

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 215

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO PHARMACY BENEFIT MANAGERS; AMENDING SECTION 41-349, IDAHO CODE,
2 TO PROVIDE FOR ENFORCEMENT; AND DECLARING AN EMERGENCY AND PROVIDING AN
3 EFFECTIVE DATE.
4

5 Be It Enacted by the Legislature of the State of Idaho:

6 SECTION 1. That Section 41-349, Idaho Code, be, and the same is hereby
7 amended to read as follows:

8 41-349. PHARMACY BENEFIT MANAGERS. (1) As used in this section:

9 (a) "Maximum allowable cost" means the maximum amount that a pharmacy
10 benefit manager will reimburse a pharmacy for the cost of a generic
11 drug.

12 (b) "Pharmacy benefit manager" means a person or entity doing business
13 in this state that contracts with pharmacies on behalf of an insurer,
14 third-party administrator, or managed care organization to administer
15 prescription drug benefits to residents of this state.

16 (2) A person may not perform, offer to perform, or advertise any phar-
17 macy benefit management service in this state unless the person is regis-
18 tered as a pharmacy benefit manager with the department of insurance. A per-
19 son may not utilize the services of another person as a pharmacy benefit man-
20 ager if the person knows or has reason to know that the other person does not
21 have a registration with the department. Such registration must occur annu-
22 ally no later than April 1 of each year and shall be on a form prescribed by
23 the director. The department may utilize applicable sections of this title
24 to administer registration as provided in this subsection.

25 (3) A pharmacy benefit manager shall not prohibit a pharmacist or re-
26 tail pharmacy from providing a covered person information on the amount of
27 the cost share for a prescription drug and the clinical efficacy of a more
28 affordable alternative drug if one is available, and a pharmacy benefit man-
29 ager may not penalize a pharmacist or retail pharmacy for disclosing such in-
30 formation to a covered person or for selling to a covered person a more af-
31 fordable alternative if one is available.

32 (4) A pharmacy benefit manager using maximum allowable cost pricing may
33 place a drug on a maximum allowable cost list if the pharmacy benefit manager
34 does the following:

35 (a) Ensures that the drug:

36 (i) 1. Is listed as "A" or "B" rated in the most recent ver-
37 sion of the United States food and drug administration's ap-
38 proved drug products with therapeutic equivalence evalua-
39 tions, also known as the "orange book"; or

40 2. Has an "NR" or "NA" rating or a similar rating by a nation-
41 ally recognized reference; and

- 1 (ii) Is available for purchase by pharmacies in the state from na-
2 tional or regional wholesalers and is not obsolete;
- 3 (b) Provides to a network pharmacy, at the time a contract is entered
4 into or renewed with the network pharmacy, the sources used to determine
5 the maximum allowable cost pricing for the maximum allowable cost list
6 specific to that provider;
- 7 (c) Reviews and updates maximum allowable cost price information at
8 least once every seven (7) business days to reflect any modification of
9 maximum allowable cost pricing;
- 10 (d) Establishes a process for eliminating products from the maximum al-
11 lowable cost list or modifying maximum allowable cost prices in a timely
12 manner to remain consistent with pricing changes and product availabil-
13 ity in the marketplace;
- 14 (e) Establishes a process by which a network pharmacy, or a network
15 pharmacy's contracting agent, may appeal the reimbursement for a
16 generic drug no later than thirty (30) days after such reimbursement is
17 made; and
- 18 (f) Provides a process for each of its network pharmacies to readily ac-
19 cess the maximum allowable cost list specific to that provider.
- 20 (5) No pharmacy benefit manager may retroactively deny or reduce a
21 claim for reimbursement of the cost of services after the claim has been ad-
22 judicated by the pharmacy benefit manager unless:
- 23 (a) The adjudicated claim was submitted fraudulently or improperly; or
24 (b) The pharmacy benefit manager's payment on the adjudicated claim was
25 incorrect because the pharmacy or pharmacist had already been paid for
26 the services.
- 27 (6) If the director finds a pharmacy benefit manager has violated this
28 section or any provision of title 41, Idaho Code, then the director may sub-
29 ject the pharmacy benefit manager to any or all of the actions, penalties,
30 and remedies referenced in sections 41-117, 41-1016, and 41-1026, Idaho
31 Code.

32 SECTION 2. An emergency existing therefor, which emergency is hereby
33 declared to exist, this act shall be in full force and effect on and after
34 July 1, 2023.