

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 363

BY HEALTH AND WELFARE COMMITTEE

AN ACT

1 RELATING TO PHARMACY BENEFIT MANAGERS; AMENDING CHAPTER 3, TITLE 41, IDAHO  
2 CODE, BY THE ADDITION OF A NEW SECTION 41-349, IDAHO CODE, TO DEFINE  
3 TERMS, TO PROVIDE CERTAIN REQUIREMENTS FOR REGISTRATION, TO PROHIBIT  
4 CERTAIN ACTIONS BY A PHARMACY BENEFIT MANAGER, TO PROVIDE CERTAIN RE-  
5 QUIREMENTS FOR MAXIMUM ALLOWABLE COST PRICING, AND TO PROHIBIT THE  
6 RETROACTIVE DENIAL OR REDUCTION OF A CLAIM IN CERTAIN INSTANCES.  
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8 Be It Enacted by the Legislature of the State of Idaho:

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

12 41-349. PHARMACY BENEFIT MANAGERS. (1) As used in this section:

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

16 (b) "Pharmacy benefit manager" means an organization, an insurer, or  
17 a third-party administrator that offers or manages a prescription drug  
18 benefit program.

19 (2) A person may not perform, offer to perform, or advertise any phar-  
20 macy benefit management service in this state unless the person is regis-  
21 tered as a pharmacy benefit manager with the department of insurance. A per-  
22 son may not utilize the services of another person as a pharmacy benefit man-  
23 ager if the person knows or has reason to know that the other person does not  
24 have a registration with the department. Such registration must occur annu-  
25 ally no later than April 1 of each year and shall be on a form prescribed by  
26 the director. The department may utilize applicable sections of this title  
27 to administer registration as provided in this subsection.

28 (3) A pharmacy benefit manager shall not prohibit a pharmacist or re-  
29 tail pharmacy from providing a covered person information on the amount of  
30 the cost share for a prescription drug and the clinical efficacy of a more  
31 affordable alternative drug if one is available, and a pharmacy benefit man-  
32 ager may not penalize a pharmacist or retail pharmacy for disclosing such in-  
33 formation to a covered person or for selling to a covered person a more af-  
34 fordable alternative if one is available.

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

38 (a) Ensures that the drug:

39 (i) Is listed as "A" or "B" rated in the most recent version of the  
40 United States food and drug administration's approved drug prod-  
41 ucts with therapeutic equivalence evaluations, also known as the  
42 "orange book";

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