

Table D-1. Summaries of “Brand Necessary” Provisions in State Medicaid Generic Prescription Substitution and Prescription Reimbursement Cap Laws*

State	Generic Substitution Law	Prescription Reimbursement Cap Law
Alabama	N/A	N/A
Alaska	N/A	The department will not pay for the following: ... brand name, multisource drugs if a therapeutically equivalent generic drug is on the market, unless the prescriber writes on the prescription “brand-name medically necessary drug” or “allergic to the inert ingredients of the generic drug”; the information may be submitted electronically or telephonically... Alaska Admin. Code tit. 7, 43.590(b)(7) (2009). ⁽¹⁾
Arizona	A prescription generated in this state must be dispensed as written only if the prescriber writes or clearly displays “DAW”... or any statement by the prescriber that clearly indicates an intent to prevent substitution on the face of the prescription form. This section applies to all prescriptions, including those presented by or on behalf of persons receiving state or federal assistance payments. ... Ariz. Rev. Stat. § 32-1963.01 (2009). [Arizona Pharmacy Statutes]. ⁽²⁾	N/A
Arkansas	N/A	N/A
California	To indicate that a selection shall not be made pursuant to this section for an electronic data transmission prescription ... a prescriber may indicate “Do not substitute,”... in the prescription as transmitted by electronic data, or may check a box marked on the prescription “Do not substitute.” In either instance, it shall not be required that the prohibition on substitution be manually initialed by the prescriber. This section shall apply to all prescriptions, including those presented by or on behalf of persons receiving assistance from the federal government or pursuant to the California Medical Assistance Program set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code. Cal. Bus. & Prof. Code § 4073(b), (d) (2008). (California Pharmacy Statute).	N/A
Colorado	N/A	N/A

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Table D-1. Summaries of “Brand Necessary” Provisions in State Medicaid Generic Prescription Substitution and Prescription Reimbursement Cap Laws* (continued)

State	Generic Substitution Law	Prescription Reimbursement Cap Law
Connecticut	<p>A licensed medical practitioner may specify... by electronic communication that there shall be no substitution... provided (1) the practitioner specifies the basis on which the brand name drug product... is medically necessary... and (2) the phrase “brand medically necessary” shall be in the practitioner’s handwriting on the prescription form or, if the prohibition was communicated by telephonic communication, in the pharmacist’s handwriting on such form, and shall not be preprinted or stamped or initialed on such form. If the practitioner specifies by telephonic communication that there shall be no substitution for the specified brand name drug product in any prescription for a Medicaid, state-administered general assistance, or ConnPACE recipient, written certification in the practitioner’s handwriting bearing the phrase “brand medically necessary” shall be sent to the dispensing pharmacy within 10 days.... Conn. Gen. Stat. §17b-274(b) (2009).</p> <p>A prescribing practitioner may specify in writing or by a telephonic or other electronic communication that there shall be no substitution for the specified brand name drug product in any prescription, provided (1) in any prescription for a Medicaid, state-administered general assistance, or ConnPACE recipient, such practitioner specifies the basis on which the brand name drug product and dosage form is medically necessary in comparison to a chemically equivalent generic drug product substitution, and (2) the phrase “BRAND MEDICALLY NECESSARY,” shall be in the practitioner’s handwriting on the prescription form or on an electronically produced copy of the prescription form or, if the prohibition was communicated by telephonic or other electronic communication that did not reproduce the practitioner’s handwriting, a statement to that effect appears on the form. The phrase “BRAND MEDICALLY NECESSARY” shall not be preprinted or stamped or initialed on the form. If the practitioner specifies by telephonic or other electronic communication that did not reproduce the practitioner’s handwriting that there shall be no substitution for the specified brand name drug product in any prescription for a Medicaid, state-administered general assistance, or ConnPACE recipient, written certification in the practitioner’s handwriting bearing the phrase “BRAND MEDICALLY NECESSARY” shall be sent to the dispensing pharmacy within 10 days. Conn. Gen. Stat. § 20-619(c) (2008) [Pharmacy Act].</p>	N/A

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Table D-1. Summaries of “Brand Necessary” Provisions in State Medicaid Generic Prescription Substitution and Prescription Reimbursement Cap Laws* (continued)

