

January 13, 2020

**ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY BILL NO. 2431**

To the General Assembly:

Pursuant to Article V, Section I, Paragraph 14 of the New Jersey Constitution, I am returning Assembly Committee Substitute for Assembly Bill No. 2431 with my recommendations for reconsideration.

This bill would require private health insurers, the State Health Benefits Plan ("SHBP"), and the School Employees' Health Benefits Plan ("SEHBP") to place limitations on covered persons' cost sharing for prescription drugs. Specifically, the bill would require a contract that provides a silver, gold, or platinum level of coverage to limit a covered person's cost sharing to no more than \$150 per month for each prescription, and a contract that provides bronze-level coverage to no more than \$250 per month for each prescription with limited exceptions for high-deductible plans.

Few issues have a greater financial impact on New Jersey families than the unpredictable and ever-increasing cost of prescription drugs. Cost-sharing too often presents a barrier to a patient's ability to access medically-necessary treatments. Although this legislation would not limit the actual cost of prescription drugs, it would be likely to improve the affordability of medical care for many residents who unfortunately must make difficult sacrifices in order to pay for their required medications.

While I am pleased with the prospect of this bill helping more people gain access to necessary medical care, I am concerned about this bill's potential impact on taxpayers due to the mandates it imposes on the SHBP and SEHBP. In an effort to achieve real and sustainable public employee health benefit cost savings, my

Administration has worked, and continues to work, with the SHBP and SEHBP plan design committees to institute numerous reforms. One such reform instituted by the plan design committees is a policy commonly referred to as Member Pays the Difference ("MPD").

Under the MPD policy, if a member elects to use brand name drugs that have generic equivalents, the member is required to pay the applicable generic copay plus the cost difference between the brand name drug and the generic drug. The MPD policy is meant to increase the rates of generic drug dispensation for the SHBP and SEHBP, which are consistently below both private and public sector benchmarks. The plans' current generic dispense rate is approximately 82.9 percent, whereas the public sector benchmark is over 89 percent and the private sector benchmark is over 94 percent. According to the Division of Pensions and Benefits in the Department of the Treasury, for every one percent increase in the rate of generic drug dispensation, there is a corresponding three percent decrease in the maximum amount the plans will pay for covered prescription drugs. Conversely, even a minor reduction of the plans' generic dispense rate could result in an increase of millions of dollars in the amount the plans pay for covered prescription drugs.

The limitation on out-of-pocket expenses contained in this bill would reduce the effectiveness of the MPD policy by removing the incentive for public employees to choose generic drugs over their brand name equivalents once the out-of-pocket limit established by the bill is reached. Given the potential impact on taxpayers, I am recommending changes to the bill that would exempt the plans from the bill's requirements.

Therefore, I herewith return Assembly Committee Substitute for Assembly Bill No. 2431 and recommend that it be amended as follows:

- Page 8, Section 9, Lines 38-48: Delete in their entirety
- Page 9, Section 9, Lines 1-14: Delete in their entirety
- Page 9, Section 10, Lines 16-40: Delete in their entirety
- Page 9, Section 11, Line 42: Delete "11." and insert "9."
- Page 9, Section 11, Line 46: After "enactment;" insert "and"
- Page 10, Section 11, Line 3: Delete "; and" and insert "."
- Page 10, Section 11, Lines 4-8: Delete in their entirety

[seal]

Respectfully,
/s/ Philip D. Murphy
Governor

Attest:

/s/ Matthew J. Platkin
Chief Counsel to the Governor