DIGEST

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HB 436 Reengrossed 2018 Regular Session Johnson

Abstract: Prohibit limitations on disclosures by pharmacists regarding drug costs and requires certain actions by pharmacy benefit managers after a successful appeal of a maximum allowable cost for a specific drug.

Proposed law prohibits a contract provision prohibiting a pharmacist from disclosing any relevant information to an insured individual purchasing prescription medication, including but not limited to the insured's cost share of the prescription medication, actual reimbursement to the pharmacist for the sale of the prescription medication, efficacy of the prescription medication, and the availability of any alternative medications that are less expensive than the prescription medication.

Proposed law updates the phrase "pharmacy benefits manager" to "pharmacy benefit manager".

Proposed law requires a pharmacy benefit manager to reimburse a pharmacy or pharmacist in this state an amount not less than the amount that the pharmacy benefit manager reimburses an affiliate of the pharmacy benefit manager for providing the same services.

Proposed law requires a pharmacy benefit manager, for every drug for which the pharmacy benefit manager establishes a maximum allowable cost to determine the drug product reimbursement, to make available to all pharmacies both of the following:

(1) Information identifying the national drug pricing compendia or sources used to obtain the drug price data.

(2) The comprehensive list of drugs subject to maximum allowable cost and the actual maximum allowable cost by plan for each drug.

Present law requires a pharmacy benefit manager to perform certain actions after an appeal relative to maximum allowable cost is upheld.

Proposed law requires the pharmacy benefit manager, if the appeal is granted, to take the following actions:

(1) Make the change in the Maximum Allowable Cost List to the initial date of service the appealed drug was dispensed.

(2) Permit the appealing pharmacy and all other pharmacies in the network that filled

prescriptions for patients covered under the same health benefit plan to reverse and resubmit claims and receive payment based on the adjusted maximum allowable cost from the initial date of service the appealed drug was dispensed.

(3) Make the change effective for each similarly situated pharmacy as defined by the payor subject to the Maximum Allowable Cost List and individually notify all pharmacies in the pharmacy benefit manager's network.

(4) Make retroactive price adjustments in the next payment cycle.

Proposed law authorizes a pharmacist or pharmacy to file a complaint with the commissioner of insurance following a final decision of the pharmacy benefit manager and provides for the investigation of the complaint.

Proposed law authorizes the commissioner to impose a reasonable fee upon pharmacy benefit managers, in addition to a license fee and annual report fee, in order to cover the costs of implementation and enforcement of present law and proposed law.

Effective Jan. 1, 2019.

(Amends R.S. 22:1060.6(B), 1863(intro. para.), (1) and (6), 1864(A)(intro. para.) and (3) and (B)(intro. para.) and 1865; Adds R.S. 22:1060.6(C), 1860.3, 1863(8) and 1864(A)(4))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Insurance to the original bill:

1. Delete proposed law requiring an appeal to be granted to the appealing pharmacy if the commissioner is unable to obtain information from the pharmacy benefit manager that is necessary to resolve the appeal.

2. Make technical changes.

The House Floor Amendments to the engrossed bill:

1. Require a reimbursement to a nonaffiliated pharmacy to be not less than the reimbursement to an affiliated pharmacy for the same service.

2. Clarify that proposed law applies to an insured individual.

3. Specify that a pharmacist may disclose the insured's cost share of the prescription.

4. Define "drug shortage list".

5. Require the list of the actual maximum allowable cost for each drug to be organized by

health plan.

6. Extend the time period for an appeal of a maximum allowable cost from 7 business days to 15 business days.

7. Extend the time period for responding to an appeal from 7 business days to 15 business days.

8. Clarify that a complaint may be filed with the commissioner after an appeal is denied.

9. Change the time for filing a complaint from 30 calendar days to 15 business days.

10. Require the complaint investigation to find that a decision was not in compliance with the law prior to granting reimbursement to a pharmacy.

11. Require the fee to be reasonable and adopted in accordance with the APA.

12. Make technical changes.