



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB4943

Introduced 1/27/2022, by Rep. Deanne M. Mazzochi

SYNOPSIS AS INTRODUCED:

215 ILCS 5/513b1

Amends the Illinois Insurance Code. In provisions concerning pharmacy benefit manager contracts, provides that if a retail price is to be used by a pharmacy benefit manager to calculate or estimate a copayment for a drug, the pharmacy must either report the retail price for the drug and identify any programs available to retail customers of the pharmacy that an individual without prescription drug coverage would be eligible for at the retail pharmacy that could reduce the price of the drug, or reduce the retail price reported to account for the price reductions that would be generally or specifically available to the individual without prescription drug coverage. Changes the definition of "retail price".

LRB102 25487 BMS 34775 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 that an individual without
23 prescription drug coverage would pay at a retail pharmacy,

1 "Retail price" does not include a pharmacist dispensing fee,
2 regardless of whether the drug is or is not subject to a
3 copayment amount not including a pharmacist dispensing fee.

4 (b) A contract between a health insurer and a pharmacy
5 benefit manager must require that the pharmacy benefit
6 manager:

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

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

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

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

5 (A) A requirement that a contracted pharmacy has
6 14 calendar days after the applicable fill date to
7 appeal a maximum allowable cost if the reimbursement
8 for the drug is less than the net amount that the
9 network provider paid to the supplier of the drug.

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

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

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

22 (E) A requirement that, if an appeal is sustained,
23 the pharmacy benefit manager must make an adjustment
24 in the drug price effective the date the challenge is
25 resolved and make the adjustment applicable to all
26 similarly situated network pharmacy providers, as

1 determined by the managed care organization or
2 pharmacy benefit manager.

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

10 (6) Allow a plan sponsor contracting with a pharmacy
11 benefit manager to request that the pharmacy benefit
12 manager disclose the actual amounts paid by the pharmacy
13 benefit manager to the pharmacy.

14 (7) Provide notice to the party contracting with the
15 pharmacy benefit manager of any consideration that the
16 pharmacy benefit manager receives from the manufacturer
17 for dispense as written prescriptions once a generic or
18 biologically similar product becomes available.

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

22 (1) if the drug is a generically equivalent drug, it
23 is listed as therapeutically equivalent and
24 pharmaceutically equivalent "A" or "B" rated in the United
25 States Food and Drug Administration's most recent version
26 of the "Orange Book" or have an NR or NA rating by

1 Medi-Span, Gold Standard, or a similar rating by a
2 nationally recognized reference;

3 (2) the drug is available for purchase by each
4 pharmacy in the State from national or regional
5 wholesalers operating in Illinois; and

6 (3) the drug is not obsolete.

7 (d) A pharmacy benefit manager is prohibited from limiting
8 a pharmacist's ability to disclose whether the cost-sharing
9 obligation exceeds the retail price for a covered prescription
10 drug, and the availability of a more affordable alternative
11 drug, if one is available in accordance with Section 42 of the
12 Pharmacy Practice Act.

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

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

17 (2) the retail price of the drug in the absence of
18 prescription drug coverage.

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

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

25 (h) If a retail price is to be used by a pharmacy benefit
26 manager to calculate or estimate a copayment for a drug, the

1 pharmacy must either:

2 (1) report the retail price for the drug and identify
3 any programs available to retail customers of the pharmacy
4 that an individual without prescription drug coverage
5 would be eligible for at the retail pharmacy that could
6 reduce the price of the drug, whether the programs are
7 specific to the drug or are generally available to
8 pharmacy customers; or

9 (2) reduce the retail price reported to account for
10 the price reductions that would be generally or
11 specifically available to the individual without
12 prescription drug coverage, including, but not limited to,
13 price reductions from senior discounts, volume discounts,
14 rebate coupons provided by the pharmacy, loyalty rewards,
15 or discounts earned through the payment of annual fees.

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