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LEGISLATIVE ACTION

Senate

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House

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Floor: 3/AD/2R

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04/18/2023 04:51 PM

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Senator Brodeur moved the following:

Senate Amendment

Delete lines 830 - 878

and insert:

the sole discretion of a covered person, provided the covered person is not penalized, such as through the imposition of a higher cost-sharing obligation or a lower allowed-quantity limit, for choosing not to opt in to the mail order or delivery programs; and

4. Prohibit requiring a covered person to receive pharmacist services from an affiliated pharmacy or an affiliated



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12 health care provider for the in-person administration of covered
13 prescription drugs; offering or implementing pharmacy networks
14 that require or provide a promotional item or an incentive,
15 defined as anything other than a reduced cost-sharing amount or
16 enhanced quantity limit allowed under the benefit design for a
17 covered drug, to a covered person to use an affiliated pharmacy
18 or an affiliated health care provider for the in-person
19 administration of covered prescription drugs; or advertising,
20 marketing, or promoting an affiliated pharmacy to covered
21 persons. Subject to the foregoing, a pharmacy benefit manager
22 may include an affiliated pharmacy in communications to covered
23 persons regarding network pharmacies and prices, provided that
24 the pharmacy benefit manager includes information, such as links
25 to all nonaffiliated network pharmacies, in such communications
26 and that the information provided is accurate and of equal
27 prominence. This subparagraph may not be construed to prohibit a
28 pharmacy benefit manager from entering into an agreement with an
29 affiliated pharmacy to provide pharmacist services to covered
30 persons.

31 (f) Prohibit the ability of a pharmacy benefit manager to
32 condition participation in one pharmacy network on participation
33 in any other pharmacy network or penalize a pharmacy for
34 exercising its prerogative not to participate in a specific
35 pharmacy network.

36 (g) Prohibit a pharmacy benefit manager from instituting a
37 network that requires a pharmacy to meet accreditation standards
38 inconsistent with or more stringent than applicable federal and
39 state requirements for licensure and operation as a pharmacy in
40 this state. However, a pharmacy benefit manager may specify



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41 additional specialty networks that require enhanced standards
42 related to the safety and competency necessary to meet the
43 United States Food and Drug Administration's limited
44 distribution requirements for dispensing any drug that, on a
45 drug-by-drug basis, requires extraordinary special handling,
46 provider coordination, or clinical care or monitoring when such
47 extraordinary requirements cannot be met by a retail pharmacy.
48 For purposes of this paragraph, drugs requiring extraordinary
49 special handling are limited to drugs that are subject to a risk
50 evaluation and mitigation strategy approved by the United States
51 Food and Drug Administration and that:

52 1. Require special certification of a health care provider
53 to prescribe, receive, dispense, or administer; or

54 2. Require special handling due to the molecular complexity
55 or cytotoxic properties of the biologic or biosimilar product or
56 drug.

57
58 For participation in a specialty network, a pharmacy benefit
59 manager may not require a pharmacy to meet requirements for
60 participation beyond those necessary to demonstrate the
61 pharmacy's ability to dispense the drug in accordance with the
62 United States Food and Drug Administration's approved
63 manufacturer labeling.