

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 55th Legislature (2016)

4 COMMITTEE SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2799

By: Derby

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8 COMMITTEE SUBSTITUTE

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

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

17 SECTION 1. AMENDATORY Section 1, Chapter 263, O.S.L.
18 2014 (59 O.S. Supp. 2015, Section 357), is amended to read as
19 follows:

20 Section 357. As used in this act:

21 1. "Covered entity" means a nonprofit hospital or medical
22 service organization, insurer, health coverage plan or health
23 maintenance organization; a health program administered by the state
24 in the capacity of provider of health coverage; or an employer,
labor union, or other entity organized in the state that provides

1 health coverage to covered individuals who are employed or reside in
2 the state. This term does not include a health plan that provides
3 coverage only for accidental injury, specified disease, hospital
4 indemnity, disability income, or other limited benefit health
5 insurance policies and contracts that do not include prescription
6 drug coverage;

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

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

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

17 5. "Pharmacy benefits management" means a service provided to
18 covered entities to facilitate the provision of prescription drug
19 benefits to covered individuals within the state, including
20 negotiating pricing and other terms with drug manufacturers and
21 providers. Pharmacy benefits management may include any or all of
22 the following services:
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- a. claims processing, retail network management and payment of claims to pharmacies for prescription drugs dispensed to covered individuals,
- b. clinical formulary development and management 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,

1 but not limited to, the pharmacy's contracting agent, which
2 dispenses prescription drugs or devices to covered individuals; and

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

6 SECTION 2. AMENDATORY Section 4, Chapter 263, O.S.L.
7 2014 (59 O.S. Supp. 2015, Section 360), is amended to read as
8 follows:

9 Section 360. A. The pharmacy benefits manager shall, with
10 respect to contracts between a pharmacy benefits manager and a
11 provider:

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

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

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

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

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

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

20 B. The pharmacy benefits manager may not place a drug on a
21 ~~maximum allowable cost~~ MAC list, unless there are at least two
22 therapeutically equivalent, multiple-source drugs, or at least one
23 generic drug available from only one manufacturer, generally
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1 available for purchase by network pharmacies from national or
2 regional wholesalers.

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

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

7 SECTION 4. It being immediately necessary for the preservation
8 of the public peace, health and safety, an emergency is hereby
9 declared to exist, by reason whereof this act shall take effect and
10 be in full force from and after its passage and approval.

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12 COMMITTEE REPORT BY: COMMITTEE ON ALCOHOL, TOBACCO AND CONTROLLED
13 SUBSTANCES, dated 02/24/2016 - DO PASS, As Amended.

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