State	Generic Substitution Law	Prescription Reimbursement Cap Law
Delaware	<p>[T]he pharmacist may dispense a therapeutically equivalent drug if the following conditions are met: (1) The practitioner, in the case of a written prescription, places that practitioner’s own signature on the signature line alongside or above the words “substitution permitted” pursuant to subsection (c) of this section...</p> <p>Every prescription written in this State by a practitioner must be on a prescription form containing a line for the practitioner’s signature. Alongside or beneath the signature line the words “Substitution Permitted” must be clearly printed. Beneath the signature line the following statement must be clearly printed: “In order for a brand name product to be dispensed, the prescriber must handwrite “Brand Necessary” or “Brand Medically Necessary” in the space below.” A second line to accommodate the above-mentioned wording must be provided beneath the statement. Prescription forms containing the appropriate signature line and statement must be used by every practitioner in this State who prescribes drugs. 24 Del. Code § 2549 (2009) [Pharmacy Statutes].</p> <p>Nothing in this chapter may be construed to prevent... A pharmacist in this State from dispensing a valid noncontrolled prescription drug pursuant to a prescription received via electronic transmission from a practitioner’s office to the prescription department of the dispensing pharmacy. 24 Del. Code §2523 (2009) [Pharmacy Statutes].</p>	N/A
District of Columbia	N/A	N/A
Florida	N/A	N/A
Georgia	N/A	N/A
Guam	N/A	N/A

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Table D-1. Summaries of “Brand Necessary” Provisions in State Medicaid Generic Prescription Substitution and Prescription Reimbursement Cap Laws* (continued)

State	Generic Substitution Law	Prescription Reimbursement Cap Law
Hawaii	<p>The pharmacist shall not substitute an equivalent generic drug product if the practitioner indicates “brand medically necessary” or words of similar meaning.... The designation...must be handwritten by the practitioner.... [or] if a prescription is... electronically ordered and the practitioner or authorized employee of the practitioner indicates “brand medically necessary”.... This subsection shall not apply when it does not comply with any federal requirement for services reimbursable by Medicaid or Medicare.... Haw. Rev. Stat § 328-92(b) (2008).</p>	N/A
Idaho	N/A	<p>Medicaid will not pay for a brand name product that is part of the federal upper limit (FUL) or state maximum allowable cost (SMAC) listing when the physician has not specified the brand name drug to be medically necessary. Idaho Admin. Code r. 16.03.09.662(3)(b) (2007).</p>
Illinois	N/A	N/A
Indiana	<p>If a prescription is filled under the Medicaid program... the pharmacist shall substitute a generically equivalent drug product... unless:</p> <ul style="list-style-type: none"> • the words “Brand Medically Necessary” are... • electronically transmitted with an electronically transmitted prescription; or • the practitioner has indicated that the pharmacist may not substitute a generically equivalent drug product by... • for an electronically transmitted prescription, indicating with the electronic prescription that a substitution is not permitted. <p>Ind. Code Ann. § 16-42-22-10(a) (2008). [Indiana Food and Drug Statutes].</p>	N/A

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Table D-1. Summaries of “Brand Necessary” Provisions in State Medicaid Generic Prescription Substitution and Prescription Reimbursement Cap Laws* (continued)

