

STATE OF NEW YORK

10107

IN ASSEMBLY

May 3, 2024

Introduced by M. of A. KELLES -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to reimbursement rates of pharmacy benefit managers

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph (e) of subdivision 4 of section 280-a of the
2 public health law, as added by chapter 828 of the laws of 2021, is
3 amended and a new subdivision 4-a is added to read as follows:

4 (e) (i) if an appeal is denied, the pharmacy benefit manager shall
5 identify the national drug code of a therapeutically equivalent drug, as
6 determined by the federal Food and Drug Administration, that is avail-
7 able for purchase by pharmacies in this state from wholesalers regis-
8 tered pursuant to subdivision four of section sixty-eight hundred eight
9 of the education law that the pharmacist or pharmacy purchases the
10 majority of prescription drugs for resale from at a price which is equal
11 to or less than the maximum allowable cost or other reimbursement pric-
12 ing methodology used by the pharmacy benefits manager to determine cost
13 for that drug as determined by the pharmacy benefit manager.

14 (ii) if the national drug code number provided by the pharmacy bene-
15 fit manager is not available below the pharmacy acquisition cost from
16 the pharmaceutical wholesaler from whom the pharmacy or pharmacist
17 purchases the majority of prescription drugs for resale, then the phar-
18 macy benefit manager shall adjust the maximum allowable cost or other
19 pricing methodology used by the pharmacy benefits manager to determine
20 cost above the challenging pharmacy's pharmacy acquisition cost and
21 permit the pharmacy to reverse and rebill each claim affected by the
22 inability to procure the drug at a cost that is equal to or less than
23 the previously challenged maximum allowable cost.

24 4-a. Reimbursement. (a) A pharmacy benefit manager shall not reimburse
25 a pharmacy or pharmacist in this state an amount less than the amount
26 that the pharmacy benefit manager reimburses a pharmacy benefit manager
27 affiliate for providing the same pharmacist services.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

LBD05319-02-3

1 **(b) The amount shall be calculated on a per unit basis based on the**
2 **same generic product identified or generic code number.**
3 § 2. This act shall take effect on the ninetieth day after it shall
4 have become a law.