

**2015 -- S 0092 SUBSTITUTE A**

=====  
LC000162/SUB A/2  
=====

**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2015**

—————  
A N A C T

RELATING TO INSURANCE -- HEALTH INSURANCE - PRESCRIPTION DRUG  
BENEFITS

Introduced By: Senator William A. Walaska

Date Introduced: January 22, 2015

Referred To: Senate Health & Human Services

It is enacted by the General Assembly as follows:

1           SECTION 1. Chapter 27-18 of the General Laws entitled "Accident and Sickness  
2 Insurance Policies" is hereby amended by adding thereto the following section:

3           **27-18-33.2. Pharmacy benefit manager requirements with respect to multi-source**  
4 **generic pricing updates to pharmacies. -- (a) Definitions. As used herein:**

5           (1) "Maximum allowable cost" or "MAC" means the maximum amount that a pharmacy  
6 benefits manager will pay toward the cost of a drug;

7           (2) "Nationally available" means that there is an adequate supply available from regional  
8 or national wholesalers and that the product is not obsolete or temporarily unavailable;

9           (3) "Pharmacy benefit manager" or "PBM" means an entity doing business in this state  
10 that contracts to administer or manage prescription drug benefits on behalf of any carrier that  
11 provides prescription drug benefits to residents of this state.

12           (b)(1) Upon each contract execution or renewal, a PBM shall, with respect to contracts  
13 between a PBM and a pharmacy or, alternatively, a PBM and a pharmacy's contracting  
14 representative or agent such as a pharmacy services administrative organization (PSAO):

15           (i) Include in such contracts, the sources generally used to determine MAC pricing and a  
16 requirement to update pricing information on the MAC list at least every ten (10) calendar days;

17           (ii) Maintain a procedure to eliminate products from the list of drugs subject to such  
18 pricing or modify MAC rates within ten (10) calendar days when such drugs do not meet the

1 standards and requirements of this act as set forth in order to remain consistent with pricing  
2 changes in the marketplace.

3 (2) PBM requirements for inclusion of products on a list of drugs subject to MAC  
4 pricing. In order to place a particular prescription drug on a MAC list, the PBM must, at a  
5 minimum, ensure that:

6 (i) The product must be listed as "A," "AB," or "B" rated in the most recent version of the  
7 United States Food and Drug Administration's approved drug products with therapeutic  
8 equivalence evaluations, also known as the Orange Book, or has an "NR" or "NA" rating or  
9 similar rating by a nationally recognized reference; and

10 (ii) The product must be nationally available.

11 (c) Standards for pharmacy appeals.

12 (1) All contracts between a PBM, a contracted pharmacy or, alternatively, a PBM and a  
13 pharmacy's contracting representative or agent such as a pharmacy services administrative  
14 organization (PSAO) shall include a process to appeal investigate, and resolve disputes regarding  
15 MAC pricing. The process shall include the following provisions:

16 (i) The right to appeal shall be limited to fifteen (15) days following the initial claim;

17 (ii) The appeal shall be investigated and resolved within fifteen (15) days following  
18 receipt of the appeal;

19 (iii) A process by which a network pharmacy may contact the PBM regarding the appeals  
20 process;

21 (iv) If the appeal is denied, the PBM shall provide the reason for the denial and identify  
22 the national drug code of a drug product that is available in adequate supply; and

23 (v) If an appeal is upheld, the PBM shall make an adjustment to the list effective no later  
24 than one day after the date of determination.

25 (d) The office of the health insurance commissioner shall enforce the provisions of this  
26 section in collaboration with the department of health.

27 SECTION 2. Chapter 27-19 of the General Laws entitled "Nonprofit Hospital Service  
28 Corporations" is hereby amended by adding thereto the following section:

29 **27-19-26.1. Pharmacy benefit manager requirements with respect to multi-source**  
30 **generic pricing updates to pharmacies. -- (a) Definitions. As used herein:**

31 (1) "Maximum allowable cost" or "MAC" means the maximum amount that a pharmacy  
32 benefits manager will pay toward the cost of a drug;

33 (2) "Nationally available" means that there is an adequate supply available from regional  
34 or national wholesalers and that the product is not obsolete or temporarily unavailable;

1 (3) "Pharmacy benefit manager" or "PBM" means an entity doing business in this state  
2 that contracts to administer or manage prescription drug benefits on behalf of any carrier that  
3 provides prescription drug benefits to residents of this state.