State	Generic Substitution Law	Prescription Reimbursement Cap Law
Iowa	<p>If the cost of the prescription or any part of it will be paid by expenditure of public funds authorized under chapter 249A [Medicaid], the pharmacist shall exercise professional judgment by selecting a drug product with the same generic name and demonstrated bioavailability as the one prescribed for dispensing and sale....</p> <p>The pharmacist shall not exercise the drug product selection described in this section if... the following is true: The prescriber specifically indicates that no drug product selection shall be made. Iowa Code § 155A.32 (2009). (Iowa Pharmacy Statutes).</p>	N/A
Kansas	N/A	<p>Except where a prescriber has personally written “dispense as written” or “D.A.W.,” or has signed the prescriber’s name on the “dispense as written” signature line in accordance with K.S.A. 65-1637... the Kansas health policy authority may limit reimbursement for a prescription under the Medicaid program to the multisource generic equivalent drug....</p> <p>Kan. Stat. Ann. § 39-7,121e (2008).</p>
Kentucky	<p>A physician may indicate that there should be no generic drug substitution in any manner of his choice as long as it is contemporaneous with issuing and writing the prescription; however, when the prescription involves a patient under the Kentucky medical assistance plan, the physician must not only indicate that substitution is not appropriate but must do it in his own handwriting.</p> <p>Ky. A.G. 77-223 (1977); Ky. A.G. 2-182 (1989) affirms soundness of opinion (based on Ky. Rev. Stat. § 217.822 and Medicaid provisions “implemented to qualify for federal medical assistance funds”).</p> <p>Interpretation confirmed by Attorney General opinions based on general Pharmacy Code provision, Ky. Rev. Stat. § 217.822, and Medicaid regulations adopted to conform to federal requirements.</p>	<p>In addition to the requirements of subsection (1) of this section [prior authorization for drug with Brand Name Drug Request Form, requirement for handwritten “brand medically necessary” [(sec. 4 (1)(b)2]... the prescriber shall be required to certify a brand name only request by including... the prescriber’s signature and the phrase “Brand Medically Necessary” or “Brand Necessary” handwritten directly on: (a) The prescription... or (c) A[n attached] separate sheet of paper....</p> <p>907 Ky. Admin. Regs. 1:019 Sec. 4(3) (2009).</p>

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Table D-1. Summaries of “Brand Necessary” Provisions in State Medicaid Generic Prescription Substitution and Prescription Reimbursement Cap Laws* (continued)

State	Generic Substitution Law	Prescription Reimbursement Cap Law
Louisiana	<p>In order to comply with 42 CFR 447.331, for prescriptions reimbursable by Medicaid, the practitioner or authorized prescriber may prohibit equivalent drug product interchange only by handwriting the words “brand medically necessary” or “brand necessary” directly on the written prescription drug order or on a sheet attached to the prescription....</p> <p>La. Rev. Stat. Ann. § 37:1241(17)(c) (2008) Louisiana Pharmacy Statutes.</p> <p>... the prescription form shall not be less than 4 inches by 5 inches, and shall bear a single printed signature line.... Each prescription drug order on the form shall provide the following: a check box labeled “dispense as written” or DAW or both; and for prescriptions reimbursable by Medicare and Medicaid, the Advanced Practice Registered Nurse may only inhibit equivalent drug product interchange by handwriting the words “brand necessary” or “brand medically necessary” on the face of the prescription order or on a separate sheet attached to the prescription order as specified in LAC 46:LIII.2511.</p> <p>La. Admin. Code tit. 46 XLVII, § 4513(D)(2)(a) (2008). Louisiana Nursing Regulations⁽³⁾</p> <p>For prescriptions reimbursable by Medicare and Medicaid, the physician assistant may only inhibit equivalent drug product interchange by handwriting the words “brand necessary” or “brand medically necessary” on the face of the prescription order or on a separate sheet attached to the prescription order.</p> <p>La. Admin. Code tit. 46, XLV § 4506 (2008). Louisiana Physician Assistants Regulations.</p>	N/A
Maine	N/A	N/A

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Table D-1. Summaries of “Brand Necessary” Provisions in State Medicaid Generic Prescription Substitution and Prescription Reimbursement Cap Laws* (continued)

