



Sen. John J. Cullerton

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LRB095 18675 RAS 48968 a

1 AMENDMENT TO SENATE BILL 2222

2 AMENDMENT NO. _____. Amend Senate Bill 2222, AS AMENDED,
3 by replacing everything after the enacting clause with the
4 following:

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

9 (215 ILCS 5/Art. XXXI.5 heading)

10 ARTICLE XXXI 1/2.

11 PHARMACY BENEFITS MANAGEMENT PLAN ~~THIRD PARTY PRESCRIPTION~~
12 ~~PROGRAMS~~

13 (215 ILCS 5/512-1) (from Ch. 73, par. 1065.59-1)

14 Sec. 512-1. Short Title. This Article shall be known and
15 may be cited as the "Pharmacy Benefits Management Plan Law

1 ~~Third Party Prescription Program Act".~~

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

3 (215 ILCS 5/512-2) (from Ch. 73, par. 1065.59-2)

4 Sec. 512-2. Purpose. It is hereby determined and declared
5 that the purpose of this Article is to regulate pharmacy
6 benefits management plans ~~certain practices engaged in by~~
7 ~~third party prescription program administrators.~~

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

9 (215 ILCS 5/512-3) (from Ch. 73, par. 1065.59-3)

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

13 "Director" means the Director of the Division of Insurance
14 of the Department of Financial and Professional Regulation.

15 "Division" means the Division of Insurance of the
16 Department of Financial and Professional Regulation.

17 "Pharmacy benefits management plan" or "plan" ~~(a) "Third~~
18 ~~party prescription program" or "program"~~ means any system of
19 providing for the administration of or reimbursement for ~~of~~
20 pharmaceutical services and prescription drug products offered
21 or operated in this State by a pharmacy benefits manager ~~under~~
22 ~~a contractual arrangement or agreement between a provider of~~
23 ~~such services and another party who is not the consumer of~~
24 ~~those services and products. Such programs may include, but~~

1 ~~need not be limited to, employee benefit plans whereby a~~
2 ~~consumer receives prescription drugs or other pharmaceutical~~
3 ~~services and those services are paid for by an agent of the~~
4 ~~employer or others.~~

5 "Pharmacy benefits manager" or "PBM" ~~(b) "Third party~~
6 ~~program administrator" or "administrator"~~ means any person,
7 partnership or corporation who issues or causes to be issued
8 any payment or reimbursement to a provider for services
9 rendered pursuant to a pharmacy benefits management plan.

10 "Pharmacy benefits manager" or "PBM" ~~third party prescription~~
11 ~~program, but~~ does not include the Director of Healthcare and
12 Family Services or any agent authorized by the Director to
13 reimburse a provider of services rendered pursuant to a plan
14 ~~program~~ of which the Department of Healthcare and Family
15 Services is the third party.

16 (Source: P.A. 95-331, eff. 8-21-07.)

17 (215 ILCS 5/512-4) (from Ch. 73, par. 1065.59-4)

18 Sec. 512-4. Registration. All PBMs ~~third party~~
19 ~~prescription programs and administrators~~ doing business in the
20 State shall register with the Director ~~of Insurance~~. The
21 Director may ~~shall~~ promulgate regulations establishing
22 criteria for registration in accordance with the terms of this
23 Article. The Director may by rule establish an annual
24 registration fee for each PBM ~~third party administrator~~.

25 Persons and entities registered under this Article as

1 administrators prior to the effective date of this amendatory
2 Act of the 95th General Assembly shall be deemed registered
3 PBMs under this Article until such time as that registration
4 expires or is suspended or revoked, at which time the
5 provisions of this Article and all rules adopted under this
6 Article concerning renewal or restoration of PBM registration
7 shall apply.

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

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

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

11 (a) A PBM ~~third party prescription program administrator~~
12 shall (1) establish and maintain a fiduciary account, separate
13 and apart from any and all other accounts, for the receipt and
14 disbursement of funds for reimbursement of providers of
15 services under the plans that it administers ~~program~~, or (2)
16 post, or cause to be posted, a bond of indemnity in an amount
17 equal to not less than 10% of the total estimated annual
18 reimbursements under the plans that it administers ~~program~~.

19 (b) The establishment of such fiduciary accounts and bonds
20 shall be consistent with applicable State law. If a bond of
21 indemnity is posted, it shall be held by the Director ~~of~~
22 ~~Insurance~~ for the benefit and indemnification of the providers
23 of services under the plan ~~third party prescription program~~.

