

SB3741



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB3741

Introduced 2/14/2020, by Sen. Andy Manar

SYNOPSIS AS INTRODUCED:

215 ILCS 5/513b1

Amends the Illinois Insurance Code. Prohibits a pharmacy benefit manager from requiring that a covered prescription drug be filled by a mail-order pharmacy as a condition for reimbursement of the cost of the prescription drug. Effective immediately.

LRB101 20153 BMS 69692 b

A BILL FOR

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 Section 513b1 as follows:

6 (215 ILCS 5/513b1)

7 Sec. 513b1. Pharmacy benefit manager contracts.

8 (a) As used in this Section:

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

11 "Maximum allowable cost" means the maximum amount that a
12 pharmacy benefit manager will reimburse a pharmacy for the cost
13 of a drug.

14 "Maximum allowable cost list" means a list of drugs for
15 which a maximum allowable cost has been established by a
16 pharmacy benefit manager.

17 "Pharmacy benefit manager" means a person, business, or
18 entity, including a wholly or partially owned or controlled
19 subsidiary of a pharmacy benefit manager, that provides claims
20 processing services or other prescription drug or device
21 services, or both, for health benefit plans.

22 "Retail price" means the price an individual without
23 prescription drug coverage would pay at a retail pharmacy, not

1 including a pharmacist dispensing fee.

2 (b) A contract between a health insurer and a pharmacy
3 benefit manager must require that the pharmacy benefit manager:

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

6 (2) Maintain a process that will, in a timely manner,
7 eliminate drugs from maximum allowable cost lists or modify
8 drug prices to remain consistent with changes in pricing
9 data used in formulating maximum allowable cost prices and
10 product availability.

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

24 (4) Provide a process by which a contracted pharmacy
25 can appeal the provider's reimbursement for a drug subject
26 to maximum allowable cost pricing. The appeals process

1 must, at a minimum, include the following:

2 (A) A requirement that a contracted pharmacy has 14
3 calendar days after the applicable fill date to appeal
4 a maximum allowable cost if the reimbursement for the
5 drug is less than the net amount that the network
6 provider paid to the supplier of the drug.

7 (B) A requirement that a pharmacy benefit manager
8 must respond to a challenge within 14 calendar days of
9 the contracted pharmacy making the claim for which the
10 appeal has been submitted.

11 (C) A telephone number and e-mail address or
12 website to network providers, at which the provider can
13 contact the pharmacy benefit manager to process and
14 submit an appeal.

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

19 (E) A requirement that, if an appeal is sustained,
20 the pharmacy benefit manager must make an adjustment in
21 the drug price effective the date the challenge is
22 resolved and make the adjustment applicable to all
23 similarly situated network pharmacy providers, as
24 determined by the managed care organization or
25 pharmacy benefit manager.

26 (5) Allow a plan sponsor contracting with a pharmacy

1 benefit manager an annual right to audit compliance with
2 the terms of the contract by the pharmacy benefit manager,
3 including, but not limited to, full disclosure of any and
4 all rebate amounts secured, whether product specific or
5 generalized rebates, that were provided to the pharmacy
6 benefit manager by a pharmaceutical manufacturer.

7 (6) Allow a plan sponsor contracting with a pharmacy
8 benefit manager to request that the pharmacy benefit
9 manager disclose the actual amounts paid by the pharmacy
10 benefit manager to the pharmacy.

11 (7) Provide notice to the party contracting with the
12 pharmacy benefit manager of any consideration that the
13 pharmacy benefit manager receives from the manufacturer
14 for dispense as written prescriptions once a generic or
15 biologically similar product becomes available.

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

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

26 (2) the drug is available for purchase by each pharmacy

1 in the State from national or regional wholesalers
2 operating in Illinois; and

3 (3) the drug is not obsolete.

4 (d) A pharmacy benefit manager is prohibited from limiting
5 a pharmacist's ability to disclose whether the cost-sharing
6 obligation exceeds the retail price for a covered prescription
7 drug, and the availability of a more affordable alternative
8 drug, if one is available in accordance with Section 42 of the
9 Pharmacy Practice Act.

10 (d-5) A pharmacy benefit manager is prohibited from
11 requiring that a covered prescription drug be filled by a
12 mail-order pharmacy as a condition for reimbursement of the
13 cost of the prescription drug.

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

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

18 (2) the retail price of the drug in the absence of
19 prescription drug coverage.

20 (f) This Section applies to contracts entered into or
21 renewed on or after the effective date of this amendatory Act
22 of the 101st General Assembly July 1, 2020.

23 (g) This Section applies to any group or individual policy
24 of accident and health insurance or managed care plan that
25 provides coverage for prescription drugs and that is amended,
26 delivered, issued, or renewed on or after the effective date of

1 this amendatory Act of the 101st General Assembly ~~July 1, 2020.~~

2 (Source: P.A. 101-452, eff. 1-1-20.)

3 Section 99. Effective date. This Act takes effect upon
4 becoming law.