

2018 Regular Session

SENATE BILL NO. 130

BY SENATOR MILLS

MEDICAID. Provides relative to contracts for Medicaid pharmacy benefit management services. (8/1/18)

1 AN ACT

2 To enact Subpart L of Part III of Chapter 17 of Subtitle III of Title 39 of the Louisiana
3 Revised Statutes of 1950, to be comprised of R.S. 39:1648, relative to Medicaid
4 payments for pharmacy benefit manager services; to provide for managed care
5 contracts; to provide for Medicaid managed care subcontracts; and to provide for
6 related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Subpart L of Part III of Chapter 17 of Subtitle III of Title 39 of the
9 Louisiana Revised Statutes of 1950, comprised of R.S. 39:1648, is hereby enacted to read
10 as follows:

11 **SUBPART L. MEDICAID MANAGED CARE**

12 **§1648. Medicaid contracts or subcontracts for pharmacy benefit manager**
13 **services**

14 **A. Contracts for pharmacy benefit manager services, either directly with**
15 **the Louisiana Department of Health or as a subcontractor or subsidiary of a**
16 **managed care organization that has a contract with the Louisiana Department**
17 **of Health, shall be awarded based only on the following provisions:**

1 (1) Any contract for pharmacy benefit manager services shall be limited
2 to a transaction fee only, based on a set rate established by the Louisiana
3 Department of Health to be paid to the pharmacy benefit manager for each
4 Medicaid pharmacy claim processed.

5 (2) No pharmacy benefit manager may retain any portion of state
6 supplemental rebates or credits submitted to the state by any pharmaceutical
7 manufacturer.

8 (3) No pharmacy benefit manager may retain any portion of "spread
9 pricing". For purposes of this Section, "spread pricing" shall mean any amount
10 charged or claimed by a pharmacy benefit manager to a managed care
11 organization that is in excess of the amount paid to the pharmacy that filled the
12 prescription.

13 B. Any Louisiana Department of Health contract in existence on August
14 1, 2018, with a pharmacy benefit manager or with a managed care organization
15 that subcontracts or has a subsidiary pharmacy benefit manager may be
16 amended to comply with the provisions of this Section. The department may
17 terminate the contract with any managed care organization or pharmacy
18 benefit manager who is not willing to amend their contract to comply with the
19 provisions of this Section, and the provision of this service shall be opened for
20 bid to other pharmacy benefit managers in accordance with the Louisiana
21 Procurement Code, R.S. 39:1551 et seq.

22 C. After August 1, 2018, any subsequent requests for proposal issued by
23 the Louisiana Department of Health for Medicaid managed care organization
24 services that include the provision of pharmacy or pharmacy benefit manager
25 services shall include the provisions of Subsection A of this Section. The
26 Louisiana Department of Health may issue a requests for proposal for a single
27 state Medicaid pharmacy benefit manager that complies with the provisions of
28 Subsection A of this Section.

29 D. Nothing in this Section shall prevent the Louisiana Department of

1 Health from amending pharmacy services out of its current Medicaid managed
 2 care organization contracts and providing those services under a single
 3 pharmacy benefit manager so long as such action is in compliance with the
 4 Louisiana Procurement Code and the contract requirements set forth in
 5 Subsection A of this Section.

6 E. No pharmacy benefit manager or Medicaid managed care
 7 organization that subcontracts or has a subsidiary pharmacy benefit manager
 8 shall deny any Louisiana licensed pharmacy or Louisiana licensed pharmacist
 9 the right to be a participating provider in the managed care organization or
 10 pharmacy benefit manager's provider network.

11 F. The Louisiana Department of Health shall promulgate rules as may
 12 be necessary to comply with the provisions of this Section in accordance with
 13 the Administrative Procedure Act, R.S. 49:950 et seq.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Christine Arbo Peck.

DIGEST

SB 130 Engrossed

2018 Regular Session

Mills

Proposed law requires Medicaid pharmacy benefit manager contracts to be limited to a set per transaction rate for every pharmacy claim paid. Proposed law prohibits pharmacy benefit managers from retaining federal drug rebates, credits, or "spread pricing" amounts in excess of what they paid the pharmacist.

Proposed law allows the Louisiana Department of Health (LDH) to amend current contracts to comply with these provisions. Proposed law allows LDH to terminate the contract of any managed care organization or pharmacy benefit manager who does not wish to adhere to these contract provisions and issue a request for proposal to other pharmacy benefit managers.

Proposed law requires LDH, after August 1, 2018, to include the provisions of present law in any requests for proposal for Medicaid managed care organizations or pharmacy benefit managers. Proposed law allows LDH to issue a requests for proposal for a single pharmacy benefit manager. Proposed law allows LDH to amend pharmacy services out of the current Medicaid managed care organization contracts and issue a requests for proposal to provide this service as long as it complies with the Louisiana Procurement Code and the contracting requirements of proposed law.

Proposed law establishes an "any willing provider" clause to prohibit Medicaid managed care organizations or pharmacy benefit managers from denying Louisiana licensed pharmacies and pharmacists from the opportunity to participate in the plan provider networks.

Effective August 1, 2018.

(Adds R.S. 39:1648)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Health and Welfare to
the original bill

1. Adds credits owed to the state to the items that a pharmacy benefit manager may not retain.
2. Makes provisions regarding immediate application of the contract requirements permissive.
3. Makes requirement for a single state pharmacy benefit manager permissive.
4. Provides an "any willing provider" clause to prohibit Medicaid managed care organizations or pharmacy benefit managers from denying Louisiana licensed pharmacies and pharmacists the opportunity to participating in the plan provider network.