WEST VIRGINIA CODE: §5A-3-1A

§5A-3-1a. Prescription drug products.

In addition to other provisions of this article, the division is authorized, on behalf of the Public Employees Insurance Agency, the schools of medicine of the state colleges and universities, the department of vocational rehabilitation and the Department of Human Services, to negotiate and enter into agreements directly with manufacturers and distributors whose prescription drug products are sold in the state for sole-source and multiple-source drugs to be paid for under a state program for eligible recipients. Such agreements shall provide for a rebate of a negotiated percentage of the total product cost to be paid by the manufacturer or distributor of a specific product. Each agency is authorized to establish, either singularly or together with other agencies, a drug formulary.

Prescription drug products are included in the drug formulary only upon completion of the application to and approval of the division. Those products for which a rebate is successfully negotiated are automatically included in the drug formulary for a period of time coterminous with the negotiated rebate.

If there has been a failure to negotiate or renew a rebate agreement for a specific prescription drug product, the pharmaceutical manufacturer of that product shall disclose to the division its most favorable pricing arrangements available to state and nonstate government purchasers. If the division determines that the product needs to be included in the drug formulary, with the approval of the agency the division shall establish the amount to be reimbursed for the product based upon the price information provided by the manufacturer. The determination as to whether a product should be included in the drug formulary is based on the product's efficiency, cost, medical necessity and safety. Any rebate returns, as a result of the provisions of this section regarding prescription drugs, shall be deposited in the General Revenue Fund.

It is expressly recognized that no other entity may interfere with the discretion and judgment given to the single state agency that administers the state's Medicaid program. Therefore, the Department of Human Services is authorized to negotiate rebates as provided for in this section.

WV Legislature