By Senator Bennett

21-01132-09 2009894__

A bill to be entitled

An act relating to the purchasing of Medicaid prescribed drugs; amending s. 409.908, F.S.; requiring providers of Medicaid prescribed drugs to give purchasing preference to drugs manufactured or repackaged at certain facilities; creating s. 499.01205, F.S.; defining the term "qualifying facility"; providing for the Department of Health's recognition of a qualifying facility; requiring the department to adopt procedures and criteria for the recognition of a qualifying facility; providing an effective date.

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

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

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

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

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

branded product. The agency is directed to implement a variable dispensing fee for payments for prescribed medicines while ensuring continued access for Medicaid recipients. The variable dispensing fee may be based upon, but not limited to, either or both the volume of prescriptions dispensed by a specific pharmacy provider, the volume of prescriptions dispensed to an individual recipient, and dispensing of preferred-drug-list products. The agency may increase the pharmacy dispensing fee authorized by statute and in the annual General Appropriations Act by $0.50 for the dispensing of a Medicaid preferred-drug-list product and reduce the pharmacy dispensing fee by $0.50 for the dispensing of a Medicaid product that is not included on the preferred drug list. The agency may establish a supplemental pharmaceutical dispensing fee to be paid to providers returning unused unit-dose packaged medications to stock and crediting the Medicaid program for the ingredient cost of those medications if the ingredient costs to be credited exceed the value of the supplemental dispensing fee. The agency is authorized to limit reimbursement for prescribed medicine in order to comply with any limitations or directions provided for in the General Appropriations Act, which may include implementing a prospective or concurrent utilization review program. A provider of prescribed drugs must give preference in the purchasing of Medicaid prescribed drugs, including generic drugs, to those manufactured or repackaged at a qualifying facility located in this state and recognized by the Department of Health under s. 499.01205.

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

499.01205 Recognition of qualifying facility for Medicaid purchasing preference.—

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

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

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