

1 **“SEC. 2799A-11. IMPROVING PHARMACY BENEFIT MANAGER**
 2 **SERVICES.**

3 “(a) GENERAL.—For plan years beginning on or
 4 after January 1, 2026, except as provided in subsection
 5 (b), a pharmacy benefit manager shall not charge or re-
 6 ceive fees from any entity for services provided to such
 7 entity.

8 “(b) EXCEPTION FOR FLAT SERVICE FEES.—

9 “(1) IN GENERAL.—A pharmacy benefit man-
 10 ager may charge an entity a flat service fee for the
 11 provision of services to such entity if such fee is set
 12 forth in an agreement between the pharmacy benefit
 13 manager and such entity.

14 “(2) DEFINITIONS.—In this section—

15 “(A) the term ‘flat service fee’ means a
 16 flat dollar amount that is not directly or indi-
 17 rectly based on, or contingent upon, or other-
 18 wise related to—

19 “(i) a drug price (such as wholesale
 20 acquisition cost) or drug benchmark price
 21 (such as average wholesale price);

22 “(ii) discounts, rebates, fees, or other
 23 remuneration with respect to prescription
 24 drugs prescribed to the participants, bene-
 25 ficiaries, or enrollees in the group health
 26 plan or coverage involved; or

1 “(iii) any other amounts specified by
2 the Secretary, the Secretary of Labor, and
3 the Secretary of the Treasury; and

4 “(B) the term ‘pharmacy benefit manager’
5 means any person, business, or other entity
6 such as a third-party administrator, regardless
7 of whether it identifies itself as a pharmacy
8 benefit manager, that, either directly or
9 through an intermediary (including an affiliate,
10 subsidiary, or agent) or an arrangement with a
11 third party—

12 “(i) acts as a price negotiator for pre-
13 scription drugs on behalf of a group health
14 plan or health insurance issuer offering
15 group or individual health insurance cov-
16 erage; or

17 “(ii) manages or administers the pre-
18 scription drug benefits provided by a group
19 health plan or health insurance issuer of-
20 fering group or individual health insurance
21 coverage, including the processing and pay-
22 ment of claims for prescription drugs, ar-
23 ranging alternative access to or funding for
24 prescription drugs, the performance of
25 drug utilization review, the processing of

1 drug prior authorization requests, the ad-
2 judication of appeals or grievances related
3 to the prescription drug benefit, con-
4 tracting with network pharmacies, control-
5 ling the cost of covered prescription drugs,
6 or the provision of related services.

7 “(c) ACCOUNTABILITY AND CONDUCT.—

8 “(1) IN GENERAL.—A pharmacy benefit man-
9 ager shall not—

10 “(A) charge a group health plan or health
11 insurance issuer offering group or individual
12 health insurance coverage a different amount
13 for a prescription drug’s ingredient cost or dis-
14 pensing fee as compared to the amount the
15 pharmacy benefit manager reimburses a phar-
16 macy for the prescription drug’s ingredient cost
17 or dispensing fee;

18 “(B) reimburse a network pharmacy or
19 pharmacist in an amount less than the amount
20 the pharmacy benefit manager would reimburse
21 a network pharmacy that is owned, controlled
22 by, or affiliated with the pharmacy benefit man-
23 ager for dispensing the same drug or for pro-
24 viding the same pharmacist services; or

1 “(C) directly or indirectly engage in steer-
2 ing (as defined in paragraph (2)) to a phar-
3 macy that is owned, controlled by, or affiliated
4 with the pharmacy benefit manager.

5 “(2) STEERING.—In paragraph (1), the term
6 ‘steering’ with respect to a pharmacy benefit man-
7 ager includes—

8 “(A) providing or implementing a benefit
9 design that encourages a participant, bene-
10 ficiary, or enrollee to utilize a pharmacy that is
11 owned, controlled by, or affiliated with the
12 pharmacy benefit manager, if such design in-
13 creases costs for the plan or the a participant,
14 beneficiary, or enrollee, including requiring a
15 participant, beneficiary, or enrollee to pay high-
16 er out-of-pocket costs for a prescription if the
17 participant, beneficiary, or enrollee chooses not
18 to use a pharmacy owned, controlled by, or af-
19 filiated with the pharmacy benefit manager;

20 “(B) requiring a participant, beneficiary,
21 or enrollee to use only a pharmacy that is
22 owned, controlled by, or affiliated with the
23 pharmacy benefit manager;

24 “(C) retaliating, making further attempts
25 to influence a participant, beneficiary, or en-

1 rollee, or treating a participant, beneficiary, or
2 enrollee or a participant, beneficiary, or enroll-
3 ee’s claim any differently if a participant, bene-
4 ficiary, or enrollee chooses to use a pharmacy
5 that is not owned, controlled by, or affiliated
6 with the pharmacy benefit manager; or

7 “(D) any other activities as defined by the
8 Secretary, the Secretary of Labor, and the Sec-
9 retary of the Treasury.

