LEGISLATURE OF THE STATE OF IDAHO
Sixty-seventh Legislature First Regular Session - 2023

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 215

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO PHARMACY BENEFIT MANAGERS; AMENDING SECTION 41-349, IDAHO CODE, TO PROVIDE FOR ENFORCEMENT; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 41-349, Idaho Code, be, and the same is hereby amended to read as follows:

41-349. PHARMACY BENEFIT MANAGERS. (1) As used in this section:
(a) "Maximum allowable cost" means the maximum amount that a pharmacy benefit manager will reimburse a pharmacy for the cost of a generic drug.
(b) "Pharmacy benefit manager" means a person or entity doing business in this state that contracts with pharmacies on behalf of an insurer, third-party administrator, or managed care organization to administer prescription drug benefits to residents of this state.
(2) A person may not perform, offer to perform, or advertise any pharmacy benefit management service in this state unless the person is registered as a pharmacy benefit manager with the Department of Insurance. A person may not utilize the services of another person as a pharmacy benefit manager if the person knows or has reason to know that the other person does not have a registration with the Department. Such registration must occur annually no later than April 1 of each year and shall be on a form prescribed by the director. The Department may utilize applicable sections of this title to administer registration as provided in this subsection.
(3) A pharmacy benefit manager shall not prohibit a pharmacist or retail pharmacy from providing a covered person information on the amount of the cost share for a prescription drug and the clinical efficacy of a more affordable alternative drug if one is available, and a pharmacy benefit manager may not penalize a pharmacist or retail pharmacy for disclosing such information to a covered person or for selling to a covered person a more affordable alternative if one is available.
(4) A pharmacy benefit manager using maximum allowable cost pricing may place a drug on a maximum allowable cost list if the pharmacy benefit manager does the following:
(a) Ensures that the drug:
   (i) 1. Is listed as "A" or "B" rated in the most recent version of the United States Food and Drug Administration's approved drug products with therapeutic equivalence evaluations, also known as the "orange book"; or
   2. Has an "NR" or "NA" rating or a similar rating by a nationally recognized reference; and
(ii) Is available for purchase by pharmacies in the state from national or regional wholesalers and is not obsolete;
(b) Provides to a network pharmacy, at the time a contract is entered into or renewed with the network pharmacy, the sources used to determine the maximum allowable cost pricing for the maximum allowable cost list specific to that provider;
(c) Reviews and updates maximum allowable cost price information at least once every seven (7) business days to reflect any modification of maximum allowable cost pricing;
(d) Establishes a process for eliminating products from the maximum allowable cost list or modifying maximum allowable cost prices in a timely manner to remain consistent with pricing changes and product availability in the marketplace;
(e) Establishes a process by which a network pharmacy, or a network pharmacy's contracting agent, may appeal the reimbursement for a generic drug no later than thirty (30) days after such reimbursement is made; and
(f) Provides a process for each of its network pharmacies to readily access the maximum allowable cost list specific to that provider.

(5) No pharmacy benefit manager may retroactively deny or reduce a claim for reimbursement of the cost of services after the claim has been adjudicated by the pharmacy benefit manager unless:
(a) The adjudicated claim was submitted fraudulently or improperly; or
(b) The pharmacy benefit manager's payment on the adjudicated claim was incorrect because the pharmacy or pharmacist had already been paid for the services.

(6) If the director finds a pharmacy benefit manager has violated this section or any provision of title 41, Idaho Code, then the director may subject the pharmacy benefit manager to any or all of the actions, penalties, and remedies referenced in sections 41-117, 41-1016, and 41-1026, Idaho Code.

SECTION 2. An emergency existing therefor, which emergency is hereby declared to exist, this act shall be in full force and effect on and after July 1, 2023.