

1 A bill to be entitled
 2 An act relating to the purchasing of Medicaid prescribed
 3 drugs; amending s. 409.908, F.S.; requiring providers of
 4 Medicaid prescribed drugs to give purchasing preference to
 5 drugs manufactured or repackaged at certain facilities;
 6 creating s. 499.01205, F.S.; defining the term "qualifying
 7 facility"; providing for the Department of Health's
 8 recognition of a qualifying facility; requiring the
 9 department to adopt procedures and criteria for the
 10 recognition of a qualifying facility; providing an
 11 effective date.

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 13 Be It Enacted by the Legislature of the State of Florida:

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 15 Section 1. Subsection (14) of section 409.908, Florida
 16 Statutes, is amended to read:

17 409.908 Reimbursement of Medicaid providers.--Subject to
 18 specific appropriations, the agency shall reimburse Medicaid
 19 providers, in accordance with state and federal law, according
 20 to methodologies set forth in the rules of the agency and in
 21 policy manuals and handbooks incorporated by reference therein.
 22 These methodologies may include fee schedules, reimbursement
 23 methods based on cost reporting, negotiated fees, competitive
 24 bidding pursuant to s. 287.057, and other mechanisms the agency
 25 considers efficient and effective for purchasing services or
 26 goods on behalf of recipients. If a provider is reimbursed based
 27 on cost reporting and submits a cost report late and that cost
 28 report would have been used to set a lower reimbursement rate

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29 | for a rate semester, then the provider's rate for that semester
30 | shall be retroactively calculated using the new cost report, and
31 | full payment at the recalculated rate shall be effected
32 | retroactively. Medicare-granted extensions for filing cost
33 | reports, if applicable, shall also apply to Medicaid cost
34 | reports. Payment for Medicaid compensable services made on
35 | behalf of Medicaid eligible persons is subject to the
36 | availability of moneys and any limitations or directions
37 | provided for in the General Appropriations Act or chapter 216.
38 | Further, nothing in this section shall be construed to prevent
39 | or limit the agency from adjusting fees, reimbursement rates,
40 | lengths of stay, number of visits, or number of services, or
41 | making any other adjustments necessary to comply with the
42 | availability of moneys and any limitations or directions
43 | provided for in the General Appropriations Act, provided the
44 | adjustment is consistent with legislative intent.

45 | (14) A provider of prescribed drugs shall be reimbursed
46 | the least of the amount billed by the provider, the provider's
47 | usual and customary charge, or the Medicaid maximum allowable
48 | fee established by the agency, plus a dispensing fee. The
49 | Medicaid maximum allowable fee for ingredient cost will be based
50 | on the lower of: average wholesale price (AWP) minus 16.4
51 | percent, wholesaler acquisition cost (WAC) plus 4.75 percent,
52 | the federal upper limit (FUL), the state maximum allowable cost
53 | (SMAC), or the usual and customary (UAC) charge billed by the
54 | provider. Medicaid providers are required to dispense generic
55 | drugs if available at lower cost and the agency has not
56 | determined that the branded product is more cost-effective,

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57 unless the prescriber has requested and received approval to
58 require the branded product. The agency is directed to implement
59 a variable dispensing fee for payments for prescribed medicines
60 while ensuring continued access for Medicaid recipients. The
61 variable dispensing fee may be based upon, but not limited to,
62 either or both the volume of prescriptions dispensed by a
63 specific pharmacy provider, the volume of prescriptions
64 dispensed to an individual recipient, and dispensing of
65 preferred-drug-list products. The agency may increase the
66 pharmacy dispensing fee authorized by statute and in the annual
67 General Appropriations Act by \$0.50 for the dispensing of a
68 Medicaid preferred-drug-list product and reduce the pharmacy
69 dispensing fee by \$0.50 for the dispensing of a Medicaid product
70 that is not included on the preferred drug list. The agency may
71 establish a supplemental pharmaceutical dispensing fee to be
72 paid to providers returning unused unit-dose packaged
73 medications to stock and crediting the Medicaid program for the
74 ingredient cost of those medications if the ingredient costs to
75 be credited exceed the value of the supplemental dispensing fee.
76 The agency is authorized to limit reimbursement for prescribed
77 medicine in order to comply with any limitations or directions
78 provided for in the General Appropriations Act, which may
79 include implementing a prospective or concurrent utilization
80 review program. A provider of prescribed drugs must give
81 preference in the purchasing of Medicaid prescribed drugs,
82 including generic drugs, to those manufactured or repackaged at
83 a qualifying facility located in this state and recognized by
84 the Department of Health under s. 499.01205.

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85 Section 2. Section 499.01205, Florida Statutes, is created
86 to read:

87 499.01205 Recognition of qualifying facility for Medicaid
88 purchasing preference.--

89 (1) As used in this section, the term "qualifying
90 facility" means a new or expanding facility located in this
91 state at which prescription drugs are manufactured or
92 repackaged.

93 (2) A permittee that manufactures or repackages
94 prescription drugs at a qualifying facility may apply to the
95 department for recognition of the facility. The department shall
96 adopt rules prescribing the application form, procedures, and
97 criteria for recognition of a qualifying facility. A permittee,
98 upon the department's recognition of the qualifying facility, is
99 eligible for the Medicaid purchasing preference provided in s.
100 409.908(14).

101 Section 3. This act shall take effect July 1, 2009.