

SENATE FILE NO. SF0151

Pharmacy freedom of choice.

Sponsored by: Senator(s) Nethercott

A BILL

for

1 AN ACT relating to insurance; prohibiting insurers and
2 pharmacy benefit managers from imposing limitations on
3 covered persons utilizing pharmacy benefits and options as
4 specified; prohibiting pharmacists and pharmacies from
5 restricting a covered person's ability to use a pharmacy of
6 the person's choosing as specified; imposing limits on the
7 right to participate in pharmacy network contracts as
8 specified; providing definitions; making conforming
9 amendments; specifying applicability; requiring rulemaking;
10 and providing for effective dates.

11

12 *Be It Enacted by the Legislature of the State of Wyoming:*

13

14 **Section 1.** W.S. 9-3-220, 26-18-401, 26-18-402 and
15 26-52-105 are created to read:

16

1 **9-3-220. Applicability of pharmacy choice provisions.**

2

3 The provisions of W.S. 26-43-301 and 26-43-302 shall apply
4 to any disability insurance plan, including health
5 insurance plans, issued under this article on or after July
6 1, 2021.

7

8

ARTICLE 4

9

PHARMACY CHOICE

10

11 **26-18-401. Definitions.**

12

13 (a) As used in this article:

14

15 (i) "Covered person" means a person entitled to
16 receive benefits or services under disability insurance as
17 defined by W.S. 26-5-103(a)(ii), including health
18 insurance, offered or provided by an insurer or a person
19 who receives benefits through a pharmacy benefit manager;

20

21 (ii) "Insurer" means an entity defined in W.S.
22 26-1-102(a)(xvi) and who offers disability insurance as
23 defined by W.S. 26-5-103(a)(ii), including health

1 insurance, in this state. "Insurer" shall include a health
2 maintenance organization, the state employees' and
3 officials' health group insurance plan and any provider of
4 a plan made available under the State Employees and
5 Officials Group Insurance Act;

6

7 (iii) "Pharmacy" means an entity through which
8 pharmacists or other persons practice pharmacy as specified
9 by W.S. 33-24-124 and includes a pharmacist and any
10 designee of the pharmacy who holds a contract with a
11 pharmacy benefit manager;

12

13 (iv) "Pharmacy benefit manager" means as defined
14 by W.S. 26-52-102(a)(vii).

15

16 **26-18-402. Patient choice of pharmacy.**

17

18 (a) No insurer that offers or provides prescription
19 drug coverage or that covers pharmacy services and no
20 pharmacy benefit manager shall:

21

22 (i) Limit or restrict a covered person's ability
23 to select a pharmacy if the pharmacy selected by the person

1 is licensed under title 33, chapter 24 of the Wyoming
2 statutes;

3

4 (ii) Impose a copayment, fee or any cost-sharing
5 requirement on a covered person or a pharmacy for the
6 covered person's selection of a pharmacy unless the insurer
7 or pharmacy benefit manager imposes the same copayment, fee
8 or other cost-sharing requirement on all covered persons or
9 pharmacies in Wyoming;

10

11 (iii) Impose any conditions or restrictions on a
12 covered person or pharmacy that limit or restrict a covered
13 person's ability to use a pharmacy of the covered person's
14 choice;

15

16 (iv) After a covered person has chosen a
17 pharmacy, deny the chosen pharmacy the right to participate
18 in any of its pharmacy network contracts in Wyoming or as a
19 contracted provider in Wyoming if the pharmacy is licensed
20 under title 33, chapter 24 of the Wyoming statutes and the
21 pharmacy agrees to:

22

1 (A) Accept the terms and conditions that
2 are offered by the insurer or pharmacy benefit manager that
3 are offered to any other pharmacy in Wyoming and that were
4 accepted by any other pharmacy in Wyoming;

5

6 (B) Provide pharmacy or prescription drug
7 services that satisfy applicable state and federal laws and
8 regulations.

