SENATE, No. 4793

STATE OF NEW JERSEY

222nd LEGISLATURE

INTRODUCED OCTOBER 8, 2026

Sponsored by:
Senator JOSEPH F. VITALE
District 19 (Middlesex)

SYNOPSIS

Establishes and requires use of Medicaid preferred drug list.

CURRENT VERSION OF TEXT

As introduced.

AN ACT establishing a Medicaid preferred drug list and supplementing Title 30 of the Revised Statutes.

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

1. As used in this act:

"Board" means the Drug Utilization Review Board established pursuant to P.L.1993, c.16 (C.30:4D-17.16 et seq.).

"Division" means the Division of Medical Assistance and Health Services.

"Pharmacy benefits manager fee" means a payment that covers the cost of providing pharmacy benefits management services for preferred drug list.

"Preferred drug list" means the list of drugs and other products established pursuant to section 2 of this act.

"Product" means any drug or non-drug product managed on the preferred drug list.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

STATEMENT

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

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

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

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

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

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

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

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

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

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

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

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

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

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