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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/16/2021	.	
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The Committee on Banking and Insurance (Wright) recommended the following:

Senate Amendment (with title amendment)

Delete lines 151 - 362
and insert:
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
doing business in this state which contracts to administer or
manage prescription drug benefits on behalf of a health insurer



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11 to residents of this state.

12 (2) A health insurer may contract only with a pharmacy
13 benefit manager that satisfies all of the following conditions ~~A~~
14 ~~contract between a health insurer and a pharmacy benefit manager~~
15 ~~must require that the pharmacy benefit manager:~~

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

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

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

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

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

35 2.(b) The retail price of the drug in the absence of
36 prescription drug coverage.

37 (3) The office may require a health insurer to submit to
38 the office any contract or amendments to a contract for the
39 administration or management of prescription drug benefits by a



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40 pharmacy benefit manager on behalf of the insurer.

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

46 (a) The contract does not comply with this section or any
47 other provision of the Florida Insurance Code.

48 (b) The pharmacy benefit manager is not registered with the
49 office as required under s. 624.490.

50 (5) The commission may adopt rules to administer this
51 section.

52 (6) ~~(5)~~ This section applies to contracts entered into,
53 amended, or renewed on or after July 1, 2021 ~~2018~~. All contracts
54 entered into or renewed between July 1, 2018, and June 30, 2021,
55 are governed by the law in effect at the time the contract was
56 entered into or renewed.

57 Section 4. Section 627.6572, Florida Statutes, is amended
58 to read:

59 627.6572 Pharmacy benefit manager contracts.—

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

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

66 (b) "Pharmacy benefit manager" means a person or entity
67 doing business in this state which contracts to administer or
68 manage prescription drug benefits on behalf of a health insurer



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69 to residents of this state.

70 (2) A health insurer may contract only with a pharmacy
71 benefit manager that satisfies all of the following conditions ~~A~~
72 ~~contract between a health insurer and a pharmacy benefit manager~~
73 ~~must require that the pharmacy benefit manager:~~

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

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

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

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

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

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

95 (3) The office may require a health insurer to submit to
96 the office any contract or amendments to a contract for the
97 administration or management of prescription drug benefits by a



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98 pharmacy benefit manager on behalf of the insurer.

99 (4) After review of a contract submitted under subsection
100 (3), the office may order the insurer to cancel the contract in
101 accordance with the terms of the contract and applicable law if
102 the office determines that any of the following conditions
103 exist:

104 (a) The contract does not comply with this section or any
105 other provision of the Florida Insurance Code.

106 (b) The pharmacy benefit manager is not registered with the
107 office as required under s. 624.490.

108 (5) The commission may adopt rules to administer this
109 section.

110 (6) ~~(5)~~ This section applies to contracts entered into,
111 amended, or renewed on or after July 1, 2021 ~~2018~~. All contracts
112 entered into or renewed between July 1, 2018, and June 30, 2021,
113 are governed by the law in effect at the time the contract was
114 entered into or renewed.

115 Section 5. Paragraph (h) is added to subsection (5) of
116 section 627.6699, Florida Statutes, to read:

117 627.6699 Employee Health Care Access Act.—

118 (5) AVAILABILITY OF COVERAGE.—

119 (h) A health benefit plan covering small employers which is
120 issued or renewed in this state on or after July 1, 2021, must
121 comply with s. 627.6572.

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

124 641.314 Pharmacy benefit manager contracts.—

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

126 (a) "Maximum allowable cost" means the per-unit amount that



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127 a pharmacy benefit manager reimburses a pharmacist for a
128 prescription drug, excluding dispensing fees, prior to the
129 application of copayments, coinsurance, and other cost-sharing
130 charges, if any.

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

135 (2) A health maintenance organization may contract only
136 with a pharmacy benefit manager that satisfies all of the
137 following conditions ~~A contract between a health maintenance~~
138 ~~organization and a pharmacy benefit manager must require that~~
139 ~~the pharmacy benefit manager:~~

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

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

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

154 (d) ~~(4)~~ Does not require ~~A contract between a health~~
155 ~~maintenance organization and a pharmacy benefit manager must~~



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156 ~~prohibit the pharmacy benefit manager from requiring a~~
157 subscriber to make a payment for a prescription drug at the
158 point of sale in an amount that exceeds the lesser of:

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

160 2.(b) The retail price of the drug in the absence of
161 prescription drug coverage.

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

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

172 (a) The contract does not comply with this section or any
173 other provision of the Florida Insurance Code.

174 (b) The pharmacy benefit manager is not registered with the
175 office as required under s. 624.490.

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

178 And the title is amended as follows:

179 Delete lines 15 - 27

180 and insert:

181 627.64741 and 627.6572, F.S.; authorizing the office
182 to require health insurers to submit to the office
183 certain contracts or contract amendments entered into
184 with pharmacy benefit managers; authorizing the office



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185 to order health insurers to cancel such contracts
186 under certain circumstances; authorizing the
187 commission to adopt rules; revising applicability;
188 amending s. 627.6699, F.S.; requiring certain health
189 benefit plans covering small employers to comply with
190 certain provisions; amending s. 641.314, F.S.;
191 authorizing the office to