24 (c) Any PBM ~~An administrator~~ who operates more than one
25 pharmacy benefits management plan ~~third party prescription~~

1 ~~program~~ may establish and maintain a separate fiduciary account
2 or bond of indemnity for each such plan program, or may operate
3 and maintain a consolidated fiduciary account or bond of
4 indemnity for all such plans programs.

5 (d) The requirements of this Section do not apply to any
6 pharmacy benefits management plan ~~third party prescription~~
7 ~~program~~ administered by or on behalf of any insurance company,
8 Health Maintenance Organization, Limited Health Service
9 Organization, or Voluntary Health Services Plan ~~Care Service~~
10 ~~Plan Corporation or Pharmaceutical Service Plan Corporation~~
11 authorized to do business in the State of Illinois.

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

13 (215 ILCS 5/512-6) (from Ch. 73, par. 1065.59-6)

14 Sec. 512-6. Notice. Notice of any change in the terms of a
15 pharmacy benefits management plan ~~third party prescription~~
16 ~~program~~, including but not limited to drugs covered,
17 reimbursement rates, co-payments, and dosage quantity, shall
18 be given to each enrolled pharmacy at least 30 days prior to
19 the time it becomes effective.

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

21 (215 ILCS 5/512-7) (from Ch. 73, par. 1065.59-7)

22 Sec. 512-7. Contractual provisions. ~~(a)~~ Any agreement or
23 contract entered into ~~in this State~~ between a PBM ~~the~~
24 ~~administrator of a program~~ and a pharmacy shall include a

1 statement of the method and amount of reimbursement to the
2 pharmacy for services rendered to persons enrolled in the plan
3 ~~program~~, the frequency of payment by the PBM program
4 ~~administrator~~ to the pharmacy for those services, and a method
5 for the adjudication of complaints and the settlement of
6 disputes between the contracting parties.

7 ~~(b) (1) A program shall provide an annual period of at least~~
8 ~~30 days during which any pharmacy licensed under the~~
9 ~~Pharmacy Practice Act may elect to participate in the~~
10 ~~program under the program terms for at least one year.~~

11 ~~(2) If compliance with the requirements of this~~
12 ~~subsection (b) would impair any provision of a contract~~
13 ~~between a program and any other person, and if the contract~~
14 ~~provision was in existence before January 1, 1990, then~~
15 ~~immediately after the expiration of those contract~~
16 ~~provisions the program shall comply with the requirements~~
17 ~~of this subsection (b).~~

18 ~~(3) This subsection (b) does not apply if:~~

19 ~~(A) the program administrator is a licensed health~~
20 ~~maintenance organization that owns or controls a~~
21 ~~pharmacy and that enters into an agreement or contract~~
22 ~~with that pharmacy in accordance with subsection (a);~~
23 ~~or~~

24 ~~(B) the program administrator is a licensed health~~
25 ~~maintenance organization that is owned or controlled~~
26 ~~by another entity that also owns or controls a~~

1 ~~pharmacy, and the administrator enters into an~~
2 ~~agreement or contract with that pharmacy in accordance~~
3 ~~with subsection (a).~~

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

6 ~~(c) The program administrator shall cause to be issued an~~
7 ~~identification card to each person enrolled in the program. The~~
8 ~~identification card shall include:~~

9 ~~(1) the name of the individual enrolled in the program;~~
10 ~~and~~

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

15 (Source: P.A. 95-689, eff. 10-29-07.)

16 (215 ILCS 5/512-8) (from Ch. 73, par. 1065.59-8)

17 Sec. 512-8. Cancellation procedures.

18 (a) The PBM ~~administrator of a program~~ shall notify or
19 cause to be notified all pharmacies enrolled in the plan
20 ~~program~~ of any cancellation of the coverage of benefits of any
21 group enrolled in the plan ~~program~~ at least 30 days prior to
22 the effective date of such cancellation. However, if the PBM
23 ~~administrator of a program~~ is not notified at least 45 days
24 prior to the effective date of such cancellation, the PBM
25 ~~administrator~~ shall notify all pharmacies enrolled in the plan

1 ~~program~~ of the cancellation as soon as practicable after having
2 received notice.

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

7 (c) Any person who intentionally uses a plan ~~program~~
8 identification card to obtain services from a pharmacy after
9 having received notice of the cancellation of his benefits
10 shall be guilty of a Class C misdemeanor. Persons shall be
11 liable to the PBM ~~program administrator~~ for all monies paid by
12 the PBM ~~program administrator~~ for any services received
13 pursuant to such misuse ~~any improper use~~ of the identification
14 card.

