

FIRST REGULAR SESSION

# SENATE BILL NO. 122

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHAAF.

Read 1st time January 18, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

0757S.011

## AN ACT

To repeal section 354.535, RSMo, and to enact in lieu thereof two new sections relating to health insurance.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 354.535, RSMo, is repealed and two new sections  
2 enacted in lieu thereof, to be known as sections 354.535 and 376.387, to read as  
3 follows:

354.535. 1. If a pharmacy, operated by or contracted with by a health  
2 maintenance organization, is closed or is unable to provide health care services  
3 to an enrollee in an emergency, a pharmacist may take an assignment of such  
4 enrollee's right to reimbursement, if the policy or contract provides for such  
5 reimbursement, for those goods or services provided to an enrollee of a health  
6 maintenance organization. No health maintenance organization shall refuse to  
7 pay the pharmacist any payment due the enrollee under the terms of the policy  
8 or contract.

9 2. No health maintenance organization, conducting business in the state  
10 of Missouri, shall contract with a pharmacy, pharmacy distributor or wholesale  
11 drug distributor, nonresident or otherwise, unless such pharmacy or distributor  
12 has been granted a permit or license from the Missouri board of pharmacy to  
13 operate in this state.

14 3. Every health maintenance organization shall apply the same  
15 coinsurance, co-payment and deductible factors to all drug prescriptions filled by  
16 a pharmacy provider who participates in the health maintenance organization's  
17 network if the provider meets the contract's explicit product cost determination.  
18 If any such contract is rejected by any pharmacy provider, the health

**EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

19 maintenance organization may offer other contracts necessary to comply with any  
20 network adequacy provisions of this act. However, nothing in this section shall  
21 be construed to prohibit the health maintenance organization from applying  
22 different coinsurance, co-payment and deductible factors between generic and  
23 brand name drugs.

24 **4. If the co-payment applied by a health maintenance**  
25 **organization exceeds the usual and customary retail price of the**  
26 **prescription drug, enrollees shall only be required to pay the usual and**  
27 **customary retail price of the prescription drug, and no further charge**  
28 **to the enrollee or plan sponsor shall be incurred on such prescription.**

29 **5.** Health maintenance organizations shall not set a limit on the quantity  
30 of drugs which an enrollee may obtain at any one time with a prescription, unless  
31 such limit is applied uniformly to all pharmacy providers in the health  
32 maintenance organization's network.

33 **[5.] 6.** Health maintenance organizations shall not insist or mandate any  
34 physician or other licensed health care practitioner to change an enrollee's  
35 maintenance drug unless the provider and enrollee agree to such change. For the  
36 purposes of this provision, a maintenance drug shall mean a drug prescribed by  
37 a practitioner who is licensed to prescribe drugs, used to treat a medical condition  
38 for a period greater than thirty days. Violations of this provision shall be subject  
39 to the penalties provided in section 354.444. Notwithstanding other provisions  
40 of law to the contrary, health maintenance organizations that change an  
41 enrollee's maintenance drug without the consent of the provider and enrollee  
42 shall be liable for any damages resulting from such change. Nothing in this  
43 subsection, however, shall apply to the dispensing of generically equivalent  
44 products for prescribed brand name maintenance drugs as set forth in section  
45 338.056.

**376.387. If the co-payment for prescription drugs applied by a**  
2 **health insurer or health carrier, as defined in section 376.1350, exceeds**  
3 **the usual and customary retail price of the prescription drug, enrollees**  
4 **shall only be required to pay the usual and customary retail price of**  
5 **the prescription drug, and no further charge to the enrollee or plan**  
6 **sponsor shall be incurred on such prescription.**

✓