

HB 555

2015

1 A bill to be entitled
2 An act relating to pharmacy; creating s. 465.1862,
3 F.S.; defining terms; providing requirements for
4 contracts between pharmacy benefit managers and
5 contracted pharmacies; requiring a pharmacy benefit
6 manager to ensure that a prescription drug has met
7 certain requirements to be placed on a maximum
8 allowable cost pricing list; requiring the pharmacy
9 benefit manager to disclose certain information to a
10 plan sponsor; requiring a contract between a pharmacy
11 benefit manager and a pharmacy to include an appeal
12 process; providing an effective date.

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14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Section 465.1862, Florida Statutes, is created
17 to read:

18 465.1862 Pharmacy benefit managers.—

19 (1) As used in this section, the term:

20 (a) "Contracted pharmacy" means a pharmacy or network of
21 pharmacies that has executed a contract, which includes maximum
22 allowable cost pricing requirements, with a pharmacy benefit
23 manager and acts on behalf of a plan sponsor.

24 (b) "Maximum allowable cost" means the upper limit or
25 maximum amount that an insurer or managed care plan will pay for
26 generic prescription drugs or brand-name prescription drugs with

27 available generic versions, which are included on a list of
28 products generated by the pharmacy benefit manager.

29 (c) "Pharmacy benefit manager" means a person, business,
30 or other entity that provides administrative services related to
31 processing and paying prescription claims for pharmacy benefit
32 and coverage programs. Such services may include, but are not
33 limited to, contracting with a pharmacy or network of
34 pharmacies; establishing payment levels for pharmacies;
35 dispensing prescription drugs to plan sponsor beneficiaries;
36 negotiating discounts and rebate arrangements with drug
37 manufacturers; developing and managing prescription formularies,
38 preferred drug lists, and prior authorization programs; ensuring
39 audit compliance; and providing management reports.

40 (d) "Plan sponsor" means an employer, insurer, managed
41 care organization, prepaid limited health service organization,
42 third-party administrator, or other entity contracting for
43 pharmacy benefit manager services.

44 (2) A contract between a pharmacy benefit manager and a
45 contracted pharmacy must require the pharmacy benefit manager
46 to:

47 (a) Update the maximum allowable cost pricing information
48 at least every 7 calendar days and establish a reasonable
49 process for the prompt notification of any pricing updates to
50 the contracted pharmacy.

51 (b) Maintain a procedure to remain consistent with pricing
52 changes in the marketplace by promptly modifying the maximum

53 allowable cost pricing information or, if necessary, eliminating
54 products from the cost pricing list within 3 calendar days after
55 a change if such products no longer meet the requirements of
56 this section.

57 (3) A pharmacy benefit manager, to place a prescription
58 drug on a maximum allowable cost pricing list, at a minimum,
59 must ensure that the drug has at least three or more nationally
60 available, therapeutically equivalent, multiple-source generic
61 drugs that:

62 (a) Have a significant cost difference.

63 (b) Are listed as therapeutically and pharmaceutically
64 equivalent or "A" or "B" rated in the most recent version of
65 Orange Book: Approved Drug Products with Therapeutic Equivalence
66 Evaluations published by the United States Food and Drug
67 Administration.

68 (c) Are available for purchase from national or regional
69 wholesalers without limitation by all pharmacies in the state.

70 (d) Are not obsolete or temporarily unavailable.

71 (4) In a contract between a pharmacy benefit manager and a
72 plan sponsor, the pharmacy benefit manager must disclose the
73 following to the plan sponsor:

74 (a) The basis of the methodology and sources used to
75 establish applicable maximum allowable cost pricing. A pharmacy
76 benefit manager shall promptly update applicable maximum
77 allowable cost pricing lists and provide the plan sponsor with
78 an updated list upon any pricing change.

79 (b) Whether the pharmacy benefit manager uses a maximum
80 allowable cost pricing list for drugs dispensed at retail but
81 does not use such a list for drugs dispensed by mail order. If
82 such practice is adopted after a contract is executed, the
83 pharmacy benefit manager shall disclose such practice to the
84 plan sponsor within 21 business days after implementation of the
85 practice.

86 (c) Whether the pharmacy benefit manager uses an identical
87 maximum allowable cost pricing list to bill the plan sponsor and
88 to reimburse a contracted pharmacy. If more than one maximum
89 allowable cost pricing list is used, the pharmacy benefit
90 manager shall disclose to the contracted pharmacy any difference
91 between the amount billed to the plan sponsor and the amount
92 paid as reimbursement to a contracted pharmacy.

93 (5) (a) Each contract between a pharmacy benefit manager
94 and a contracted pharmacy must include a process for appeal,
95 investigation, and resolution of disputes regarding maximum
96 allowable cost pricing. The process must:

97 1. Limit the right to appeal to 90 calendar days after an
98 initial claim is made by the contracted pharmacy.

99 2. Require investigation and resolution of a dispute
100 within 7 days after an appeal is received by the pharmacy
101 benefit manager.

102 3. Include a telephone number at which a contracted
103 pharmacy may contact the pharmacy benefit manager regarding an
104 appeal.

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105 (b) If an appeal is denied, the pharmacy benefit manager
106 shall provide the reasons for denial and shall identify the
107 national drug code for the prescription drug that may be
108 purchased by the contracted pharmacy at a price at or below the
109 disputed maximum allowable cost pricing.

110 (c) If an appeal is upheld, the pharmacy benefit manager
111 shall adjust the maximum allowable cost pricing retroactive to
112 the date that the claim was adjudicated. The pharmacy benefit
113 manager shall apply the adjustment retroactively to any
114 similarly situated contracted pharmacy.

115 Section 2. This act shall take effect July 1, 2015.