

SENATE BILL No. 351

By Committee on Public Health and Welfare

2-1

1 AN ACT concerning health and healthcare; relating to insurance;
2 pharmacy benefits; enacting the Kansas pharmacy patients fair
3 practices act.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. (a) This section shall be known and may be cited as the
7 Kansas pharmacy patients fair practices act.

8 (b) As used in this section:

9 (1) "Commissioner" means the commissioner of insurance.

10 (2) "Covered entity" means the same as defined in K.S.A. 2017 Supp.
11 40-3822, and amendments thereto, but does not include a managed care
12 organization contracted to provide state medicaid services under the
13 Kansas medical assistance program.

14 (3) "Covered person" means the same as defined in K.S.A. 2017
15 Supp. 40-3822, and amendments thereto.

16 (4) "Pharmacy benefits management" means the same as defined in
17 K.S.A. 2017 Supp. 40-3822, and amendments thereto.

18 (5) "Pharmacy benefits manager" means the same as defined in
19 K.S.A. 2017 Supp. 40-3822, and amendments thereto.

20 (6) "Practice of pharmacy" means the same as defined in K.S.A. 65-
21 1626a, and amendments thereto.

22 (c) (1) A pharmacy benefits manager shall not charge or collect from
23 a covered person a cost-sharing requirement for a prescription or
24 pharmacy service that exceeds the amount retained by the pharmacist or
25 pharmacy from all payment sources for filling the prescription or
26 providing the service.

27 (2) A pharmacy benefits manager shall not prohibit a pharmacist or
28 pharmacy from:

29 (A) Informing a covered person of the difference between the covered
30 person's cost sharing requirement for a prescription drug and the amount
31 the covered person would pay if the covered person did not use a health
32 benefit plan to cover the cost; or

33 (B) selling a prescription drug to a covered person who chooses not
34 to use a health benefit plan to cover the cost.

35 (3) A pharmacy benefits manager shall not restrict or interfere with a
36 pharmacist's ability to engage in the practice of pharmacy, including

1 engaging in pharmacist-patient communications with a covered person and
2 discussing alternative drug options.

3 (4) A pharmacy benefits manager shall not reduce reimbursement
4 after a claim has been adjudicated or charge or hold a pharmacist or
5 pharmacy responsible for any fee that is related to a claim, unless the
6 amount of the reduction or fee can be determined and has been disclosed
7 to the pharmacist or pharmacy at the time of the claim's adjudication.

8 (5) A pharmacy benefits manager shall not prohibit or otherwise
9 restrict a pharmacist or pharmacy from offering prescription delivery
10 services to a covered person.

11 (6) A pharmacy benefits manager shall not:

12 (A) Require a covered person to obtain prescription drugs from a mail
13 service pharmacy or through the mail or other common carrier; or

14 (B) impose an additional cost-sharing requirement, fee, limitation on
15 benefits or other condition or requirement on a covered person who
16 obtains a prescription from a retail network pharmacy instead of through a
17 mail service pharmacy.

18 (7) A pharmacy benefits manager shall not restrict a covered person's
19 ability to access prescription medications available at network pharmacies,
20 as defined in K.S.A. 2017 Supp. 40-3829, and amendments thereto.

21 (d) The commissioner shall adopt rules and regulations as may be
22 necessary to implement and administer this section. The commissioner
23 shall have the power to examine a pharmacy benefits manager if the
24 commissioner has cause to believe that any provision of this section has
25 been violated by the pharmacy benefits manager. The commissioner may
26 impose a civil fine or suspend or revoke the certificate of registration of a
27 pharmacy benefits manager upon finding that the pharmacy benefits
28 manager has violated this section. Any administrative action taken under
29 this section shall be in accordance with the Kansas administrative
30 procedure act and reviewable in accordance with the Kansas judicial
31 review act.

32 (e) The provisions of this section are severable, and if any provision
33 of this section or the application thereof to any person or circumstance is
34 held invalid, such invalidity shall not affect other provisions or
35 applications of this section that can be given effect without the invalid
36 provision or application.

37 (f) This section applies to any contract between a pharmacy benefits
38 manager and a pharmacy, a pharmacy services administration organization
39 or a group purchasing organization that is entered into or renewed on and
40 after July 1, 2018.

41 Sec. 2. This act shall take effect and be in force from and after its
42 publication in the statute book.