

2023 Regular Session

HOUSE BILL NO. 529

BY REPRESENTATIVE EDMONDS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

INSURANCE/GROUP-STATE: Provides relative to pharmacy benefit manager services provided to the office of group benefits

1 AN ACT

2 To enact R.S. 42:802.2, relative to pharmacy benefit manager services provided to the office
3 of group benefits; to provide relative to requirements and restrictions on contracts
4 for such services; to provide relative to the duties of any provider of such services;
5 to establish prohibitions relative to performance of such services; to provide for an
6 effective date; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 42:802.2 is hereby enacted to read as follows:

9 §802.2. Prescription drug payments

10 A. Compensation pursuant to any contract for pharmacy benefit manager
11 services shall be limited to an administrative fee only. As payment in full for the
12 services performed under the contract, the office shall pay the pharmacy benefit
13 manager an all-inclusive administrative fee, calculated by multiplying the number
14 of processed claims by a transaction fee, which shall not exceed \$1.25 per pharmacy
15 claim processed.

16 B.(1) A pharmacy benefit manager shall not reimburse a pharmacy or
17 pharmacist, or a representative thereof, an amount that is less than the sum of the
18 pharmacy or pharmacist's actual acquisition cost of a covered drug, device, or service
19 plus the professional dispensing fee paid to the pharmacy or pharmacist at the time
20 the drug, device, or service is administered or dispensed.

1 (2) A pharmacy benefit manager shall reimburse to a pharmacy or
2 pharmacist the professional dispensing fee in an amount equal to or greater than the
3 dispensing fee established by the Louisiana Department of Health in the Louisiana
4 Medicaid state plan for medical assistance approved by the Centers for Medicare and
5 Medicaid Services that is in effect at the time the covered drug, device, or service is
6 administered or dispensed.

7 (3) A pharmacy benefit manager shall not include the professional
8 dispensing fee or taxes within the amount calculated to reimburse a pharmacy or
9 pharmacist for actual acquisition cost.

10 C.(1) The pharmacy benefit manager shall provide the office real-time,
11 unredacted, read access to view the pharmacy claims processing system and prior
12 authorization records.

13 (2) The office shall prohibit a pharmacy benefit manager from retaining any
14 portion of either of the following:

15 (a) Pharmacy or other rebates or credits submitted by any pharmaceutical
16 manufacturer.

17 (b) Spread pricing. For purposes of this Paragraph, "spread pricing" means
18 any amount charged or claimed by a pharmacy benefit manager to the office that is
19 in excess of the amount paid to the dispensing pharmacy, including the ingredient
20 cost, provider fee, and dispensing fee.

21 D. In addition, the pharmacy benefit manager is prohibited from doing any
22 of the following:

23 (1) Buying, selling, transferring, or providing personal healthcare or contact
24 information of a beneficiary to any other party, including subsidiaries of the
25 pharmacy benefit manager, for any purpose unless specifically authorized to do so
26 by the office, and under no circumstance may such activity be for the purpose of
27 patient steering. For the purposes of this Paragraph, "patient steering" means
28 encouraging or enticing of any beneficiary to switch to any pharmacy, including a
29 mail-order pharmacy, through unsolicited advice or mass-marketing directed at a

1 beneficiary by a pharmacy benefit manager, including any employees, affiliated
2 providers, agents, or contractors of the pharmacy benefit manager, that is intended
3 to influence or that can reasonably be concluded to influence the beneficiary to
4 change pharmacies.

5 (2) Denying any Louisiana-licensed pharmacy or Louisiana-licensed
6 pharmacist the right to be a participating provider in the office's pharmacy benefit
7 manager's provider network if the pharmacy or pharmacist is in good standing with
8 the Louisiana Board of Pharmacy.

9 (3) Deducting sales taxes owed to any taxing authority imposing the sales
10 tax pursuant to R.S. 47:337.11.1 from any amount due as reimbursement to a
11 pharmacist or pharmacy.

