

RÉSUMÉ DIGEST

ACT 597 (HB 436)

2018 Regular Session

Johnson

New law prohibits a pharmacy benefit manager, insurer, or other entity that administers prescription drug benefits programs in La. from prohibiting by contract a pharmacy or pharmacist from informing a patient of all relevant options when acquiring his prescription medication, including but not limited to the cost and clinical efficacy of a more affordable alternative if one is available and the ability to pay cash if a cash price for the same drug is less than an insurance copayment or deductible payment amount.

New law updates the phrase "pharmacy benefits manager" to "pharmacy benefit manager".

New law requires a pharmacy benefit manager to reimburse a pharmacy or pharmacist in this state an amount not less than the amount that the pharmacy benefit manager reimburses an affiliate of the pharmacy benefit manager for providing the same services.

New law requires a pharmacy benefit manager, for every drug for which the pharmacy benefit manager establishes a maximum allowable cost to determine the drug product reimbursement, to make available to all pharmacies both of the following:

- (1) Information identifying the national drug pricing compendia or sources used to obtain the drug price data.
- (2) The comprehensive list of drugs subject to maximum allowable cost by plan and the actual maximum allowable cost by plan for each drug.

Prior law required a pharmacy benefit manager to perform certain actions after an appeal relative to maximum allowable cost was upheld.

New law requires the pharmacy benefit manager, if the appeal is granted, to take the following actions:

- (1) Make the change in the Maximum Allowable Cost List to the initial date of service the appealed drug was dispensed.
- (2) Permit the appealing pharmacy and all other pharmacies in the network that filled prescriptions for patients covered under the same health benefit plan to reverse and resubmit claims and receive payment based on the adjusted maximum allowable cost from the initial date of service the appealed drug was dispensed.
- (3) Make the change effective for each similarly situated pharmacy as defined by the payor subject to the Maximum Allowable Cost List and individually notify all pharmacies in the pharmacy benefit manager's network.
- (4) Make retroactive price adjustments in the next payment cycle.

New law authorizes a pharmacist or pharmacy to file a complaint with the commissioner of insurance following a final decision of the pharmacy benefit manager and provides for the investigation of the complaint.

New law requires the pharmacy benefit manager to provide the commissioner, upon request, information that is needed to resolve a pharmacist's complaint regarding the pharmacist's appeal to the pharmacy benefit manager. New law further requires, if the commissioner is unable to obtain information from the pharmacy benefit manager that is necessary to resolve the complaint, the reimbursement amount requested in the pharmacist's appeal to be granted.

New law requires information specifically designated as proprietary by the pharmacy benefit manager to be given confidential treatment pursuant to existing law.

New law authorizes the commissioner to impose a reasonable fee upon pharmacy benefit managers, in addition to a license fee and annual report fee, in order to cover the costs of implementation and enforcement of existing law and new law.

New law permits the commissioner to promulgate rules and regulations, in accordance with the Administrative Procedure Act, that are necessary or proper to carry out the provisions of new law.

New law allows any pharmacy benefit manager, insurer, or other entity that administers prescription drug benefits programs that is aggrieved by an act of the commissioner to apply for a hearing pursuant to existing law.

Effective January 1, 2019.

(Amends R.S. 22:1060.6(B), 1863(intro. para.), (1) and (6), 1864(A)(intro. para.) and (3) and (B)(intro. para.) and 1865; Adds R.S. 22:1060.6(C), 1860.3, 1863(8), 1864(A)(4), and 1866)