10 “(d) ENFORCEMENT.—

11 “(1) IN GENERAL.—The Secretary, in consulta-
12 tion with the Secretary of Labor and the Secretary
13 of the Treasury, shall enforce this section.

14 “(2) PENALTIES.—A pharmacy benefit man-
15 ager that violates subsection (a), (b), or (c) shall be
16 subject to a civil monetary penalty in the amount of
17 \$10,000 for each day during which such violation
18 continues.

19 “(3) PROCEDURE.—The provisions of section
20 1128A of the Social Security Act, other than sub-
21 sections (a) and (b) and the first sentence of sub-
22 section (c)(1) of such section shall apply to civil
23 monetary penalties under this subsection in the
24 same manner as such provisions apply to a penalty

1 or proceeding under section 1128A of the Social Se-
 2 curity Act.

3 “(e) REGULATIONS.—Notwithstanding any other
 4 provision of law, the Secretary shall implement this section
 5 through interim final regulations.”.

6 (b) EMPLOYEE RETIREMENT INCOME SECURITY ACT
 7 OF 1974.—

8 (1) IN GENERAL.—Subpart B of part 7 of sub-
 9 title B of title I of the Employee Retirement Income
 10 Security Act of 1974 (29 U.S.C. 1185 et seq.) is
 11 amended by inserting after section 725 the fol-
 12 lowing:

13 **“SEC. 726. IMPROVING PHARMACY BENEFIT MANAGER**
 14 **SERVICES.**

15 “(a) GENERAL.—For plan years beginning on or
 16 after January 1, 2026, except as provided in subsection
 17 (b), a pharmacy benefit manager shall not charge or re-
 18 ceive fees from any entity for services provided to such
 19 entity.

20 “(b) EXCEPTION FOR FLAT SERVICE FEES.—

21 “(1) IN GENERAL.—A pharmacy benefit man-
 22 ager may charge an entity a flat service fee for the
 23 provision of services to such entity if such fee is set
 24 forth in an agreement between the pharmacy benefit
 25 manager and such entity.

1 “(2) DEFINITIONS.—In this section—

2 “(A) the term ‘flat service fee’ means a
3 flat dollar amount that is not directly or indi-
4 rectly based on, or contingent upon, or other-
5 wise related to—

6 “(i) a drug price (such as wholesale
7 acquisition cost) or drug benchmark price
8 (such as average wholesale price);

9 “(ii) discounts, rebates, fees, or other
10 remuneration with respect to prescription
11 drugs prescribed to participants or bene-
12 ficiaries in the group health plan or cov-
13 erage involved; or

14 “(iii) any other amounts specified by
15 the Secretary, the Secretary of Health and
16 Human Services, and the Secretary of the
17 Treasury; and

18 “(B) the term ‘pharmacy benefit manager’
19 means any person, business, or other entity
20 such as a third-party administrator, regardless
21 of whether it identifies itself as a pharmacy
22 benefit manager, that, either directly or
23 through an intermediary (including an affiliate,
24 subsidiary, or agent) or an arrangement with a
25 third party—

1 “(i) acts as a price negotiator for pre-
2 scription drugs on behalf of a group health
3 plan or health insurance issuer offering
4 group health insurance coverage; or

5 “(ii) manages or administers the pre-
6 scription drug benefits provided by a group
7 health plan or health insurance issuer of-
8 fering group health insurance coverage, in-
9 cluding the processing and payment of
10 claims for prescription drugs, arranging al-
11 ternative access to or funding for prescrip-
12 tion drugs, the performance of drug utili-
13 zation review, the processing of drug prior
14 authorization requests, the adjudication of
15 appeals or grievances related to the pre-
16 scription drug benefit, contracting with
17 network pharmacies, controlling the cost of
18 covered prescription drugs, or the provision
19 of related services.

