



Rep. Hoan Huynh

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10300HB3631ham002

LRB103 30054 BMS 59796 a

1 AMENDMENT TO HOUSE BILL 3631

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 3631 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Insurance Code is amended by  
5 changing Section 513b1 as follows:

6 (215 ILCS 5/513b1)

7 Sec. 513b1. Pharmacy benefit manager contracts.

8 (a) As used in this Section:

9 "340B drug discount program" means the program established  
10 under Section 340B of the federal Public Health Service Act,  
11 42 U.S.C. 256b.

12 "340B entity" means a covered entity as defined in 42  
13 U.S.C. 256b(a) (4) authorized to participate in the 340B drug  
14 discount program.

15 "340B pharmacy" means any pharmacy used to dispense 340B  
16 drugs for a covered entity, whether entity-owned or external.

1 "Biological product" has the meaning ascribed to that term  
2 in Section 19.5 of the Pharmacy Practice Act.

3 "Maximum allowable cost" means the maximum amount that a  
4 pharmacy benefit manager will reimburse a pharmacy for the  
5 cost of a drug.

6 "Maximum allowable cost list" means a list of drugs for  
7 which a maximum allowable cost has been established by a  
8 pharmacy benefit manager.

9 "Pharmacy benefit manager" means a person, business, or  
10 entity, including a wholly or partially owned or controlled  
11 subsidiary of a pharmacy benefit manager, that provides claims  
12 processing services or other prescription drug or device  
13 services, or both, for health benefit plans.

14 "Retail price" means the price an individual without  
15 prescription drug coverage would pay at a retail pharmacy, not  
16 including a pharmacist dispensing fee.

17 "Third-party payer" means any entity that pays for  
18 prescription drugs on behalf of a patient other than a health  
19 care provider or sponsor of a plan subject to regulation under  
20 Medicare Part D, 42 U.S.C. 1395w-101~~7~~ et seq.

21 (b) A contract between a health insurer and a pharmacy  
22 benefit manager must require that the pharmacy benefit  
23 manager:

24 (1) Update maximum allowable cost pricing information  
25 at least every 7 calendar days.

26 (2) Maintain a process that will, in a timely manner,

1 eliminate drugs from maximum allowable cost lists or  
2 modify drug prices to remain consistent with changes in  
3 pricing data used in formulating maximum allowable cost  
4 prices and product availability.

5 (3) Provide access to its maximum allowable cost list  
6 to each pharmacy or pharmacy services administrative  
7 organization subject to the maximum allowable cost list.  
8 Access may include a real-time pharmacy website portal to  
9 be able to view the maximum allowable cost list. As used in  
10 this Section, "pharmacy services administrative  
11 organization" means an entity operating within the State  
12 that contracts with independent pharmacies to conduct  
13 business on their behalf with third-party payers. A  
14 pharmacy services administrative organization may provide  
15 administrative services to pharmacies and negotiate and  
16 enter into contracts with third-party payers or pharmacy  
17 benefit managers on behalf of pharmacies.

18 (4) Provide a process by which a contracted pharmacy  
19 can appeal the provider's reimbursement for a drug subject  
20 to maximum allowable cost pricing. The appeals process  
21 must, at a minimum, include the following:

22 (A) A requirement that a contracted pharmacy has  
23 14 calendar days after the applicable fill date to  
24 appeal a maximum allowable cost if the reimbursement  
25 for the drug is less than the net amount that the  
26 network provider paid to the supplier of the drug.

1 (B) A requirement that a pharmacy benefit manager  
2 must respond to a challenge within 14 calendar days of  
3 the contracted pharmacy making the claim for which the  
4 appeal has been submitted.

5 (C) A telephone number and e-mail address or  
6 website to network providers, at which the provider  
7 can contact the pharmacy benefit manager to process  
8 and submit an appeal.

9 (D) A requirement that, if an appeal is denied,  
10 the pharmacy benefit manager must provide the reason  
11 for the denial and the name and the national drug code  
12 number from national or regional wholesalers.

13 (E) A requirement that, if an appeal is sustained,  
14 the pharmacy benefit manager must make an adjustment  
15 in the drug price effective the date the challenge is  
16 resolved and make the adjustment applicable to all  
17 similarly situated network pharmacy providers, as  
18 determined by the managed care organization or  
19 pharmacy benefit manager.

20 (5) Allow a plan sponsor contracting with a pharmacy  
21 benefit manager an annual right to audit compliance with  
22 the terms of the contract by the pharmacy benefit manager,  
23 including, but not limited to, full disclosure of any and  
24 all rebate amounts secured, whether product specific or  
25 generalized rebates, that were provided to the pharmacy  
26 benefit manager by a pharmaceutical manufacturer.

1           (6) Allow a plan sponsor contracting with a pharmacy  
2 benefit manager to request that the pharmacy benefit  
3 manager disclose the actual amounts paid by the pharmacy  
4 benefit manager to the pharmacy.

5           (7) Provide notice to the party contracting with the  
6 pharmacy benefit manager of any consideration that the  
7 pharmacy benefit manager receives from the manufacturer  
8 for dispense as written prescriptions once a generic or  
9 biologically similar product becomes available.

