

CHAPTER 154
SENATE BILL No. 547°

AN ACT enacting the pharmacy benefits manager registration act.

Be it enacted by the Legislature of the State of Kansas:

Section 1. (a) Sections 1 through 8, and amendments thereto, shall be known and may be cited as the pharmacy benefits manager registration act.

(b) This act shall apply to any pharmacy benefits manager that provides claims processing services, other prescription drug or device services, or both, to covered persons who are residents of this state.

(c) This act shall not apply to any pharmacy benefits manager that holds a certificate of registration as an administrator pursuant to K.S.A. 40-3810 and amendments thereto.

Sec. 2. For purposes of this act: (a) “Commissioner” means the commissioner of insurance as defined by K.S.A. 40-102 and amendments thereto.

(b) (1) “Covered entity” means:

(A) A nonprofit hospital or medical service corporation, health insurer, health benefit plan or health maintenance organization;

(B) a health program administered by a department or the state in the capacity of provider of health coverage; or

(C) an employer, labor union or other group of persons organized in the state that provides health coverage to covered individuals who are employed or reside in the state.

(2) Covered entity shall not include any:

(A) Self-funded plan that is exempt from state regulation pursuant to ERISA;

(B) plan issued for coverage for federal employees; or

(C) health plan that provides coverage only for accidental injury, specified disease, hospital indemnity, medicare supplement, disability income, long-term care or other limited benefit health insurance policies and contracts.

(c) “Covered person” means a member, policyholder, subscriber, enrollee, beneficiary, dependent or other individual participating in a health benefit plan.

(d) “Pharmacy benefits management” means:

(1) Any of the following services provided with regard to the administration of the following pharmacy benefits:

(A) Mail service pharmacy;

(B) claims processing, retail network management and payment of claims to pharmacies for prescription drugs dispensed to covered individuals;

(C) clinical formulary development and management services;

(D) rebate contracting and administration;

(E) certain patient compliance, therapeutic intervention and generic substitution programs; or

(F) disease management programs involving prescription drug utilization; and

(2) (A) the procurement of prescription drugs by a prescription benefits manager at a negotiated rate for dispensation to covered individuals within this state; or

(B) the administration or management of prescription drug benefits provided by a covered insurance entity for the benefit of covered individuals.

(e) “Pharmacy benefits manager” means a person, business or other entity that performs pharmacy benefits management. Pharmacy benefits manager includes any person or entity acting in a contractual or employment relationship for a pharmacy benefits manager in the performance of pharmacy benefits management for a covered entity.

The term “pharmacy benefits manager” shall not include a covered insurance entity.

(f) “Person” means an individual, partnership, corporation, organization or other business entity.

Sec. 3. Registration requirement to act as a pharmacy benefits manager.

(a) No person shall act or operate as a pharmacy benefits manager

without first obtaining a valid certificate of registration issued by the commissioner.

(b) Each person seeking a certificate of registration to act as a pharmacy benefits manager shall file with the commissioner an application for a certificate of registration upon a form to be furnished by the commissioner. The application form shall include:

(1) The name, address, official position and professional qualifications of each individual who is responsible for the conduct of the affairs of the pharmacy benefits manager, including all members of the board of directors, board of trustees, executive committee, other governing board or committee, the principal officers in the case of a corporation, the partners or members in the case of a partnership or association and any other person who exercises control or influence over the affairs of the pharmacy benefits manager.

(2) The name and address of the applicant's agent for service of process in the state.

(3) A nonrefundable application fee of \$140.

Sec. 4. (a) Each pharmacy benefits manager registration shall expire on March 31 each year and may be renewed annually on the request of the registrant. The application for renewal shall be submitted on a form furnished by the commissioner and accompanied by a renewal fee of \$140. The application for renewal shall be in such form and contain such matters as the commissioner prescribes.

(b) If a registration renewal fee is not paid by the prescribed date, the amount of the fee, plus a penalty fee of \$140 shall be paid. The pharmacy benefits manager registration may be revoked or suspended by the commissioner until the renewal fee and any penalty assessed has been paid.

(c) Any person who performs or is performing any pharmacy benefits management service on the effective date of this act must obtain a certificate of registration as a pharmacy benefits manager from the commissioner within 90 days after the effective date of this act in order to continue to do business in Kansas.

Sec. 5. In accordance with the provisions of the rules and regulations filing act, K.S.A. 77-415 et seq., and amendments thereto, the commissioner may adopt, amend and revoke rules and regulations governing the administration and enforcement of this act, including but not limited to:

(a) The content of the application form;

(b) the content of any other form or report required to implement this act; and

(c) such other rules and regulations as the commissioner may deem necessary to carry out the provisions of this act.

Sec. 6. Any person who acts as a pharmacy benefits manager without being registered as required by this act shall be subject to a fine of \$500 for each violation.

Sec. 7. The commissioner shall remit all moneys received by or for the commissioner under the provisions of this act to the state treasurer at least monthly. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount thereof in the state treasury and such amount shall be credited to the pharmacy benefits manager registration fund.

Sec. 8. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.

Approved April 20, 2006.

Published in the *Kansas Register* April 27, 2006.