4 (b)(1) Upon each contract execution or renewal, a PBM shall, with respect to contracts  
5 between a PBM and a pharmacy or, alternatively, a PBM and a pharmacy's contracting  
6 representative or agent such as a pharmacy services administrative organization (PSAO):

7 (i) Include in such contracts, the sources generally used to determine MAC pricing and a  
8 requirement to update pricing information on the MAC list at least every ten (10) calendar days;

9 (ii) Maintain a procedure to eliminate products from the list of drugs subject to such  
10 pricing or modify MAC rates within ten (10) calendar days when such drugs do not meet the  
11 standards and requirements of this act as set forth in order to remain consistent with pricing  
12 changes in the marketplace.

13 (2) PBM requirements for inclusion of products on a list of drugs subject to MAC  
14 pricing. In order to place a particular prescription drug on a MAC list, the PBM must, at a  
15 minimum, ensure that:

16 (i) The product must be listed as "A," "AB," or "B" rated in the most recent version of the  
17 United States Food and Drug Administration's approved drug products with therapeutic  
18 equivalence evaluations, also known as the Orange Book, or has an "NR" or "NA" rating or  
19 similar rating by a nationally recognized reference; and

20 (ii) The product must be nationally available.

21 (c) Standards for pharmacy appeals.

22 (1) All contracts between a PBM, a contracted pharmacy or, alternatively, a PBM and a  
23 pharmacy's contracting representative or agent such as a pharmacy services administrative  
24 organization (PSAO) shall include a process to appeal, investigate, and resolve disputes regarding  
25 MAC pricing. The process shall include the following provisions:

26 (i) The right to appeal shall be limited to fifteen (15) days following the initial claim;

27 (ii) The appeal shall be investigated and resolved within fifteen (15) days following  
28 receipt of the appeal:

29 (iii) A process by which a network pharmacy may contact the PBM regarding the appeals  
30 process:

31 (iv) If the appeal is denied, the PBM shall provide the reason for the denial and identify  
32 the national drug code of a drug product that is available in adequate supply; and

33 (v) If an appeal is upheld, the PBM shall make an adjustment to the list effective no later  
34 than one day after the date of determination.

1 (d) The office of the health insurance commissioner shall enforce the provisions of this  
2 section in collaboration with the department of health.

3 SECTION 3. Chapter 27-20 of the General Laws entitled "Nonprofit Medical Service  
4 Corporations" is hereby amended by adding thereto the following section:

5 **27-20-23.1. Pharmacy benefit manager requirements with respect to multi-source**  
6 **generic pricing updates to pharmacies. -- (a) Definitions. As used herein:**

7 (1) "Maximum allowable cost" or "MAC" means the maximum amount that a pharmacy  
8 benefits manager will pay toward the cost of a drug;

9 (2) "Nationally available" means that there is an adequate supply available from regional  
10 or national wholesalers and that the product is not obsolete or temporarily unavailable;

11 (3) "Pharmacy benefit manager" or "PBM" means an entity doing business in this state  
12 that contracts to administer or manage prescription drug benefits on behalf of any carrier that  
13 provides prescription drug benefits to residents of this state.

14 (b)(1) Upon each contract execution or renewal, a PBM shall, with respect to contracts  
15 between a PBM and a pharmacy or, alternatively, a PBM and a pharmacy's contracting  
16 representative or agent such as a pharmacy services administrative organization (PSAO):

17 (i) Include in such contracts, the sources generally used to determine MAC pricing and a  
18 requirement to update pricing information on the MAC list at least every ten (10) calendar days;

19 (ii) Maintain a procedure to eliminate products from the list of drugs subject to such  
20 pricing or modify MAC rates within ten (10) calendar days when such drugs do not meet the  
21 standards and requirements of this act as set forth in order to remain consistent with pricing  
22 changes in the marketplace.

