

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Chaney offered the following:

2

3 **Amendment**

4 Remove lines 765-839 and insert:

5 and a pharmacy benefits plan or program must include, in
6 substantial form, terms that ensure compliance with all of the
7 following requirements and that, except to the extent not
8 allowed by law, shall supersede any contractual terms to the
9 contrary:

10 (a) Use a pass-through pricing model, remaining consistent
11 with the prohibition in paragraph (3) (c).

12 (b) Exclude terms that allow for the direct or indirect
13 engagement in the practice of spread pricing unless the pharmacy

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14 benefit manager passes along the entire amount of such
15 difference to the pharmacy benefits plan or program as allowable
16 under paragraph (a).

17 (c) Ensure that funds received in relation to providing
18 services for a pharmacy benefits plan or program or a pharmacy
19 are used or distributed only pursuant to the pharmacy benefit
20 manager's contract with the pharmacy benefits plan or program or
21 with the pharmacy or as otherwise required by applicable law.

22 (d) Require the pharmacy benefit manager to pass 100
23 percent of all prescription drug manufacturer rebates, including
24 nonresident prescription drug manufacturer rebates, received to
25 the pharmacy benefits plan or program, if the contractual
26 arrangement delegates the negotiation of rebates to the pharmacy
27 benefit manager, for the sole purpose of offsetting defined cost
28 sharing and reducing premiums of covered persons. Any excess
29 rebate revenue after the pharmacy benefit manager and the
30 pharmacy benefits plan or program have taken all actions
31 required under this paragraph must be used for the sole purpose
32 of offsetting copayments and deductibles of covered persons.
33 This paragraph does not apply to contracts involving Medicaid
34 managed care plans.

35 (e) Include network adequacy requirements that meet or
36 exceed Medicare Part D program standards for convenient access
37 to the network pharmacies set forth in 42 C.F.R. s.
38 423.120(a)(1) and that:

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- 39 1. Do not limit a network to solely include affiliated
40 pharmacies;
- 41 2. Require a pharmacy benefit manager to offer a provider
42 contract to licensed pharmacies physically located on the
43 physical site of providers that are:
- 44 a. Within the pharmacy benefits plan's or program's
45 geographic service area and that have been specifically
46 designated as essential providers by the Agency for Health Care
47 Administration pursuant to s. 409.975(1) (a);
- 48 b. Designated as cancer centers of excellence under s.
49 381.925, regardless of the pharmacy benefits plan's or program's
50 geographic service area;
- 51 c. Organ transplant hospitals, regardless of the pharmacy
52 benefits plan's or program's geographic service area;
- 53 d. Hospitals licensed as specialty children's hospitals as
54 defined in s. 395.002; or
- 55 e. Regional perinatal intensive care centers as defined in
56 s. 383.16(2), regardless of the pharmacy benefits plan's or
57 program's geographic service area.
- 58
- 59 Such provider contracts must be solely for the administration or
60 dispensing of covered prescription drugs, including biological
61 products, which are administered through infusions,
62 intravenously injected, or inhaled during a surgical procedure

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63 or are covered parenteral drugs, as part of onsite outpatient
64 care;

65 3. Do not require a covered person to receive a
66 prescription drug by United States mail, common carrier, local
67 courier, third-party company or delivery service, or pharmacy
68 direct delivery unless the prescription drug cannot be acquired
69 at any retail pharmacy in the pharmacy benefit manager's network
70 for the covered person's pharmacy benefits plan or program. This
71 subparagraph does not prohibit a pharmacy benefit manager from
72 operating mail order or delivery programs on an opt-in basis at
73 the sole discretion of a covered person, provided that the
74 covered person is not penalized through the imposition of any
75 additional retail cost-sharing obligations or a lower allowed-
76 quantity limit for choosing not to select the mail order or
77 delivery programs;

78 4. For the in-person administration of covered
79 prescription drugs, prohibit requiring a covered person to
80 receive pharmacist services from an affiliated pharmacy or an
81 affiliated health care provider; and

82 5. Prohibit offering or implementing pharmacy networks

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