

2016 -- S 2467

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO INSURANCE -- HEALTH INSURANCE -- PRESCRIPTION DRUG  
BENEFITS

Introduced By: Senators Walaska, McCaffrey, Ciccone, and Cote

Date Introduced: February 11, 2016

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 department of health shall exercise oversight and enforcement of this section.

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

28 **27-19-26.1. Pharmacy benefit manager requirements with respect to multi-source**  
29 **generic pricing updates to pharmacies. -- (a) Definitions. As used herein:**

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

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

34 (3) "Pharmacy benefit manager" or "PBM" means an entity doing business in this state

1 that contracts to administer or manage prescription drug benefits on behalf of any carrier that  
2 provides prescription drug benefits to residents of this state.

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

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

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

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

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

19 (ii) The product must be nationally available.

20 (c) Standards for pharmacy appeals.

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

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

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

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

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

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

34 (d) The department of health shall exercise oversight and enforcement of this section.

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

3 **27-20-23.1. 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  
19 standards and requirements of this act as set forth in order to remain consistent with pricing  
20 changes in the marketplace.

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

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

28 (ii) The product must be nationally available.

29 (c) Standards for pharmacy appeals.

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

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

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

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

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

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

9 (d) The department of health shall exercise oversight and enforcement of this section.

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

12 **27-20.1-15.1. Pharmacy benefit manager requirements with respect to multi-source**  
13 **generic pricing updates to pharmacies. -- (a) Definitions. As used herein:**

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

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

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

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

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

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

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

33 (i) The product must be listed as "A," "AB," or "B" rated in the most recent version of the  
34 United States Food and Drug Administration's approved drug products with therapeutic

1 equivalence evaluations, also known as the Orange Book, or has an "NR" or "NA" rating or  
2 similar rating by a nationally recognized reference; and

3 (ii) The product must be nationally available.

4 (c) Standards for pharmacy appeals.

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

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

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

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

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

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

18 (d) The department of health shall exercise oversight and enforcement of this section.

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

21 **27-41-38.1. Pharmacy benefit manager requirements with respect to multi-source**  
22 **generic pricing updates to pharmacies. -- (a) Definitions. As used herein:**

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

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

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

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

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

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

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

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

12 (ii) The product must be nationally available.

13 (c) Standards for pharmacy appeals.

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

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

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

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

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

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

27 (d) The department of health shall exercise oversight and enforcement of this section.

28 SECTION 6. This act shall take effect on September 30, 2016.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO INSURANCE -- HEALTH INSURANCE -- PRESCRIPTION DRUG  
BENEFITS

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- 1           This act would regulate business relationships among pharmacy services providers, group
- 2 health insurers, and health service organizations by providing department of health oversight.
- 3           This act would take effect on September 30, 2016.

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