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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/25/2020	.	
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Appropriations Subcommittee on Health and Human Services  
(Wright) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 210 - 508

and insert:

(a) "Maximum allowable cost" means the per-unit amount that a pharmacy benefit manager reimburses a pharmacist for a prescription drug, excluding dispensing fees, prior to the application of copayments, coinsurance, and other cost-sharing charges, if any.

(b) "Pharmacy benefit manager" means a person or entity



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11 doing business in this state which contracts to administer or  
12 manage prescription drug benefits on behalf of a health insurer  
13 to residents of this state.

14 (2) A health insurer may contract only with a pharmacy  
15 benefit manager that ~~A contract between a health insurer and a~~  
16 ~~pharmacy benefit manager must require that the pharmacy benefit~~  
17 ~~manager:~~

18 (a) Updates ~~Update~~ maximum allowable cost pricing  
19 information at least every 7 calendar days.

20 (b) Maintains ~~Maintain~~ a process that will, in a timely  
21 manner, eliminate drugs from maximum allowable cost lists or  
22 modify drug prices to remain consistent with changes in pricing  
23 data used in formulating maximum allowable cost prices and  
24 product availability.

25 (c)-(3) Does not limit ~~A contract between a health insurer~~  
26 ~~and a pharmacy benefit manager must prohibit the pharmacy~~  
27 ~~benefit manager from limiting~~ a pharmacist's ability to disclose  
28 whether the cost-sharing obligation exceeds the retail price for  
29 a covered prescription drug, and the availability of a more  
30 affordable alternative drug, pursuant to s. 465.0244.

31 (d)-(4) Does not require ~~A contract between a health insurer~~  
32 ~~and a pharmacy benefit manager must prohibit the pharmacy~~  
33 ~~benefit manager from requiring~~ an insured to make a payment for  
34 a prescription drug at the point of sale in an amount that  
35 exceeds the lesser of:

36 1.(a) The applicable cost-sharing amount; or

37 2.(b) The retail price of the drug in the absence of  
38 prescription drug coverage.

39 (3) The office may require a health insurer to submit to



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40 the office any contract, or amendments to a contract, for the  
41 administration or management of prescription drug benefits by a  
42 pharmacy benefit manager on behalf of the insurer.

43 (4) After review of a contract under subsection (3), the  
44 office may order the insurer to cancel the contract in  
45 accordance with the terms of the contract and applicable law if  
46 the office determines that any of the following conditions  
47 exist:

48 (a) The fees to be paid by the insurer are so unreasonably  
49 high as compared with similar contracts entered into by  
50 insurers, or as compared with similar contracts entered into by  
51 other insurers in similar circumstances, that the contract is  
52 detrimental to the policyholders of the insurer.

53 (b) The contract does not comply with the Florida Insurance  
54 Code.

55 (c) The pharmacy benefit manager is not registered with the  
56 office pursuant to s. 624.490.

57 (5) The commission may adopt rules to administer this  
58 section.

59 (6)~~(5)~~ This section applies to contracts entered into,  
60 amended, or renewed on or after July 1, 2020 ~~2018~~.

61 Section 5. Section 627.6572, Florida Statutes, is amended  
62 to read:

63 627.6572 Pharmacy benefit manager contracts.—

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

65 (a) "Maximum allowable cost" means the per-unit amount that  
66 a pharmacy benefit manager reimburses a pharmacist for a  
67 prescription drug, excluding dispensing fees, prior to the  
68 application of copayments, coinsurance, and other cost-sharing



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69 charges, if any.

70 (b) "Pharmacy benefit manager" means a person or entity  
71 doing business in this state which contracts to administer or  
72 manage prescription drug benefits on behalf of a health insurer  
73 to residents of this state.

74 (2) A health insurer may contract only with a pharmacy  
75 benefit manager that ~~A contract between a health insurer and a~~  
76 ~~pharmacy benefit manager must require that the pharmacy benefit~~  
77 ~~manager:~~

78 (a) Updates ~~Update~~ maximum allowable cost pricing  
79 information at least every 7 calendar days.

80 (b) Maintains ~~Maintain~~ a process that will, in a timely  
81 manner, eliminate drugs from maximum allowable cost lists or  
82 modify drug prices to remain consistent with changes in pricing  
83 data used in formulating maximum allowable cost prices and  
84 product availability.

85 (c)-(3) Does not limit ~~A contract between a health insurer~~  
86 ~~and a pharmacy benefit manager must prohibit the pharmacy~~  
87 ~~benefit manager from limiting~~ a pharmacist's ability to disclose  
88 whether the cost-sharing obligation exceeds the retail price for  
89 a covered prescription drug, and the availability of a more  
90 affordable alternative drug, pursuant to s. 465.0244.

