

HB 2412 -- PRESCRIPTION DRUGS

SPONSOR: Helms

This bill enacts provisions relating to payments for prescription drugs.

No later than March 1, 2022, and annually thereafter, the pharmacy benefits manager ("PBM") utilized by the Missouri Consolidated Health Care Plan (MCHCP) shall file a report with MCHCP for the immediately preceding calendar year regarding rebates, as defined in the bill. The report shall include certain information regarding MCHCP, including the aggregate dollar amount of rebates collected from pharmaceutical manufacturers, the aggregate dollar amount of the rebates that were not passed on to MCHCP, and the aggregate dollar amount of all fees and payments received from pharmaceutical manufacturers. MCHCP shall establish a form for the reporting, in consultation with its PBM, designed to minimize administrative burden and cost.

Documents, materials, and other information submitted to MCHCP under these provisions shall not be subject to disclosure, except to the extent they are reported in the aggregate. MCHCP shall not disclose any information under these provisions in a manner that would compromise the financial, competitive, or proprietary nature of the information, or allow a third party to identify rebate values for a particular outpatient prescription drug. MCHCP shall also annually report to the General Assembly the aggregate dollar amount of pharmaceutical rebates received for covered drugs utilized by enrollees during the calendar year. MCHCP shall annually produce and provide to the General Assembly a report for the immediately preceding calendar year describing the rebate practices of health carriers that use pharmacy benefits managers, as specified in the bill. MCHCP may impose a penalty of up to \$7,500 on its PBM for each violation of these provisions (Section 103.200, RSMo).

The bill specifies that certain provisions of law pertaining to pharmacists and pharmacies shall not be construed to prohibit patients' ability to obtain prescription services from any licensed pharmacist "or pharmacy", and repeals language specifying that the provisions do not remove patients' ability to waive their freedom of choice under a contract with regard to payment or coverage of prescription expenses. As specified in the bill, no PBM shall penalize or restrict a health carrier or enrollees from obtaining services from a contracted pharmacy, as defined in current law (Section 335.015).

Additionally, the bill repeals a provision of law specifying that certain PBM regulations shall not apply with regard to Medicare

Part D, or other health plans regulated partly or wholly under federal law. Pharmacy benefits managers shall notify health carriers and pharmacies in writing of any potential conflict of interest, including but not limited to common ownership or any other relationship between the PBM and any other health carrier or pharmacy with which the PBM contracts. The bill provides standardized definitions for the terms "generic" and "rebate" applicable to PBMs and health carriers, and specifies that PBMs shall owe a fiduciary duty to the state or any health carrier, health benefit plan, or political subdivision with which it contracts (Section 376.387).

The bill repeals a portion of a definition to specify that certain provisions relating to the maximum allowable cost of a prescription drug are applicable to all pharmacies, rather than only to contracted pharmacies. If the reimbursement for a drug to a contracted pharmacy is below the pharmacy's cost to purchase the drug, the PBM shall sustain an appeal and increase reimbursement for the pharmacy and other contracted pharmacies to cover the cost of purchasing the drug (Section 376.388).

This bill specifies that no entity subject to the jurisdiction of Missouri shall act as a pharmacy benefits manager without a license issued by the Department of Commerce and Insurance. The department may cause a complaint to be filed with the Administrative Hearing Commission against the holder of a PBM license for the reasons specified in the bill. Proceedings shall be conducted before the Administrative Hearing Commission as provided by law. The department may take action against a PBM's license, as specified in the bill, upon a finding that a rule has been violated (Section 376.393).

No later than March 1, 2022, and annually thereafter, health carriers shall certify to the department that the health carrier has accounted for all rebates, as defined in the bill, when calculating the premium for its health benefit plans. (Section 376.2066).

This bill is the same as SB 971 (2020) and is similar to SB 413 and HB 1165 (2019).