements of subsection b. of this
29 section, a contract entered into pursuant to subsection a. of this
30 section shall prohibit the State Medicaid pharmacy benefits
31 manager from:

32 (1) using spread pricing;

33 (2) paying a pharmacy a professional dispensing fee for a drug
34 which is less than the applicable dispensing fee established pursuant
35 to paragraph (3) of subsection a. of section 7 of this act, if the
36 applicable dispensing fee established pursuant to that section has
37 been included in the State Plan for Medicaid and approved by the
38 Centers for Medicare and Medicaid Services in the United States
39 Department of Health and Human Services;

40 (3) creating, modifying, implementing, or indirectly establishing
41 any fee to be imposed upon a pharmacy, pharmacist, or a recipient
42 of benefits under the contract without first seeking and obtaining
43 written approval from the department;

44 (4) requiring a recipient of benefits under the contract to obtain
45 a specialty drug from a specialty pharmacy owned by, or otherwise
46 associated with, the State Medicaid pharmacy benefits manager;

47 (5) requiring a recipient of benefits under the contract to use a
48 specific pharmacy;

1 (6) requiring a recipient of benefits under the contract to use a
2 mail-order pharmacy;

3 (7) deriving income from pharmacy benefits management
4 services provided to Medicaid, except for income derived from a
5 pharmacy benefits manager fee; and

6 (8) deriving income, revenue, remuneration, or other financial
7 benefit from conducting, administering, or otherwise participating
8 in pharmacy audits, including through audit fees, recoupments,
9 penalties, chargebacks, or amounts retained as a result of an audit.

10 d. As used in this section:

11 "Professional dispensing fee" means the same as defined
12 pursuant to 42 C.F.R. s.447.502.

13 "Spread pricing" means any technique by which a pharmacy
14 benefit manager charges or claims an amount from an insurer for
15 drugs or services provided by a pharmacy or pharmacist that is
16 different from the amount the pharmacy benefit manager pays the
17 pharmacy or pharmacist, as applicable, for those drugs or services.

18

19 3. a. A third-party administrator that meets the eligibility
20 criteria established pursuant to paragraph (1) of subsection a. of
21 section 7 of this act may apply to become the State Medicaid
22 pharmacy benefits manager by submitting an application to the
23 department in a form and manner to be prescribed by the
24 department. The application shall demonstrate that the applicant is
25 not disqualified pursuant to subsection b. of this section and shall
26 include, but not be limited to, disclosures of:

27 (1) any activity, policy, practice, contract, or agreement of the
28 applicant that may directly or indirectly present a conflict of interest
29 in the relationship between the applicant and the department or a
30 managed care organization, including, but not limited to, any
31 activity, policy, practice, contract, or agreement that operates solely
32 or partially outside this State;

33 (2) any direct or indirect fees, charges, or assessments that the
34 applicant imposes on any pharmacy in this State:

35 (a) with which the applicant shares common ownership,
36 management, or control;

37 (b) which is owned, managed, or controlled by any management,
38 parent, or subsidiary of the applicant, any company jointly held by
39 the applicant or any company otherwise affiliated with the applicant
40 by a common owner, manager, or holding company;

41 (c) for which the board of directors of the pharmacy shares any
42 members in common with the board of directors of the applicant; or

43 (d) which shares any manager in common with the applicant;

44 (3) all common ownership, common management, common
45 members of a board of directors, shared managers, or shared control
46 between:

47 (a) the applicant, or any management, parent, subsidiary or
48 jointly held company of the applicant or any company otherwise