91 (d)-(4) Does not require ~~A contract between a health insurer~~  
92 ~~and a pharmacy benefit manager must prohibit the pharmacy~~  
93 ~~benefit manager from requiring~~ an insured to make a payment for  
94 a prescription drug at the point of sale in an amount that  
95 exceeds the lesser of:

96 1.(a) The applicable cost-sharing amount; or

97 2.(b) The retail price of the drug in the absence of



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98 prescription drug coverage.

99 (3) The office may require a health insurer to submit to  
100 the office any contract, or amendments to a contract, for the  
101 administration or management of prescription drug benefits by a  
102 pharmacy benefit manager on behalf of the insurer.

103 (4) After review of a contract under subsection (3), the  
104 office may order the insurer to cancel the contract in  
105 accordance with the terms of the contract and applicable law if  
106 the office determines that any of the following conditions  
107 exist:

108 (a) The fees to be paid by the insurer are so unreasonably  
109 high as compared with similar contracts entered into by  
110 insurers, or as compared with similar contracts entered into by  
111 other insurers in similar circumstances, that the contract is  
112 detrimental to the policyholders of the insurer.

113 (b) The contract does not comply with the Florida Insurance  
114 Code.

115 (c) The pharmacy benefit manager is not registered with the  
116 office pursuant to s. 624.490.

117 (5) The commission may adopt rules to administer this  
118 section.

119 (6)~~(5)~~ This section applies to contracts entered into,  
120 amended, or renewed on or after July 1, 2020 ~~2018~~.

121 Section 6. Section 641.314, Florida Statutes, is amended to  
122 read:

123 641.314 Pharmacy benefit manager contracts.—

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

125 (a) "Maximum allowable cost" means the per-unit amount that  
126 a pharmacy benefit manager reimburses a pharmacist for a



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127 prescription drug, excluding dispensing fees, prior to the  
128 application of copayments, coinsurance, and other cost-sharing  
129 charges, if any.

130 (b) "Pharmacy benefit manager" means a person or entity  
131 doing business in this state which contracts to administer or  
132 manage prescription drug benefits on behalf of a health  
133 maintenance organization to residents of this state.

134 (2) A health maintenance organization may contract only  
135 with a pharmacy benefit manager that ~~A contract between a health~~  
136 ~~maintenance organization and a pharmacy benefit manager must~~  
137 ~~require that the pharmacy benefit manager:~~

138 (a) Updates ~~Update~~ maximum allowable cost pricing  
139 information at least every 7 calendar days.

140 (b) Maintains ~~Maintain~~ a process that will, in a timely  
141 manner, eliminate drugs from maximum allowable cost lists or  
142 modify drug prices to remain consistent with changes in pricing  
143 data used in formulating maximum allowable cost prices and  
144 product availability.

145 (c) ~~(3)~~ Does not limit ~~A contract between a health~~  
146 ~~maintenance organization and a pharmacy benefit manager must~~  
147 ~~prohibit the pharmacy benefit manager from limiting a~~  
148 pharmacist's ability to disclose whether the cost-sharing  
149 obligation exceeds the retail price for a covered prescription  
150 drug, and the availability of a more affordable alternative  
151 drug, pursuant to s. 465.0244.

152 (d) ~~(4)~~ Does not require ~~A contract between a health~~  
153 ~~maintenance organization and a pharmacy benefit manager must~~  
154 ~~prohibit the pharmacy benefit manager from requiring a~~  
155 subscriber to make a payment for a prescription drug at the



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156 point of sale in an amount that exceeds the lesser of:

157 1. ~~(a)~~ The applicable cost-sharing amount; or

158 2. ~~(b)~~ The retail price of the drug in the absence of  
159 prescription drug coverage.

160 (3) The office may require a health maintenance  
161 organization to submit to the office any contract, or amendments  
162 to a contract, for the administration or management of  
163 prescription drug benefits by a pharmacy benefit manager on  
164 behalf of the health maintenance organization.

165 (4) After review of a contract under subsection (3), the  
166 office may order the health maintenance organization to cancel  
167 the contract in accordance with the terms of the contract and  
168 applicable law if the office determines that any of the  
169 following conditions exist:

170 (a) The fees to be paid by the health maintenance  
171 organization are so unreasonably high as compared with similar  
172 contracts entered into by health maintenance organizations, or  
173 as compared with similar contracts entered into by other health  
174 maintenance organizations in similar circumstances, that the  
175 contract is detrimental to the subscribers of the health  
176 maintenance organization.

177 (b) The contract does not comply with the Florida Insurance  
178 Code.

179 (c) The pharmacy benefit manager is not registered with the  
180 office pursuant to s. 624.490.

181 (5) The commission may adopt rules to administer this  
182 section.

183 ~~(6)~~ This section applies to pharmacy benefit manager  
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185 ===== T I T L E A M E N D M E N T =====

186 And the title is amended as follows:

187       Delete lines 25 - 35

188 and insert:

189       F.S.; authorizing the office to require health  
190       insurers or health maintenance organizations to submit  
191       to the office certain contracts or contract amendments  
192       entered into with pharmacy benefit managers;