

SENATE BILL NO. 210

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY SENATOR WILSON

Introduced: 2/22/22

Referred: Labor and Commerce, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to health care insurers; relating to pharmacy benefits managers;**
2 **relating to prescription drug cost sharing; and providing for an effective date."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** AS 21.27.955 is amended to read:

5 **Sec. 21.27.955. Definitions.** In AS 21.27.901 - 21.27.960 [AS 21.27.901 -
6 21.27.955],

7 (1) "audit" means an official examination and verification of accounts
8 and records;

9 (2) "claim" means a request from a pharmacy or pharmacist to be
10 reimbursed for the cost of filling or refilling a prescription for a drug or for providing
11 a medical supply or device;

12 **(3) "cost sharing" has the meaning given in AS 21.42.599;**

13 **(4) [(3)] "extrapolation" means the practice of inferring a frequency or**
14 **dollar amount of overpayments, underpayments, invalid claims, or other errors on any**

1 portion of claims submitted, based on the frequency or dollar amount of
 2 overpayments, underpayments, invalid claims, or other errors actually measured in a
 3 sample of claims;

4 **(5) "health care insurer" has the meaning given in AS 21.54.500;**

5 **(6)** [(4)] "list" means the list of multi-source generic drugs for which a
 6 predetermined reimbursement amount has been established such as a maximum
 7 allowable cost or maximum allowable cost list or any other list of prices used by a
 8 pharmacy benefits manager;

9 **(7)** [(5)] "multi-source generic drug" means any covered outpatient
 10 prescription drug that the United States Food and Drug Administration has determined
 11 is pharmaceutically equivalent or bioequivalent to the originator or name brand drug
 12 and for which there are at least two drug products that are rated as therapeutically
 13 equivalent under the United States Food and Drug Administration's most recent
 14 publication of "Approved Drug Products with Therapeutic Equivalence Evaluations";

15 **(8)** [(6)] "network pharmacy" means a pharmacy that provides covered
 16 health care services or supplies to an insured or a member under a contract with a
 17 network plan to act as a participating provider;

18 **(9)** [(7)] "pharmacy" has the meaning given in AS 08.80.480;

19 **(10)** [(8)] "pharmacy acquisition cost" means the amount that a
 20 pharmaceutical wholesaler or distributor charges for a pharmaceutical product as listed
 21 on the pharmacy's invoice;

22 **(11)** [(9)] "pharmacy benefits manager" means a person that

23 **(A)** contracts with a pharmacy on behalf of **a health care** [AN]
 24 insurer to process claims or pay pharmacies for prescription drugs or medical
 25 devices and supplies or provide network management for pharmacies; **or**

26 **(B) contracts with or is employed by a health care insurer**
 27 **to manage prescription drug benefits provided by the health care insurer,**
 28 **including the processing and payment of claims for prescription drugs,**
 29 **performance of prescription drug utilization review, processing of drug**
 30 **prior authorization requests, adjudication of appeals or grievances related**
 31 **to prescription drug benefits, contracting with network pharmacies, or**

1 **otherwise controlling the cost of prescription drugs;**

2 **(12) "rebate" has the meaning given in AS 21.42.599;**

3 **(13)** [(10)] "recoupment" means the amount that a pharmacy must
4 remit to a pharmacy benefits manager when the pharmacy benefits manager has
5 determined that an overpayment to the pharmacy has occurred.

6 * **Sec. 2.** AS 21.27 is amended by adding a new section to article 9 to read:

7 **Sec. 21.27.960. Cost sharing and prescription drugs.** (a) A covered person's
8 cost sharing for a prescription drug shall be calculated at the point of sale based on a
9 price that is reduced by an amount equal to at least 85 percent of all rebates received,
10 or that will be received, in connection with the dispensing or administration of the
11 prescription drug.

12 (b) Nothing in this section prevents a health care insurer or an agent of a
13 health care insurer from reducing a covered person's cost sharing by an amount greater
14 than the amount calculated under (a) of this section.

15 (c) A pharmacy benefits manager may not be required to disclose the amount
16 of rebates a health care insurer or pharmacy benefits manager receives on a product-
17 specific, manufacturer-specific, or pharmacy-specific basis, except as required to
18 comply with this section. Information and records relating to the amount of rebates a
19 health insurer or pharmacy benefits manager receives on a product-specific,
20 manufacturer-specific, or pharmacy-specific basis are confidential for the purposes of
21 AS 21.06.060.

22 (d) If a provision in this section conflicts with federal law, the provision does
23 not apply to the extent of the conflict.

24 * **Sec. 3.** AS 21.42 is amended by adding a new section to read:

25 **Sec. 21.42.435. Cost sharing and prescription drugs.** (a) A covered person's
26 cost sharing for a prescription drug shall be calculated at the point of sale based on a
27 price that is reduced by an amount equal to at least 85 percent of all rebates received,
28 or that will be received, in connection with the dispensing or administration of the
29 prescription drug.

30 (b) A health care insurer shall reimburse a covered person for the cost of a
31 covered prescription drug dispensed or administered by a pharmacy that is not a

1 network pharmacy based on a price that is reduced by an amount equal to at least 85
 2 percent of all rebates received, or that will be received, in connection with the
 3 dispensing or administration of the prescription drug.

4 (c) Nothing in this section prevents a health care insurer or an agent of a
 5 health care insurer from reducing a covered person's cost sharing by an amount greater
 6 than the amount calculated under (a) of this section.

7 (d) A health care insurer or an agent of a health care insurer may not be
 8 required to disclose the amount of rebates a health care insurer or pharmacy benefits
 9 manager receives on a product-specific, manufacturer-specific, or pharmacy-specific
 10 basis, except as required to comply with this section. Information and records relating
 11 to the amount of rebates a health insurer or pharmacy benefits manager receives on a
 12 product-specific, manufacturer-specific, or pharmacy-specific basis are confidential
 13 for the purposes of AS 21.06.060.

14 (e) If a provision in this section conflicts with federal law, the provision does
 15 not apply to the extent of the conflict.

16 * **Sec. 4.** AS 21.42.599 is amended by adding new paragraphs to read:

17 (9) "cost sharing" means a deductible, coinsurance, copayment, or
 18 similar expense owed by a covered person under the terms of the covered person's
 19 health care insurance plan;

20 (10) "network pharmacy" has the meaning given in AS 21.27.955;

21 (11) "price protection rebate" means a negotiated price concession that
 22 accrues directly or indirectly to the health care insurer, or another party on behalf of
 23 the health care insurer, in the event of an increase in the wholesale acquisition cost of
 24 a drug above a specified threshold;

25 (12) "rebate" means a

26 (A) negotiated price concession, base price concession whether
 27 or not described as a rebate, or reasonable estimate of any price protection
 28 rebates and performance-based price concessions that may accrue directly or
 29 indirectly to a health care insurer during the coverage year from a
 30 manufacturer, dispensing pharmacy, or other party in connection with the
 31 dispensing or administration of a prescription drug; or

1 (B) reasonable estimate of any negotiated price concessions,
2 fees, and other administrative costs that are passed through, or are reasonably
3 anticipated to be passed through, to the health care insurer and serve to reduce
4 the health care insurer's prescription drug liabilities.

5 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
6 read:

7 **APPLICABILITY.** This Act applies to an insurance policy or contract issued,
8 delivered, or renewed on or after the effective date of this Act.

9 * **Sec. 6.** This Act takes effect January 1, 2023.