

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 386

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO PHARMACY BENEFIT MANAGERS; AMENDING CHAPTER 3, TITLE 41, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 41-349, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE CERTAIN REQUIREMENTS FOR REGISTRATION, TO PROHIBIT CERTAIN ACTIONS BY A PHARMACY BENEFIT MANAGER, TO PROVIDE CERTAIN REQUIREMENTS FOR MAXIMUM ALLOWABLE COST PRICING, AND TO PROHIBIT THE RETROACTIVE DENIAL OR REDUCTION OF A CLAIM IN CERTAIN INSTANCES.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Chapter 3, Title 41, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 41-349, Idaho Code, and to read as follows:

41-349. PHARMACY BENEFIT MANAGERS. (1) As used in this section:

(a) "Maximum allowable cost" means the maximum amount that a pharmacy benefit manager will reimburse a pharmacy for the cost of a generic drug.

(b) "Pharmacy benefit manager" means a person or entity doing business in this state that contracts with pharmacies on behalf of an insurer, third-party administrator, or managed care organization to administer prescription drug benefits to residents of this state.

(2) A person may not perform, offer to perform, or advertise any pharmacy benefit management service in this state unless the person is registered as a pharmacy benefit manager with the department of insurance. A person may not utilize the services of another person as a pharmacy benefit manager if the person knows or has reason to know that the other person does not have a registration with the department. Such registration must occur annually no later than April 1 of each year and shall be on a form prescribed by the director. The department may utilize applicable sections of this title to administer registration as provided in this subsection.

(3) A pharmacy benefit manager shall not prohibit a pharmacist or retail pharmacy from providing a covered person information on the amount of the cost share for a prescription drug and the clinical efficacy of a more affordable alternative drug if one is available, and a pharmacy benefit manager may not penalize a pharmacist or retail pharmacy for disclosing such information to a covered person or for selling to a covered person a more affordable alternative if one is available.

(4) A pharmacy benefit manager using maximum allowable cost pricing may place a drug on a maximum allowable cost list if the pharmacy benefit manager does the following:

(a) Ensures that the drug:

(i) 1. Is listed as "A" or "B" rated in the most recent version of the United States food and drug administration's ap-

1 proved drug products with therapeutic equivalence evalua-
2 tions, also known as the "orange book"; or
3 2. Has an "NR" or "NA" rating or a similar rating by a nation-
4 ally recognized reference; and
5 (ii) Is available for purchase by pharmacies in the state from na-
6 tional or regional wholesalers and is not obsolete;
7 (b) Provides to a network pharmacy, at the time a contract is entered
8 into or renewed with the network pharmacy, the sources used to determine
9 the maximum allowable cost pricing for the maximum allowable cost list
10 specific to that provider;
11 (c) Reviews and updates maximum allowable cost price information at
12 least once every seven (7) business days to reflect any modification of
13 maximum allowable cost pricing;
14 (d) Establishes a process for eliminating products from the maximum al-
15 lowable cost list or modifying maximum allowable cost prices in a timely
16 manner to remain consistent with pricing changes and product availabil-
17 ity in the marketplace;
18 (e) Establishes a process by which a network pharmacy, or a network
19 pharmacy's contracting agent, may appeal the reimbursement for a
20 generic drug no later than thirty (30) days after such reimbursement is
21 made; and
22 (f) Provides a process for each of its network pharmacies to readily ac-
23 cess the maximum allowable cost list specific to that provider.
24 (5) No pharmacy benefit manager may retroactively deny or reduce a
25 claim for reimbursement of the cost of services after the claim has been ad-
26 judicated by the pharmacy benefit manager unless:
27 (a) The adjudicated claim was submitted fraudulently or improperly; or
28 (b) The pharmacy benefit manager's payment on the adjudicated claim was
29 incorrect because the pharmacy or pharmacist had already been paid for
30 the services.