23 (2) PBM requirements for inclusion of products on a list of drugs subject to MAC  
24 pricing. In order to place a particular prescription drug on a MAC list, the PBM must, at a  
25 minimum, ensure that:

26 (i) The product must be listed as "A," "AB," or "B" rated in the most recent version of the  
27 United States Food and Drug Administration's approved drug products with therapeutic  
28 equivalence evaluations, also known as the Orange Book, or has an "NR" or "NA" rating or  
29 similar rating by a nationally recognized reference; and

30 (ii) The product must be nationally available.

31 (c) Standards for pharmacy appeals.

32 (1) All contracts between a PBM, a contracted pharmacy or, alternatively, a PBM and a  
33 pharmacy's contracting representative or agent such as a pharmacy services administrative  
34 organization (PSAO) shall include a process to appeal, investigate, and resolve disputes regarding

1 MAC pricing. The process shall include the following provisions:

2 (i) The right to appeal shall be limited to fifteen (15) days following the initial claim;

3 (ii) The appeal shall be investigated and resolved within fifteen (15) days following  
4 receipt of the appeal;

5 (iii) A process by which a network pharmacy may contact the PBM regarding the appeals  
6 process;

7 (iv) If the appeal is denied, the PBM shall provide the reason for the denial and identify  
8 the national drug code of a drug product that is available in adequate supply; and

9 (v) If an appeal is upheld, the PBM shall make an adjustment to the list effective no later  
10 than one day after the date of determination.

11 (d) The office of the health insurance commissioner shall enforce the provisions of this  
12 section in collaboration with the department of health.

13 SECTION 4. Chapter 27-20.1 of the General Laws entitled "Nonprofit Dental Service  
14 Corporations" is hereby amended by adding thereto the following section:

15 **27-20.1-15.1. Pharmacy benefit manager requirements with respect to multi-source**  
16 **generic pricing updates to pharmacies. -- (a) Definitions. As used herein:**

17 (1) "Maximum allowable cost" or "MAC" means the maximum amount that a pharmacy  
18 benefits manager will pay toward the cost of a drug;

19 (2) "Nationally available" means that there is an adequate supply available from regional  
20 or national wholesalers and that the product is not obsolete or temporarily unavailable;

21 (3) "Pharmacy benefit manager" or "PBM" means an entity doing business in this state  
22 that contracts to administer or manage prescription drug benefits on behalf of any carrier that  
23 provides prescription drug benefits to residents of this state.

24 (b)(1) Upon each contract execution or renewal, a PBM shall, with respect to contracts  
25 between a PBM and a pharmacy or, alternatively, a PBM and a pharmacy's contracting  
26 representative or agent such as a pharmacy services administrative organization (PSAO):

27 (i) Include in such contracts, the sources generally used to determine MAC pricing and a  
28 requirement to update pricing information on the MAC list at least every ten (10) calendar days;

29 (ii) Maintain a procedure to eliminate products from the list of drugs subject to such  
30 pricing or modify MAC rates within ten (10) calendar days when such drugs do not meet the  
31 standards and requirements of this act as set forth in order to remain consistent with pricing  
32 changes in the marketplace.

33 (2) PBM requirements for inclusion of products on a list of drugs subject to MAC  
34 pricing. In order to place a particular prescription drug on a MAC list, the PBM must, at a

1 minimum, ensure that:

2 (i) The product must be listed as "A," "AB," or "B" rated in the most recent version of the  
3 United States Food and Drug Administration's approved drug products with therapeutic  
4 equivalence evaluations, also known as the Orange Book, or has an "NR" or "NA" rating or  
5 similar rating by a nationally recognized reference; and

6 (ii) The product must be nationally available.

7 (c) Standards for pharmacy appeals.

8 (1) All contracts between a PBM, a contracted pharmacy or, alternatively, a PBM and a  
9 pharmacy's contracting representative or agent such as a pharmacy services administrative  
10 organization (PSAO) shall include a process to appeal, investigate, and resolve disputes regarding  
11 MAC pricing. The process shall include the following provisions:

12 (i) The right to appeal shall be limited to fifteen (15) days following the initial claim;

13 (ii) The appeal shall be investigated and resolved within fifteen (15) days following  
14 receipt of the appeal;

15 (iii) A process by which a network pharmacy may contact the PBM regarding the appeals  
16 process;

17 (iv) If the appeal is denied, the PBM shall provide the reason for the denial and identify  
18 the national drug code of a drug product that is available in adequate supply; and

19 (v) If an appeal is upheld, the PBM shall make an adjustment to the list effective no later  
20 than one day after the date of determination.