State	Generic Substitution Law	Prescription Reimbursement Cap Law
Maryland	N/A	<p>For any drug on the Program’s interchangeable drug list, the Program shall reimburse providers in an amount not more than it would reimburse for the drug’s generic equivalent, unless the individual’s physician states, in his or her own handwriting, on the face of the prescription, that a specific brand is “medically necessary” for the particular patient.</p> <p>Md. Code Ann., Health-Gen § 15-124(b)(1)(ii) (2008).</p> <p>The Program shall only pay for a generic equivalent unless a brand is specified as medically necessary by the prescribing physician...</p> <p>Md. Code Regs. 10.20.01.07 N(3)(e) (2009).</p>
Massachusetts	N/A	<p>Multiple source drugs listed in the Massachusetts list of interchangeable drug products... shall not be reimbursable except for the “Massachusetts maximum allowable cost”... unless [prior authorization is obtained and]... the practitioner writes on the face of the prescription in his or her own handwriting the words “brand name medically necessary” under the words “no substitution” in a manner consistent with applicable state law....</p> <p>Mass. Gen. Laws ch. 118E, § 17 (2008).</p>
Michigan	N/A	N/A
Minnesota	N/A	N/A
Mississippi	<p>To prevent the pharmacist from selecting a generic equivalent drug product for a prescribed brand name drug product to dispense to a Medicaid recipient, the prescriber must write on the face of the prescription, in his own handwriting “BRAND NAME MEDICALLY NECESSARY.”</p> <p>50-018-001 Miss. Code R. art. X(1) (2008) (Emphasis in original).</p>	<p>Mississippi law requires that Medicaid shall not reimburse for a brand name drug if an equally effective generic equivalent is available and the generic equivalent is the least expensive.... [To come within an exception to this rule] [t]he prescriber must indicate the following on a written or faxed prescription:</p> <ul style="list-style-type: none"> • Brand name medically necessary or • Dispense as written or • Do not substitute. <p>13-000-011 Miss. Code R. § 31.11 (2008).</p>
Missouri	N/A	N/A

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Table D-1. Summaries of “Brand Necessary” Provisions in State Medicaid Generic Prescription Substitution and Prescription Reimbursement Cap Laws* (continued)

State	Generic Substitution Law	Prescription Reimbursement Cap Law
Montana	N/A	<p>Drugs will be paid for on the basis of...“estimated allowable cost” or the “maximum allowable cost”... except that the “maximum allowable cost” limitation shall not apply in those cases where a... practitioner... certifies in their own handwriting that in their medical judgment a specific brand name drug is medically necessary for a particular patient. An example of an acceptable certification would be the notation “brand necessary” or “brand required.” A check-off box on a form or a rubber stamp is not acceptable. Mont. Admin. R. 37.86.1105(1) (2008).</p>
Nebraska	N/A	<p>If the prescribing physician requires that a brand name product of FUL or a state maximum allowable cost (SMAC) designated drug... is medically necessary, the Department requires the physician to sign and date Form MC-6 [see below], “Physician Certification”.... The FUL/SMAC limitation does not apply when the prescribing physician certifies on Form MC-6 that a brand name product is medically necessary and the Department shall reimburse the pharmacy provider at the estimated acquisition cost value for the trade name drug product. If Form MC-6 is not completed, the Department shall reimburse the pharmacy at the FUL/SMAC limit for the drug product. 471 Neb. Admin. Code §§ 16-005.02 (2008). Forms: The Department requires completion of the physician certification form to meet federal requirements. Form MC-6 must: 1. Contain the handwritten signature of the prescribing physician. Rubber stamp signatures, initials, etc., are not acceptable.... 5. The original and subsequent drug claims must be checked “dispense as written”.... 471 Neb. Admin. Code §§ 16-005.02 (2008).</p>
Nevada	N/A	N/A

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Table D-1. Summaries of “Brand Necessary” Provisions in State Medicaid Generic Prescription Substitution and Prescription Reimbursement Cap Laws* (continued)

