



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB2919

Introduced 2/19/2021, by Rep. Deanne M. Mazzochi

SYNOPSIS AS INTRODUCED:

215 ILCS 5/513b1

Amends the Illinois Insurance Code. Provides that upon request by a party contracting with a pharmacy benefit manager, the party has an annual right to audit compliance with the terms of the contract by the pharmacy benefit manager, including, but not limited to, full disclosure of any value provided by a pharmaceutical manufacturer to a pharmacy benefit manager or the parent, subsidiary, or affiliate company of a pharmacy benefit manager. Provides that upon request by a party contracting with a pharmacy benefit manager, a pharmacy benefit manager shall disclose the actual amounts paid by the pharmacy benefit manager to the pharmacy. Provides that a pharmacy benefit manager must provide notice to the party contracting with the pharmacy benefit manager of any consideration that the pharmacy benefit manager's parent, subsidiary, or affiliate companies receive from the manufacturer for dispense as written prescriptions once a generic or biologically similar product becomes available. Provides that any provision of a contract entered into, amended, or renewed on or after the effective date of the amendatory Act that is contrary to provisions concerning pharmacy benefit managers is unenforceable. Defines "value".

LRB102 14248 BMS 19600 b

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by
5 changing Section 513b1 as follows:

6 (215 ILCS 5/513b1)

7 Sec. 513b1. Pharmacy benefit manager contracts.

8 (a) As used in this Section:

9 "Biological product" has the meaning ascribed to that term
10 in Section 19.5 of the Pharmacy Practice Act.

11 "Maximum allowable cost" means the maximum amount that a
12 pharmacy benefit manager will reimburse a pharmacy for the
13 cost of a drug.

14 "Maximum allowable cost list" means a list of drugs for
15 which a maximum allowable cost has been established by a
16 pharmacy benefit manager.

17 "Pharmacy benefit manager" means a person, business, or
18 entity, including a wholly or partially owned or controlled
19 subsidiary of a pharmacy benefit manager, that provides claims
20 processing services or other prescription drug or device
21 services, or both, for health benefit plans.

22 "Retail price" means the price an individual without
23 prescription drug coverage would pay at a retail pharmacy, not

1 including a pharmacist dispensing fee.

2 "Value" includes anything of value given, whether measured
3 in dollars, in-kind exchanges, volume discounts, rebates,
4 exclusive distribution agreements, profit sharing
5 arrangements, and whether assessed to a particular product or
6 as a generalized amount.

7 (b) A contract between a health insurer and a pharmacy
8 benefit manager must require that the pharmacy benefit
9 manager:

10 (1) Update maximum allowable cost pricing information
11 at least every 7 calendar days.

12 (2) Maintain a process that will, in a timely manner,
13 eliminate drugs from maximum allowable cost lists or
14 modify drug prices to remain consistent with changes in
15 pricing data used in formulating maximum allowable cost
16 prices and product availability.

17 (3) Provide access to its maximum allowable cost list
18 to each pharmacy or pharmacy services administrative
19 organization subject to the maximum allowable cost list.
20 Access may include a real-time pharmacy website portal to
21 be able to view the maximum allowable cost list. As used in
22 this Section, "pharmacy services administrative
23 organization" means an entity operating within the State
24 that contracts with independent pharmacies to conduct
25 business on their behalf with third-party payers. A
26 pharmacy services administrative organization may provide

1 administrative services to pharmacies and negotiate and
2 enter into contracts with third-party payers or pharmacy
3 benefit managers on behalf of pharmacies.

4 (4) Provide a process by which a contracted pharmacy
5 can appeal the provider's reimbursement for a drug subject
6 to maximum allowable cost pricing. The appeals process
7 must, at a minimum, include the following:

8 (A) A requirement that a contracted pharmacy has
9 14 calendar days after the applicable fill date to
10 appeal a maximum allowable cost if the reimbursement
11 for the drug is less than the net amount that the
12 network provider paid to the supplier of the drug.

13 (B) A requirement that a pharmacy benefit manager
14 must respond to a challenge within 14 calendar days of
15 the contracted pharmacy making the claim for which the
16 appeal has been submitted.