21 (d) The office of the health insurance commissioner shall enforce the provisions of this  
22 section in collaboration with the department of health.

23 SECTION 5. Chapter 27-41 of the General Laws entitled "Health Maintenance  
24 Organizations" is hereby amended by adding thereto the following section:

25 **27-41-38.1. Pharmacy benefit manager requirements with respect to multi-source**  
26 **generic pricing updates to pharmacies. -- (a) Definitions. As used herein:**

27 (1) "Maximum allowable cost" or "MAC" means the maximum amount that a pharmacy  
28 benefits manager will pay toward the cost of a drug;

29 (2) "Nationally available" means that there is an adequate supply available from regional  
30 or national wholesalers and that the product is not obsolete or temporarily unavailable;

31 (3) "Pharmacy benefit manager" or "PBM" means an entity doing business in this state  
32 that contracts to administer or manage prescription drug benefits on behalf of any carrier that  
33 provides prescription drug benefits to residents of this state.

34 (b)(1) Upon each contract execution or renewal, a PBM shall, with respect to contracts

1 between a PBM and a pharmacy or, alternatively, a PBM and a pharmacy's contracting  
2 representative or agent such as a pharmacy services administrative organization (PSAO):

3 (i) Include in such contracts, the sources generally used to determine MAC pricing and a  
4 requirement to update pricing information on the MAC list at least every ten (10) calendar days;

5 (ii) Maintain a procedure to eliminate products from the list of drugs subject to such  
6 pricing or modify MAC rates within ten (10) calendar days when such drugs do not meet the  
7 standards and requirements of this act as set forth in order to remain consistent with pricing  
8 changes in the marketplace.

9 (2) PBM requirements for inclusion of products on a list of drugs subject to MAC  
10 pricing. In order to place a particular prescription drug on a MAC list, the PBM must, at a  
11 minimum, ensure that:

12 (i) The product must be listed as "A," "AB," or "B" rated in the most recent version of the  
13 United States Food and Drug Administration's approved drug products with therapeutic  
14 equivalence evaluations, also known as the Orange Book, or has an "NR" or "NA" rating or  
15 similar rating by a nationally recognized reference; and

16 (ii) The product must be nationally available.

17 (c) Standards for pharmacy appeals.

18 (1) All contracts between a PBM, a contracted pharmacy or, alternatively, a PBM and a  
19 pharmacy's contracting representative or agent such as a pharmacy services administrative  
20 organization (PSAO) shall include a process to appeal, investigate, and resolve disputes regarding  
21 MAC pricing. The process shall include the following provisions:

22 (i) The right to appeal shall be limited to fifteen (15) days following the initial claim;

23 (ii) The appeal shall be investigated and resolved within fifteen (15) days following  
24 receipt of the appeal;

25 (iii) A process by which a network pharmacy may contact the PBM regarding the appeals  
26 process;

27 (iv) If the appeal is denied, the PBM shall provide the reason for the denial and identify  
28 the national drug code of a drug product that is available in adequate supply; and

29 (v) If an appeal is upheld, the PBM shall make an adjustment to the list effective no later  
30 than one day after the date of determination.

31 (d) The office of the health insurance commissioner shall enforce the provisions of this  
32 section in collaboration with the department of health.

1 SECTION 6. This act shall take effect on September 30, 2015.

=====  
LC000162/SUB A/2  
=====



EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO INSURANCE -- HEALTH INSURANCE - PRESCRIPTION DRUG  
BENEFITS

\*\*\*

- 1           This act would require the health insurance commissioner to regulate business
- 2 relationships among pharmacy services providers with oversight by the department of health.
- 3           This act would take effect on September 30, 2015.

=====  
LC000162/SUB A/2  
=====