

# HOUSE BILL NO. 4276

March 14, 2023, Introduced by Reps. Farhat, Aiyash, Paiz, Byrnes, Hope, Puri, Morgan, McKinney, Tyrone Carter, Wilson, Coleman, Miller, Martus, Dievendorf, Edwards, Young, Brenda Carter, Pohutsky, Haadsma, Stone, Tsernoglou, McFall, Liberati, Neeley, O'Neal, Grant, Churches, Mentzer, Hoskins, MacDonell, Brixie, Koleszar, Scott, Hood, Conlin, Morse, VanderWall and Whitsett and referred to the Committee on Health Policy.

A bill to amend 1939 PA 280, entitled  
"The social welfare act,"  
(MCL 400.1 to 400.119b) by adding sections 105i and 105j.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1           **Sec. 105i. (1) The department shall not enter into a contract**  
2 **with a Medicaid managed care organization that relies on a pharmacy**  
3 **benefit manager that does not do all of the following:**  
4           **(a) For pharmacies with not more than 7 retail outlets,**  
5 **utilize a pharmacy reimbursement methodology of the national**

1 average drug acquisition cost plus a professional dispensing fee  
2 comparable to the applicable professional dispensing fee provided  
3 through section 1620 of article 6 of 2020 PA 166. The pharmacy  
4 benefit manager or the involved pharmacy services administrative  
5 organization shall not receive any portion of the additional  
6 professional dispensing fee. The department shall identify the  
7 pharmacies this subdivision applies to and provide the list of  
8 applicable pharmacies to the Medicaid managed care organizations.

9 (b) For pharmacies with not more than 7 retail outlets,  
10 utilize a pharmacy reimbursement methodology, when a national  
11 average drug acquisition cost price is not available, for brand  
12 drugs of the lesser of the wholesale acquisition cost, the average  
13 wholesale price less 16.7% plus a professional dispensing fee  
14 comparable to the applicable professional dispensing fee provided  
15 through section 1620 of article 6 of 2020 PA 166, or the usual and  
16 customary charge by the pharmacy. The department shall identify the  
17 pharmacies this subdivision applies to and provide the list of  
18 applicable pharmacies to the Medicaid managed care organizations.

19 (c) For pharmacies with not more than 7 retail outlets,  
20 utilize a pharmacy reimbursement methodology, when a national  
21 average drug acquisition cost price is not available, for generic  
22 drugs of the lesser of wholesale acquisition cost plus a  
23 professional dispensing fee comparable to the applicable  
24 professional dispensing fee provided through section 1620 of  
25 article 6 of 2020 PA 166, average wholesale price less 30.0% plus a  
26 professional dispensing fee comparable to the applicable  
27 professional dispensing fee provided through section 1620 of  
28 article 6 of 2020 PA 166, or the usual and customary charge by the  
29 pharmacy. The department shall identify the pharmacies this

1 subdivision applies to and provide the list of applicable  
2 pharmacies to the Medicaid managed care organizations.

3 (d) Reimburse for a legally valid claim at a rate not less  
4 than the rate in effect at the time the original claim adjudication  
5 was submitted at the point of sale.

6 (e) Agree to move to a transparent pass-through pricing model,  
7 in which the pharmacy benefit manager discloses the administrative  
8 fee as a percentage of the professional dispensing costs to the  
9 department.

10 (f) Agree to not create new pharmacy administration fees and  
11 to not increase current fees more than the rate of inflation. This  
12 subdivision does not apply to any federal rule or action that  
13 creates a new fee.

14 (g) Agree to not terminate an existing contract with a  
15 pharmacy with not more than 7 retail outlets for the sole reason of  
16 the additional professional dispensing fee authorized under this  
17 section.

18 (2) This section does not prohibit a Medicaid managed care  
19 organization from implementing this section before the effective  
20 date of the amendatory act that added this section.

21 Sec. 105j. (1) By January 15, 2024 and by January 15 for each  
22 year after 2024, each pharmacy benefit manager that receives  
23 reimbursement, either directly or through a Medicaid contracted  
24 health plan, for medical services must submit all of the following  
25 information to the department for the previous fiscal year:

26 (a) The total number of prescriptions that were dispensed.

27 (b) The aggregate wholesale acquisition cost for each drug on  
28 its formulary.

29 (c) The aggregate amount of rebates, discounts, and price

1 concessions that the pharmacy benefit manager received for each  
2 drug on its formulary. The amount of rebates shall include any  
3 utilization discounts the pharmacy benefit manager receives from a  
4 manufacturer.

5 (d) The aggregate amount of administrative fees that the  
6 pharmacy benefit manager received from all pharmaceutical  
7 manufacturers.

8 (e) The aggregate amount identified in subdivisions (b) and  
9 (c) that was retained by the pharmacy benefit manager and did not  
10 pass through to the department or to the Medicaid contracted health  
11 plan.

12 (f) The aggregate amount of reimbursements the pharmacy  
13 benefit manager pays to contracting pharmacies.

14 (g) Any other information considered necessary by the  
15 department.

16 (2) By March 1, 2024 and by March 1 of each year after 2024,  
17 the department shall submit the information provided under  
18 subsection (1) to the house and senate appropriations subcommittees  
19 on the department budget, the house and senate fiscal agencies, the  
20 house and senate policy offices, and the state budget office.

21 (3) Any nonaggregated information submitted under this section  
22 is confidential and shall not be disclosed to any person by the  
23 department. Information received under this section is not a public  
24 record of the department.

25 (4) Beginning 3 years after the effective date of the  
26 amendatory act that added this section and every 3 years after  
27 that, the department must provide a written report to the house and  
28 senate committees that handle matters of health. The report must  
29 include information regarding the state-determined dispensing fees

1 and whether those dispensing fees are consistent with wage  
2 inflation and costs.