

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

16 ~~(2) "Health carrier" means the same as defined in K.S.A. 2017~~
17 ~~Supp. 40-2,195, and amendments thereto.~~

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

20 ~~(5) (3) "Pharmacy benefits manager" means the same as defined in~~
21 ~~K.S.A. 2017 Supp. 40-3822, and amendments thereto.~~

22 ~~(6) "Practice of pharmacy" means the same as defined in K.S.A. 65-~~
23 ~~1626a, and amendments thereto.~~

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

29 ~~(2) A pharmacy benefits manager shall not prohibit a pharmacist or~~
30 ~~pharmacy from:~~

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

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

1 ~~(3) A pharmacy benefits manager shall not restrict or interfere with a~~
2 ~~pharmacist's ability to engage in the practice of pharmacy, including~~
3 ~~engaging in pharmacist-patient communications with a covered person and~~
4 ~~discussing alternative drug options.~~

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

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

13 ~~(6) A pharmacy benefits manager shall not:~~

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

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

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

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

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

39 ~~(c) (1) *Co-payments applied by a health carrier for a prescription*~~
40 ~~*drug may not exceed the total submitted charges by the network*~~
41 ~~*pharmacy.*~~

42 ~~(2) *A pharmacy or pharmacist shall have the right to provide a*~~
43 ~~*covered person with information regarding the amount of the covered*~~

1 *person's cost share for a prescription drug. Neither a pharmacy nor a*
2 *pharmacist shall be proscribed by a pharmacy benefits manager from*
3 *discussing any such information or for selling a more affordable*
4 *alternative to the covered person if such an alternative is available.*

5 (⊕) (d) This section applies to any contract between a pharmacy
6 benefits manager and a pharmacy, a pharmacy services administration
7 organization or a group purchasing organization that is entered into or
8 renewed on and after ~~July 1, 2018~~ **January 1, 2019**.

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