

1 AN ACT relating to pharmacy benefits in the Medicaid program and declaring an  
2 emergency.

3 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

4 ➔Section 1. KRS 205.5514 is amended to read as follows:

5 (1) **Within thirty (30) days after the effective date of this Act,** the department shall:

6 (a) Establish **and implement** a single preferred drug list to be used by the state  
7 pharmacy benefit manager for each managed care organization with whom the  
8 department contracts for the delivery of Medicaid services; and

9 (b) Promulgate **and implement** administrative regulations that establish:

- 10 1. Reimbursement methodologies; and  
11 2. Dispensing fees which may take into account applicable guidance by the  
12 Centers for Medicare and Medicaid Services and which may, to the  
13 extent permitted under federal law, vary by pharmacy type, including  
14 rural and independently owned pharmacies, chain pharmacies, and  
15 pharmacies owned or contracted by a health care facility that is  
16 registered as a covered entity pursuant to 42 U.S.C. sec. 256b.

17 Reimbursement methodologies established by administrative regulations shall  
18 not discriminate against pharmacies owned or contracted by a health care  
19 facility that is registered as a covered entity pursuant to 42 U.S.C. sec. 256b,  
20 to the extent allowable by the Centers for Medicare and Medicaid Services.

21 (2) The reimbursement methodologies and dispensing fees established by the  
22 department pursuant to subsection (1) of this section shall be used by the state  
23 pharmacy benefit manager for each managed care organization with whom the  
24 department contracts for the delivery of Medicaid services.

25 (3) The state pharmacy benefit manager shall administer, adjudicate, and reimburse  
26 pharmacy benefit claims submitted by pharmacies to the state pharmacy benefit  
27 manager in accordance with:

- 1 (a) The terms of any contract between a health care facility that is registered as a  
2 covered entity pursuant to 42 U.S.C. sec. 256b and a Medicaid managed care  
3 organization;
- 4 (b) The terms and conditions of the contract between the state pharmacy benefit  
5 manager and the Commonwealth; and
- 6 (c) The reimbursement methodologies and dispensing fees established by the  
7 department, pursuant to subsection (1) of this section.
- 8 (4) The following shall apply to the state pharmacy benefit manager, the contract  
9 between the state pharmacy benefit manager and the department, and, where  
10 applicable, any contract between the state pharmacy benefit manager and a  
11 pharmacy:
- 12 (a) The department shall be responsible for reviewing and shall approve or deny:
- 13 1. Any contract, any change in the terms of a contract, or suspension or  
14 termination of a contract between the state pharmacy benefit manager  
15 and a pharmacy licensed under KRS Chapter 315; and
- 16 2. Any contract, any change in the terms of a contract, or suspension or  
17 termination of a contract between the state pharmacy benefit manager  
18 and an entity that contracts on behalf of a pharmacy licensed under KRS  
19 Chapter 315;
- 20 (b) The state pharmacy benefit manager shall comply with KRS 304.9-053,  
21 304.9-054, and 304.9-055;
- 22 (c) After December 1, 2020, the state pharmacy benefit manager shall not enter  
23 into, renew, extend, or amend a national contract with any pharmacy that is  
24 inconsistent with:
- 25 1. The terms and conditions of the contract between the state pharmacy  
26 benefit manager and the Commonwealth; or
- 27 2. The reimbursement methodologies and dispensing fees established by

1 the department, pursuant to subsection (1) of this section;

2 (d) 1. When creating or establishing a pharmacy network for a managed care  
3 organization with whom the department contracts for the delivery of  
4 Medicaid services, the state pharmacy benefit manager shall not  
5 discriminate against any pharmacy or pharmacist that is:

6 a. Located within the geographic coverage area of the managed care  
7 organization; and

8 b. Willing to agree to or accept reasonable terms and conditions  
9 established by the state pharmacy benefit manager, or other  
10 administrator for network participation, including obtaining  
11 preferred participation status.

12 2. Discrimination prohibited by this paragraph shall include denying a  
13 pharmacy the opportunity to participate in a pharmacy network at  
14 preferred participation status; and

15 (e) A contract between the state pharmacy benefit manager and a pharmacy shall  
16 not release the state pharmacy benefit manager from the obligation to make  
17 any payments owed to the pharmacy for services rendered prior to the  
18 termination of the contract between the state pharmacy benefit manager and  
19 the pharmacy or removal of the pharmacy from the pharmacy network.

20 ➔Section 2. KRS 205.5518 is amended to read as follows:

21 (1) Notwithstanding any provisions of law to the contrary, beginning on March 27,  
22 2020,~~and continuing until December 31, 2020,~~ a pharmacy benefit manager  
23 contracted with a managed care organization to administer Medicaid benefits shall  
24 not:

25 (a) Adjust, modify, change, or amend reimbursement methodologies, dispensing  
26 fees, and any other fees paid by the pharmacy benefit manager to pharmacies  
27 licensed in the Commonwealth;

- 1 (b) Create, modify, implement, or indirectly establish any fee on a pharmacy,  
2 pharmacist, or a Medicaid recipient in the Commonwealth;~~[-and]~~
- 3 (c) Make any adjustments, modifications, or changes to a pharmacy network for  
4 the managed care organization with whom the pharmacy benefit manager has  
5 contracted to administer Medicaid benefits; **and**
- 6 **(d) Be released from its obligation to make any payments owed to a pharmacy**  
7 **licensed in the Commonwealth for pharmacy services rendered prior to the**  
8 **termination of the contract between the pharmacy benefit manager and the**  
9 **managed care organization.**
- 10 (2) Notwithstanding any provisions of law to the contrary, beginning on March 27,  
11 2020,~~[-and continuing until December 31, 2020,]~~ a pharmacy benefit manager  
12 contracted with a managed care organization to administer Medicaid benefits shall  
13 **administer, adjudicate, and, when appropriate, reimburse any pharmacy benefit**  
14 **claim submitted to the managed care organization prior to the termination of the**  
15 **contract between the pharmacy benefit manager and the managed care**  
16 **organization in accordance with that contract, except that pharmacy benefit**  
17 **claims submitted on or after January 1, 2021, shall be reimbursed in accordance**  
18 **with to the reimbursement methodologies and dispensing fees established by the**  
19 **department pursuant to subsection (1) of Section 1 of this Act**~~[-:~~
- 20 ~~(a) Administer, adjudicate, and, when appropriate, reimburse any pharmacy~~  
21 ~~benefit claim submitted to the managed care organization prior to the~~  
22 ~~termination of the contract between the pharmacy benefit manager and the~~  
23 ~~managed care organization in accordance with the contract between the~~  
24 ~~pharmacy benefit manager and the managed care organization; and~~
- 25 ~~(b) Not be released from its obligation to make any payments owed to a pharmacy~~  
26 ~~licensed in the Commonwealth for pharmacy services rendered prior to the~~  
27 ~~termination of the contract between the pharmacy benefit manager and the~~

1           ~~managed care organization~~.

2       (3) The department shall impose a fine of twenty-five thousand dollars (\$25,000) per  
3       day per separate violation on a pharmacy benefit manager who violates subsection  
4       (1) or (2) of this section.

5       ➔Section 3. Whereas there is urgent need to improve the administration and  
6       provision of pharmacy benefits for Medicaid recipients in the Commonwealth, an  
7       emergency is declared to exist, and this Act takes effect upon its passage and approval by  
8       the Governor or upon its otherwise becoming a law.