20 “(c) ACCOUNTABILITY AND CONDUCT.—

21 “(1) IN GENERAL.—A pharmacy benefit man-
22 ager shall not—

23 “(A) charge a group health plan or health
24 insurance issuer offering group health insur-
25 ance coverage a different amount for a prescrip-

1 tion drug’s ingredient cost or dispensing fee as
2 compared to the amount the pharmacy benefit
3 manager reimburses a pharmacy for the pre-
4 scription drug’s ingredient cost or dispensing
5 fee;

6 “(B) reimburse a network pharmacy or
7 pharmacist in an amount less than the amount
8 the pharmacy benefit manager would reimburse
9 a network pharmacy that is owned, controlled
10 by, or affiliated with the pharmacy benefit man-
11 ager for dispensing the same drug or for pro-
12 viding the same pharmacist services; or

13 “(C) directly or indirectly engage in steer-
14 ing (as defined in paragraph (2)) to a phar-
15 macy that is owned, controlled by, or affiliated
16 with the pharmacy benefit manager.

17 “(2) STEERING.—In paragraph (1), the term
18 ‘steering’ with respect to a pharmacy benefit man-
19 ager includes—

20 “(A) providing or implementing a benefit
21 plan design that encourages a participant or
22 beneficiary to utilize a pharmacy that is owned,
23 controlled by, or affiliated with the pharmacy
24 benefit manager, if such plan design increases
25 costs for the plan or the participant or bene-

1 beneficiary, including requiring a participant or ben-
2 eficiary to pay higher out-of-pocket costs for a
3 prescription if the participant or beneficiary
4 chooses not to use a pharmacy owned, con-
5 trolled by, or affiliated with the pharmacy ben-
6 efit manager;

7 “(B) requiring a participant or beneficiary
8 to use only a pharmacy that is owned, con-
9 trolled by, or affiliated with the pharmacy ben-
10 efit manager;

11 “(C) retaliating, making further attempts
12 to influence a participant or beneficiary, or
13 treating a participant or beneficiary or a partic-
14 ipant or beneficiary’s claim any differently if a
15 participant or beneficiary chooses to use a phar-
16 macy that is not owned, controlled by, or affili-
17 ated with the pharmacy benefit manager; or

18 “(D) any other activities as defined by the
19 Secretary, the Secretary of Health and Human
20 Services, and the Secretary of the Treasury.

21 “(d) ENFORCEMENT.—

22 “(1) IN GENERAL.—The Secretary, in consulta-
23 tion with the Secretary of Health and Human Serv-
24 ices and the Secretary of the Treasury, shall enforce
25 this section.

1 “(2) PENALTIES.—A pharmacy benefit man-
2 anager that violates subsection (a), (b), or (c) shall be
3 subject to a civil monetary penalty in the amount of
4 \$10,000 for each day during which such violation
5 continues.

6 “(3) PROCEDURE.—The provisions of section
7 1128A of the Social Security Act, other than sub-
8 sections (a) and (b) and the first sentence of sub-
9 section (c)(1) of such section shall apply to civil
10 monetary penalties under this subsection in the
11 same manner as such provisions apply to a penalty
12 or proceeding under section 1128A of the Social Se-
13 curity Act.

14 “(e) REGULATIONS.—Notwithstanding any other
15 provision of law, the Secretary shall implement this section
16 through interim final regulations.”.

17 (2) CLERICAL AMENDMENT.—The table of con-
18 tents in section 1 of the Employee Retirement In-
19 come Security Act of 1974 (29 U.S.C. 1001 et seq.)
20 is amended by inserting after the item relating to
21 section 725 the following new item:

 “Sec. 726. Improving pharmacy benefit manager services.”.

22 (c) INTERNAL REVENUE CODE OF 1986.—

23 (1) IN GENERAL.—Subchapter B of chapter
24 100 of the Internal Revenue Code of 1986 is amend-
25 ed by adding at the end the following:

1 **“SEC. 9826. IMPROVING PHARMACY BENEFIT MANAGER**
 2 **SERVICES.**

3 “(a) GENERAL.—For plan years beginning on or
 4 after January 1, 2026, except as provided in subsection
 5 (b), a pharmacy benefit manager shall not charge or re-
 6 ceive fees from any entity for services provided to such
 7 entity.

8 “(b) EXCEPTION FOR FLAT SERVICE FEES.—

9 “(1) IN GENERAL.—A pharmacy benefit man-
 10 ager may charge an entity a flat service fee for the
 11 provision of services to such entity if such fee is set
 12 forth in an agreement between the pharmacy benefit
 13 manager and such entity.