State	Generic Substitution Law	Prescription Reimbursement Cap Law
New Hampshire	N/A	<p>The NHMAC [New Hampshire Maximum Allowable Cost] and FUL shall not apply when a practitioner certifies on the face of the prescription in his/her own handwriting, pursuant to He-W 570.09, that a specific brand of drug, which is a NHMAC or FUL drug, is medically necessary for a particular recipient. N.H. Code R. [He-W] 570.14(a)(3)c (2009). Certification for specific brand, NHMAC and FUL drugs, shall conform with the following: (a) shall be in the practitioner's own handwriting, or the pharmacist's own handwriting if a telephone order; (b) The handwritten certification shall state the term brand necessary or brand medically necessary; (c) The certification shall be handwritten directly on the face of the prescription blank; (d) Drugs certified as brand necessary or brand medically necessary shall be subject to prior authorization in accordance with He-W 570.06 [Prior Authorization]. N.H. Code R. [He-W] 570.09 (2009).</p>
New Jersey	<p>The Prescription Drug Price and Quality Stabilization Act... shall apply to the New Jersey Medicaid and NJ FamilyCare programs... this law requires that every prescription blank contain...“Substitution Permissible” and “Do Not Substitute.” The prescriber shall initial one of the statements in addition to signing the prescription blank....</p> <p>(a) 3. For non-MAC drugs (see N.J.A.C. 10:51-1.5) when the prescriber initials “Do Not Substitute,” the pharmacist shall indicate the prescriber’s preference by indicating “Medical Certification” on the claim form or the similar field in the EMC claim format and shall dispense and bill Medicaid... for the prescribed product... [See reimbursement column for detail].</p> <p>(c) Blanket authorization denying substitutions shall not be permitted. Each prescription order shall state “Brand Medically Necessary” in the prescriber’s own handwriting. For non-MAC drugs, each prescription order shall follow the requirements of N.J.S.A. 24:6E-1 et seq. (see (a) above).</p> <p>N.J. Admin. Code § 10:51-1.20 (2009).⁽⁴⁾</p>	<p>For non-MAC drugs ... Reimbursement will be the estimated acquisition cost plus applicable dispensing fee or the usual and customary charge, whichever is less for that product 4... (b) Federal regulations prescribe the aggregate upper limit...that Medicaid... may reimburse for certain multisource drugs. The limit shall apply to all listed MAC drugs ... unless the prescriber indicates in his or her own handwriting on each written prescription... The Federal regulation requires a handwritten statement and does not permit the use of alternatives such as a check-off box, initials or prescriber’s signature, next to a preprinted statement “Do Not Substitute,” nor does it allow a handwritten statement “Do Not Substitute.” For purposes of reimbursement, the physician’s override capability under N.J.S.A. 24:6E-1 does not apply to drugs which have a Federal MAC limit.</p> <p>N.J. Admin. Code § 10:51-1.20 (2009).</p>

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Table D-1. Summaries of “Brand Necessary” Provisions in State Medicaid Generic Prescription Substitution and Prescription Reimbursement Cap Laws* (continued)

State	Generic Substitution Law	Prescription Reimbursement Cap Law
New Mexico	N/A	If the prescriber certifies that a specific brand is medically necessary, by handwriting “brand medically necessary” on the face of the prescription, the allowed ingredient cost is the estimated acquisition cost ... Checked boxes, rubber stamps, requests by telephone, and written words that do not include the statement “medically necessary” do not constitute appropriate documentation, pursuant to 42 CFR 447.331. “Brand medically necessary” prescriptions may be subject to prior authorization. N.M. Code R. § 8.324.4.11(C)(1) (Weil 2009).
New York	N/A	...if a qualified prescriber certifies “brand medically necessary” or “brand necessary” in his or her own handwriting directly on the face of a prescription for a multiple source drug for which a specific upper limit of reimbursement has been established by the federal agency, in addition to writing “DAW” in the box provided for such purpose on the prescription form, payment under this title for such drug must be made under the provisions of subparagraph (ii) [payment for drugs with no specific federal upper limit of such paragraph]. N.Y. Social Services Law § 367-a(9)(c) (McKinney 2009).
North Carolina	A prescription for a drug designated by a brand or trade name shall be considered to be an order for the drug by its generic name, except when the prescriber personally indicates on the prescription order “dispense as written.” 10A N.C. Admin. Code 220.0118(b) (2009).	N/A

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Table D-1. Summaries of “Brand Necessary” Provisions in State Medicaid Generic Prescription Substitution and Prescription Reimbursement Cap Laws* (continued)

State	Generic Substitution Law	Prescription Reimbursement Cap Law
North Dakota	N/A	<p>In the case of a prescription for which a maximum allowable cost program for purposes of reimbursement has been established under Title XIX of the federal Social Security Act, the following also apply: a. If the practitioner has instructed the pharmacist to dispense as written, the words “brand necessary” must also be written on the prescription in the practitioner’s own handwriting. The pharmacist may dispense a therapeutically equivalent generic name drug product if this handwritten instruction does not appear on the prescription....b. [oral provision removed from this table]. N.D. Cent. Code § 19-02.1-14.1(4) (2008). [Food and Drug Statutes].</p>
Ohio	N/A	<p>(MAC) pharmaceuticals (a)...shall not make reimbursement for these products...at a rate higher than the (FUL) prices. Drugs that have been identified in appendix A to rule 5101:3-9-12 of the Administrative Code as brand medically necessary (BMN) may only be dispensed without prior authorization when the prescriber has indicated “brand medically necessary” or “BMN” on the prescription. Ohio Admin. Code 5101:3-9-05 (2009).</p>