10          (c) In order to place a particular prescription drug on a  
11 maximum allowable cost list, the pharmacy benefit manager  
12 must, at a minimum, ensure that:

13           (1) if the drug is a generically equivalent drug, it  
14 is listed as therapeutically equivalent and  
15 pharmaceutically equivalent "A" or "B" rated in the United  
16 States Food and Drug Administration's most recent version  
17 of the "Orange Book" or have an NR or NA rating by  
18 Medi-Span, Gold Standard, or a similar rating by a  
19 nationally recognized reference;

20           (2) the drug is available for purchase by each  
21 pharmacy in the State from national or regional  
22 wholesalers operating in Illinois; and

23           (3) the drug is not obsolete.

24          (d) A pharmacy benefit manager is prohibited from limiting  
25 a pharmacist's ability to disclose whether the cost-sharing  
26 obligation exceeds the retail price for a covered prescription

1 drug, and the availability of a more affordable alternative  
2 drug, if one is available in accordance with Section 42 of the  
3 Pharmacy Practice Act.

4 (e) A health insurer or pharmacy benefit manager shall not  
5 require an insured to make a payment for a prescription drug at  
6 the point of sale in an amount that exceeds the lesser of:

7 (1) the applicable cost-sharing amount; or

8 (2) the retail price of the drug in the absence of  
9 prescription drug coverage.

10 (f) Unless required by law, a contract between a pharmacy  
11 benefit manager or third-party payer and a 340B entity or 340B  
12 pharmacy shall not contain any provision that:

13 (1) distinguishes between drugs purchased through the  
14 340B drug discount program and other drugs when  
15 determining reimbursement or reimbursement methodologies,  
16 or contains otherwise less favorable payment terms or  
17 reimbursement methodologies for 340B entities or 340B  
18 pharmacies when compared to similarly situated non-340B  
19 entities;

20 (2) imposes any fee, chargeback, or rate adjustment  
21 that is not similarly imposed on similarly situated  
22 pharmacies that are not 340B entities or 340B pharmacies;

23 (3) imposes any fee, chargeback, or rate adjustment  
24 that exceeds the fee, chargeback, or rate adjustment that  
25 is not similarly imposed on similarly situated pharmacies  
26 that are not 340B entities or 340B pharmacies;

1           (4) prevents or interferes with an individual's choice  
2 to receive a covered prescription drug from a 340B entity  
3 or 340B pharmacy through any legally permissible means,  
4 except that nothing in this paragraph shall prohibit the  
5 establishment of differing copayments or other  
6 cost-sharing amounts within the benefit plan for covered  
7 persons who acquire covered prescription drugs from a  
8 nonpreferred or nonparticipating provider;

9           (5) excludes a 340B entity or 340B pharmacy from a  
10 pharmacy network on any basis that includes consideration  
11 of whether the 340B entity or 340B pharmacy participates  
12 in the 340B drug discount program;

13           (6) prevents a 340B entity or 340B pharmacy from using  
14 a drug purchased under the 340B drug discount program; or

15           (7) any other provision that discriminates against a  
16 340B entity or 340B pharmacy by treating the 340B entity  
17 or 340B pharmacy differently than non-340B entities or  
18 non-340B pharmacies for any reason relating to the  
19 entity's participation in the 340B drug discount program.

20           As used in this subsection, "pharmacy benefit manager" and  
21 "third-party payer" do not include pharmacy benefit managers  
22 and third-party payers acting on behalf of a Medicaid program.

23           (g) A violation of this Section by a pharmacy benefit  
24 manager constitutes an unfair or deceptive act or practice in  
25 the business of insurance under Section 424.

26           (h) A provision that violates subsection (f) in a contract

1 between a pharmacy benefit manager or a third-party payer and  
2 a 340B entity that is entered into, amended, or renewed after  
3 July 1, 2022 shall be void and unenforceable.

4 (i)(1) A pharmacy benefit manager may not retaliate  
5 against a pharmacist or pharmacy for disclosing information in  
6 a court, in an administrative hearing, before a legislative  
7 commission or committee, or in any other proceeding, if the  
8 pharmacist or pharmacy has reasonable cause to believe that  
9 the disclosed information is evidence of a violation of a  
10 State or federal law, rule, or regulation.

11 (2) A pharmacy benefit manager may not retaliate against a  
12 pharmacist or pharmacy for disclosing information to a  
13 government or law enforcement agency, if the pharmacist or  
14 pharmacy has reasonable cause to believe that the disclosed  
15 information is evidence of a violation of a State or federal  
16 law, rule, or regulation.

17 (3) A pharmacist or pharmacy shall make commercially  
18 reasonable efforts to limit the disclosure of confidential and  
19 proprietary information.

20 (4) Retaliatory actions against a pharmacy or pharmacist  
21 include cancellation of, restriction of, or refusal to renew  
22 or offer a contract to a pharmacy solely because the pharmacy  
23 or pharmacist has:

24 (A) made disclosures of information that the  
25 pharmacist or pharmacy has reasonable cause to believe is  
26 evidence of a violation of a State or federal law, rule, or



1 regulation;

2 (B) filed complaints with the plan or pharmacy benefit  
3 manager; or

4 (C) filed complaints against the plan or pharmacy  
5 benefit manager with the Department.

6 (j) ~~(i)~~ This Section applies to contracts entered into or  
7 renewed on or after July 1, 2023 ~~2022~~.

8 (k) ~~(j)~~ This Section applies to any group or individual  
9 policy of accident and health insurance or managed care plan  
10 that provides coverage for prescription drugs and that is  
11 amended, delivered, issued, or renewed on or after July 1,  
12 2020.

13 (Source: P.A. 101-452, eff. 1-1-20; 102-778, eff. 7-1-22;  
14 revised 8-19-22.)".