



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

SB2779

Introduced 1/20/2006, by Sen. Dale A. Righter

SYNOPSIS AS INTRODUCED:

215 ILCS 5/Art. XXXI.5 heading	
215 ILCS 5/512-1	from Ch. 73, par. 1065.59-1
215 ILCS 5/512-2	from Ch. 73, par. 1065.59-2
215 ILCS 5/512-3	from Ch. 73, par. 1065.59-3
215 ILCS 5/512-4	from Ch. 73, par. 1065.59-4
215 ILCS 5/512-5	from Ch. 73, par. 1065.59-5
215 ILCS 5/512-6	from Ch. 73, par. 1065.59-6
215 ILCS 5/512-7	from Ch. 73, par. 1065.59-7
215 ILCS 5/512-8	from Ch. 73, par. 1065.59-8
215 ILCS 5/512-9	from Ch. 73, par. 1065.59-9
215 ILCS 5/512-10	from Ch. 73, par. 1065.59-10
215 ILCS 5/512-11 new	
215 ILCS 5/512-12 new	

Amends the Third Party Prescription Programs Article of the Insurance Code to change the name of the Article to the Pharmaceutical Benefits Management Programs Law. Changes references from third party prescription programs to pharmaceutical benefits management programs and from third party program administrator to pharmaceutical benefits manager or PBM throughout the Article. Provides for the registration of all pharmaceutical benefits management programs and pharmaceutical benefits managers (PBMs) doing business in the State with the Director of the Division of Insurance of the Department of Financial and Professional Regulation. Makes changes concerning fiduciary and bonding, notice, and contractual requirements, cancellation procedures, denial of payment, and failure to register. Sets forth provisions concerning failure to comply. Grants rulemaking authority to the Director of the Division of Insurance. Effective immediately.

LRB094 19050 RAS 54546 b

FISCAL NOTE ACT
MAY APPLY

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
 3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by
 5 changing the heading of Article XXXI 1/2 and Sections 512-1,
 6 512-2, 512-3, 512-4, 512-5, 512-6, 512-7, 512-8, 512-9, and
 7 512-10 and by adding Sections 512-11 and 512-12 as follows:

8 (215 ILCS 5/Art. XXXI.5 heading)

9 ARTICLE XXXI 1/2.

10 PHARMACEUTICAL BENEFITS MANAGEMENT ~~THIRD PARTY PRESCRIPTION~~
 11 PROGRAMS

12 (215 ILCS 5/512-1) (from Ch. 73, par. 1065.59-1)

13 Sec. 512-1. Short Title. This Article shall be known and
 14 may be cited as the "Pharmaceutical Benefits Management
 15 Programs Law ~~Third Party Prescription Program Act~~".

16 (Source: P.A. 82-1005.)

17 (215 ILCS 5/512-2) (from Ch. 73, par. 1065.59-2)

18 Sec. 512-2. Purpose. It is hereby determined and declared
 19 that the purpose of this Article is to regulate pharmaceutical
 20 benefits management programs ~~certain practices engaged in by~~
 21 ~~third party prescription program administrators.~~

22 (Source: P.A. 82-1005.)

23 (215 ILCS 5/512-3) (from Ch. 73, par. 1065.59-3)

24 Sec. 512-3. Definitions. For the purposes of this Article,
 25 unless the context otherwise requires, the terms defined in
 26 this Article have the meanings ascribed to them herein:

27 "Director" means the Director of the Division of Insurance
 28 of the Department of Financial and Professional Regulation.

29 "Division" means the Division of Insurance of the

1 Department of Financial and Professional Regulation.

2 ~~(a) "Pharmaceutical benefits management Third party~~
3 ~~prescription program" or "program" means any system of~~
4 ~~providing for the administration of or reimbursement for of~~
5 ~~pharmaceutical services and prescription drug products offered~~
6 ~~or operated in this State by a pharmaceutical benefits manager~~
7 ~~under a contractual arrangement or agreement between a provider~~
8 ~~of such services and another party who is not the consumer of~~
9 ~~those services and products. Such programs may include, but~~
10 ~~need not be limited to, employee benefit plans whereby a~~
11 ~~consumer receives prescription drugs or other pharmaceutical~~
12 ~~services and those services are paid for by an agent of the~~
13 ~~employer or others.~~

14 ~~(b) "Pharmaceutical benefits manager Third party program~~
15 ~~administrator" or "PBM administrator" means any person,~~
16 ~~partnership or corporation who issues or causes to be issued~~
17 ~~any payment or reimbursement to a provider for services~~
18 ~~rendered pursuant to a pharmaceutical benefits management~~
19 ~~third party prescription program. "Pharmaceutical benefits~~
20 ~~manager" or "PBM", ~~but~~ does not include the Director of~~
21 ~~Healthcare and Family Services Public Aid or any agent~~
22 ~~authorized by the Director to reimburse a provider of services~~
23 ~~rendered pursuant to a program of which the Department of~~
24 ~~Healthcare and Family Services Public Aid is the third party.~~

25 (Source: P.A. 90-372, eff. 7-1-98; revised 12-15-05.)

