

FIRST REGULAR SESSION

# HOUSE BILL NO. 108

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE SCHAAF.

Pre-filed December 16, 2004 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0498L.011

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### AN ACT

To repeal section 354.535, RSMo, and to enact in lieu thereof two new sections relating to insurance co-payments for prescription drugs.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Section 354.535, RSMo, is repealed and two new sections enacted in lieu thereof, to be known as sections 354.535 and 376.386, to read as follows:

354.535. 1. If a pharmacy, operated by or contracted with by a health maintenance organization, is closed or is unable to provide health care services to an enrollee in an emergency, a pharmacist may take an assignment of such enrollee's right to reimbursement, if the policy or contract provides for such reimbursement, for those goods or services provided to an enrollee of a health maintenance organization. No health maintenance organization shall refuse to pay the pharmacist any payment due the enrollee under the terms of the policy or contract.

2. No health maintenance organization, conducting business in the state of Missouri, shall contract with a pharmacy, pharmacy distributor or wholesale drug distributor, nonresident or otherwise, unless such pharmacy or distributor has been granted a permit or license from the Missouri board of pharmacy to operate in this state.

3. Every health maintenance organization shall apply the same coinsurance, co-payment and deductible factors to all drug prescriptions filled by a pharmacy provider who participates in the health maintenance organization's network if the provider meets the contract's explicit product cost determination. If any such contract is rejected by any pharmacy provider, the health maintenance organization may offer other contracts necessary to comply with any network

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 adequacy provisions of this act. However, nothing in this section shall be construed to prohibit  
18 the health maintenance organization from applying different coinsurance, co-payment and  
19 deductible factors between generic and brand name drugs.

20       **4. If the co-payment applied by a health maintenance organization exceeds the**  
21 **actual cost of the prescription drug, enrollees shall only be required to pay the actual cost**  
22 **of the prescription drug.**

23       **5.** Health maintenance organizations shall not set a limit on the quantity of drugs which  
24 an enrollee may obtain at any one time with a prescription, unless such limit is applied uniformly  
25 to all pharmacy providers in the health maintenance organization's network.

26       [5.] **6.** Health maintenance organizations shall not insist or mandate any physician or  
27 other licensed health care practitioner to change an enrollee's maintenance drug unless the  
28 provider and enrollee agree to such change. For the purposes of this provision, a maintenance  
29 drug shall mean a drug prescribed by a practitioner who is licensed to prescribe drugs, used to  
30 treat a medical condition for a period greater than thirty days. Violations of this provision shall  
31 be subject to the penalties provided in section 354.444. Notwithstanding other provisions of law  
32 to the contrary, health maintenance organizations that change an enrollee's maintenance drug  
33 without the consent of the provider and enrollee shall be liable for any damages resulting from  
34 such change. Nothing in this subsection, however, shall apply to the dispensing of generically  
35 equivalent products for prescribed brand name maintenance drugs as set forth in section 338.056,  
36 RSMo.

**376.386. If the co-payment for prescription drugs applied by a health insurer**  
2 **exceeds the actual cost of the prescription drug, enrollees shall only be required to pay the**  
3 **actual cost of the prescription drug.**