

SECOND REGULAR SESSION

# HOUSE BILL NO. 2316

98TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE MORRIS.

6012H.011

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

To amend chapter 376, RSMo, by adding thereto one new section relating to pharmacy benefits managers.

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

Section A. Chapter 376, RSMo, is amended by adding thereto one new section, to be known as section 376.388, to read as follows:

**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;**

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.

17           (4) "Maximum allowable cost list" or "MAC list", a listing of drug products that  
18 meet the standard described in this section;

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

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

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

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

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

33           3. A pharmacy benefits manager shall reimburse pharmacies for drugs subject to  
34 maximum allowable cost pricing that has been updated to reflect market pricing at least  
35 every seven days as set forth in 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 multi-source generic drugs,  
38 or at least one generic drug available from only one manufacturer, generally available for  
39 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           **7. If the appeal is successful, the pharmacy benefits manager shall:**  
54           **(1) Adjust the maximum allowable cost price that is the subject of the appeal**  
55 **effective on the day after the date the appeal is decided;**  
56           **(2) Apply the adjusted maximum allowable cost price to all similarly situated**  
57 **pharmacies as determined by the pharmacy benefits manager; and**  
58           **(3) Allow the pharmacy that succeeded in the appeal to reverse and rebill the**  
59 **pharmacy benefits claim giving rise to the appeal.**  
60           **8. Appeals shall be upheld if:**  
61           **(1) The pharmacy being reimbursed for the drug subject to the maximum allowable**  
62 **cost pricing in question was not reimbursed as required in subsection 3 of this section; or**  
63           **(2) The drug subject to the maximum allowable cost pricing in question does not**  
64 **meet the requirements set forth in subsection 4 of this section.**

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