26 (215 ILCS 5/512-4) (from Ch. 73, par. 1065.59-4)

27 Sec. 512-4. Registration. All pharmaceutical benefits
28 management ~~third party prescription~~ programs and PBMs
29 ~~administrators~~ doing business in the State shall register with
30 the Director ~~of Insurance~~. The Director ~~may~~ shall promulgate
31 regulations establishing criteria for registration in
32 accordance with the terms of this Article. The Director may by
33 rule establish an annual registration fee for each
34 pharmaceutical benefits management program ~~third party~~
35 ~~administrator~~.

1 (Source: P.A. 82-1005.)

2 (215 ILCS 5/512-5) (from Ch. 73, par. 1065.59-5)

3 Sec. 512-5. Fiduciary and Bonding Requirements.

4 (a) A PBM ~~third party prescription program administrator~~
5 shall (1) establish and maintain a fiduciary account, separate
6 and apart from any and all other accounts, for the receipt and
7 disbursement of funds for reimbursement of providers of
8 services under the program, or (2) post, or cause to be posted,
9 a bond of indemnity in an amount equal to not less than 10% of
10 the total estimated annual reimbursements under the program.

11 (b) The establishment of such fiduciary accounts and bonds
12 shall be consistent with applicable State law. If a bond of
13 indemnity is posted, it shall be held by the Director ~~of~~
14 ~~Insurance~~ for the benefit and indemnification of the providers
15 of services under the pharmaceutical benefits management ~~third~~
16 ~~party prescription~~ program.

17 (c) Any PBM ~~An administrator~~ who operates more than one
18 pharmaceutical benefits management ~~third party prescription~~
19 program may establish and maintain a separate fiduciary account
20 or bond of indemnity for each such program, or may operate and
21 maintain a consolidated fiduciary account or bond of indemnity
22 for all such programs.

23 (d) The requirements of this Section do not apply to any
24 pharmaceutical benefits management ~~third party prescription~~
25 program administered by or on behalf of any insurance company,
26 Health Maintenance Organization, Limited Health Service
27 Organization, or Voluntary Health Services Plan ~~Care Service~~
28 ~~Plan Corporation or Pharmaceutical Service Plan Corporation~~
29 authorized to do business in the State of Illinois.

30 (Source: P.A. 82-1005.)

31 (215 ILCS 5/512-6) (from Ch. 73, par. 1065.59-6)

32 Sec. 512-6. Notice. Notice of any change in the terms of a
33 pharmaceutical benefits management ~~third party prescription~~
34 program, including but not limited to drugs covered,

1 reimbursement rates, co-payments, and dosage quantity, shall
2 be given to each enrolled pharmacy at least 30 days prior to
3 the time it becomes effective.

4 (Source: P.A. 82-1005.)

5 (215 ILCS 5/512-7) (from Ch. 73, par. 1065.59-7)

6 Sec. 512-7. Contractual provisions.

7 (a) Any agreement or contract entered into ~~in this State~~
8 between a PBM ~~the administrator of a program~~ and a pharmacy
9 under a pharmaceutical benefits management program shall
10 include a statement of the method and amount of reimbursement
11 to the pharmacy for services rendered to persons enrolled in
12 the program, the frequency of payment by the PBM program
13 ~~administrator~~ to the pharmacy for those services, and a method
14 for the adjudication of complaints and the settlement of
15 disputes between the contracting parties.

16 (b) (1) A program shall provide an annual period of at least
17 30 days during which any pharmacy licensed under the
18 Pharmacy Practice Act of 1987 may elect to participate in
19 the program under the program terms for at least one year.

20 (2) If compliance with the requirements of this
21 subsection (b) would impair any provision of a contract
22 between a program and any other person, and if the contract
23 provision was in existence before January 1, 2006 ~~1990~~,
24 then immediately after the expiration of those contract
25 provisions the program shall comply with the requirements
26 of this subsection (b).

27 (3) This subsection (b) does not apply if:

28 (A) the PBM program administrator is a licensed
29 health maintenance organization, limited health
30 service organization, or voluntary health services
31 plan that owns or controls a pharmacy and that enters
32 into an agreement or contract with that pharmacy in
33 accordance with subsection (a); or

34 (B) (blank). ~~the program administrator is a~~
35 ~~licensed health maintenance organization that is owned~~

1 ~~or controlled by another entity that also owns or~~
2 ~~controls a pharmacy, and the administrator enters into~~
3 ~~an agreement or contract with that pharmacy in~~
4 ~~accordance with subsection (a).~~

5 (4) (Blank). ~~This subsection (b) shall be~~
6 ~~inoperative after October 31, 1992.~~

7 (c) The PBM ~~program administrator~~ shall cause to be issued
8 an identification card to each person enrolled in the program.
9 The identification card shall comply with the Uniform
10 Prescription Drug Information Card Act. ~~include:~~

11 ~~(1) the name of the individual enrolled in the program;~~
12 ~~and~~

13 ~~(2) an expiration date if required under the~~
14 ~~contractual arrangement or agreement between a provider of~~
15 ~~pharmaceutical services and prescription drug products and~~
16 ~~the third party prescription program administrator.~~

17 (Source: P.A. 86-473; 87-254.)

