

By Senator Garcia

38-00409-15

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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, or

38-00409-15

2015860\_\_

30 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 care  
41 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,

38-00409-15

2015860\_\_

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

38-00409-15

2015860\_\_

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 and  
94 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 within  
100 7 days after an appeal is received by the pharmacy benefit  
101 manager.

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

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.