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SENATE BILL 425

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

Linda M. Lopez

AN ACT

RELATING TO MEDICAID REIMBURSEMENT RATES; REQUIRING PERIODIC
RATE ADJUSTMENTS OF DISPENSING FEES FOR MEDICAID PHARMACISTS
BASED ON CURRENT OPERATIONAL COSTS; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Prescription Drug Reimbursement Act".

Section 2. DEFINITIONS.--As used in the Prescription Drug
Reimbursement Act:

A. "department" means the human services
department;

B. "division" means the medical assistance division
of the department;

C. "medicaid pharmacy" means a pharmacy that
accepts medicaid reimbursement, among other payment sources,

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1 for pharmacy purchases;

2 D. "operational costs" means the costs that a
3 pharmacy or pharmacist incurs in ensuring that the appropriate
4 covered outpatient drug is transferred to the patient and in
5 allowing for a reasonable profit. "Operational costs" includes
6 costs incurred:

7 (1) in preparing, compounding, dispensing and
8 delivering a prescription drug in compliance with state and
9 federal laws and rules;

10 (2) in verifying medicaid coverage,
11 prescription packaging and labeling;

12 (3) in overhead expenses, including staffing,
13 professional salaries, pharmacist continuing education and
14 training and pharmacy equipment maintenance; and

15 (4) in assuring a client's proper use of a
16 prescription drug through utilization review, preferred drug
17 list compliance, counseling the client, consulting with the
18 client's physician and providing medication therapy management
19 to the client;

20 E. "reasonable dispensing fee" means a dispensing
21 fee that is consistent with the local economy, is efficient and
22 is designed to approximate a pharmacy's actual dispensing costs
23 plus a reasonable profit; and

24 F. "secretary" means the secretary of human
25 services.

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1 Section 3. REVIEW OF DISPENSING FEE ESTABLISHED--
2 INCENTIVES ENCOURAGED.--

3 A. The secretary shall review and adjust the
4 dispensing fee for a pharmacy or pharmacist who participates in
5 the medicaid program in even-numbered years, beginning April 1,
6 2010, and shall provide by rule for the adjustment, documenting
7 the statewide average pharmacy cost of dispensing a medication
8 using data on pharmacy operational costs. Documentation used
9 to establish a reasonable dispensing fee shall be submitted to
10 the federal centers for medicare and medicaid services with any
11 other state plan amendment submitted to the federal centers for
12 medicare and medicaid services for approval.

13 B. The division may create incentives designed to
14 encourage utilization of lower-cost multiple source
15 prescription drugs.

16 Section 4. TEMPORARY PROVISIONS.--

17 A. The human services department shall complete a
18 review of the federal mandated average-manufacturer-price-based
19 upper limits on medicaid payments for multiple source drugs
20 within one week of the effective date of this act.

21 B. The human services department shall promulgate
22 emergency rules within three weeks after the effective date of
23 this act, adopting an appropriate increase to ensure that a
24 reasonable dispensing fee is paid to medicaid pharmacies. The
25 increase shall be set at a level designed to ensure medicaid

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1 beneficiary access to pharmacy services and care at a level
2 approximating that available to the nonmedicaid population of
3 the state.

4 Section 5. EMERGENCY.--It is necessary for the public
5 peace, health and safety that this act take effect immediately.

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