- 1 affiliated by a common owner, manager or holding company with
2 the applicant; and
- 3 (b) any of the following entities:
- 4 (i) a managed care organization or a company affiliated with a
5 managed care organization;
- 6 (ii) a pharmacy services administrative organization, any other
7 entity that contracts on behalf of a pharmacy or any company
8 affiliated with a pharmacy services administrative organization or
9 such an entity;
- 10 (iii) a wholesale distributor, as defined pursuant to 21 C.F.R.
11 s.205.3(g);
- 12 (iv) a third party, other than a managed care organization, or any
13 company affiliated with a third party; and
- 14 (v) a pharmacy or any company affiliated with a pharmacy; and
- 15 (4) all financial arrangements, including the terms of each
16 arrangement, currently in effect between the applicant and a
17 manufacturer or labeler of prescription drugs, including, but not
18 limited to, an arrangement for:
- 19 (a) the management of a formulary;
- 20 (b) fees relating to data sales; and
- 21 (c) education and support for claims processing.
- 22 b. The department shall disqualify an applicant from serving as
23 the State pharmacy manager if the applicant:
- 24 (1) shares common ownership, management, control, or other
25 ownership interest with any managed care organization that
26 contracts with the department to provide Medicaid services, or with
27 any licensed pharmacy, except that this paragraph shall not apply
28 solely by reason of common ownership with a prepaid ambulatory
29 health plan; or
- 30 (2) maintains any direct or indirect financial arrangement with a
31 manufacturer or labeler of prescription drugs that creates an
32 incentive for formulary decisions, drug substitution, or utilization
33 management, including, but not limited to, rebates, discounts,
34 chargebacks, claw backs, or data sales.
- 35 c. As used in this section, "third party" means a carrier or other
36 third-party payer.
- 37
- 38 4. a. A contract entered into between the department and the
39 State Medicaid pharmacy benefits manager pursuant to section 2 of
40 this act shall require the State Medicaid pharmacy benefits manager
41 to:
- 42 (1) submit to and cooperate with an annual audit conducted by
43 the department to evaluate the compliance of the State Medicaid
44 pharmacy benefits manager with the contract and generally
45 accepted accounting and business practices. The audit shall analyze
46 all claims processed by the State Medicaid pharmacy benefits
47 manager pursuant to the contract; and

1 (2) obtain from an independent accountant, at the expense of the
2 State Medicaid pharmacy benefits manager, an annual audit of
3 internal controls to ensure the integrity of financial transactions and
4 claims processing.

5 b. The department shall post the results of the audit conducted
6 pursuant to paragraph (1) of subsection a. of this section on the
7 Internet website of the department.

8
9 5. a. The State Medicaid pharmacy benefits manager shall
10 submit to the department for review:

11 (1) each contract for the provision of benefits, under the contract
12 entered into pursuant to section 2 of this act, between the State
13 Medicaid pharmacy benefits manager and a pharmacy or an entity
14 that contracts on behalf of the pharmacy;

15 (2) each revision to the terms and conditions of a contract
16 described pursuant to paragraph (1) of this subsection; and

17 (3) each suspension or termination of a contract described
18 pursuant to paragraph (1) of this subsection.

19 b. (1) The department shall review each submission received
20 pursuant to subsection a. of this section and approve or deny the
21 contract, revision, suspension, or termination, as applicable.

22 (2) A contract, revision, suspension or termination is not
23 effective until the contract, revision, suspension or termination, as
24 applicable, is approved by the department.

25 c. To comply with updates to federal or State law or
26 regulations, or modifications to an agreement between the
27 department and the federal government, the department shall make
28 any necessary change to the payment arrangement between the
29 department and the State Medicaid pharmacy benefits manager or a
30 managed care organization and the State Medicaid pharmacy
31 benefits manager.

32 d. The State Medicaid pharmacy benefits manager shall not
33 enter into, renew, or amend any contract that is inconsistent with:

34 (1) the terms and conditions of the contract entered into by the
35 State Medicaid pharmacy benefits manager and the department
36 pursuant to section 2 of this act; or

37 (2) the reimbursement methodologies and dispensing fees
38 established by the department pursuant to subsection a. of section 7
39 of this act.

40 e. Any contract in violation of subsection d. of this section
41 shall be void and unenforceable.

