

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend SB1915 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Eric Roberts

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 59th Legislature (2024)

3 PROPOSED
4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 1915

By: Roberts of the House

and

Standridge of the Senate

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9 PROPOSED COMMITTEE SUBSTITUTE

10 An Act relating to pharmacy benefit managers;
11 amending 36 O.S. 2021, Section 6962, as last amended
12 by Section 1, Chapter 293, O.S.L. 2023 (36 O.S. Supp.
13 2023, Section 6962), which relates to compliance,
14 prohibitions, and duties of pharmacy benefit
15 managers; adding a prohibition; and providing an
16 effective date.

17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

18 SECTION 1. AMENDATORY 36 O.S. 2021, Section 6962, as
19 last amended by Section 1, Chapter 293, O.S.L. 2023 (36 O.S. Supp.
20 2023, Section 6962), is amended to read as follows:

21 Section 6962. A. The Attorney General shall review and approve
22 retail pharmacy network access for all pharmacy benefits managers
(PBMs) to ensure compliance with Section 6961 of this title.

23 B. A PBM, or an agent of a PBM, shall not:
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1 1. Cause or knowingly permit the use of advertisement,
2 promotion, solicitation, representation, proposal or offer that is
3 untrue, deceptive or misleading;

4 2. Charge a pharmacist or pharmacy a fee related to the
5 adjudication of a claim including without limitation a fee for:

- 6 a. the submission of a claim,
- 7 b. enrollment or participation in a retail pharmacy
8 network, or
- 9 c. the development or management of claims processing
10 services or claims payment services related to
11 participation in a retail pharmacy network;

12 3. Reimburse a pharmacy or pharmacist in the state an amount
13 less than the amount that the PBM reimburses a pharmacy owned by or
14 under common ownership with a PBM for providing the same covered
15 services. The reimbursement amount paid to the pharmacy shall be
16 equal to the reimbursement amount calculated on a per-unit basis
17 using the same generic product identifier or generic code number
18 paid to the PBM-owned or PBM-affiliated pharmacy;

19 4. Deny a provider the opportunity to participate in any
20 pharmacy network at preferred participation status if the provider
21 is willing to accept the terms and conditions that the PBM has
22 established for other providers as a condition of preferred network
23 participation status;

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1 5. Deny, limit or terminate a provider's contract based on
2 employment status of any employee who has an active license to
3 dispense, despite probation status, with the State Board of
4 Pharmacy;

5 6. Retroactively deny or reduce reimbursement for a covered
6 service claim after returning a paid claim response as part of the
7 adjudication of the claim, unless:

- 8 a. the original claim was submitted fraudulently, or
- 9 b. to correct errors identified in an audit, so long as
- 10 the audit was conducted in compliance with Sections
- 11 356.2 and 356.3 of Title 59 of the Oklahoma Statutes;

12 7. Fail to make any payment due to a pharmacy or pharmacist for
13 covered services properly rendered in the event a PBM terminates a
14 provider from a pharmacy benefits manager network;

15 8. Conduct or practice spread pricing, as defined in Section 1
16 of this act, in this state; ~~or~~

17 9. Charge a pharmacist or pharmacy a fee related to
18 participation in a retail pharmacy network including but not limited
19 to the following:

- 20 a. an application fee,
- 21 b. an enrollment or participation fee,
- 22 c. a credentialing or re-credentialing fee,
- 23 d. a change of ownership fee, or

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1 e. a fee for the development or management of claims
2 processing services or claims payment services; or

3 10. Direct a pharmacist or pharmacy to charge less than the
4 covered individual's copay amount for prescriptions.

5 C. The prohibitions under this section shall apply to contracts
6 between pharmacy benefits managers and providers for participation
7 in retail pharmacy networks.

8 1. A PBM contract shall:

9 a. not restrict, directly or indirectly, any pharmacy
10 that dispenses a prescription drug from informing, or
11 penalize such pharmacy for informing, an individual of
12 any differential between the individual's out-of-
13 pocket cost or coverage with respect to acquisition of
14 the drug and the amount an individual would pay to
15 purchase the drug directly, and

16 b. ensure that any entity that provides pharmacy benefits
17 management services under a contract with any such
18 health plan or health insurance coverage does not,
19 with respect to such plan or coverage, restrict,
20 directly or indirectly, a pharmacy that dispenses a
21 prescription drug from informing, or penalize such
22 pharmacy for informing, a covered individual of any
23 differential between the individual's out-of-pocket
24 cost under the plan or coverage with respect to

1 acquisition of the drug and the amount an individual
2 would pay for acquisition of the drug without using
3 any health plan or health insurance coverage.

4 2. A pharmacy benefits manager's contract with a provider shall
5 not prohibit, restrict or limit disclosure of information to the
6 Attorney General, law enforcement or state and federal governmental
7 officials investigating or examining a complaint or conducting a
8 review of a pharmacy benefits manager's compliance with the
9 requirements under the Patient's Right to Pharmacy Choice Act.

10 D. A pharmacy benefits manager shall:

11 1. Establish and maintain an electronic claim inquiry
12 processing system using the National Council for Prescription Drug
13 Programs' current standards to communicate information to pharmacies
14 submitting claim inquiries;

15 2. Fully disclose to insurers, self-funded employers, unions or
16 other PBM clients the existence of the respective aggregate
17 prescription drug discounts, rebates received from drug
18 manufacturers and pharmacy audit recoupments;

19 3. Provide the Attorney General, insurers, self-funded employer
20 plans and unions unrestricted audit rights of and access to the
21 respective PBM pharmaceutical manufacturer and provider contracts,
22 plan utilization data, plan pricing data, pharmacy utilization data
23 and pharmacy pricing data;

1 4. Maintain, for no less than three (3) years, documentation of
2 all network development activities including but not limited to
3 contract negotiations and any denials to providers to join networks.
4 This documentation shall be made available to the Attorney General
5 upon request;

6 5. Report to the Attorney General, on a quarterly basis for
7 each health insurer payor, on the following information:

- 8 a. the aggregate amount of rebates received by the PBM,
- 9 b. the aggregate amount of rebates distributed to the
10 appropriate health insurer payor,
- 11 c. the aggregate amount of rebates passed on to the
12 enrollees of each health insurer payor at the point of
13 sale that reduced the applicable deductible,
14 copayment, coinsure or other cost sharing amount of
15 the enrollee,
- 16 d. the individual and aggregate amount paid by the health
17 insurer payor to the PBM for pharmacy services
18 itemized by pharmacy, drug product and service
19 provided, and
- 20 e. the individual and aggregate amount a PBM paid a
21 provider for pharmacy services itemized by pharmacy,
22 drug product and service provided.

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SECTION 2. This act shall become effective November 1, 2024.

59-2-10771 TJ 04/01/24