



STATE OF NEW YORK
EXECUTIVE CHAMBER
ALBANY 12224

VETO # *286*

December 26, 2019

TO THE SENATE:

I am returning herewith, without my approval, the following bill:

Senate Bill Number 6531, entitled:

“AN ACT to amend the public health law, in relation to pharmacy benefit managers; to amend the insurance law, in relation to registration and licensing of pharmacy benefit managers; and to repeal certain provisions of the public health law relating thereto”

NOT APPROVED

This bill would provide for licensure and supervision of pharmacy benefit managers (PBMs) by the Department of Financial Services and the Department of Health, and would create new duties and obligations for PBMs in relation to covered individuals, health plans, or providers for whom they provide services.

I have made the regulation of the pharmaceutical sector a priority of my administration including, most recently, by announcing a three part plan to lower prescription drug costs for all New Yorkers by capping insulin co-payments, empowering the State Department of Financial Services to investigate and hold drug manufacturers accountable for unjustifiable, exorbitant increases in drug prices, and establishing a commission of experts to study the feasibility and benefits of a Canadian drug importation program. I have also proposed registering and regulating PBMs, and continue to support such measures.

While I appreciate the intent of this bill, as drafted this bill would be preempted by the Federal Employee Retirement Income Security Act (ERISA), as well as by the Medicare Prescription Drug, Improvement, and Modernization Act (“MMA”) as applied to the Medicare Part D Program. The new duties created by the bill are also likely to increase administrative costs, facilitate anticompetitive conduct, and generate scrutiny from the Federal Trade Commission (FTC) and the Department of Justice (DOJ) and sweep in plans that are not true PBMs, but rather health benefit funds only. For these reasons I am constrained to veto this bill.

The bill is disapproved.

A handwritten signature in black ink, appearing to read 'Andrew Cuomo', written in a cursive style.