12 (4) Making or allowing any direct or indirect reduction of payment to a
13 pharmacist or pharmacy for a drug, device, or service under a reconciliation process
14 to an effective rate of reimbursement, including, but not limited to, generic effective
15 rates, brand effective rates, direct and indirect remuneration fees, or any other
16 reduction or aggregate reduction of payment.

17 Section 2. This Act shall become effective on January 1, 2024; if vetoed by the
18 governor and subsequently approved by the legislature, this Act shall become effective on
19 January 1, 2024, or on the day following such approval by the legislature, whichever is later.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 529 Engrossed

2023 Regular Session

Edmonds

Abstract: Establishes contractual and administrative requirements for providers of pharmacy benefit manager services (PBM) for the Office of Group Benefits (OGB).

Present law establishes OGB as the general administrator of health, life, and other benefit programs for state employees and retirees. Further requires all group insurance contracts administered by OGB to conform to the requirements of present law regarding group insurance.

Proposed law places contractual and administrative requirements on any OGB provider of PBM services. Requires compensation for any PBM contract to be limited to an

administrative fee only, calculated by multiplying the number of processed claims by a transaction fee, which is prohibited from exceeding \$1.25 per pharmacy claim processed.

Proposed law additionally prohibits a PBM from reimbursing a pharmacy, pharmacist, or a representative thereof, an amount that is less than the sum of the pharmacy or pharmacist's actual acquisition cost of a covered drug, device, or service plus the professional dispensing fee paid to the pharmacy or pharmacist at the time the drug, device, or service is administered or dispensed. Requires the amount a PBM reimburses a pharmacy or pharmacist for the professional dispensing fee to be equal to or greater than the dispensing fee established by the La. Dept. of Health in the La. Medicaid state plan for medical assistance approved by the Centers for Medicare and Medicaid Services that is in effect at the time the covered drug, device, or service is administered or dispensed. Further prohibits a pharmacy benefit manager from including the professional dispensing fee or taxes within the amount calculated to reimburse a pharmacy or pharmacist for actual acquisition cost.

Proposed law requires the PBM to provide the office real-time, unredacted, read access to view the pharmacy claims processing system and prior authorization records.

Proposed law requires OGB to prohibit a pharmacy benefit manager from retaining any portion of either of the following:

- (1) Pharmacy or other rebates or credits submitted by any pharmaceutical manufacturer.
- (2) "Spread pricing." Further defines "spread pricing" to mean any amount charged or claimed by a pharmacy benefit manager to the office that is in excess of the amount paid to the dispensing pharmacy, including the ingredient cost, provider fee, and dispensing fee.

Proposed law further prohibits a PBM from doing any of the following:

- (1) Buying, selling, transferring, or providing personal healthcare or contact information of a beneficiary to any other party, including subsidiaries of the pharmacy benefit manager, for any purpose unless specifically authorized to do so by the office, and under no circumstance may such activity be for the purpose of patient steering. For purposes of this Subparagraph, "patient steering" means encouraging or enticing of any beneficiary to switch to any pharmacy, including a mail-order pharmacy, through unsolicited advice or mass-marketing directed at a beneficiary by a pharmacy benefit manager, including any employees, affiliated providers, agents, or contractors of the pharmacy benefit manager, that is intended to influence or that can reasonably be concluded to influence the beneficiary to change pharmacies.
- (2) Denying any Louisiana-licensed pharmacy or Louisiana-licensed pharmacist the right to be a participating provider in the office's pharmacy benefit manager's provider network if the pharmacy or pharmacist is in good standing with the La. Board of Pharmacy.
- (3) Deducting sales taxes owed to any taxing authority imposing the sales tax pursuant to R.S. 47:337.11.1 from any amount due as reimbursement to a pharmacist or pharmacy.
- (4) Making or allowing any direct or indirect reduction of payment to a pharmacist or pharmacy for a drug, device, or service under a reconciliation process to an effective rate of reimbursement, including, but not limited to, generic effective rates, brand effective rates, direct and indirect remuneration fees, or any other reduction or aggregate reduction of payment.

Effective January 1, 2024.

(Adds R.S. 42:802.2)