

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NOS. 2045 & 2316

98TH GENERAL ASSEMBLY

5528H.03P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 376, RSMo, by adding thereto two new sections relating to pharmacy.

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

Section A. Chapter 376, RSMo, is amended by adding thereto two new sections, to be
2 known as sections 376.379 and 376.388, to read as follows:

376.379. 1. **A health carrier or managed care plan offering a health benefit plan
2 in this state that provides prescription drug coverage shall offer, as part of the plan,
3 medication synchronization services developed by the health carrier or managed care plan
4 that allow for the alignment of refill dates for an enrollee's prescription drugs that are
5 covered benefits.**

6 **2. Under its medication synchronization services, a health carrier or managed care
7 plan shall:**

8 **(1) Not charge an amount in excess of the otherwise applicable co-payment amount
9 under the health benefit plan for dispensing a prescription drug in a quantity that is less
10 than the prescribed amount if:**

11 **(a) The pharmacy dispenses the prescription drug in accordance with the
12 medication synchronization services offered under the health benefit plan; and**

13 **(b) A participating provider dispenses the prescription drug; and**

14 **(2) Provide a full dispensing fee to the pharmacy that dispenses the prescription
15 drug to the covered person.**

16 **3. For purposes of this section, the terms "health carrier", "managed care plan",
17 "health benefit plan", "enrollee", and "participating provider" shall have the same
18 meanings given to such terms under section 376.1350.**

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

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;

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

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

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

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

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

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

36 **4. A pharmacy benefits manager shall not place a drug on a maximum allowable**
37 **cost list unless there are at least two therapeutically equivalent multisource generic drugs,**
38 **or at least one generic drug available from at least one manufacturer, generally available**
39 **for purchase by network pharmacies from national or regional wholesalers.**

40 **5. All contracts between a pharmacy benefits manager and a contracted pharmacy**
41 **or between a pharmacy benefits manager and a pharmacy's contracting representative or**
42 **agent, such as a pharmacy services administrative organization, shall include a process to**
43 **internally appeal, investigate, and resolve disputes regarding maximum allowable cost**
44 **pricing. The process shall include the following:**

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

47 **(2) A requirement that the pharmacy benefits manager shall respond to an appeal**
48 **described in this subsection no later than fourteen calendar days after the date the appeal**
49 **was received by such pharmacy benefits manager.**

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

54 **7. If the appeal is successful, the pharmacy benefits manager shall:**

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

57 **(2) Apply the adjusted maximum allowable cost price to all similarly situated**
58 **pharmacies as determined by the pharmacy benefits manager; and**

59 **(3) Allow the pharmacy that succeeded in the appeal to reverse and rebill the**
60 **pharmacy benefits claim giving rise to the appeal.**

61 **8. Appeals shall be upheld if:**

62 **(1) The pharmacy being reimbursed for the drug subject to the maximum allowable**
63 **cost pricing in question was not reimbursed as required under subsection 3 of this section;**
64 **or**

65 **(2) The drug subject to the maximum allowable cost pricing in question does not**
66 **meet the requirements set forth under subsection 4 of this section.**

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