

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.

PRESIDENT OF THE SENATE

SPEAKER OF THE HOUSE OF REPRESENTATIVES

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____