17 (C) A telephone number and e-mail address or
18 website to network providers, at which the provider
19 can contact the pharmacy benefit manager to process
20 and submit an appeal.

21 (D) A requirement that, if an appeal is denied,
22 the pharmacy benefit manager must provide the reason
23 for the denial and the name and the national drug code
24 number from national or regional wholesalers.

25 (E) A requirement that, if an appeal is sustained,
26 the pharmacy benefit manager must make an adjustment

1 in the drug price effective the date the challenge is
2 resolved and make the adjustment applicable to all
3 similarly situated network pharmacy providers, as
4 determined by the managed care organization or
5 pharmacy benefit manager.

6 (5) Allow a plan sponsor contracting with a pharmacy
7 benefit manager an annual right to audit compliance with
8 the terms of the contract by the pharmacy benefit manager,
9 including, but not limited to, full disclosure of any and
10 all rebate amounts secured, whether product specific or
11 generalized rebates, that were provided to the pharmacy
12 benefit manager by a pharmaceutical manufacturer.

13 (6) Allow a plan sponsor contracting with a pharmacy
14 benefit manager to request that the pharmacy benefit
15 manager disclose the actual amounts paid by the pharmacy
16 benefit manager to the pharmacy.

17 (7) Provide notice to the party contracting with the
18 pharmacy benefit manager of any consideration that the
19 pharmacy benefit manager, including its parent,
20 subsidiary, or affiliate companies, receives from the
21 manufacturer for dispense as written prescriptions once a
22 generic or biologically similar product becomes available.

23 (b-5) Upon request by a party contracting with a pharmacy
24 benefit manager, the party has an annual right to audit
25 compliance with the terms of the contract by the pharmacy
26 benefit manager, including, but not limited to, full

1 disclosure of any value provided by a pharmaceutical
2 manufacturer to a pharmacy benefit manager or the parent,
3 subsidiary, or affiliate company of a pharmacy benefit
4 manager.

5 Upon request by a party contracting with a pharmacy
6 benefit manager, a pharmacy benefit manager shall disclose the
7 actual amounts paid by the pharmacy benefit manager to the
8 pharmacy.

9 (c) In order to place a particular prescription drug on a
10 maximum allowable cost list, the pharmacy benefit manager
11 must, at a minimum, ensure that:

12 (1) if the drug is a generically equivalent drug, it
13 is listed as therapeutically equivalent and
14 pharmaceutically equivalent "A" or "B" rated in the United
15 States Food and Drug Administration's most recent version
16 of the "Orange Book" or have an NR or NA rating by
17 Medi-Span, Gold Standard, or a similar rating by a
18 nationally recognized reference;

19 (2) the drug is available for purchase by each
20 pharmacy in the State from national or regional
21 wholesalers operating in Illinois; and

22 (3) the drug is not obsolete.

23 (d) A pharmacy benefit manager is prohibited from limiting
24 a pharmacist's ability to disclose whether the cost-sharing
25 obligation exceeds the retail price for a covered prescription
26 drug, and the availability of a more affordable alternative

1 drug, if one is available in accordance with Section 42 of the
2 Pharmacy Practice Act.

3 (e) A health insurer or pharmacy benefit manager shall not
4 require an insured to make a payment for a prescription drug at
5 the point of sale in an amount that exceeds the lesser of:

6 (1) the applicable cost-sharing amount; or

7 (2) the retail price of the drug in the absence of
8 prescription drug coverage.

9 (f) This Section applies to contracts entered into or
10 renewed on or after July 1, 2020.

11 (g) This Section applies to any group or individual policy
12 of accident and health insurance or managed care plan that
13 provides coverage for prescription drugs and that is amended,
14 delivered, issued, or renewed on or after July 1, 2020.

15 (h) Any provision of a contract entered into, amended, or
16 renewed on or after the effective date of this amendatory Act
17 of the 102nd General Assembly that is contrary to this Section
18 is unenforceable.

19 (Source: P.A. 101-452, eff. 1-1-20.)