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**MEMORANDUM**

To: House Committee on Insurance

From: Jason Thompson, Senior Assistant Revisor of Statutes

Date: March 6, 2018

Subject: Bill Brief for SB 351, as amended by Senate Committee of the Whole

SB 351 enacts the Kansas pharmacy patients fair practices act.

The bill would enact a new section of law that focuses on 2 issues. First, subsection (c)(1) would provide that co-payments applied by a health carrier for a prescription drug may not exceed the total submitted charges by the network pharmacy. Second, subsection (c)(2) would provide that a pharmacy or pharmacist shall have the right to provide a covered person with information regarding the amount of the covered person's cost share for a prescription drug, and that a pharmacy or pharmacist shall not be proscribed by a pharmacy benefits manager from discussing any such information or for selling a more affordable alternative to the covered person if such an alternative is available.

Subsection (b) provides definitions for "covered person", "health carrier", and "pharmacy benefits manager" with references to other statutes (included below for reference). Subsection (d) provides that the bill applies to contracts entered into or renewed on and after January 1, 2019.

The Senate Committee of the Whole amendment added subsection (d)(2), which restricts application of the new section to health coverage and not any limited supplemental benefit.

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**40-3822. Same; definitions.** 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.

**40-2,195. Exclusive provider organization policy; requirements; exceptions; definitions.**

(b) For purposes of this section:

(5) "health carrier" means any insurance company, nonprofit medical and hospital corporation, municipal group funded-pool or fraternal benefit society which offers a policy of accident and sickness insurance subject to chapter 40 of the Kansas Statutes Annotated, and amendments thereto.