42
43 6. Each managed care organization shall be required to contract
44 with and utilize the State Medicaid pharmacy benefits manager for
45 the purpose of administering all pharmacy benefits for Medicaid
46 beneficiaries who receive pharmacy benefits through the managed
47 care organization. Each managed care organization that enters into
48 a contract with the department pursuant to this section shall, upon

1 the request of the department and in a form and manner prescribed
2 by the department, disclose the expenditures of the managed care
3 organization associated with providing pharmacy benefits for
4 Medicaid beneficiaries.

5
6 7. a. The department shall adopt rules and regulations,
7 pursuant to the "Administrative Procedure Act," P.L.1968, c.410
8 (C.52:14B-1 et seq.), establishing:

9 (1) the criteria that a pharmacy benefit manager is required to
10 meet to be eligible to enter into a contract with the department to
11 serve as the State Medicaid pharmacy benefits manager pursuant to
12 subsection a. of section 2 of this act;

13 (2) the methodology for reimbursement to pharmacies for
14 providing benefits under a contract entered into pursuant to
15 subsection a. of section 2 of this act;

16 (3) dispensing fees paid to pharmacies and pharmacists for
17 providing benefits under a contract entered into pursuant to
18 subsection a. of section 2 of this act. In establishing dispensing fees
19 pursuant to this paragraph, the department may consider applicable
20 guidance promulgated by the Centers for Medicare and Medicaid
21 Services of the United States Department of Health and Human
22 Services; and

23 (4) any other rules and regulations as may be necessary to carry
24 out the provisions of this act.

25 b. To the extent authorized by federal law, the dispensing fees
26 established pursuant to paragraph (3) of subsection a. of this section
27 may vary by pharmacy type, including, but not limited to, rural and
28 independently owned pharmacies and pharmacies owned by a
29 corporation operating in multiple states.

30 c. To the extent practicable, the methodology for
31 reimbursement established pursuant to paragraph (2) of subsection
32 a. of this section shall:

33 (1) generate the maximum amount of savings for the State with
34 respect to the cost of prescription drugs;

35 (2) provide rates of reimbursement for drugs which are based on
36 the actual cost of acquiring a drug. The calculation of a pharmacy
37 reimbursement shall include the cost of the drug and a professional
38 dispensing fee. The State shall utilize the Medicaid Covered
39 Outpatient Prescription Drug Reimbursement methodology.
40 Ingredient cost shall be based on the National Average Drug
41 Acquisition Cost (NADAC), or, if a NADAC is unavailable, the
42 Wholesale Acquisition Cost (WAC) minus 2 percent, or, if neither
43 is available, the Suggested Wholesale Price (SWP) minus 19
44 percent. The professional dispensing fee shall be the State Medicaid
45 professional dispensing fee.

46
47 8. The Commissioner of Human Services shall apply for State
48 plan amendments or waivers as may be necessary to implement the

1 provisions of this act, and to secure federal financial participation
2 for State Medicaid expenditures under the federal Medicaid
3 program.

4
5 9. This act shall take effect on January 1, 2030, except that the
6 Commissioner of Human Services may take any anticipatory
7 administrative action as shall be necessary for the implementation
8 of this act.

9
10
11 STATEMENT

12
13 This bill requires the Department of Human Services (DHS), no
14 later than January 1, 2030, to issue a request for proposal and
15 contract with a single third-party administrator to serve as the State
16 Medicaid pharmacy benefits manager under the State Medicaid
17 program, including pharmacy benefits for Medicaid recipients
18 enrolled in managed care plans.

19 Under the bill, DHS must:

20 (1) evaluate applications received by the department and choose
21 an applicant to serve as the State Medicaid pharmacy benefits
22 manager; and

23 (2) enter into a contract with the chosen applicant to manage,
24 direct, and coordinate:

25 (a) payments and rebates for any prescription drugs listed in the
26 contract; and

27 (b) all other services and payments relating to the provision of
28 prescription drugs under the State Medicaid Program.

