

By the Committee on Banking and Insurance; and Senator Garcia

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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 which has executed a contract that includes maximum
22 allowable cost pricing requirements with a pharmacy benefit
23 manager that acts on behalf of a plan sponsor.

24 (b) "Maximum allowable cost" means the upper limit or
25 maximum amount that a plan sponsor will pay for a generic
26 prescription drug or a brand-name prescription drug with an
27 available generic version, which is included on a list of
28 products generated by the pharmacy benefit manager.

29 (c) "Pharmacy benefit manager" means a person, business, or

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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 a health maintenance organization,
41 an insurer, except for an insurer that issues casualty insurance
42 as defined in s. 624.605, a Medicaid managed care plan as
43 defined in s. 409.962(9), a prepaid limited health service
44 organization, or other entity contracting for pharmacy benefit
45 manager services.

46 (2) A contract between a pharmacy benefit manager and a
47 contracted pharmacy must require the pharmacy benefit manager to
48 update the maximum allowable cost pricing information at least
49 every 7 calendar days and must establish a reasonable process
50 for the prompt notification of any pricing update to the
51 contracted pharmacy.

52 (3) A pharmacy benefit manager, to place a prescription
53 drug on a maximum allowable cost pricing list, at a minimum,
54 must ensure that the drug has at least two or more nationally
55 available, therapeutically equivalent, multiple-source generic
56 drugs that:

57 (a) Have a significant cost difference.

58 (b) Are listed as therapeutically and pharmaceutically

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59 equivalent or "A" or "AB" rated in the Orange Book: Approved
60 Drug Products with Therapeutic Equivalence Evaluations published
61 by the United States Food and Drug Administration as of July 1,
62 2015.

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

65 (d) Are not obsolete or temporarily unavailable.

66 (4) In a contract between a pharmacy benefit manager and a
67 plan sponsor, the pharmacy benefit manager must disclose to the
68 plan sponsor whether the pharmacy benefit manager uses a maximum
69 allowable cost pricing list for drugs dispensed at retail but
70 does not use such a list for drugs dispensed by mail order. If
71 such practice is adopted after a contract is executed, the
72 pharmacy benefit manager shall disclose such practice to the
73 plan sponsor within 21 business days after implementation of the
74 practice.

75 (5) (a) Each contract between a pharmacy benefit manager and
76 a contracted pharmacy must include a process for appeal,
77 investigation, and resolution of disputes regarding maximum
78 allowable cost pricing. The process must:

79 1. Limit the right to appeal to 30 calendar days after an
80 initial claim is made by the contracted pharmacy.

81 2. Require investigation and resolution of a dispute within
82 14 days after an appeal is received by the pharmacy benefit
83 manager.

84 3. Include a telephone number at which a contracted
85 pharmacy may contact the pharmacy benefit manager regarding an
86 appeal.

87 (b) If an appeal is denied, the pharmacy benefit manager

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88 shall provide the reasons for denial and shall identify the
89 national drug code for the prescription drug that may be
90 purchased by the contracted pharmacy at a price at or below the
91 disputed maximum allowable cost pricing.

92 (c) If an appeal is upheld, the pharmacy benefit manager
93 shall adjust the maximum allowable cost pricing retroactive to
94 the date that the claim was adjudicated. The pharmacy benefit
95 manager shall apply the adjustment retroactively to any
96 similarly situated contracted pharmacy.

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