
SENATE BILL 5075

State of Washington

67th Legislature

2021 Regular Session

By Senators Kuderer and Short

Prefiled 01/05/21.

1 AN ACT Relating to expanding access to pharmacy services; adding
2 new sections to chapter 48.43 RCW; prescribing penalties; and
3 providing an effective date.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 48.43
6 RCW to read as follows:

7 The definitions in this section apply throughout sections 2
8 through 5 of this act unless the context clearly requires otherwise.

9 (1) "Dependent" has the same meaning as in RCW 48.43.005.

10 (2) "Enrollee" has the same meaning as in RCW 48.43.005.

11 (3) "Health benefit plan" has the same meaning as in RCW
12 48.43.005.

13 (4) "Nonresident pharmacy" has the same meaning as in RCW
14 18.64.360.

15 (5) "Pharmacy benefit manager" has the same meaning as in RCW
16 48.200.020.

17 (6) "Pharmacy benefit manager's retail pharmacy network" means
18 the retail pharmacies located in and licensed by the state and
19 contracted by the pharmacy benefit manager to sell prescription drugs
20 to enrollees of a health benefit plan administered by the manager and
21 to the enrollees' dependents.

1 (7) "Retail community pharmacy" means a pharmacy licensed under
2 chapter 18.64 RCW, that is open to the public, dispenses prescription
3 drugs to the general public, and makes available face-to-face
4 consultations between licensed pharmacists and the general public to
5 whom prescription drugs are dispensed.

6 NEW SECTION. **Sec. 2.** A new section is added to chapter 48.43
7 RCW to read as follows:

8 (1) A retail community pharmacy that requests to enter into a
9 contractual agreement to join a retail pharmacy network and accepts
10 the terms, conditions, formularies, and requirements relating to
11 dispensing fees, payments, reimbursement amounts, and other pharmacy
12 services of that network, shall be considered part of a pharmacy
13 benefit manager's retail pharmacy network for purposes of an
14 enrollee's or dependent's right to choose where to purchase covered
15 prescription drugs under section 3 of this act.

16 (2) A health benefit plan or pharmacy benefit manager must accept
17 a retail community pharmacy as part of a pharmacy benefit manager's
18 retail pharmacy network.

19 NEW SECTION. **Sec. 3.** A new section is added to chapter 48.43
20 RCW to read as follows:

21 (1) If a retail community pharmacy enters into a contractual
22 retail pharmacy network agreement pursuant to section 2 of this act,
23 a health benefit plan or pharmacy benefit manager shall permit each
24 enrollee and dependent, at the enrollee's or dependent's option, to
25 fill any covered prescription that may be obtained by mail at any
26 retail community pharmacy of the enrollee's or dependent's choice
27 within the pharmacy benefit manager's retail pharmacy network.

28 (2) A health benefit plan or pharmacy benefit manager who has
29 entered into a contractual retail pharmacy network agreement with a
30 retail community pharmacy shall not:

31 (a) Require an enrollee or dependent to exclusively obtain any
32 prescription from a nonresident pharmacy;

33 (b) Impose upon an enrollee or dependent utilizing the retail
34 community pharmacy a copayment, fee, or other condition not imposed
35 upon enrollees and dependents electing to utilize a nonresident
36 pharmacy;

37 (c) Subject any prescription dispensed by a retail community
38 pharmacy to an enrollee or dependent to a minimum or maximum quantity

1 limit, length of script, restriction on refills, or requirement to
2 obtain refills not imposed upon a nonresident pharmacy;

3 (d) Require an enrollee or dependent in whole or in part to pay
4 for any prescription dispensed by a retail community pharmacy and
5 seek reimbursement if the enrollee or dependent is not required to
6 pay for and seek reimbursement in the same manner for a prescription
7 dispensed by a nonresident pharmacy;

8 (e) Subject an enrollee or dependent to any administrative
9 requirement to use a retail community pharmacy that is not imposed
10 upon the use of a nonresident pharmacy; or

11 (f) Impose any other term, condition, or requirement pertaining
12 to the use of the services of a retail community pharmacy that
13 materially and unreasonably interferes with or impairs the right of
14 an enrollee or dependent to obtain prescriptions from a retail
15 community pharmacy of the enrollee's or dependent's choice.

16 NEW SECTION. **Sec. 4.** A new section is added to chapter 48.43
17 RCW to read as follows:

18 (1) No later than March 31st of each calendar year, each health
19 benefit plan and pharmacy benefit manager shall file with the
20 insurance commissioner, in such form and detail as the insurance
21 commissioner shall prescribe, a report for the preceding calendar
22 year stating that the pharmacy benefit manager or prescription drug
23 benefit plan is in compliance with this chapter. The report shall
24 fully disclose the amount, terms, and conditions relating to
25 copayments, reimbursement options, and other payments associated with
26 a prescription drug benefit plan.

27 (2) A written description of any reimbursement or payment
28 arrangements is available upon request by any person pursuant to RCW
29 48.43.510.

30 NEW SECTION. **Sec. 5.** A new section is added to chapter 48.43
31 RCW to read as follows:

32 (1) The insurance commissioner may assess a fine of up to ten
33 thousand dollars for each violation by a pharmacy benefit manager or
34 health benefit plan of section 2, 3, or 4(1) of this act. In
35 addition, the insurance commissioner may order the pharmacy benefit
36 manager or health benefit plan to take specific affirmative
37 corrective action or make restitution.

1 (2) Failure of a pharmacy benefit manager or health benefit plan
2 to comply with a previously agreed upon contractual retail pharmacy
3 network agreement pursuant to section 2 or 3 of this act affects the
4 public interest and is an unfair or deceptive act or practice in
5 violation of RCW 19.86.020 of the consumer protection act.

6 (3) A pharmacy benefit manager or health benefit plan may appeal
7 any decision made by the insurance commissioner in accordance with
8 chapter 48.04 RCW.

9 NEW SECTION. **Sec. 6.** This act takes effect January 1, 2022.

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