

Second Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 14-0329.01 Kristen Forrestal x4217

HOUSE BILL 14-1213

HOUSE SPONSORSHIP

Kraft-Tharp, Joshi, Vigil

SENATE SPONSORSHIP

Crowder,

House Committees

Health, Insurance, & Environment
Appropriations

Senate Committees

Health & Human Services
Appropriations

A BILL FOR AN ACT

101 **CONCERNING PHARMACY BENEFIT MANAGER MAXIMUM ALLOWABLE**
102 **COST PRICING REQUIREMENTS FOR PRESCRIPTION DRUGS, AND,**
103 **IN CONNECTION THEREWITH, MAKING AND REDUCING**
104 **APPROPRIATIONS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

The bill requires a pharmacy benefit manager (PBM) to include the basis for determining maximum allowable cost pricing in each contract

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
3rd Reading Unamended
April 28, 2014

SENATE
2nd Reading Unamended
April 25, 2014

HOUSE
3rd Reading Unamended
April 7, 2014

HOUSE
Amended 2nd Reading
April 4, 2014

between a pharmacy benefit manager and a pharmacy, update the pricing information at least every 7 days. The bill also requires a PBM to maintain a procedure to eliminate products from the list of drugs subject to maximum allowable cost pricing.

In order for a prescription drug to be placed on a maximum allowable cost list, the bill requires a PBM to ensure that the drug meets specific requirements.

The bill requires each contract between a PBM and a pharmacy to include a process to appeal, investigate, and resolve disputes regarding maximum allowable cost pricing.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, 25-37-102, **add** (13)
3 as follows:

4 **25-37-102. Definitions.** As used in this article, unless the context
5 otherwise requires:

6 (13) "PHARMACY BENEFIT MANAGER" MEANS AN ENTITY DOING
7 BUSINESS IN THIS STATE THAT CONTRACTS TO ADMINISTER OR MANAGE
8 PRESCRIPTION DRUG BENEFITS ON BEHALF OF ANY CARRIER THAT
9 PROVIDES PRESCRIPTION DRUG BENEFITS TO RESIDENTS OF THIS STATE.
10 "PHARMACY BENEFIT MANAGER" DOES NOT INCLUDE THE DEPARTMENT OF
11 HEALTH CARE POLICY AND FINANCING CREATED IN SECTION 25.5-1-104,
12 C.R.S.

13 **SECTION 2.** In Colorado Revised Statutes, **add** 25-37-103.5 as
14 follows:

15 **25-37-103.5. Pharmacy benefit managers - contracts with**
16 **pharmacies - maximum allowable cost pricing.** (1) (a) IN EACH
17 CONTRACT BETWEEN A PHARMACY BENEFIT MANAGER AND A PHARMACY,
18 THE PHARMACY SHALL BE GIVEN THE RIGHT TO OBTAIN FROM THE
19 PHARMACY BENEFIT MANAGER, WITHIN TEN DAYS AFTER ANY REQUEST, A
20 CURRENT LIST OF THE SOURCES USED TO DETERMINE MAXIMUM

1 ALLOWABLE COST PRICING. THE PHARMACY BENEFIT MANAGER SHALL
2 UPDATE THE PRICING INFORMATION AT LEAST EVERY SEVEN DAYS AND
3 PROVIDE A MEANS BY WHICH CONTRACTED PHARMACIES MAY PROMPTLY
4 REVIEW PRICING UPDATES IN A FORMAT THAT IS READILY AVAILABLE AND
5 ACCESSIBLE.

6 (b) A PHARMACY BENEFIT MANAGER SHALL MAINTAIN A
7 PROCEDURE TO ELIMINATE PRODUCTS FROM THE LIST OF DRUGS SUBJECT
8 TO MAXIMUM ALLOWABLE COST PRICING IN A TIMELY MANNER IN ORDER
9 TO REMAIN CONSISTENT WITH PRICING CHANGES IN THE MARKETPLACE.

