

SENATE FILE NO. SF0151

Wyoming prescription drug transparency act.

Sponsored by: Senator(s) Hutchings, Bouchard, Dockstader
and McKeown and Representative(s) Banks and
Penn

A BILL

for

1 AN ACT relating to the insurance code; prohibiting
2 specified actions by pharmacy benefit managers; allowing
3 individuals to choose in network retail pharmacies as
4 specified; providing definitions; amending a definition;
5 requiring pharmacy benefit managers to provide contact
6 information as specified; amending the process for when a
7 maximum allowable cost appeal is denied; requiring pharmacy
8 benefit managers to allow pharmacies to file appeals in
9 electronic batch formats; requiring pharmacy benefit
10 managers to reimburse pharmacies as specified; authorizing
11 pharmacies to decline to provide pharmacy services as
12 specified; making conforming amendments; requiring
13 rulemaking; providing appropriations; and providing for
14 effective dates.

15

1 *Be It Enacted by the Legislature of the State of Wyoming:*

2

3 **Section 1.** W.S. 26-52-105 is created to read:

4

5 **26-52-105. Transparency; prohibitions.**

6

7 (a) A pharmacy benefit manager or an agent of a
8 pharmacy benefit manager shall not:

9

10 (i) Cause or knowingly permit the use of an
11 advertisement, promotion, solicitation, representation,
12 proposal or offer that is untrue, deceptive or misleading;

13

14 (ii) Charge a pharmacist or pharmacy provider a
15 fee for any of the following:

16

17 (A) The submission of a claim;

18

19 (B) Enrollment or participation in a retail
20 pharmacy network;

21

1 (C) The development or management of claims
2 processing services or claims payment services related to
3 participation in a retail pharmacy network;

4

5 (D) An application to apply for network
6 access with the pharmacy benefit manager;

7

8 (E) Credentialing or re-credentialing;

9

10 (F) Any change of ownership.

11

12 (iii) Retroactively deny or reduce reimbursement
13 for a covered pharmacy service or claim after adjudication
14 of the claim, unless:

15

16 (A) The original claim was fraudulent; or

17

18 (B) The denial or reduction is necessary to
19 correct errors found in an audit, provided that the audit
20 was conducted in compliance with W.S. 26-52-103.

21

22 (iv) Restrict a person's choice of network
23 providers for prescription drugs;

1

2 (v) Conduct spread pricing;

3

4 (vi) Prohibit a pharmacy, pharmacy services
5 administrative organization, contracting agent or agent of
6 a pharmacy from sharing, upon request, copies of pharmacy
7 benefit manager contracts with requesting pharmacies or the
8 department of insurance;

9

10 (vii) Prohibit, restrict or limit disclosure of
11 information to the insurance commissioner, law enforcement
12 or other state or federal government officials who are
13 investigating or examining a complaint or conducting a
14 review of the pharmacy benefit manager's compliance with
15 the requirements of this chapter;

16

17 (viii) Reimburse a pharmacy for pharmacy
18 services in an amount less than the amount that the
19 pharmacy benefit manager reimburses a pharmacy benefit
20 manager owned or pharmacy benefit manager affiliated
21 pharmacy for providing the same pharmacy services. The
22 reimbursement amount paid to the pharmacy shall be equal to

1 the reimbursement amount paid to a pharmacy benefit manager
2 owned or pharmacy benefit manager affiliated pharmacy.

3

4 (b) A person's choice of network provider shall
5 include a retail pharmacy. An insurer or pharmacy benefit
6 manager shall not require or incentivize using any
7 discounts in cost sharing or a reduction in copay or the
8 number of copays to individuals to receive prescription
9 drugs from an individual's choice of in network pharmacy.

10

11 (c) Insurers, pharmacies and pharmacy benefit
12 managers shall adhere to all state laws and rules when
13 mailing or shipping prescription drugs into the state.

14

15 **Section 2.** W.S. 26-52-102(a)(iv), (vii) and by
16 creating new paragraphs (viii) through (xi) and
17 26-52-104(a)(i), (d)(ii), (e), (f) and by creating new
18 subsections (k) and (m) are amended to read:

19

20 **26-52-102. Definitions.**

21

22 (a) As used in this article:

23

1 (iv) "Maximum allowable cost" means the maximum
2 amount that a pharmacy benefit manager will reimburse a
3 pharmacist or pharmacy for the cost of a ~~generic~~ drug.;

4 "Maximum allowable cost" includes reimbursement for a drug
5 based on any of the following:

6
7 (A) Average manufacture price;

8
9 (B) Average wholesale price;

10
11 (C) Brand effective rate or generic
12 effective rate;

13
14 (D) Discount indexing;

15
16 (E) Federal upper limits;

17
18 (F) Wholesale acquisition cost;

19
20 (G) Any other term a pharmacy benefit
21 manager or an insurer may use to establish reimbursement
22 rates to a pharmacist or pharmacy for pharmacy services.