14 “(2) DEFINITIONS.—In this section—

15 “(A) the term ‘flat service fee’ means a
 16 flat dollar amount that is not directly or indi-
 17 rectly based on, or contingent upon, or other-
 18 wise related to—

19 “(i) a drug price (such as wholesale
 20 acquisition cost) or drug benchmark price
 21 (such as average wholesale price);

22 “(ii) discounts, rebates, fees, or other
 23 remuneration with respect to prescription
 24 drugs prescribed to participants or bene-
 25 ficiaries in the group health plan or cov-
 26 erage involved; or

1 “(iii) any other amounts specified by
2 the Secretary, the Secretary of Labor, and
3 the Secretary of Health and Human Serv-
4 ices; and

5 “(B) the term ‘pharmacy benefit manager’
6 means any person, business, or other entity
7 such as a third-party administrator, regardless
8 of whether it identifies itself as a pharmacy
9 benefit manager, that, either directly or
10 through an intermediary (including an affiliate,
11 or agent) or an arrangement with a third
12 party—

13 “(i) acts as a price negotiator for pre-
14 scription drugs on behalf of a group health
15 plan; or

16 “(ii) manages or administers the pre-
17 scription drug benefits provided by a group
18 health plan, including the processing and
19 payment of claims for prescription drugs,
20 arranging alternative access to or funding
21 for prescription drugs, the performance of
22 drug utilization review, the processing of
23 drug prior authorization requests, the ad-
24 judication of appeals or grievances related
25 to the prescription drug benefit, con-

1 tracting with network pharmacies, control-
2 ling the cost of covered prescription drugs,
3 or the provision of related services.

4 “(c) ACCOUNTABILITY AND CONDUCT.—

5 “(1) IN GENERAL.—A pharmacy benefit man-
6 ager shall not—

7 “(A) charge a group health plan or health
8 insurance issuer offering group health insur-
9 ance coverage a different amount for a prescrip-
10 tion drug’s ingredient cost or dispensing fee as
11 compared to the amount the pharmacy benefit
12 manager reimburses a pharmacy for the pre-
13 scription drug’s ingredient cost or dispensing
14 fee;

15 “(B) reimburse a network pharmacy or
16 pharmacist in an amount less than the amount
17 the pharmacy benefit manager would reimburse
18 a network pharmacy that is owned, controlled
19 by, or affiliated with the pharmacy benefit man-
20 ager for dispensing the same drug or for pro-
21 viding the same pharmacist services; or

22 “(C) directly or indirectly engage in steer-
23 ing (as defined in paragraph (2)) to a phar-
24 macy that is owned, controlled by, or affiliated
25 with the pharmacy benefit manager.

1 “(2) STEERING.—In paragraph (1), the term
2 ‘steering’ with respect to a pharmacy benefit man-
3 ager includes—

4 “(A) providing or implementing a benefit
5 design that encourages a participant or bene-
6 ficiary to utilize a pharmacy that is owned, con-
7 trolled by, or affiliated with the pharmacy ben-
8 efit manager, if such benefit design increases
9 costs for the plan or the participant or bene-
10 ficiary, including requiring a participant or ben-
11 eficiary to pay higher out-of-pocket costs for a
12 prescription if the participant or beneficiary
13 chooses not to use a pharmacy owned, con-
14 trolled by, or affiliated with the pharmacy ben-
15 efit manager;

16 “(B) requiring an enrollee to use only a
17 pharmacy that is owned, controlled by, or affili-
18 ated with the pharmacy benefit manager; or

19 “(C) any other activities as defined by the
20 Secretary, the Secretary of Labor, and the Sec-
21 retary of Health and Human Service.

22 “(d) ENFORCEMENT.—

23 “(1) IN GENERAL.—The Secretary, in consulta-
24 tion with the Secretary of Labor and the Secretary

1 of Health and Human Services, shall enforce this
2 section.

3 “(2) PENALTIES.—A pharmacy benefit man-
4 ager that violates subsection (a), (b), or (c) shall be
5 subject to a civil monetary penalty in the amount of
6 \$10,000 for each day during which such violation
7 continues.

8 “(3) PROCEDURE.—The provisions of section
9 1128A of the Social Security Act, other than sub-
10 sections (a) and (b) and the first sentence of sub-
11 section (c)(1) of such section shall apply to civil
12 monetary penalties under this subsection in the
13 same manner as such provisions apply to a penalty
14 or proceeding under section 1128A of the Social Se-
15 curity Act.

16 “(e) REGULATIONS.—Notwithstanding any other
17 provision of law, the Secretary shall implement the amend-
18 ments made by this Act through interim final regula-
19 tions.”.

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