29 Contracts entered into between DHS and the State Medicaid
30 pharmacy benefits manager must:

31 (1) include provisions allowing certain audits of the contract for
32 compliance purposes;

33 (2) disclose to the relevant parties any information relating to
34 services covered by the contract, including, but not limited to:

35 (a) information concerning dispensing fees;

36 (b) measures for the control of costs;

37 (c) rebates collected and paid;

38 (d) any fees and charges imposed by the State Medicaid
39 pharmacy benefits manager pursuant to the contract; and

40 (e) any other sources of payment received by the State Medicaid
41 pharmacy benefits manager covered by the contract;

42 (3) require the State Medicaid pharmacy benefits manager to
43 comply with all other applicable State and federal laws; and

44 (4) require the State Medicaid pharmacy benefits manager to
45 provide the entire amount of any rebates received for the purchase
46 of prescription drugs to DHS.

1 In addition to the requirements above, a contract entered into
2 pursuant to this bill will prohibit the State Medicaid pharmacy
3 benefits manager from:

4 (1) using spread pricing, as the term is defined in the bill;

5 (2) paying a pharmacy a professional dispensing fee for a drug
6 which is less than the applicable dispensing fee established pursuant
7 to the bill;

8 (3) creating, modifying, implementing, or indirectly establishing
9 any fee to be imposed upon a pharmacy, pharmacist, or a recipient
10 of benefits under the contract without first seeking and obtaining
11 certain written approval;

12 (4) requiring a recipient of benefits under the contract to obtain
13 a specialty drug from a specialty pharmacy owned by or otherwise
14 associated with the State Medicaid pharmacy benefits manager;

15 (5) requiring a recipient of benefits under the contract to use
16 a specific pharmacy; and

17 (6) requiring a recipient of benefits under the contract to use a
18 mail-order pharmacy.

19 The bill additionally stipulates requirements for the application
20 form that must be submitted to become the State Medicaid
21 pharmacy benefits manager and requires managed care
22 organizations to contract with and utilize the State Medicaid
23 pharmacy benefits manager for the purpose of administering all
24 pharmacy benefits to Medicaid beneficiaries who receive pharmacy
25 benefits through the managed care organization.

26 The bill also establishes eligibility requirements for the request
27 for proposals. An applicant may not share ownership, management,
28 control, or another ownership interest with a Medicaid managed
29 care organization or any licensed pharmacy, except where the
30 affiliation is solely with a prepaid ambulatory health plan. An
31 applicant is also ineligible if it maintains direct or indirect financial
32 arrangements with drug manufacturers or labelers that create
33 incentives for formulary decisions, drug substitution, or utilization
34 management, including rebates, discounts, chargebacks, claw backs,
35 or data sales.

36 The bill requires the State Medicaid pharmacy benefits manager
37 to submit pharmacy-related contracts, contract revisions, and
38 contract suspensions or terminations to DHS for review. DHS must
39 approve or deny each submission, and no contract action becomes
40 effective without approval. DHS must also modify certain payment
41 arrangements as needed to comply with federal or State law. The
42 bill additionally provides that the State Medicaid pharmacy benefits
43 manager must not enter, renew, or amend contracts inconsistent
44 with its State agreement or department-established reimbursement
45 and dispensing fee rules.

46 The bill further requires DHS to adopt regulations governing the
47 State Medicaid pharmacy benefits manager. These rules must
48 establish:

1 (1) eligibility criteria to become a State Medicaid pharmacy
2 benefits manager;
3 (2) pharmacy reimbursement methodologies;
4 (3) dispensing fees; and
5 (4) any other rules and regulations as may be necessary to carry
6 out the provisions of this bill.
7 The bill finally provides that pharmacy reimbursement
8 methodologies should maximize State prescription drug savings and
9 provide rates of reimbursement for drugs which are based on the
10 actual cost of acquiring a drug.
11 manager to manage pharmacy benefits under Medicaid.