ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fifth Legislature
Second Regular Session

Senate: ED DPA/SE 6-2-0-0 | 3rd Read 18-12-0-0

SB 1649: online instruction; dropout recovery programs
S/E: pharmacy benefit managers;steering prohibition
Sponsor: Senator Boyer, LD 20
Committee on Appropriations

Summary of Strike-Everything Amendment to SB 1649

Overview
Prohibits a pharmacy benefit manager (PBM) from steering or directing a patient to use the manager's affiliated pharmacy.

History
A *PBM* is a person, business or other entity that under a contract or employment relationship with an insurer or other third-party payor either directly or through an intermediary manages the prescription drug coverage provided by the insurer or other third-party payor including: 1) The processing and payment of claims for prescription drugs; 2) The performance of drug utilization review; 3) The processing of drug prior authorization requests; 4) The adjudication of appeals or grievances related to prescription drug coverage; 5) Contracting with network pharmacies; and 6) Controlling the cost of covered prescription drugs (A.R.S. § 20-3321).

A PBM must:

1) Update the price and drug information for each list that the PBM maintains every seven business days;
2) Make the sources used to determine maximum allowable cost pricing available to each network pharmacy at the beginning of the term of a contract, renewal of a contract and at least once annually during the term of a contract;
3) Establish a process a network pharmacy may use to appeal its reimbursement for a drug subject to maximum allowable cost pricing; and
4) Allow a pharmacy services administrative organization contracted with the PBM to file an appeal of a drug on behalf of the organization's contracted pharmacies (A.R.S. § 20-3331).

Provisions
1. Prohibits a PBM from transferring to or receiving from its affiliated provider a record containing patient or prescriber identifiable prescription information for a commercial purpose. (Sec. 1)
2. Asserts that commercial purposes do not include pharmacy reimbursemengt, formulary compliance, pharmaceutical care, utilization review by a health care provider or a public health activity authorized by law. (Sec. 1)
3. Forbids a PBM from steering or directing a patient to use their affiliated provider. (Sec. 1)
4. Asserts that the prohibition on steering a patient to an affiliated provider does not bar a PBM from including its affiliated provider in any communications with a patient or prospective patient if the communication is both:

a) Regarding information about the cost or services provided by pharmacies or durable medical equipment providers in the network of a health benefits plan in which the patient or prospective patient is enrolled; and
b) Includes accurate comparable information regarding pharmacies or durable medical equipment providers in the network that are not the issuer's or PBM's affiliated providers. (Sec. 1)

5. Forbids PBM's from:
   a) Requiring a patient to use the PBM's affiliated provider for the patient to receive the maximum benefit under their health benefit's plan;
   b) Requiring or inducing a patient to use the PBM's affiliated provider, including by providing reduced cost sharing if the patient uses the affiliated provider;
   c) Soliciting a patient or prescriber to transfer a patient's prescription to the PBM's affiliated provider; and
   d) Requiring a pharmacy or durable medical equipment provider that is not an affiliated provider to transfer a patient's prescription to the PMS's affiliated provider without written consent of the patient. (Sec. 1)
6. Specifies that this does not prohibit a patient from personally requesting to transfer the patient's prescription without written consent. (Sec. 1)
7. Applies the prohibitions relating to steering or requiring a patient to use an affiliated provider to a PBM acting on its own behalf or on the behalf of an insurer. (Sec. 1)
8. Prohibits a PBM or health insurer from:
   a) Requiring a clinician-administered drug to be dispensed by a pharmacy, including by an affiliated provider, as a condition of coverage;
   b) Limiting or excluding coverage of a clinician-administered drug or prescription drug that is not dispensed by a pharmacy or affiliated provider, if the prescription drug is covered under the health benefits plan or pharmacy benefit plan; and
   c) Covering a prescription drug as a different benefit or tier or with cost sharing requirements that impose greater expense for a covered individual if the drug is dispensed or administered at the prescriber's office, a hospital outpatient infusion center or any other outpatient clinical setting rather than a pharmacy or affiliated provider. (Sec. 1)
9. Clarifies that the restrictions relating to clinician-administered drugs does not authorize a person to administer prescription drugs that are otherwise prohibited under state and federal law or modify prescription drug administration requirements under state law, including any requirements related to delegating and supervising prescription drug administration. (Sec. 1)
10. Specifies these provisions do not apply to health and accident insurance coverage procured by the Department of Administration or by the Arizona State Retirement System. (Sec. 1)
11. Defines terms. (Sec. 1)
12. Applies the requirements and prohibitions of this legislation to contracts entered into, amended, extended or renewed on or after the effective date. (Sec. 2)
13. Contains a severability clause. (Sec. 3)