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Table D-1. Summaries of “Brand Necessary” Provisions in State Medicaid Generic Prescription Substitution and Prescription Reimbursement Cap Laws* (continued)

State	Generic Substitution Law	Prescription Reimbursement Cap Law
Oklahoma	When a product is available in both a brand and generic form, a prior authorization is required before the branded product may be dispensed. The prescribing provider must certify the brand name drug product is medically necessary for the well being of the patient; otherwise, a generic must be substituted for the name brand product. (1) The certification must be written in the physician’s or other prescribing provider’s handwriting. (2) Certification must be written directly on the prescription blank or on a separate sheet which is attached to the original prescription. (3) A standard phrase indicating the need for a specific brand is required. The OHCA recommends use of the phrase “Brand Necessary.” (4) It is unacceptable to use a printed box on the prescription blank that could be checked by the physician to indicate brand necessary, or to use a handwritten statement that is transferred to a rubber stamp and then stamped onto the prescription blank... Okla. Admin. Code § 317:30-5-77 (2009).	N/A
Oregon	N/A	N/A
Pennsylvania	N/A	[T]he State MAC... sets a limit on the drug cost component of the payment formula for selected multisource drugs. The State MAC will include a combination of CMS multisource drugs and the Department’s MAC drugs and does not apply if the following exist: The licensed prescriber certifies that a specific brand is medically necessary by doing all of the following: (i) Writes on the prescription form ‘Brand Necessary’ or ‘Brand Medically Necessary’ in the prescriber’s own handwriting; (ii) [prior authorization from Department]. 55 Pa. Code. § 1121.53 (2009).
Puerto Rico	N/A	N/A

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Table D-1. Summaries of “Brand Necessary” Provisions in State Medicaid Generic Prescription Substitution and Prescription Reimbursement Cap Laws* (continued)

State	Generic Substitution Law	Prescription Reimbursement Cap Law
Rhode Island	N/A	<p>In those instances where a medication is subject to Federal or State Upper Limits and the prescribing provider feels the brand name is necessary... the following procedure must be followed to ensure payment of the brand name. The prescribing provider must sign on the “dispense as written” line for the brand name product and indicate on this prescription the medical reason why the recipient cannot take a generic substitution. The pharmacist then calls Pharmacy Services... to get approval for this recipient. Verbal authorization will be given if the prescription meets all the above criteria. This approval will be temporary until a copy of the actual prescription is sent to Pharmacy Services for their files. 15-020-007 Code R. § 232.124 (Weil 2009).</p> <p>A. In those instances in which brand substitutions are prohibited by law, when a pharmacist receives a prescription request for a brand name upper limit drug priced above the upper limit, the pharmacist may ask the prescribing physician either to authorize substitution of a less-expensive product or to certify “brand necessary” in order to ensure that reimbursement will not be limited to the upper limit allowance.</p> <p>B. When a physician certifies that a specific “Brand Name” of drug which is subject to upper limits is medically necessary for a particular patient, the following procedure should be followed:</p> <p>1. The physician should complete the Rhode Island original prescription form MA-509 for the “brand name” upper limit drug which he considers necessary. In addition, the physician must certify—in his own handwriting—directly on his private prescription blank “brand necessary.” The physician must also sign this private prescription blank. This certification must be attached to form MA-509. 15-040-004 R.I. Code R. § XII (B)(1) (Weil 2009). (Reimbursement)</p>
South Carolina	N/A	N/A
South Dakota	N/A	N/A
Tennessee	N/A	N/A

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Table D-1. Summaries of “Brand Necessary” Provisions in State Medicaid Generic Prescription Substitution and Prescription Reimbursement Cap Laws* (continued)