18 (215 ILCS 5/512-8) (from Ch. 73, par. 1065.59-8)

19 Sec. 512-8. Cancellation procedures.

20 (a) The pharmaceutical benefits manager ~~administrator of a~~
21 ~~program~~ shall notify all pharmacies enrolled in the program of
22 any cancellation of the coverage of benefits of any group
23 enrolled in the program at least 30 days prior to the effective
24 date of such cancellation. However, if the PBM ~~administrator of~~
25 ~~a program~~ is not notified at least 45 days prior to the
26 effective date of such cancellation, the PBM ~~administrator~~
27 shall notify all pharmacies enrolled in the program of the
28 cancellation as soon as practicable after having received
29 notice.

30 (b) When a program is terminated, all persons enrolled
31 therein shall be so notified, and the employer shall make every
32 reasonable effort to gain possession of any plan identification
33 cards in such persons' possession.

34 (c) Any person who intentionally uses a program
35 identification card to obtain services from a pharmacy after

1 having received notice of the cancellation of his benefits
2 shall be guilty of a Class C misdemeanor. Persons shall be
3 liable to the PBM ~~program administrator~~ for all monies paid by
4 the PBM ~~program administrator~~ for any services received
5 pursuant to such misuse ~~any improper use~~ of the identification
6 card.

7 (Source: P.A. 82-1005.)

8 (215 ILCS 5/512-9) (from Ch. 73, par. 1065.59-9)

9 Sec. 512-9. Denial of Payment.

10 (a) No PBM ~~administrator~~ shall deny payment to any pharmacy
11 for covered pharmaceutical services or prescription drug
12 products rendered as a result of the misuse, fraudulent or
13 illegal use of an identification card unless such
14 identification card had expired, been noticeably altered, or
15 the pharmacy was notified of the cancellation of such card. In
16 lieu of notifying pharmacies which have a common ownership, the
17 PBM ~~administrator~~ may notify a party designated by the pharmacy
18 to receive such notice, in which case, notification shall not
19 become effective until 5 calendar days after the designee
20 receives notification.

21 (b) No PBM ~~program administrator~~ may withhold any payment
22 to any pharmacy for covered pharmaceutical services or
23 prescription drug products beyond the time period specified in
24 the payment schedule provisions of the agreement, except for
25 individual claims for payment which have been returned to the
26 pharmacy as incomplete or illegible. Such returned claims shall
27 be paid if resubmitted by the pharmacy to the PBM ~~program~~
28 ~~administrator~~ with the appropriate corrections made.

29 (Source: P.A. 82-1005.)

30 (215 ILCS 5/512-10) (from Ch. 73, par. 1065.59-10)

31 Sec. 512-10. Failure to Register. Any pharmaceutical
32 benefits management ~~third party prescription~~ program or PBM
33 that administrator ~~which~~ operates without a certificate of
34 registration or fails to register with the Director and pay the

1 fee prescribed by this Article shall be construed to be an
2 unauthorized insurer as defined in Article VII of this Code and
3 shall be subject to all penalties contained therein.

4 The provisions of this ~~the~~ Article shall apply to all new
5 programs established on or after January 1, 2006 ~~1983~~. Programs
6 existing on the effective date of this amendatory Act of the
7 94th General Assembly ~~Existing programs~~ shall comply with the
8 provisions of this Article as they existed before the effective
9 date of this amendatory Act of the 94th General Assembly until
10 ~~on~~ the anniversary date of the programs that occurs on or after
11 January 1, 2006, at which time the programs shall comply with
12 the provisions of this Article as they exist beginning on the
13 effective date of this amendatory Act of the 94th General
14 Assembly ~~1983~~.

15 (Source: P.A. 82-1005.)

16 (215 ILCS 5/512-11 new)

17 Sec. 512-11. Failure to Comply. In order to enforce the
18 provisions of this Article, the Director may issue a cease and
19 desist order or require a PBM to pay a civil penalty or both.
20 Subject to the provisions of the Illinois Administrative
21 Procedure Act, the Director may, pursuant to Section 403A of
22 the Illinois Insurance Code, impose upon a pharmaceutical
23 benefits management program an administrative fine of \$5,000
24 for violations of this Article.

25 (215 ILCS 5/512-12 new)

26 Sec. 512-12. Rulemaking. The Director shall have the
27 authority to adopt any rules necessary for the implementation
28 and administration of this Article.

29 Section 99. Effective date. This Act takes effect upon
30 becoming law.