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

16 (215 ILCS 5/512-9) (from Ch. 73, par. 1065.59-9)

17 Sec. 512-9. Denial of Payment.

18 (a) No PBM ~~administrator~~ shall deny payment to any pharmacy
19 for covered pharmaceutical services or prescription drug
20 products rendered as a result of the misuse, fraudulent or
21 illegal use of an identification card unless such
22 identification card had expired, been noticeably altered, or
23 the pharmacy was notified of the cancellation of such card. In
24 lieu of notifying pharmacies which have a common ownership, the
25 PBM ~~administrator~~ may notify a party designated by the pharmacy

1 to receive such notice, in which case, notification shall not
2 become effective until 5 calendar days after the designee
3 receives notification.

4 (b) No PBM ~~program administrator~~ may withhold any payment
5 to any pharmacy for covered pharmaceutical services or
6 prescription drug products beyond the time period specified in
7 the payment schedule provisions of the agreement, except for
8 individual claims for payment which have been returned to the
9 pharmacy as incomplete or illegible. Such returned claims shall
10 be paid if resubmitted by the pharmacy to the PBM ~~program~~
11 ~~administrator~~ with the appropriate corrections made.

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

13 (215 ILCS 5/512-10) (from Ch. 73, par. 1065.59-10)

14 Sec. 512-10. Failure to Register. Any PBM or plan that
15 ~~third party prescription program or administrator which~~
16 operates without a certificate of registration or fails to
17 register with the Director and pay the fee prescribed by this
18 Article shall be construed to be an unauthorized insurer as
19 defined in Article VII of this Code and shall be subject to all
20 penalties contained therein.

21 The provisions of this ~~the~~ Article shall apply to all plans
22 ~~new programs~~ established on or after December 31, 2008 ~~January~~
23 ~~1, 1983~~. Plans existing on or established prior to the
24 effective date of this amendatory Act of the 95th General
25 Assembly ~~Existing programs~~ shall comply with the provisions of

1 this Article as they existed before the effective date of this
2 amendatory Act of the 95th General Assembly until ~~on~~ the
3 anniversary date of the ~~plans~~ ~~programs~~ that occurs on or after
4 January 1, 2009, at which time the plans shall comply with the
5 provisions of this Article as they exist beginning on the
6 effective date of this amendatory Act of the 95th General
7 Assembly 1983.

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

9 (215 ILCS 5/512-11 new)

10 Sec. 512-11. Failure to comply. In order to enforce the
11 provisions of this Article, the Director may issue a cease and
12 desist order or require a PBM to pay a civil penalty or both.
13 Subject to the provisions of the Illinois Administrative
14 Procedure Act, the Director may, pursuant to Section 403A of
15 the Illinois Insurance Code, impose upon a PBM an
16 administrative fine of \$5,000 for violations of this Article.

17 (215 ILCS 5/512-12 new)

18 Sec. 512-12. Request for proposals for pharmacy benefits
19 manager; confidential information.

20 (a) In order for a vendor to qualify to submit a pharmacy
21 benefits manager proposal in response to a request for
22 proposals for pharmacy benefits manager services issued by the
23 Department of Central Management Services, the vendor must
24 provide full disclosure of all revenue sources or the

1 equivalent thereof, including the aggregate amount of all
2 rebates and other retrospective utilization discounts that the
3 vendor receives, directly or indirectly, from pharmaceutical
4 manufacturers or labelers in connection with the purchasing or
5 dispensing of pharmaceuticals for individuals covered under
6 the State health plan covered by the request for proposals. It
7 is at the discretion of the Director of the Department of
8 Central Management Services issuing the request for proposals
9 to determine the extent to which information provided pursuant
10 to this Section is required for award of a contract.

11 (b) A vendor providing information pursuant to this Section
12 may designate that information as confidential. Information
13 designated as confidential may not be disclosed to any person
14 without the consent of the vendor, except that disclosure may
15 be made when ordered by a court of this State or as required
16 under the Illinois Freedom of Information Act. In the event the
17 Department of Central Management Services receives a request
18 under the Illinois Freedom of Information Act for information
19 designated as confidential, it will provide written notice to
20 the vendor 10 calendar days prior to the release of the
21 information to allow the vendor to seek injunctive relief. A
22 vendor's failure to designate information as confidential may
23 be deemed by the Department of Central Management Services as a
24 waiver of any right of confidentiality under this Section.

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.".