

HB 780 -- PHARMACY BENEFIT MANAGERS

SPONSOR: Morris

This bill changes the laws regarding pharmacy benefit managers.

The bill defines pharmacy benefit manager (PBM), as an entity not licensed by the Department of Insurance, Financial Institutions and Professional Registration that contracts with pharmacies on behalf of plan sponsor. Before a PBM places or continues a particular drug on a maximum allowable cost list (MAC list), the drug must:

- (1) Be listed as therapeutically equivalent and pharmaceutically equivalent in the United States Food and Drug Administration's most recent version of the "Orange Book" or its successor and eligible to be substituted by a pharmacist;
- (2) Be available for purchase by a pharmacy contracted with the PBM, in the state from national or regional wholesalers operating in Missouri; and
- (3) Not be obsolete or only temporarily available.

The bill requires that for every drug for which the PBM establishes a maximum allowable cost to determine the drug product reimbursement, the PBM must:

- (1) Make available to a contracted pharmacy the drug products subject to the MAC list and the actual maximum allowable cost for each drug;
- (2) Provide to each pharmacy with a contract with a PBM, subject to the MAC list access to current date of service MAC list; and
- (3) Provide an appeal procedure to allow pharmacies to challenge maximum allowable costs for a specific drug or drugs as:
  - (a) Not meeting the requirements of these provisions; or
  - (b) Being below the cost at which the pharmacy may obtain the drug.

A process to appeal regarding the maximum allowable cost amount must include the following provisions:

- (1) The right to appeal must be limited to 30 days following the initial claim;
- (2) The appeal process and decision notification by the PBM must

not exceed a 10 day period; and

(3) If the appeal is denied, the PBM must provide the reason for the denial and identify the 11 digit national drug code of a drug product that may be purchased in accordance with the provisions of the bill.

The bill requires that if a determination is made based on an appeal under these provisions that an additional reimbursement for a drug product is required, then the amount must be paid to the pharmacy at the next regular payment cycle from the PBM to the pharmacy.

If a PBM utilizes a MAC list for drugs dispensed at retail but does not utilize the same list for drugs dispensed at mail, and the result to the plan sponsor is a higher cost to the plan sponsor or their employees, this fact must be disclosed to the plan sponsor in writing no later than 21 days prior to utilizing the list in the plan sponsor's benefit. The provisions of the bill do not apply to a MAC list maintained by the MO HealthNet program. A PBM must have a fiduciary responsibility to the plan sponsor and a PBM must disclose to the plan sponsor which drugs are defined as generic or brand differently than as defined by the United States Food and Drug Administration.

The bill requires that any PBM who fails to comply with these provisions must be subject to penalties under Section 374.049, RSMo.