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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/19/2014	.	
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The Committee on Health Policy (Garcia) recommended the following:

Senate Amendment (with title amendment)

Delete lines 22 - 121
and insert:

(a) "Maximum allowable cost" (MAC) means the upper limit or maximum amount that an insurance or managed care plan will pay for generic, or brand-name drugs that have generic versions available, which are included on a PBM-generated list of products.

(b) "Plan sponsor" means an employer, insurer, managed care



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11 organization, prepaid limited health service organization,
12 third-party administrator, or other entity contracting for
13 pharmacy benefit manager services.

14 (c) "Pharmacy benefit manager" (PBM) means a person,
15 business, or other entity that provides administrative services
16 related to processing and paying prescription claims for
17 pharmacy benefit and coverage programs. Such services may
18 include contracting with a pharmacy or network of pharmacies;
19 establishing payment levels for provider pharmacies; negotiating
20 discounts and rebate arrangements with drug manufacturers;
21 developing and managing prescription formularies, preferred drug
22 lists, and prior authorization programs; assuring audit
23 compliance; and providing management reports.

24 (2) A contract between a pharmacy benefit manager and a
25 pharmacy must:

26 (a) Include the basis of the methodology and sources used
27 to determine the MAC pricing administered by the pharmacy
28 benefit manager, update the pricing information on such a list
29 at least every 7 calendar days, and establish a reasonable
30 process for the prompt notification of such pricing updates to
31 network pharmacies; and

32 (b) Maintain a procedure to eliminate products from the
33 list or modify the MAC pricing in a timely fashion in order to
34 remain consistent with pricing changes in the marketplace.

35 (3) In order to place a particular prescription drug on a
36 MAC list, the pharmacy benefit manager must, at a minimum,
37 ensure that the drug has at least three or more nationally
38 available, therapeutically equivalent, multiple-source generic
39 drugs which:



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- 40 (a) Have a significant cost difference;
- 41 (b) Are listed as therapeutically and pharmaceutically
- 42 equivalent or "A" rated in the United States Food and Drug
- 43 Administration's most recent version of the Orange Book;
- 44 (c) Are available for purchase without limitations by all
- 45 pharmacies in the state from national or regional wholesalers;
- 46 and
- 47 (d) Are not obsolete or temporarily unavailable.
- 48 (4) The pharmacy benefit manager must disclose the
- 49 following to the plan sponsor:
- 50 (a) The basis of the methodology and sources used to
- 51 establish applicable MAC pricing in the contract between the
- 52 pharmacy benefit manager and the plan sponsor. Applicable MAC
- 53 lists must be updated and provided to the plan sponsor whenever
- 54 there is a change.
- 55 (b) Whether the pharmacy benefit manager uses a MAC list
- 56 for drugs dispensed at retail but does not use a MAC list for
- 57 drugs dispensed by mail order in the contract between the
- 58 pharmacy benefit manager and the plan sponsor or within 21
- 59 business days after implementation of the practice.
- 60 (c) Whether the pharmacy benefit manager is using the
- 61 identical MAC list with respect to billing the plan sponsor as
- 62 it does when reimbursing all network pharmacies. If multiple MAC
- 63 lists are used, the pharmacy benefit manager must disclose any
- 64 difference between the amount paid to a pharmacy and the amount
- 65 charged to the plan sponsor.
- 66 (5) All contracts between a pharmacy benefit manager and a
- 67 contracted pharmacy must include:
- 68 (a) A process for appealing, investigating, and resolving



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69 disputes regarding MAC pricing. The process must:

70 1. Limit the right to appeal to 90 calendar days following
71 the initial claim;

72 2. Investigate and resolve the dispute within 7 days; and

73 3. Provide the telephone number at which a network pharmacy
74 may contact the pharmacy benefit manager and speak with an
75 individual who is responsible for processing appeals.

76 (b) If the appeal is denied, the pharmacy benefit manager
77 shall provide the reason for the denial and identify the
78 national drug code of a drug product that may be purchased by a
79 contracted pharmacy at a price at or below the MAC.

80 (c) If an appeal is upheld, the pharmacy benefit manager
81 shall make an adjustment retroactive to the date the claim was
82 adjudicated. The pharmacy benefit manager shall make the
83 adjustment effective for all similarly situated pharmacies in
84 this state which are within the network.

85

86 ===== T I T L E A M E N D M E N T =====

87 And the title is amended as follows:

88 Delete lines 12 - 14

89 and insert:

90 providing an effective date.