23

1 (vii) "Pharmacy benefit manager" means an entity
2 that contracts with a pharmacy or the pharmacy's designee
3 who holds a contract with the pharmacy benefit manager on
4 behalf of an insurer or third party administrator to
5 administer or manage prescription drug benefits;
6

7 (viii) "Pharmacy acquisition cost" means the
8 amount a pharmaceutical wholesaler charges for a
9 pharmaceutical product as listed on the pharmacy's billing
10 invoice;
11

12 (ix) "Pharmacy services" means any product, good
13 or service, or any combination of products, goods or
14 services, provided as part of the practice of pharmacy;
15

16 (x) "Pharmacy services administrative
17 organization" means an organization that evaluates and
18 executes pharmacy benefit manager contracts on behalf of
19 pharmacies and provides administrative, clerical, audit and
20 data analytics support services;
21

22 (xi) "Spread pricing" means a prescription drug
23 pricing model utilized by a pharmacy benefit manager where

1 the pharmacy benefit manager charges a health benefit plan
2 a contracted price for prescription drugs that differs from
3 the amount the pharmacy benefit manager directly or
4 indirectly pays the pharmacy or pharmacist for providing
5 prescription drugs.

6
7 **26-52-104. Maximum allowable cost; offering**
8 **information and alternatives.**

9
10 (a) To place a drug on a maximum allowable cost list,
11 a pharmacy benefit manager shall ensure that the drug is:

12
13 (i) If the drug is a generically equivalent
14 drug, rated "A" or "B" in the most recent version of the
15 United States Food and Drug Administration's Approved Drug
16 Products with Therapeutic Equivalence Evaluations (Orange
17 Book), or rated "NR" or "NA," or has a similar rating, by a
18 nationally recognized reference;

19
20 (d) A pharmacy benefit manager shall:

21
22 (ii) Provide a telephone number, email address
23 and website at which a network pharmacy or the pharmacy's

1 designee who holds a contract with the pharmacy benefit
2 manager may contact an employee of a pharmacy benefit
3 manager to discuss the pharmacy's appeal;
4

5 (e) A pharmacy benefit manager shall establish a
6 process by which a contracted pharmacy, or the pharmacy's
7 designee who holds a contract with the pharmacy benefit
8 manager, can appeal the provider's reimbursement for a drug
9 subject to maximum allowable cost pricing. A contracted
10 pharmacy, or the pharmacy's designee who holds a contract
11 with the pharmacy benefit manager, shall have up to ten
12 (10) business days after dispensing a drug subject to a
13 maximum allowable cost in which to appeal the amount of the
14 maximum allowable cost. A pharmacy benefit manager shall
15 respond to the appeal within ten (10) business days after
16 the contracted pharmacy or the pharmacy's designee who
17 holds a contract with the pharmacy benefit manager makes
18 the appeal.

19
20 (f) If a maximum allowable cost appeal is denied, the
21 pharmacy benefit manager shall provide to the appealing
22 pharmacy, or the pharmacy's designee who holds a contract
23 with the pharmacy benefit manager, the reason for the

1 denial and the national drug code number for the drug that
2 is available for purchase by similarly situated pharmacies
3 in the state ~~from~~ and the names of national or regional
4 wholesalers that have the product available for purchase at
5 a price that is at or below the maximum allowable cost.

6
7 (k) A pharmacy benefit manager shall not prevent a
8 network pharmacy or the pharmacy's designee who holds a
9 contract with the pharmacy benefit manager from filing
10 appeals in an electronic batch format. The pharmacy benefit
11 manager shall respond in an electronic format to valid
12 reimbursement appeals filed in an electronic batch format.
13 A batch appeal shall not be considered a valid appeal
14 unless all required information for each claim in the batch
15 is submitted electronically with the correct, contractually
16 required information and in the required format. An appeal
17 shall not be considered valid for purposes of the ten (10)
18 day response timeframe until all information is received.

19
20 (m) A pharmacy or pharmacist may decline to provide
21 pharmacy services to a patient or pharmacy benefit manager
22 if the pharmacy or pharmacist is to be paid less than the

1 pharmacy acquisition cost for the pharmacy providing
2 pharmacy services.

3

4 **Section 3.**

5

6 (a) The department of insurance is authorized one (1)
7 full-time position for the purpose of implementing and
8 administering this act. There is appropriated ninety-five
9 thousand dollars (\$95,000.00) from the general fund to the
10 department of insurance for the salary and benefits of the
11 position authorized under this section. This appropriation
12 shall be for the period beginning with the effective date
13 of this section and ending June 30, 2024 and shall only be
14 expended for the additional position authorized under this
15 section. This appropriation shall not be transferred or
16 expended for any other purpose and any unexpended,
17 unobligated funds remaining from this appropriation shall
18 revert as provided by law on June 30, 2024.

19

20 (b) There is appropriated one hundred thousand
21 dollars (\$100,000.00) from the general fund to the
22 department of insurance for the purposes of implementing
23 and administering this act. This appropriation shall be for

1 the period beginning with the effective date of this
2 section and ending June 30, 2024. This appropriation shall
3 not be transferred or expended for any other purpose and
4 any unexpended, unobligated funds remaining from this
5 appropriation shall revert as provided by law on June 30,
6 2024.

7

8 **Section 4.** The department of insurance shall
9 promulgate any rules necessary to implement this act.

10

11 **Section 5.**

12

13 (a) Except as otherwise provided by subsection (b) of
14 this section, this act is effective July 1, 2023.

15

16 (b) Sections 3, 4 and 5 of this act are effective
17 immediately upon completion of all acts necessary for a
18 bill to become law as provided by Article 4, Section 8 of
19 the Wyoming Constitution.

20

21 (END)