

Substitute for SENATE BILL No. 103

By Committee on Financial Institutions and Insurance

2-18

1 AN ACT concerning pharmacy benefits managers.

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

4 Section 1. As used in this act:

5 (a) "List" means the list of drugs for which maximum allowable costs
6 have been established;

7 (b) "maximum allowable cost" or "MAC" means the maximum
8 amount that a pharmacy benefits manager will reimburse a pharmacy for
9 the cost of a generic drug;

10 (c) "network pharmacy" means a pharmacy that contracts with a
11 pharmacy benefits manager; and

12 (d) "pharmacy benefits manager" or "PBM" shall have the same
13 meaning as K.S.A. 2015 Supp. 40-3822(e), and amendments thereto.

14 Sec. 2. A pharmacy benefits manager:

15 (a) Shall not place a drug on a MAC list unless there are at least two
16 therapeutically equivalent multi-source generic drugs, or at least one
17 generic drug available from at least one manufacturer, generally available
18 for purchase by network pharmacies from national or regional wholesalers
19 and the drug is not obsolete.

20 (b) Shall provide to each network pharmacy at the beginning of the
21 term of a contract and upon request thereafter, the sources utilized to
22 determine the maximum allowable cost price.

23 (c) Shall provide a process for each network pharmacy provider to
24 readily access the maximum allowable price specific to that provider.

25 (d) Shall review and update each applicable maximum allowable cost
26 list every seven business days and apply the updates to reimbursements no
27 later than one business day.

28 (e) Shall ensure that dispensing fees are not included in the
29 calculation of maximum allowable cost.

30 (f) Shall establish a process by which a network pharmacy may
31 appeal reimbursement for a drug subject to maximum allowable cost as
32 follows:

33 (1) The network pharmacy must file an appeal no later than 10
34 business days after the fill date.

35 (2) The PBM shall provide a response to the appealing network
36 pharmacy no later than 10 business days after receiving an appeal request

1 containing information sufficient for the PBM to process the appeal as
2 specified by the contract.

3 (3) If the appeal is upheld, the PBM:

4 (A) Shall make the adjustment in the drug price effective no later than
5 one business day after the appeal is resolved;

6 (B) shall make the adjustment applicable to all similarly situated
7 network pharmacy providers, as determined by the plan sponsor or
8 pharmacy benefits manager, as appropriate; and

9 (C) permit the appealing pharmacy to reverse and rebill the appealed
10 claim.

11 (4) If the appeal is denied, the PBM shall provide the appealing
12 pharmacy the national drug code number from a national or regional
13 wholesaler operating in Kansas where the drug is generally available for
14 purchase at a price equal to or less than the maximum allowable cost, and
15 when applicable, may be substituted lawfully.

16 Sec. 3. This act shall take effect and be in force from and after its
17 publication in the statute book.