State	Generic Substitution Law	Prescription Reimbursement Cap Law
Texas	<p>Written prescriptions.</p> <ul style="list-style-type: none"> • A practitioner may prohibit the substitution of a generically equivalent drug product for a brand name drug product by writing across the face of the written prescription, in the practitioner’s own handwriting, the phrase “brand necessary” or “brand medically necessary.” • The dispensing directive specified in this paragraph may not be preprinted, rubber stamped, or otherwise reproduced on the prescription form. • A practitioner may prohibit substitution on a written prescription only by following the dispensing directive specified in this paragraph. Two-line prescription forms, check boxes, or other notations on an original prescription drug order which indicate “substitution instructions” are not valid methods to prohibit substitution, and a pharmacist may substitute on these types of written prescriptions. <p>To prohibit substitution on an electronic prescription drug order reimbursed through the medical assistance program specified in 42 C.F.R., § 447.331, the practitioner shall fax a copy of the original prescription drug order which complies with the requirements of a written prescription drug order specified in paragraph (1) of this subsection within 30 days.... 22 Tex. Admin. Code § 309.3(c)(4)(C) (2009). Texas Pharmacy Regulations.</p>	<p>Physicians who want to dispense a brand name on a prescription for a multisource drug with a maximum allowable cost must handwrite the phrase “Brand necessary” on the face of the prescription. This procedure enables payment for the drug at the more expensive brand name estimated acquisition cost. To indicate this certification (override) on the pharmacy claim form, the provider must enter “6” in the field for “Dispense as Written.” 1 Tex. Admin. Code § 355.8546(a) (2009).</p>

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Table D-1. Summaries of “Brand Necessary” Provisions in State Medicaid Generic Prescription Substitution and Prescription Reimbursement Cap Laws* (continued)

State	Generic Substitution Law	Prescription Reimbursement Cap Law
Utah	<p>A Medicaid drug program... shall permit a health care provider... to override the restrictions of a preferred drug list provided that the medical necessity for the override is documented in the patient’s medical file and by handwriting on the prescription “medically necessary—dispense as written”; and (ii) shall not permit a health care provider... to override the restrictions of a preferred drug list with any preprinted instructions for dispense as written, or no substitutions allowed.</p> <p>Utah Code Ann. 1953 § 26-18-2.4 (West 2008).</p>	<p>The prescriber must write “medically necessary—dispense as written” on the prescription and have justification in the patient’s medical record substantiating the medical necessity of a nonpreferred drug in order for this to be reimbursed.</p> <p>Utah Admin. Code r. R414-60B-4(2) (2008).</p>
Vermont	<p>All public pharmaceutical assistance programs shall comply with the provisions regarding generic drugs established in chapter 91 of Title 18.</p> <p>Vt. Stat. Ann. tit. 33, §2076(b) (2008) (Medical Assistance). See also 13-170-750 Vt. Code R. § 7502 (2009) (requiring physicians and pharmacists who seek reimbursement from programs operated by the Department of Children and Families to conform to Act 127 [18-VSA-Chapter 91], otherwise known as the Generic Drug Bill).</p> <p>NOTE: Title 18, Chap. 91, subchapter 1, “General Drug Bill” requires the prescriber to write “brand necessary” or “no substitution” in his or her own handwriting on a prescription form but in nonwritten prescriptions allows the prescriber to otherwise indicate no substitution and reason. See Vt. Stat. Ann. tit. 18, §4606 (2008) Vermont Food and Drug Statutes.</p>	<p>Price for Ingredients... When a physician certifies in his or her own handwriting that a specific brand of a multiple-source drug is medically necessary for a particular recipient, the price for ingredients will be calculated as for “other drugs” [i.e., brand name drugs]. The physician’s handwritten phrase “brand necessary” or “brand medically necessary” must appear on the face of the prescription.</p> <p>13-170-008 Vt. Code R. § M813.2(b) (2009).</p> <p>Exact language is also in Vermont Health Access Plans (VHAP) chapter of the same subagency regulations. 13-170-014 Vt. Code R. §3303.3 (2009). (Vermont Health Access Plan is Vermont’s Medicaid Program). See also 13-170-550 Vt. Code R. § 5552(b) (2009) (VHAP).</p>
Virgin Islands	N/A	N/A
Virginia	N/A	<p>Payment for pharmacy services shall be the lowest of items 1 through 5 (except that items 1 and 2 will not apply when prescriptions are certified as brand necessary by the prescribing physician in accordance with the procedures set forth in 42 CFR 447.331 (c) if the brand cost is greater than the Centers for Medicare & Medicaid Services (CMS) upper limit of VMAC cost).</p> <p>12 VA Admin. Code § 30-80-40 (2008).</p>