9

10 (b) This section shall not apply to:

11

12 (i) Pharmacy or prescription drug services
13 administered to a person receiving inpatient or emergency
14 medical care in a facility licensed under W.S. 35-2-901
15 through 35-2-913 or in a facility operated by the federal
16 government that would otherwise be required to be licensed
17 under W.S. 35-2-901 through 35-2-913;

18

19 (ii) A self-funded plan that is exempt from
20 state regulation pursuant to the federal Employee
21 Retirement Income Security Act of 1974;

22

1 (iii) Licensed medical professionals acting
2 within the scope of their license while working in a
3 private clinic that is not licensed under title 35 of the
4 Wyoming statutes;

5

6 (iv) A plan issued for coverage for federal
7 employees.

8

9 (c) The commissioner may examine any insurer,
10 pharmacy, pharmacy benefit manager, any designee of the
11 pharmacy that holds a contract with a pharmacy benefit
12 manager or any other related entity to ensure compliance
13 with this section in the manner prescribed by W.S. 26-2-116
14 through 26-2-124.

15

16 **26-52-105. Applicability of pharmacy choice**
17 **provisions.**

18

19 The provisions of W.S. 26-43-301 and 26-43-302 shall apply
20 to pharmacy benefit managers or contracts entered into by
21 pharmacy benefit managers with pharmacies on or after July
22 1, 2021.

23

1 **Section 2.** W.S. 9-3-203(a)(xvii), 26-2-117(a)(intro),
2 26-2-122(a), 26-34-102(a)(xxix) and 26-34-135 by creating a
3 new subsection (e) are amended to read:

4
5 **9-3-203. Definitions.**

6
7 (a) As used in this act:

8
9 (xvii) "This act" means W.S. 9-3-202 through
10 ~~9-3-219~~ 9-3-220.

11
12 **26-2-117. Examination of other than insurers.**

13
14 (a) For the purpose of ascertaining compliance with
15 law, or relationships and transactions between any person
16 and any insurer or proposed insurer, the commissioner, as
17 often as he deems advisable, may examine the accounts,
18 records, documents and transactions pertaining to or
19 affecting any requirement of W.S. 26-18-402 or the
20 insurance affairs or proposed insurance affairs of any
21 person:

22
23 **26-2-122. Examinations; expense.**

1

2 (a) The reasonable and proper expense of examination
3 of an insurer or of any person referred to in W.S.
4 26-2-117(a)(ii) or (iv) or of any person examined under
5 W.S. 26-18-402(c) shall be borne by the person examined,
6 unless the expense has been otherwise provided for by the
7 insurer having paid the assessment established by W.S.
8 26-2-204. The expense shall include the reasonable and
9 proper expenses of the commissioner and his examiners, and
10 a reasonable per diem as to such examiners, as necessarily
11 incurred in the examination.

12

13 **26-34-102. Definitions.**

14

15 (a) As used in this chapter:

16

17 (xxix) "This act" means W.S. 26-34-101 through
18 ~~26-34-134~~ 26-34-135.

19

20 **26-34-135. Application of other laws.**

21

22 (e) The provisions of W.S. 26-18-401 and 26-18-402
23 shall apply to group health insurance or a health care plan

1 issued by a health maintenance organization licensed under
2 this chapter.

3

4 **Section 3.** The provisions of this act shall apply to
5 all health benefit plans, disability insurance and pharmacy
6 benefit contracts entered into, issued, delivered or
7 renewed on or after July 1, 2021.

8

9 **Section 4.** The insurance commissioner shall
10 promulgate any rules necessary to implement the provisions
11 of this act.

12

13 **Section 5.**

14

15 (a) Except as provided in subsection (b) of this
16 section, this act is effective July 1, 2021.

17

18 (b) Sections 4 and 5 of this act are effective
19 immediately upon completion of all acts necessary for a
20 bill to become law as provided by Article 4, Section 8 of
21 the Wyoming Constitution.

22

23

(END)