

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 908

98TH GENERAL ASSEMBLY

Reported from the Committee on Veterans' Affairs and Health, March 31, 2016, with recommendation that the Senate Committee Substitute do pass.

4996S.03C

ADRIANE D. CROUSE, Secretary.

AN ACT

To amend chapter 376, RSMo, by adding thereto one new section relating to pharmacy benefits managers.

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

Section A. Chapter 376, RSMo, is amended by adding thereto one new section, to be known as section 376.388, to read as follows:

376.388. 1. As used in this section, unless the context requires otherwise, the following terms shall mean:

(1) "Contracted pharmacy" or "pharmacy", a pharmacy located in Missouri participating in the network of a pharmacy benefits manager through a direct or indirect contract;

(2) "Health carrier", an entity subject to the insurance laws and regulations of this state that contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including a sickness and accident insurance company, a health maintenance organization, a nonprofit hospital and health service corporation, or any other entity providing a plan of health insurance, health benefits, or health services, except that such plan shall not include any coverage pursuant to a liability insurance policy, workers' compensation insurance policy, or medical payments insurance issued as a supplement to a liability policy;

(3) "Maximum allowable cost", the per unit amount that a pharmacy benefits manager reimburses a pharmacist for a prescription drug, excluding a dispensing or professional fee;

(4) "Maximum allowable cost list" or "MAC list", a listing of drug products that meet the standard described in this section;

21 **(5) "Pharmacy", as such term is defined in chapter 338;**

22 **(6) "Pharmacy benefits manager", an entity that contracts with**
23 **pharmacies on behalf of health carriers or any health plan sponsored**
24 **by the state or a political subdivision of the state.**

25 **2. Upon each contract execution or renewal between a pharmacy**
26 **benefits manager and a pharmacy or between a pharmacy benefits**
27 **manager and a pharmacy's contracting representative or agent, such as**
28 **a pharmacy services administrative organization, a pharmacy benefits**
29 **manager shall, with respect to such contract or renewal:**

30 **(1) Include in such contract or renewal the sources utilized to**
31 **determine maximum allowable cost and update such pricing**
32 **information at least every seven days; and**

33 **(2) Maintain a procedure to eliminate products from the**
34 **maximum allowable cost list of drugs subject to such pricing or modify**
35 **maximum allowable cost pricing at least every seven days if such drugs**
36 **do not meet the standards and requirements of this section in order to**
37 **remain consistent with pricing changes in the marketplace.**

38 **3. A pharmacy benefits manager shall reimburse pharmacies for**
39 **drugs subject to maximum allowable cost pricing which has been**
40 **updated to reflect market pricing at least every seven days as set forth**
41 **in subdivision (1) of subsection 2 of this section.**

42 **4. A pharmacy benefits manager shall not place a drug on a**
43 **maximum allowable cost list unless there are at least two**
44 **therapeutically equivalent multi-source generic drugs, or at least one**
45 **generic drug available from at least one manufacturer, generally**
46 **available for purchase by network pharmacies from national or**
47 **regional wholesalers.**

48 **5. All contracts between a pharmacy benefits manager and a**
49 **contracted pharmacy or between a pharmacy benefits manager and a**
50 **pharmacy's contracting representative or agent, such as a pharmacy**
51 **services administrative organization, shall include a process to**
52 **internally appeal, investigate, and resolve disputes regarding maximum**
53 **allowable cost pricing. The process shall include the following:**

54 **(1) The right to appeal shall be limited to fourteen calendar days**
55 **following the reimbursement of the initial claim; and**

56 **(2) A requirement that the pharmacy benefits manager shall**
57 **respond to an appeal described in this subsection no later than**

58 fourteen calendar days after the date the appeal was received by such
59 pharmacy benefits manager.

60 6. For appeals that are denied, the pharmacy benefits manager
61 shall provide the reason for the denial and identify the national drug
62 code of a drug product that may be purchased by contracted
63 pharmacies at a price at or below the maximum allowable cost, and
64 when applicable, may be substituted lawfully.

65 7. If the appeal is successful, the pharmacy benefits manager
66 shall:

67 (1) Adjust the maximum allowable cost price that is the subject
68 of the appeal effective on the day after the date the appeal is decided;

69 (2) Apply the adjusted maximum allowable cost price to all
70 similarly situated pharmacies as determined by the pharmacy benefits
71 manager; and

72 (3) Allow the pharmacy that succeeded in the appeal to reverse
73 and rebill the pharmacy benefits claim giving rise to the appeal.

74 8. Appeals shall be upheld if:

75 (1) The pharmacy being reimbursed for the drug subject to the
76 maximum allowable cost pricing in question was not reimbursed as
77 required in subsection 3 of this section; or

78 (2) The drug subject to the maximum allowable cost pricing in
79 question does not meet the requirements set forth in subsection 4 of
80 this section.

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