

1 ENGROSSED HOUSE
2 BILL NO. 2799

By: Derby, Wright, Cox, Coody
(Jeff), Kannady, Wallace
and Johnson of the House

3
4 and

5 Crain of the Senate

6
7 An Act relating to insurance; amending Sections 1 and
8 4, Chapter 263, O.S.L. 2014 (59 O.S. Supp. 2015,
9 Sections 357 and 360), which relate to pharmacy
10 benefit plans; defining term; modifying
11 administration appeals procedure; providing an
12 effective date; and declaring an emergency.

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

14 SECTION 1. AMENDATORY Section 1, Chapter 263, O.S.L.
15 2014 (59 O.S. Supp. 2015, Section 357), is amended to read as
16 follows:

17 Section 357. As used in this act:

18 1. "Covered entity" means a nonprofit hospital or medical
19 service organization, insurer, health coverage plan or health
20 maintenance organization; a health program administered by the state
21 in the capacity of provider of health coverage; or an employer,
22 labor union, or other entity organized in the state that provides
23 health coverage to covered individuals who are employed or reside in
24 the state. This term does not include a health plan that provides
coverage only for accidental injury, specified disease, hospital

1 indemnity, disability income, or other limited benefit health
2 insurance policies and contracts that do not include prescription
3 drug coverage;

4 2. "Covered individual" means a member, participant, enrollee,
5 contract holder or policy holder or beneficiary of a covered entity
6 who is provided health coverage by the covered entity. A covered
7 individual includes any dependent or other person provided health
8 coverage through a policy, contract or plan for a covered
9 individual;

10 3. "Department" means the Oklahoma Insurance Department;

11 4. "Maximum allowable cost" or "MAC" means the list of drug
12 products delineating the maximum per-unit reimbursement for
13 multiple-source prescription drugs, medical product or device;

14 5. "Pharmacy benefits management" means a service provided to
15 covered entities to facilitate the provision of prescription drug
16 benefits to covered individuals within the state, including
17 negotiating pricing and other terms with drug manufacturers and
18 providers. Pharmacy benefits management may include any or all of
19 the following services:

- 20 a. claims processing, retail network management and
21 payment of claims to pharmacies for prescription drugs
22 dispensed to covered individuals,
- 23 b. clinical formulary development and management
24 services,

- c. rebate contracting and administration,
- d. certain patient compliance, therapeutic intervention and generic substitution programs, or
- e. disease management programs;

6. "Pharmacy benefits manager" or "PBM" means a person, business or other entity that performs pharmacy benefits management. The term includes a person or entity acting for a PBM in a contractual or employment relationship in the performance of pharmacy benefits management for a managed care company, nonprofit hospital, medical service organization, insurance company, third-party payor, or a health program administered by an agency of this state;

7. "Plan sponsor" means the employers, insurance companies, unions and health maintenance organizations or any other entity responsible for establishing, maintaining, or administering a health benefit plan on behalf of covered individuals; ~~and~~

8. "Provider" means a pharmacy licensed by the State Board of Pharmacy, or an agent or representative of a pharmacy, including, but not limited to, the pharmacy's contracting agent, which dispenses prescription drugs or devices to covered individuals; and

9. "Reimbursement" means the total amount paid to a pharmacy including the amount paid by patients as determined by a PBM or covered entity for prescription claims.

1 SECTION 2. AMENDATORY Section 4, Chapter 263, O.S.L.
2 2014 (59 O.S. Supp. 2015, Section 360), is amended to read as
3 follows:

4 Section 360. A. The pharmacy benefits manager shall, with
5 respect to contracts between a pharmacy benefits manager and a
6 provider:

7 1. Include in such contracts the sources utilized to determine
8 the maximum allowable cost (MAC) pricing of the pharmacy, update
9 ~~maximum allowable cost~~ MAC pricing at least every seven (7) calendar
10 days, and establish a process for providers to readily access the
11 MAC list specific to that provider;

12 2. In order to place a drug on the MAC list, ensure that the
13 drug is listed as "A" or "B" rated in the most recent version of the
14 FDA's Approved Drug Products with Therapeutic Equivalence
15 Evaluations, also known as the Orange Book, or has an "NR" or "NA"
16 rating or a similar rating by a nationally recognized reference, and
17 the drug is generally available for purchase by pharmacies in the
18 state from national or regional wholesalers and is not obsolete;

19 3. Ensure dispensing fees are not included in the calculation
20 of MAC price reimbursement to pharmacy providers;

21 4. Provide a reasonable administration appeals procedure to
22 allow a provider or a provider's representative to contest ~~maximum~~
23 ~~allowable cost rates~~ reimbursement amounts within ten (10) business
24 days of the final adjusted payment of the prescription claim ~~date~~.

1 The pharmacy benefits manager must respond to a provider or
2 provider's representative who has contested a ~~maximum allowable cost~~
3 ~~rate~~ reimbursement amount through this procedure within ten (10)
4 business days. If a price update is warranted, the pharmacy
5 benefits manager shall make the change in the ~~MAC~~ reimbursement
6 amount, permit the challenging pharmacy to reverse and rebill the
7 claim in question, and make the ~~MAC~~ reimbursement amount change
8 effective for each similarly contracted Oklahoma provider; and

9 5. If the ~~MAC~~ reimbursement appeal is denied, the PBM shall
10 provide the reason for the denial, including the National Drug Code
11 number from national or regional wholesalers where the drug is
12 generally available for purchase by pharmacies in the state at or
13 below the PBM's ~~Maximum Allowable Cost~~ reimbursement amount.

14 B. The pharmacy benefits manager may not place a drug on a
15 ~~maximum allowable cost~~ MAC list, unless there are at least two
16 therapeutically equivalent, multiple-source drugs, or at least one
17 generic drug available from only one manufacturer, generally
18 available for purchase by network pharmacies from national or
19 regional wholesalers.

20 C. The pharmacy benefits manager shall not require
21 accreditation or licensing of providers other than by the State
22 Board of Pharmacy or other state or federal government entity.

23 SECTION 3. This act shall become effective July 1, 2016.
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