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Table D-1. Summaries of “Brand Necessary” Provisions in State Medicaid Generic Prescription Substitution and Prescription Reimbursement Cap Laws* (continued)

State	Generic Substitution Law	Prescription Reimbursement Cap Law
Washington	<p>For Therapeutic Interchange Program: ... (5) When an endorsing practitioner determines that a nonpreferred drug is medically necessary, all of the following apply: (a) The practitioner must indicate that the prescription is to be dispensed as written (DAW) (b) The pharmacist dispenses the nonpreferred drug as prescribed; and (c) The department does not require prior authorization to dispense the nonpreferred drug in place of a preferred drug except when the drug requires authorization for safety. Wash. Admin. Code 388-530-4150 (2008). Social Services.</p> <p>Any pharmacist filling a prescription under a state-purchased health care program as defined in RCW 41.05.011(2) shall substitute, where identified, a preferred drug for any nonpreferred drug in a given therapeutic class, unless the endorsing practitioner has indicated on the prescription that the nonpreferred drug must be dispensed as written... in which case the pharmacist shall dispense the prescribed nonpreferred drug. Wash. Rev. Code Ann. § 69.41.190 (West 2009) Washington Food and Drug Statutes.</p>	<p>The department reimburses a pharmacy for the least costly dosage form of a drug within the same route of administration, unless the prescriber has designated a medically necessary specific dosage form or the department has selected the more expensive dosage form as a preferred drug. Wash. Admin. Code 388-530-7000 (2008).</p>
West Virginia	N/A	N/A
Wisconsin	<p>Prescription orders...shall be filled with the lower-cost drug product equivalent, unless the prescribing provider... writes “brand medically necessary” on the face of the prescription.... (i) Any innovator multiple-source drug is a covered service only if the prescribing provider under sub. (1) certifies by writing the phrase “brand medically necessary” on the prescription to the pharmacist that the innovator brand drug, rather than a generic drug, is medically necessary. Wis. Admin. Code [DHS] § 107.10(3)(c) (2009).</p>	N/A

(continued)

Table D-1. Summaries of “Brand Necessary” Provisions in State Medicaid Generic Prescription Substitution and Prescription Reimbursement Cap Laws* (continued)

State	Generic Substitution Law	Prescription Reimbursement Cap Law
Wyoming	All prescriptions must be reduced to writing. Prescriptions for brand name drugs must contain the certification “medically necessary,” in the prescribing practitioner’s handwriting.... 048-130-010 Wyo. Code R. § 6(b)(ii) (2009).	Section 9. Covered Services [include]— Brand name drugs certified in writing as medically necessary by the prescribing practitioner. 048-130-010 Wyo. Code R. § 9(c) (2009).

Abbreviations: FUL = federal upper limit; MAC = maximum allowable cost; SMAC = state maximum allowable cost.

* Due to budgetary and time constraints, information presented does *not* include materials from state Medicaid manuals. The fact that a state has no information reported for it (“N/A”) indicates that there are no relevant statutes or regulations, but does not mean there are no requirements specified in a Medicaid manual.

- (1) If no area of law is specified after the text of the provision, the law or regulation comes directly from Medicaid, Public Assistance, Health and Social Services Code, or Medical Assistance sections of code or regulations.
- (2) In some states, provisions specifically referencing Medicaid exist outside of the Medicaid Code. If this is the case, the area of law is noted after the relevant text.
- (3) This provision applies to Advanced Practice Registered Nurses who are licensed to prescribe.
- (4) For Medicaid beneficiaries enrolled in a Medicaid participating HMO, the “Brand Medically Necessary” requirement for MAC prescriptions shall not apply. N.J. Admin. Code § 10:51-1.20(f)(2009). Note that West stated current through March 2, 2009, but bottom of statute says Chapter 51 expired Dec. 16, 2008.