

HCS HB 1677 -- PHARMACY BENEFITS MANAGERS (Wright)

COMMITTEE OF ORIGIN: Standing Committee on Health and Mental Health Policy

This bill provides that beginning on March 1, 2024, and annually thereafter, a pharmacy benefits manager (PBM) utilized by the Missouri Consolidated Health Care Plan shall file a report with the Plan for the immediately preceding calendar year regarding rebates, as defined in the bill. The report shall include:

- (1) The aggregate dollar amount of rebates collected from pharmaceutical manufacturers;
- (2) The aggregate dollar amount of the rebates that were not passed on to the Plan, and
- (3) The aggregate dollar amount of all fees and payments received from pharmaceutical manufacturers.

The Plan shall establish a form for the reporting that minimizes administrative burden and cost. Documents, materials, and other information submitted to the Plan shall not be subject to disclosure or 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, except to the extent they are reported in the aggregate. The Plan shall annually report to the General Assembly the aggregate dollar amount of pharmaceutical rebates and provide information describing the rebate practices of health carriers utilizing pharmacy benefits managers. The Plan 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 and no PBM shall penalize or restrict a health carrier or enrollees from obtaining services from a contracted pharmacy (Section 338.015).

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.

The bill specifies that 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.

The bill provides that, 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).

The bill specifies that health carriers or pharmacy benefits managers can not discriminate against a covered entity, as defined in the Public Health Service Act, or a pharmacy licensed under Chapter 338 with which a covered entity has contracted to dispense 340B drugs on behalf of the covered entity. The Director of the Department of Commerce and Insurance shall enforce these rules and impose a civil penalty that shall not exceed \$5,000 per violation per day on any pharmacy benefits manager that violates these provisions (Section 376.414).

This bill establishes the "Tricia Leann Tharp Act" and states that the Board of Pharmacy shall recommend two hours of continuing education in suicide awareness and prevention for all licensed pharmacists. The two hours of suicide awareness and prevention education would count toward the total continuing education requirement for license renewal for every pharmacist. The Board of Pharmacy is authorized to develop guidelines to establish the curriculum (Section 338.061).

This bill requires insurers that provide coverage for prescription insulin drugs that have been adjudicated through a pharmacy benefits manager to limit the total amount that an insured is required to pay for a 30 day supply of covered prescription insulin drugs to an amount not to exceed \$100, regardless of the quantity or type of covered prescription insulin drug used to fill the insured's prescription. The \$100 limit may be increase yearly by the insurer not to exceed a percentage equal to the percentage change from the preceding year in the medical care component of the

Consumer Price Index of the Bureau of Labor Statistics of the United States Department of Labor.

The Director of the Department of Commerce and Insurance may promulgate all necessary rules and regulations for the administration of this section.

The Department of Commerce and Insurance, in conjunction with the Department of Health and Senior Services and the Department of Social Services, shall make a report available to the public of findings from each department as specified in the bill by November 2, 2022. This report requirement shall terminate on January 1, 2023 (Sections 376.687 and 376.689).

This bill provides that nothing in Chapters 338 or 376 may be construed to infringe upon an individual's freedom to choose to obtain prescription drugs for home delivery under Section 338.095 (Section 338.375).