

SENATE BILL NO. 410

BY SENATOR MILLS

1 AN ACT

2 To enact Subpart C-1 of Part II of Chapter 6 of Title 22 of the Louisiana Revised Statutes  
3 of 1950, to be comprised of R.S. 22:1863 through 1865, relative to Maximum  
4 Allowable Cost Lists for prescription drugs; to provide with respect to definitions;  
5 to provide for the regulation of pharmacy benefit manager's maintenance and use of  
6 Maximum Allowable Cost Lists for prescription drugs; to provide with respect to an  
7 appeals process; and to provide for related matters.

8 Be it enacted by the Legislature of Louisiana:

9 Section 1. Subpart C-1 of Part II of Chapter 6 of Title 22 of the Louisiana Revised  
10 Statutes of 1950, comprised of R.S. 22:1863 through 1865, is hereby enacted to read as  
11 follows:

12 **Subpart C-1. PHARMACY BENEFIT MANAGER'S MAINTENANCE AND USE**  
13 **OF "MAXIMUM ALLOWABLE COST LISTS" FOR PRESCRIPTION DRUGS**

14 **§1863. Definitions**

15 **As used in this Subpart, the following definitions shall apply:**

16 **(1) "Maximum Allowable Cost List" means a listing of the National Drug**  
17 **Code used by a pharmacy benefits manager setting the maximum allowable cost**  
18 **on which reimbursement to a pharmacy or pharmacist may be based.**

19 **(2) "NDC" means the National Drug Code, a numerical identifier**  
20 **assigned to all prescription drugs.**

21 **(3) "Pharmacist" means a licensed pharmacist as defined in R.S.**  
22 **22:1852(8).**

23 **(4) "Pharmacist services" means products, goods, or services provided**  
24 **as a part of the practice of pharmacy as defined in R.S. 22:1852(9).**

25 **(5) "Pharmacy" means any appropriately licensed place where**  
26 **prescription drugs are dispensed as defined in R.S. 22:1852(10).**

1           (6) "Pharmacy benefits manager" means an entity that administers or  
2           manages a pharmacy benefits plan or program.

3           (7) "Pharmacy benefits plan" or "pharmacy benefits program" means  
4           a plan or program that pays for, reimburses, covers the cost of, or otherwise  
5           provides for pharmacist services to individuals who reside in or are employed  
6           in Louisiana.

7           §1864. Requirements for use of the NDC by a pharmacy benefits manager

8           A. Before a pharmacy benefits manager places or continues a particular  
9           NDC or Maximum Allowable Cost List, the following requirements shall be  
10           met:

11           (1) The prescription drug to which the NDC is assigned shall be listed as  
12           "A" or "B" rated in the most recent version of the FDA's Approved Drug  
13           Products with Therapeutic Equivalence Evaluations, also known as the Orange  
14           Book, or have an "NR" or "NA" rating or a similar rating by a nationally  
15           recognized reference.

16           (2) The prescription drug to which the NDC is assigned shall be available  
17           for purchase by pharmacies in the state from national or regional wholesalers.

18           (3) The prescription drug to which the NDC is assigned shall not be  
19           considered obsolete.

20           B. A pharmacy benefits manager shall be required to:

21           (1) Provide access to its Maximum Allowable Cost List to each pharmacy  
22           subject to the list.

23           (2) Update its Maximum Allowable Cost List on a timely basis, but in no  
24           event longer than seven calendar days from a change in the methodology on  
25           which the Maximum Allowable Cost List is based or in the value of a variable  
26           involved in the methodology.

27           (3) Provide a process for each pharmacy subject to the list to review an  
28           update to the Maximum Allowable Cost List.

29           §1865. Appeals

30           A. The pharmacy benefits manager shall provide a reasonable

1           administrative appeal procedure to allow pharmacies to challenge maximum  
 2           allowable costs for a specific NDC or NDCs as not meeting the requirements of  
 3           this Subpart or being below the cost at which the pharmacy may obtain the  
 4           NDC. Within seven business days after the applicable fill date, a pharmacy may  
 5           file an appeal by following the appeal process as provided for in this Subpart.  
 6           The pharmacy benefits manager shall respond to a challenge within seven  
 7           business days after receipt of the challenge.

8                   B. If an appeal made pursuant to this Section is upheld, the pharmacy  
 9                   benefits manager shall take the following actions:

- 10                           (1) Make the change in the Maximum Allowable Cost List.  
 11                           (2) Permit the challenging pharmacy or pharmacist to reverse and rebill  
 12                   the claim in question.  
 13                           (3) Make the change effective for each similarly situated pharmacy as  
 14                   defined by the payor subject to the Maximum Allowable Cost List.

15                   C. If an appeal made pursuant to this Section is denied, the pharmacy  
 16                   benefits manager shall provide the challenging pharmacy or pharmacist the  
 17                   NDC number from national or regional wholesalers operating in Louisiana.

18                   D. A violation of this Subpart shall be deemed an unfair or deceptive act  
 19                   and practice pursuant to R.S. 22:1961 et seq.

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 PRESIDENT OF THE SENATE

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 SPEAKER OF THE HOUSE OF REPRESENTATIVES

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 GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_