

HOUSE BILL 165

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

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AN ACT

RELATING TO PHARMACEUTICAL DRUGS; REQUIRING MEDICAID MANAGED CARE ORGANIZATIONS TO REIMBURSE COMMUNITY-BASED PHARMACY PROVIDERS FOR THE FULL COST OF PRESCRIPTION DRUGS PLUS A PROFESSIONAL DISPENSING FEE; REQUIRING THE HEALTH CARE AUTHORITY DEPARTMENT TO CONDUCT A STUDY TO DETERMINE AND SET A REASONABLE PROFESSIONAL DISPENSING FEE FOR PHARMACY PROVIDERS THAT PROVIDE SERVICES TO MEDICAID RECIPIENTS; MAKING AN APPROPRIATION.

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

SECTION 1. A new section of the Public Assistance Act, Section 27-2-12.34 NMSA 1978, is enacted to read:

"27-2-12.34. [NEW MATERIAL] COMMUNITY-BASED PHARMACY REIMBURSEMENT.--

A. Each managed care organization that contracts

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1 with the department shall ensure that community-based pharmacy  
2 providers that provide services to medicaid recipients are  
3 reimbursed as follows:

4 (1) for the ingredient cost of a drug at a  
5 value that is at least equal to the national average drug  
6 acquisition cost for the prescription drug at the time that the  
7 drug is administered or dispensed, or if data for the national  
8 average drug acquisition is unavailable, the wholesale  
9 acquisition cost of the drug; and

10 (2) a professional dispensing fee.

11 B. Each time that the department issues a request  
12 for proposals for managed care organizations, the department  
13 shall conduct a study to determine a reasonable professional  
14 dispensing fee that covers the costs of dispensing a  
15 prescription drug, including the cost of a pharmacist's  
16 professional services. Until the department sets a reasonable  
17 professional dispensing fee, the professional dispensing fee  
18 reimbursed to community-based pharmacy providers shall be equal  
19 to the professional dispensing fee reimbursed to community-  
20 based pharmacy providers for covered outpatient drugs in the  
21 medicaid fee-for-service program.

22 C. By January 1, 2025, and annually thereafter, the  
23 department shall compile a list of all community-based pharmacy  
24 providers in the state and publish the list on the department's  
25 website.

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D. For the purposes of this section:

(1) "community-based pharmacy provider" means a pharmacy that is:

(a) open to the public for prescriptions to be filled, regardless of the facility or practice where the prescription was written;

(b) located in the state or near the state border, if the border town is a primary source of prescription drugs for medicaid recipients residing in the border area; and

(c) not: 1) government-owned; 2) hospital-owned; 3) owned by a corporation that owns hospitals; 4) an extension of a medical practice or special facility; 5) owned by a corporate chain of pharmacies with stores outside of the state; or 6) a mail-order pharmacy;

(2) "ingredient cost" means the actual amount paid to a community-based pharmacy provider for a prescription drug, not including the professional dispensing fee or cost sharing;

(3) "managed care organization" means a person or entity eligible to enter into risk-based prepaid capitation agreements with the department to provide health care and related services;

(4) "medicaid" means the medical assistance program established pursuant to Title 19 of the federal Social

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1 Security Act and regulations issued pursuant to that act;

2 (5) "medicaid recipient" means a person whom  
3 the department has determined to be eligible to receive  
4 medicaid-related services;

5 (6) "national average drug acquisition cost"  
6 means the national average of prices at which pharmacies  
7 purchase a prescription drug from manufacturers or wholesalers;  
8 and

9 (7) "wholesale acquisition cost" means a  
10 manufacturer's list price for a prescription drug sold to  
11 wholesalers in the United States, not including discounts,  
12 rebates or reductions in price."

13 SECTION 2. APPROPRIATION.--Seven million five hundred  
14 thousand dollars (\$7,500,000) is appropriated from the general  
15 fund to the health care authority department for expenditure in  
16 fiscal year 2025 to increase reimbursement for community-based  
17 pharmacy provider services and to conduct a study to determine  
18 a reasonable professional dispensing fee for pharmacy  
19 providers. Any unexpended or unencumbered balance remaining at  
20 the end of fiscal year 2025 shall revert to the general fund.

21 SECTION 3. EFFECTIVE DATE.--The effective date of the  
22 provisions of this act is July 1, 2024.