



February 23, 2018

North Carolina Department of Insurance
Consumer Services Division
325 N. Salisbury Street
Raleigh, NC 27603-1359

Complainant: Maggie M.
NCDOI File Number:

Subscriber ID: 90
Subscriber Policy: Blue Local Bronze 5500-OFF
Effective Date: 1/1/17 and currently active
Member Policy Type: Individual
Grandfathered: No

To the Department of Insurance Consumer Services Division:

Blue Cross and Blue Shield of North Carolina (Blue Cross NC) is writing in response to the open correspondence(s) regarding the NCDOI File Number for the complainant shown above. Thank you for the opportunity to review this matter.

The Department writes requesting documentation that would advise of the specific conditions for approval to lower a drug's cost. The Department asks specifically about the following language in the member's benefit booklet:

"From time to time, MEMBERS may receive a reduced or waived copayment and/or coinsurance on designated drugs in connection with a program designed to reduce PRESCRIPTION DRUG costs."

The language cited above is standard in most Blue Cross NC benefit booklets and is used to permit Blue Cross NC to provide "from time to time a **program** designed to reduce Prescription Drug Costs." These are not set programs and they are not consistently available. When Blue Cross NC launches such a program, we provide ample direct mail pieces and use other avenues to alert members to these programs. An example of such a program Blue Cross NC has offered in the past was related to a copay waiver for generic drugs. Currently, Blue Cross NC is not offering any such programs.

Therefore, Ms. XX is limited to the current benefit design for her pharmacy benefits and any exceptions that are currently laid out in her member booklet. As previously stated, the member's benefits include a brand name penalty fee in cases where the generic drug is available. The benefit booklet language highlights the possibility of requesting an **exception** to the policy. This request to waive the contractual brand drug penalty is the provider's responsibility. The following steps must be completed in order for the request to be considered:

- The provider must submit the Request for Waiver of Brand Drug Additional Fees for review. Per the documentation included in our previous responses, "Additional fees may be waived for a brand name medication when a generic is available if all of the following are met:

1. The prescriber has indicated on the prescription “Dispense As Written (DAW)”; **AND**
2. The patient has tried an AB-rated generic equivalent to a brand name medication; **AND**
3. The patient had a documented allergic reaction to an excipient (inactive ingredient) that is present in the generic formulation, but is absent in the brand name equivalent; **AND/OR**
4. The patient had a documented life-threatening side effect that required medical intervention to a generic medication that did not occur with the brand; **AND**
5. The prescriber completed and submitted an FDA MedWatch Adverse Event Reporting Form “[the prescriber must provide a copy of the completed MedWatch; authorization will not be considered unless the form is completed and submitted to the FDA].”

This information is also highlighted at BlueCrossNC.com: “Difference between brand and generic drugs - depending on your benefits, you may be charged more if you receive a brand drug when a generic is available. We may not ask you to pay the difference if there is a medical reason you need to take the brand name drug. There are some steps you must take:

- Your provider should send in a document to the Food and Drug Administration to let them know you cannot take the generic and why. You can find more information and the form to submit at <http://www.fda.gov/Safety/MedWatch>
- Your provider should review the previously attached criteria, and if you meet these guidelines, they can then submit information via this fax form or through CoverMyMeds.”

Blue Cross NC records show that we received the provider’s request on 2/20/18. Per the attached denial letter dated 2/21/18, “Requests for waiver of brand-name drug additional fees may be granted when the member has tried an AB-rated generic equivalent and had either a documented allergic reaction or life-threatening side effect that did not occur with the brand equivalent. In this case, none of the above criteria are met.”

Blue Cross NC offers an appeals process for our members. Appeals must be submitted in writing by the member, or the member’s representative, with the member’s written permission. The appeal must be filed within 180 days of the denial to be eligible for review.

If the member has any questions or concerns, they may contact customer service at 1-888-206-4697.

Please be advised the enclosed response contains member protected health information. This response is intended for the North Carolina Department of Insurance (NCDI) and is not intended for further distribution.

If the Department needs further assistance on this matter, please contact us through the portal.

Sincerely,



**BlueCross BlueShield
of North Carolina**

Corporate Compliance
Blue Cross NC, NAIC 54631