

ACT No. 546

2024 Regular Session

HOUSE BILL NO. 172

BY REPRESENTATIVE ECHOLS

1 AN ACT

2 To enact Subpart B of Part I of Chapter 12 of Title 42 of the Louisiana Revised Statutes of
3 1950, to be comprised of R.S. 42:813 through 817, and R.S. 49:955(B)(10.1),
4 relative to the Office of Group Benefits; to provide relative to requirements for
5 certain Office of Group Benefits contractors; to provide relative to the powers and
6 duties of the Office of Group Benefits; to provide definitions; to provide exceptions;
7 to provide relative to penalties; to provide with respect to rulemaking; to provide for
8 an effective date; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Subpart B of Part I of Chapter 12 of Title 42 of the Louisiana Revised
11 Statutes of 1950, comprised of R.S. 42:813 through 817, is hereby enacted to read as
12 follows:

13 SUBPART B. CONTRACTS AND REVENUES

14 §813. Definitions

15 A. For the purposes of this Subpart, the following terms shall have the
16 following meanings:

17 (1) "Administrator" means any entity contracted with the office to adjust or
18 settle claims in connection with health coverage offered by the office. The term
19 "administrator" shall not include an employer performing any such service on behalf
20 of its employees, an independent consulting actuary contracted with the office, or a
21 pharmacy benefit manager.

1 (2) "Pharmacy benefit manager" means any entity contracted with the office
2 to administer a prescription drug or device program of one or more health plans on
3 behalf of the office in accordance with a pharmacy benefit program.

4 (3) "Administrative fee" means the sole compensation the administrator or
5 pharmacy benefit manager receives under the contract. The administrative fee
6 includes all services related to the contract including but not limited to appeals,
7 clinical programs, and other communications, eligibility maintenance, explanation
8 of benefits, formulary customizations, member grievances and call centers, on-site
9 audits and surveys, prior authorizations and step therapy, trend management, and
10 benchmark reporting and transaction fees. The administrative fee does not include
11 pass-through claims.

12 (4) "Revenues" means all financial benefits an administrator or pharmacy
13 benefit manager receives related to utilization or enrollment in programs offered by
14 the office. These include but are not limited to access fees, market share fees,
15 formulary access fees, inflation protection and penalty payments, and marketing
16 grants from pharmaceutical manufacturers, wholesalers, and data warehouse
17 vendors. "Revenues" also means any financial benefit received by an administrator
18 or pharmacy benefit manager attached to a rebate.

19 §814. Revenue reports

20 A.(1) Annually on or before April first, each administrator and pharmacy
21 benefit manager that had a contract with the office in the preceding calendar year
22 shall file a report with the office detailing any known revenues outside the
23 administration fee related to their current contract with the office for the preceding
24 calendar year, by source.

25 (2) Annually on or before June thirtieth, each administrator and pharmacy
26 benefit manager that was required to file a report pursuant to the provisions of
27 Paragraph (1) of this Subsection shall file a final report with the office updating and
28 supplementing as appropriate any information from its report filed pursuant to
29 Paragraph (1) of this Subsection to ensure that all revenues for the preceding
30 calendar year are reported.

1 B. At the time a report required pursuant to the provisions of this Section is
2 filed with the office, the filer shall also submit copies of the report to the House and
3 Senate committees on insurance.

4 C. Notwithstanding any provision of law to the contrary, the office may
5 promulgate emergency rules for the initial implementation of this Section.

6 §815. Administrators

7 A. Each administrator contract with the office shall clearly establish an
8 administrative fee or a calculation for an administrative fee to be retained by the
9 administrator for performance of its duties. The administrator is prohibited from
10 retaining revenues directly attributable to the contract other than the administrative
11 fee. This prohibition includes revenues from rebates and other fee arrangements
12 with third-party administrators which revenues are directly attributable to the
13 administrator's contract with the office.

14 B.(1) Each year, within thirty days of filing the report required by R.S.
15 42:814(A)(1), the administrator shall remit to the office all revenues that are directly
16 attributable to its contract with the office, notwithstanding the administrative fee, that
17 were collected in the calendar year covered by the report.

18 (2) Each year, within thirty days of filing the report required by R.S.
19 42:814(A)(2), the administrator shall remit to the office any new revenues disclosed
20 on such report that are directly attributable to its contract with the office,
21 notwithstanding the administrative fee.

22 C. Amounts received but not retained by the administrator as payment for
23 network access, or value-based clinical and provider quality performance programs
24 based on national benchmarks, shall not be considered as revenue for purposes of
25 this Section.

26 §816. Pharmacy benefit managers

27 A. Each pharmacy benefit manager contract with the office shall clearly
28 establish an administrative fee or a calculation for an administrative fee to be
29 retained by the pharmacy benefit manager for performance of its duties. The
30 pharmacy benefit manager is prohibited from retaining revenues directly attributable

1 to the contract other than the administrative fee. This prohibition includes revenues
2 from rebates and other fee arrangements with third-party pharmacy benefit managers
3 which revenues are directly attributable to the pharmacy benefit manager's contract
4 with the office.

5 B.(1) Each year, within thirty days of filing the report required by R.S.
6 42:814(A)(1), a pharmacy benefit manager shall remit to the office all revenues that
7 are directly attributable to its contract with the office, notwithstanding the
8 administrative fee, that were collected by the pharmacy benefit manager in the
9 calendar year covered by the report.

10 (2) Each year, within thirty days of filing the report required by R.S.
11 42:814(A)(2), the pharmacy benefit manager shall remit to the office revenues
12 disclosed on such report that are directly attributable to its contract with the office,
13 notwithstanding the administrative fee.

14 §817. Penalties

15 A. Each administrator and pharmacy benefit manager owes a duty of good
16 faith and fair dealing to the office. Failure to file a report required by this Subpart
17 or failure to accurately or completely disclose revenues on such report shall
18 constitute a breach of the duties imposed in this Section.

19 B. In addition to any damages, attorney fees, and costs for breach of the
20 imposed duty, including all costs associated with recovering owed amounts, the
21 office may be awarded penalties assessed against the breaching party in an amount
22 not to exceed two times the party's revenues received for the calendar year for which
23 the party failed to disclose with the office.

24 Section 2. R.S. 49:955(B)(10.1) is hereby enacted to read as follows:

25 §955. Application of Chapter to rules and fees

26 * * *

27 B. The legislature further recognizes that there exist specific exceptions,
28 exemptions, and limitations to the laws pertaining to the adoption, amendment, or
29 repeal of any rule or the adoption, increasing, or decreasing of any fee throughout the

1 revised statutes and codes of this state. Such exceptions, exemptions, and limitations
2 are hereby continued in effect by incorporation into this Chapter by citation:

3 * * *

4 (10.1) R.S. 42:814(C).

5 * * *

6 Section 3. The Louisiana State Law Institute is hereby authorized and directed to
7 redesignate R.S. 42:801 through 812 of the Louisiana Revised Statutes of 1950 as "Subpart
8 A. General Provisions".

9 Section 4. This Act shall become effective on July 1, 2024; if vetoed by the governor
10 and subsequently approved by the legislature, this Act shall become effective on July 1,
11 2024, or on the day following such approval by the legislature, whichever is later.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____