



General Assembly

February Session, 2014

Raised Bill No. 5439

LCO No. 1899



Referred to Committee on HUMAN SERVICES

Introduced by:
(HS)

AN ACT CONCERNING MEDICAID BRAND NAME DRUG PRESCRIPTIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 17b-274 of the 2014 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective July 1, 2014*):

4 (a) The Division of Criminal Justice shall periodically investigate
5 pharmacies to ensure that the state is not billed for a brand name drug
6 product when a less expensive generic substitute drug product is
7 dispensed to a [Medicaid] medical assistance recipient. The
8 Commissioner of Social Services shall cooperate and provide
9 information as requested by such division.

10 (b) A licensed medical practitioner may specify in writing or by a
11 telephonic or electronic communication that there shall be no
12 substitution for the specified brand name drug product in any
13 prescription for a [Medicaid] medical assistance recipient, provided (1)
14 the practitioner specifies the basis on which the brand name drug
15 product and dosage form is medically necessary in comparison to a

16 chemically equivalent generic drug product substitution, [and] (2) for
17 written and telephonic communications, the phrase "brand medically
18 necessary" shall be in the practitioner's handwriting on the
19 prescription form or, if the prohibition was communicated by
20 telephonic communication, in the pharmacist's handwriting on such
21 form, and shall not be preprinted or stamped or initialed on such form.
22 If the practitioner specifies by telephonic communication that there
23 shall be no substitution for the specified brand name drug product in
24 any prescription for a [Medicaid] medical assistance recipient, written
25 certification in the practitioner's handwriting bearing the phrase
26 "brand medically necessary" shall be sent to the dispensing pharmacy
27 within ten days, and (3) for electronic communications, the prescriber
28 shall select the code indicating that a substitution is not allowed by the
29 prescriber on the certified electronic prescription. A pharmacist shall
30 dispense a generically equivalent drug product for any drug listed in
31 accordance with [the Code of Federal Regulations Title 42 Part 447.332]
32 42 CFR 447.512 for a drug prescribed for a [Medicaid, or state-
33 administered general] medical assistance recipient unless the [phrase
34 "brand medically necessary" is ordered] prescribing practitioner has
35 specified that there shall be no substitution for the specified brand
36 name drug product in accordance with this subsection and such
37 pharmacist has received approval to dispense the brand name drug
38 product in accordance with subsection (c) of this section.

39 (c) The Commissioner of Social Services shall implement a
40 procedure by which a pharmacist shall obtain approval from an
41 independent pharmacy consultant acting on behalf of the Department
42 of Social Services, under an administrative services only contract,
43 whenever the pharmacist dispenses a brand name drug product to a
44 [Medicaid] medical assistance recipient and a chemically equivalent
45 generic drug product substitution is available. The length of
46 authorization for brand name drugs shall be in accordance with section
47 17b-491a. In cases where the brand name drug is less costly than the
48 chemically equivalent generic drug when factoring in manufacturers'

49 rebates, the pharmacist shall dispense the brand name drug. If such
50 approval is not granted or denied within two hours of receipt by the
51 commissioner of the request for approval, it shall be deemed granted.
52 Notwithstanding any provision of this section, a pharmacist shall not
53 dispense any initial maintenance drug prescription for which there is a
54 chemically equivalent generic substitution that is for less than fifteen
55 days without the department's granting of prior authorization,
56 provided prior authorization shall not otherwise be required for
57 atypical antipsychotic drugs if the individual is currently taking such
58 drug at the time the pharmacist receives the prescription. The
59 pharmacist may appeal a denial of reimbursement to the department
60 based on the failure of such pharmacist to substitute a generic drug
61 product in accordance with this section.

62 (d) A licensed medical practitioner shall disclose to the Department
63 of Social Services or such consultant, upon request, the basis on which
64 the brand name drug product and dosage form is medically necessary
65 in comparison to a chemically equivalent generic drug product
66 substitution. The Commissioner of Social Services shall establish a
67 procedure by which such a practitioner may appeal a determination
68 that a chemically equivalent generic drug product substitution is
69 required for a [Medicaid] medical assistance recipient.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2014</i>	17b-274

Statement of Purpose:

To revise the requirements for practitioners utilizing electronic prescriptions to prescribe a brand name drug product as "medically necessary".

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]