



## 103RD GENERAL ASSEMBLY

### State of Illinois

2023 and 2024

SB2790

Introduced 1/17/2024, by Sen. Laura M. Murphy

#### SYNOPSIS AS INTRODUCED:

305 ILCS 5/5-36a new

Amends the Medical Assistance Article of the Illinois Public Aid Code. Provides that the Department of Healthcare and Family Services shall not enter into a contract with a managed care organization that relies on a pharmacy benefit manager that does not do the following: (i) utilize a pharmacy reimbursement methodology of the lesser of national average drug acquisition cost plus a professional dispensing fee as determined by the Department, the wholesale acquisition cost plus a professional dispensing fee as determined by the Department, or the usual and customary charge by the pharmacy; (ii) reimburse for a legally valid claim at a rate not less than the rate in effect at the time the original claim adjudication was submitted at the point of sale; (iii) agree to move to a transparent pass-through pricing model, in which the pharmacy benefit manager discloses the administrative fee as a percentage of the professional dispensing costs to the Department; (iv) agree to not create new pharmacy administration fees and to not increase current fees more than the rate of inflation; and (v) agree to not terminate an existing contract with a pharmacy licensed under the Pharmacy Practice Act for the sole reason of the additional professional dispensing fee authorized under item (i). Requires each pharmacy benefit manager that receives reimbursement for medical services, either directly or through a Medicaid managed care health plan, to submit by January 15, 2026, and each January 15 thereafter, certain data and information to the Department for the previous fiscal year, including: (1) the total number of prescriptions that were dispensed; (2) the aggregate wholesale acquisition cost for each drug on its formulary; (3) the aggregate amount of rebates, discounts, and price concessions that the pharmacy benefit manager received for each drug on its formulary; (4) the aggregate amount of administrative fees that the pharmacy benefit manager received from all pharmaceutical manufacturers; and (5) any other information considered necessary by the Department. Requires the Department to submit such data and information to the General Assembly and to the Governor's Office of Management and Budget. Provides that such information is confidential and not subject to disclosure under the Freedom of Information Act.

LRB103 36211 KTG 66304 b

A BILL FOR

1 AN ACT concerning public aid.

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

4 Section 5. The Illinois Public Aid Code is amended by  
5 adding Section 5-36a as follows:

6 (305 ILCS 5/5-36a new)

7 Sec. 5-36a. Managed care organizations; pharmacy benefit  
8 managers; contract requirements.

9 (a) Notwithstanding any law or rule to the contrary, the  
10 Department shall not enter into a contract with a managed care  
11 organization that relies on a pharmacy benefit manager that  
12 does not do all of the following:

13 (1) For pharmacies licensed under the Pharmacy  
14 Practice Act, including offsite institutional pharmacies  
15 as defined in Section 39.5 of the Pharmacy Practice Act,  
16 utilize a pharmacy reimbursement methodology of the lesser  
17 of national average drug acquisition cost plus a  
18 professional dispensing fee as determined by the  
19 Department, the wholesale acquisition cost plus a  
20 professional dispensing fee as determined by the  
21 Department, or the usual and customary charge by the  
22 pharmacy. The pharmacy benefit manager or the involved  
23 pharmacy services administrative organization, as defined

1 in Section 5-36 of this Code, shall not receive any  
2 portion of the professional dispensing fee. The Department  
3 shall identify the pharmacies this subsection applies to  
4 and provide the list of applicable pharmacies to managed  
5 care organizations contracted with the Department.

6 (2) Reimburse for a legally valid claim at a rate not  
7 less than the rate in effect at the time the original claim  
8 adjudication was submitted at the point of sale.

9 (3) Agree to move to a transparent pass-through  
10 pricing model, in which the pharmacy benefit manager  
11 discloses the administrative fee as a percentage of the  
12 professional dispensing costs to the Department.

13 (4) Agree to not create new pharmacy administration  
14 fees and to not increase current fees more than the rate of  
15 inflation. This paragraph does not apply to any federal  
16 rule or action that creates a new fee.

17 (5) Agree to not terminate an existing contract with a  
18 pharmacy licensed under the Pharmacy Practice Act for the  
19 sole reason of the additional professional dispensing fee  
20 authorized under this Section.

21 (b) Nothing in this Section shall be construed to prohibit  
22 a managed care organization from implementing the provisions  
23 of subsection (a) before the effective date of this amendatory  
24 Act of the 103rd General Assembly.

25 (c) By January 15, 2026, and each January 15 thereafter,  
26 each pharmacy benefit manager that receives reimbursement,

1 either directly or through a Medicaid managed care health  
2 plan, for medical services must submit all of the following  
3 information to the Department for the previous fiscal year:

4 (1) The total number of prescriptions that were  
5 dispensed.

6 (2) The aggregate wholesale acquisition cost for each  
7 drug on its formulary.

8 (3) The aggregate amount of rebates, discounts, and  
9 price concessions that the pharmacy benefit manager  
10 received for each drug on its formulary. The amount of  
11 rebates shall include any utilization discounts the  
12 pharmacy benefit manager receives from a manufacturer.

13 (4) The aggregate amount of administrative fees that  
14 the pharmacy benefit manager received from all  
15 pharmaceutical manufacturers.

16 (5) The aggregate amount identified in paragraphs (2)  
17 and (3) that was retained by the pharmacy benefit manager  
18 and did not pass through to the Department or to the  
19 Medicaid managed care health plan.

20 (6) The aggregate amount of reimbursements the  
21 pharmacy benefit manager pays to contracting pharmacies.

22 (7) Any other information considered necessary by the  
23 Department.

24 (d) By March 1, 2026 and each March 1 thereafter, the  
25 Department shall submit the information provided under  
26 subsection (c) to the General Assembly and the Governor's

1 Office of Management and Budget.

2 (e) Any nonaggregated information submitted under  
3 subsections (c) and (d) is confidential and shall not be  
4 disclosed to any person by the Department. Information  
5 received under subsections (c) and (d) is not a public record  
6 of the Department and is not subject to disclosure under the  
7 Freedom of Information Act.