

Article - Health - General

15-118.

(a) [The forms that are used in prescribing and billing for drugs under the Program shall include the following statement, if applicable: This prescription shall be filled with a generic equivalent as authorized by State law, unless the prescriber directs otherwise in writing.] ~~A PRESCRIPTION, FORM, OR AN ELECTRONIC COMMUNICATION THROUGH THE POINT OF SALE SYSTEM THAT IS USED TO PRESCRIBE OR BILL FOR DRUGS SHALL SPECIFY CONSPICUOUSLY ON ITS FACE THAT THE GENERIC EQUIVALENT OF A PRESCRIPTION DRUG IS REQUIRED UNLESS OTHERWISE DIRECTED IN WRITING BY THE PRESCRIBER.~~

~~(b)~~ (1) Unless the prescriber directs otherwise ~~AND INCLUDES A MEDICAL REASON WHY THE GENERIC CANNOT BE USED~~ on the form or on an attached signed certification of need, the generic form of the drug authorized under § 12-508 of the Health Occupations Article shall be used to fill the prescription[, except for drugs generally not available in the State, drugs that have low utilization, or drugs lacking significant cost differential between the interchangeable products].

(2) IF THE APPROPRIATE GENERIC DRUG IS NOT GENERALLY AVAILABLE, THE DEPARTMENT MAY WAIVE THE REQUIREMENT FOR GENERIC SUBSTITUTION UNDER PARAGRAPH (1) OF THIS SUBSECTION.

~~(c)~~ (B) (1) [The Program shall publish a list of drugs with therapeutic equivalence as defined in § 12-508 of the Health Occupations Article that are generally available within the State, have sufficient utilization, are packaged for administration or patient use in a manner that avoids any potential adverse impact on efficacy of treatment, and have sufficient cost differential between products.

(2) The] EXCEPT AS PROVIDED UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE Program shall establish maximum reimbursement levels for the drug products [listed under paragraph (1) of this subsection based on the cost of the available generic products] FOR WHICH THERE IS A GENERIC EQUIVALENT AUTHORIZED UNDER § 12-508 OF THE HEALTH OCCUPATIONS ARTICLE, BASED ON THE COST OF THE GENERIC PRODUCT.

(2) IF A PRESCRIBER DIRECTS A SPECIFIC BRAND NAME DRUG, THE REIMBURSEMENT LEVEL SHALL BE BASED ON THE COST OF THE BRAND NAME PRODUCT.

[(3) Additions to the Program list of interchangeable drugs shall be effective 60 days after the publication of the Program list or supplements to the Program list including the changes.

(4) Drug products disqualified from being used as a generic substitute in accordance with § 12-508 of the Health Occupations Article shall be deleted from the Program list of interchangeable drugs concurrently and without further action by the Department.]

~~(d)~~ (C) (1) [Unless] EXCEPT AS PROVIDED UNDER PARAGRAPH (4) OF THIS SUBSECTION AND UNLESS the change is made by an emergency regulation, the