10 (2) IN ORDER TO PLACE A PRESCRIPTION DRUG ON A MAXIMUM
11 ALLOWABLE COST LIST, A PHARMACY BENEFIT MANAGER SHALL ENSURE
12 THAT:

13 (a) THE DRUG IS LISTED AS "A" OR "B" RATED IN THE MOST RECENT
14 VERSION OF THE UNITED STATES FOOD AND DRUG ADMINISTRATION'S
15 APPROVED DRUG PRODUCTS WITH THERAPEUTIC EQUIVALENCE
16 EVALUATIONS, ALSO KNOWN AS THE ORANGE BOOK, OR HAS AN "NR" OR
17 "NA" RATING OR SIMILAR RATING BY A NATIONALLY RECOGNIZED
18 REFERENCE; AND

19 (b) THE DRUG IS GENERALLY AVAILABLE FOR PURCHASE BY
20 PHARMACIES IN THIS STATE FROM A NATIONAL OR REGIONAL WHOLESALER
21 AND IS NOT OBSOLETE.

22 (3) EACH CONTRACT BETWEEN A PHARMACY BENEFIT MANAGER
23 AND A PHARMACY MUST INCLUDE A PROCESS TO APPEAL, INVESTIGATE,
24 AND RESOLVE DISPUTES REGARDING MAXIMUM ALLOWABLE COST PRICING
25 THAT INCLUDES:

26 (a) A TWENTY-ONE-DAY LIMIT ON THE RIGHT TO APPEAL
27 FOLLOWING THE INITIAL CLAIM;

1 (b) A REQUIREMENT THAT THE APPEAL BE INVESTIGATED AND
2 RESOLVED WITHIN TWENTY-ONE DAYS AFTER THE APPEAL;

3 (c) A TELEPHONE NUMBER AT WHICH THE PHARMACY MAY
4 CONTACT THE PHARMACY BENEFIT MANAGER TO SPEAK TO A PERSON
5 RESPONSIBLE FOR PROCESSING APPEALS;

6 (d) A REQUIREMENT THAT A PHARMACY BENEFIT MANAGER
7 PROVIDE A REASON FOR ANY APPEAL DENIAL AND THE IDENTIFICATION OF
8 THE NATIONAL DRUG CODE OF A DRUG THAT MAY BE PURCHASED BY THE
9 PHARMACY AT A PRICE AT OR BELOW THE BENCHMARK PRICE AS
10 DETERMINED BY THE PHARMACY BENEFIT MANAGER; AND

11 (e) A REQUIREMENT THAT A PHARMACY BENEFIT MANAGER MAKE
12 AN ADJUSTMENT TO A DATE NO LATER THAN ONE DAY AFTER THE DATE OF
13 DETERMINATION. THIS REQUIREMENT DOES NOT PROHIBIT A PHARMACY
14 BENEFIT MANAGER FROM RETROACTIVELY ADJUSTING A CLAIM FOR THE
15 APPEALING PHARMACY OR FOR ANOTHER SIMILARLY SITUATED PHARMACY.

16 **SECTION 3. Appropriation - adjustments to 2014 long bill.**

17 (1) For the implementation of this act, the general fund appropriation
18 made in the annual general appropriation act to the controlled
19 maintenance trust fund created in section 24-75-302.5 (2) (a), Colorado
20 Revised Statutes, for the fiscal year beginning July 1, 2014, is decreased
21 by \$44,519.

22 (2) In addition to any other appropriation, there is hereby
23 appropriated, to the department of health care policy and financing, for
24 the fiscal year beginning July 1, 2014, the sum of \$129,831, or so much
25 thereof as may be necessary, for allocation to the indigent care program
26 for the children's basic health plan medical and dental costs related to the
27 implementation of this act. Of said sum, \$44,519 is from the general fund

1 and \$85,312 is from federal funds.

2 **SECTION 4. Act subject to petition - effective date -**
3 **applicability.** (1) This act takes effect January 1, 2015; except that, if a
4 referendum petition is filed pursuant to section 1 (3) of article V of the
5 state constitution against this act or an item, section, or part of this act
6 within the ninety-day period after final adjournment of the general
7 assembly, then the act, item, section, or part will not take effect unless
8 approved by the people at the general election to be held in November
9 2014 and, in such case, will take effect on January 1, 2015, or on the date
10 of the official declaration of the vote thereon by the governor, whichever
11 is later.

12 (2) This act applies to contracts issued, renewed, or amended on
13 or after the applicable effective date of this act.