

June 20, 2017

The Honorable Daniel R. Benson
New Jersey General Assembly
State House
P.O. Box 098
Trenton, NJ 08625-0098

Re: Assembly Bill 4676, An Act concerning pharmacy benefits managers, the New Jersey
“Prescription Drug Patient Protection Act”

Dear Assemblyman Benson:

On behalf of the American Medical Association (AMA), and our physician and medical student members, I write in support of Assembly Bill 4676 (A 4676), the New Jersey “Prescription Drug Patient Protection Act.” This bill would provide important groundwork to regulate pharmacy benefits management companies (PBMs), which are a key stakeholder in understanding how rising drug prices affect patients in New Jersey. PBMs, which make important decisions about whether a medication will be covered by an employer or health insurer – and at what price – have largely escaped legislative or regulatory scrutiny.

Consider that, according to a report in 2016; “two of the nation’s two largest pharmacy benefit managers – Express Scripts and CVS/caremark, which set the coverage for many health insurers – recently announced additional drugs that they are not covering in 2017, bringing their total excluded products to 124 and 154, respectively.”¹

When PBMs and health insurers decide to exclude certain products, patients are forced to switch to a new medication, which may or may not be as effective. If the patient wishes to remain on the excluded medication, the off-formulary cost often is not affordable, and it will not count toward a patient’s deductible. This places the patient in a terrible situation. Without anywhere to turn to for remedies, the patient has little choice but to accept what the PBM does.

This scenario, which may occur before open enrollment, also may occur during a patient’s year of continuous coverage. This is what some call a mid-year formulary change, but also resembles a classic “bait and switch” technique to encourage a patient to purchase one plan and its drug formulary, only to force the patient to accept different terms during the middle of a plan year. Whatever it is called, the economic and health effects on a patient can be significant. Yet, without any regulatory oversight, a PBM or health insurer can do this with impunity.

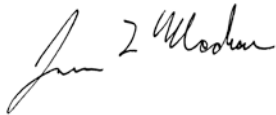
¹ Ruppel, Michael. “Open Enrollment: Critical Time to Protect Your Health.” Morning Consult. December 7, 2016. Available at <https://morningconsult.com/opinions/open-enrollment-critical-time-protect-health/>

The Honorable Daniel R. Benson
June 20, 2017
Page 2

New Jersey can start to better understand how PBMs operate – and put an end to unfair practices that harm patients. But first, it must decide to regulate PBMs who wish to do business in your state. For these reasons, the AMA supports A 4676.

If you have any questions, please contact Daniel Blaney-Koen, JD, Senior Legislative Attorney, AMA Advocacy Resource Center at daniel.blaney-koen@ama-assn.org or (312) 464-4954, or Emily Carroll, JD, Senior Legislative Attorney, AMA Advocacy Resource Center at emily.carroll@ama-assn.org or (312) 464-4976.

Sincerely,

A handwritten signature in black ink, appearing to read "Jim L. Madara". The signature is written in a cursive, flowing style.

James L. Madara, MD

cc: Medical Society of New Jersey