

1 **MEDICAID GENERIC DRUG REIMBURSEMENT**

2 **AMENDMENTS**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Mark W. Walker**

6 Senate Sponsor: Sheldon L. Killpack

7

8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Pharmacy Practice Act to permit the state's Medicaid program to
11 reimburse for nongeneric drugs when the brand name drug is cheaper to the state than
12 the generic form of the drug.

13 **Highlighted Provisions:**

14 This bill:

15 ▶ amends the provision that requires the Medicaid program to use generic drugs when
16 available.

17 **Monies Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **58-17b-606**, as enacted by Chapter 280, Laws of Utah 2004

24

25 *Be it enacted by the Legislature of the state of Utah:*

26 Section 1. Section **58-17b-606** is amended to read:

27 **58-17b-606. Restrictive drug formulary prohibited.**



28 (1) As used in this section:

29 (a) "Generic form" means a prescription drug that is available in generic form and has
30 an A rating in the United States Pharmacopeia and Drug Index.

31 (b) "Legend drug" means any drug that requires a prescription under state or federal
32 law.

33 (c) "Restrictive drug formulary" means a list of legend drugs, other than drugs for
34 cosmetic purposes, that are prohibited by the Department of Health from dispensation, but are
35 approved by the Federal Food and Drug Administration.

36 (2) A practitioner may prescribe legend drugs in accordance with this chapter that, in
37 his professional judgment and within the lawful scope of his practice, he considers appropriate
38 for the diagnosis and treatment of his patient.

39 (3) Except as provided in Subsection (4), the Department of Health may not maintain a
40 restrictive drug formulary that restricts a physician's ability to treat a patient with a legend drug
41 that has been approved and designated as safe and effective by the Federal Food and Drug
42 Administration, except for drugs for cosmetic purposes.

43 (4) When a multisource legend drug is available in the generic form, the Department of
44 Health may only reimburse for the generic form of the drug unless ~~H→~~ [;

45 ~~(a)~~ ~~←H~~ the treating physician demonstrates to the Department of Health a medical necessity
46 for dispensing the nongeneric, brand-name legend drug[;] ~~H→~~ [;or

47 ~~(b) reimbursement to the state for the brand name drug makes the brand name drug less~~
48 ~~expensive to the state than the cost of the generic form of the drug]~~ ~~←H~~ .

48a ~~H→~~ **(5) The Department of Health pharmacists may override the generic mandate**
48b **provisions of Subsection (4) if a financial benefit will accrue to the state.**

49 ~~[(5)]~~ **(6)** ~~←H~~ This section does not affect the state's ability to exercise the exclusion options
50 available under the Federal Omnibus Budget Reconciliation Act of 1990.

Legislative Review Note

as of 11-22-05 11:26 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0105

Medicaid Generic Drug Reimbursement Amendments

19-Jan-06

10:31 AM

State Impact

It is estimated that any savings generated by the provisions of this bill would be absorbed in the cost of administration.

Individual and Business Impact

There could be a fiscal impact to some drug manufacturers. The amount will depend on the medication and price involved.

Office of the Legislative Fiscal Analyst