

May 18, 2021

The Honorable Gustavo Rivera, Chairman
The Honorable Patrick M. Gallivan, Ranking Member
NYS Senate Committee on Health
NYS State Capitol Building
Albany, NY 12224

RE: The National Community Pharmacists Support of S 6603

Dear Chairman Rivera, Ranking Member Gallivan and members of the Senate Committee on Health,

I am writing on behalf of the National Community Pharmacists Association (NCPA) to express our support for Senate Bill 6603 introduced by Senator James Skoufis. It is important that taxpayer-funded programs be transparent, and this legislation would bring transparency and fairness to pharmacy reimbursements in Medicaid managed care.

NCPA represents the interest of America's community pharmacists, including the owners of more than 21,000 independent community pharmacies across the United States and 2,482 independent community pharmacies in New York. These New York pharmacies filled over 142 million prescriptions last year, including 25 million Medicaid prescriptions, impacting the lives of thousands of patients in your state.

In 2020, the Legislature decided to implement a Medicaid carve-out because it was clear that the Medicaid prescription drug benefit was being mismanaged by managed care organizations and their pharmacy benefit managers (PBMs) under the managed care program. After investigating the role of PBMs, the Senate Committee on Investigations and Government Operations released a report finding that "PBMs often employ controversial utilization and management tools to generate revenue for themselves in a way that is detrimental to health plan sponsors, patients, and pharmacies."¹ Comptroller DiNapoli found New York paid its PBMs \$605 million in unnecessary costs over four years, because the PBMs created drug formularies that resulted in rebates that were in the best interest for the PBM, not the state.²

The problems caused by MCO/PBM management of prescription drug benefits that led the Legislature and the Governor to enact the carve-out last year continue to exist in New York.

¹ New York Senate Committee on Investigations and Government Operations, *Final Investigative Report: Pharmacy Benefit Managers in New York*, (May 31, 2019), available at https://www.nysenate.gov/sites/default/files/article/attachment/final_investigatory_report_pharmacy_benefit_managers_in_new_york.pdf.

² Office of the New York State Comptroller, *Medicaid Program: Cost of Pharmacy Services Under Managed Care*, (Sept. 2020), <https://www.osc.state.ny.us/files/state-agencies/audits/pdf/sga-2020-19s11.pdf>.

Unfortunately, the implementation of the carve-out was delayed so that makes the passage of this bill extremely important. S 6603 seeks to address some of the opaque PBM business practices by requiring a transparent reimbursement payment model in the Medicaid managed care program.

Bringing transparency to prescription drug reimbursements in Medicaid managed care

S 6603 would bring transparency and fairness to pharmacy reimbursements in the Medicaid managed care program, by requiring reimbursements be no lower than the Medicaid fee-for-service program. This reimbursement approach is not a new concept. Iowa, Kansas, Louisiana, Mississippi, Michigan, and Arkansas all have adopted nearly identical reimbursement floors in their respective Medicaid managed care programs. These states know how their tax dollars are being spent because they establish the reimbursement rates for pharmacy services in their Medicaid managed care programs. In those states, PBMs must reimburse pharmacies at the same rates established under the fee-for-service program.

Under the bill, what a PBM reimburses a pharmacy must be based on the national average drug acquisition cost, or NADAC, plus a professional dispensing fee. NADAC is “a simple average of the drug acquisition costs submitted by retail community pharmacies.”³ The professional dispensing fee is established by the state and is supported by New York-specific data.⁴ These two benchmarks are evidence-based and accurately reflect a pharmacy’s true cost of dispensing a drug. By basing pharmacy reimbursements on NADAC plus the state-established professional dispensing fee, this bill will allow the state, taxpayers, and patients to rest assured that the amount they are paying for their medications is an accurate reflection of the true cost of those drugs.

Again, NCPA strongly supports S 6603 and urges passage of this important legislation. Thank you for your time and consideration. If you have any questions about the information in these comments, please do not hesitate to contact me at anne.cassity@ncpa.org.

Sincerely,



Anne Cassity, JD
Vice President, Federal and State Government Affairs
National Community Pharmacists Association

cc: The Honorable James Skoufis

³ Centers for Medicare & Medicaid Servs., *Methodology for Calculating the National Average Drug Acquisition Cost (NADAC) for Medicaid Covered Outpatient Drugs* 15 (Nov. 2013).

⁴ See 42 C.F.R. 447.518(d).