

STATE OF OKLAHOMA

1st Session of the 49th Legislature (2003)

HOUSE BILL HB1617

Wilson

AS INTRODUCED

An Act relating to insurance; amending 36 O.S. 2001, Sections 3634.3 and 4511, as amended by Section 32, Chapter 307, O.S.L. 2002 (36 O.S. Supp. 2002, Section 4511), which relate to pharmacy services; prohibiting insurance providers from denying pharmacy the right to participate in a plan; prohibiting restricting the choice of a person to choose a pharmacy; allowing for filing of grievance; prohibiting requiring a person to obtain prescription through a mail-order pharmacy; providing for promulgation of rules; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 36 O.S. 2001, Section 3634.3, is amended to read as follows:

Section 3634.3 A. A No health insurance plan or policy or health maintenance organization ~~providing prescription drugs as a covered benefit shall provide a pharmacy or group of pharmacies with the right to bid on a periodic basis, but not less than every three (3) years, on any pharmacy contract to provide pharmacy services, including, but not limited to, prescription drugs~~ may:

1. Deny any licensed pharmacy or licensed pharmacist the right to participate as a participating provider in any policy, contract, or plan on the same terms and conditions as are offered to any other provider of pharmacy services under the policy, contract, or plan. Nothing in this paragraph shall prohibit a health insurance plan or health maintenance organization from establishing rates or fees that may be higher in nonurban areas, or in specific instances where a health insurance plan or health maintenance organization determines

it necessary to contract with a particular provider in order to meet network adequacy standards or patient care needs; or

2. Prevent any person who is a party to or beneficiary of any policy, contract, or plan from selecting a licensed pharmacy of the person's choice to furnish the pharmaceutical services offered under any policy, contract, or plan if the pharmacy is a participating provider under the same terms and conditions of the policy, contract, or plan as those offered any other provider of pharmacy services.

B. Notwithstanding any provision of this act to the contrary, a health insurance plan or health maintenance organization may restrict an abusive or heavy utilizer of pharmacy services to a single pharmacy provider for nonemergency services, if the individual to be restricted has been afforded the opportunity to participate in the process of selection of the pharmacy to be used, or has been given the right to change the pharmacy to be used to another participating provider of pharmacy services prior to the restriction becoming effective. After a restriction is effective, the individual so restricted shall have the right to change a pharmacy assignment based on geographic changes in residence or if the needs of the member cannot be met by the currently assigned pharmacy provider.

C. If a health insurance plan or health maintenance organization revises its drug formulary to remove a drug from a previously approved formulary, the health insurance plan or health maintenance organization shall allow a subscriber or enrollee an opportunity to file a grievance relative to the decision to remove the drug. The grievance must be filed within sixty (60) days after notification to the provider that the drug is being removed. If the grievance is filed with a health insurance plan or health maintenance organization issuer within ten (10) days after the subscriber or enrollee knows or should have known that the drug is

being removed, the subscriber or enrollee may continue to receive the drug that is being removed from the formulary until the health insurance plan or health maintenance organization issuer completes the grievance process. The provisions of this subsection shall not apply to any drug removed from a previously approved formulary when the reason for such removal is due to patient care concerns or other potentially detrimental effects of the drug.

D. Nothing in this act shall be interpreted to preclude a health insurance plan or policy or health maintenance organization from establishing an open pharmacy network for the provision of pharmacy services, including, but not limited to, prescription drugs.

~~E.~~ E. The provisions of this section shall not apply to a health insurance plan or policy or health maintenance organization that maintains an open pharmacy network.

SECTION 2. AMENDATORY 36 O.S. 2001, Section 4511, as amended by Section 32, Chapter 307, O.S.L. 2002 (36 O.S. Supp. 2002, Section 4511), is amended to read as follows:

Section 4511. A. No employer providing pharmacy services including prescription drugs to any employee or retiree of said employer, as part of a health care program, shall knowingly require the employee or retiree of said employer to obtain drugs from a mail order pharmacy as a condition of obtaining the employer's payment for such prescription drugs.

B. No group medical benefit contract issued by an insurance company, a hospital service corporation, a hospital and medical service corporation, a medical service corporation, a health maintenance organization, or a health care center, which provides coverage for prescription drugs, may require any person covered under the contract to obtain prescription drugs from a mail-order pharmacy in order to obtain benefits for the drugs, or to pay an additional fee or be subjected to any other penalty for failing to

utilize any mail-order pharmacy designated by the insurance company or other issuing organization.

C. Each health insurance plan or health maintenance organization shall apply the same coinsurance, co-payment, deductible, and quantity limit factors within the same employee group and other plan-sponsored group to all drug prescriptions filled by any licensed pharmacy provider, whether by a retail provider or a mail service provider if all pharmacy providers comply with the same terms and conditions. Nothing in this section shall be construed to prohibit the health insurance plan or health maintenance organization from applying different coinsurance, co-payment, and deductible factors within the same employer group and other plan-sponsored group between generic and brand-name drugs nor prohibit an employer or other plan-sponsored group from offering multiple options or choices of health insurance benefit plans including, but not limited to, cafeteria benefit plans.

D. The Insurance Commissioner may promulgate rules to implement and enforce the provisions of this section.

E. Any person violating the provisions of this section, upon conviction, shall be guilty of a misdemeanor. Each such violation shall constitute a separate offense.

SECTION 3. This act shall become effective November 1, 2003.

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