

HB 2152 -- PHARMACY BENEFIT MANAGERS

SPONSOR: Morris

This bill changes the laws regarding pharmacy benefit managers.

The bill defines pharmacy benefit manager (PBM), as an entity that contracts with pharmacies on behalf of a health benefit plan, state agency, insurer, managed care organization, or other third-party payer to provide pharmacy health benefit services or administration. Before a PBM places or continues a particular drug on a maximum allowable cost list, the drug must:

- (1) Be listed as therapeutically equivalent and pharmaceutically equivalent "A" or "B" rated in the United States Food and Drug Administration's most recent version of the "Orange Book" or "Green Book";
- (2) Be available for purchase by each pharmacy in the state from national or regional wholesalers operating in Missouri; and
- (3) Not be obsolete or 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) Include in the contract with the pharmacy, information identifying the national drug pricing compendia or sources used to obtain the drug price data and the methodology used in preparing the maximum allowable cost;
- (2) Make available to a contracted pharmacy the drugs subject to maximum allowable cost and the actual maximum allowable cost for each drug;
- (3) Provide a process for each pharmacy subject to the maximum allowable cost list to receive prompt notification of an update to the MAC list;
- (4) Update its MAC list on a timely basis, but in no event longer than seven calendar days from a change in the methodology on which the MAC list is based or in the value of a variable involved in the methodology; and
- (5) Within three business days after the applicable fill date, provide a reasonable administrative 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, investigate, and resolve disputes regarding the maximum allowable cost pricing must include the following provisions:

- (1) The right to appeal must be limited to 60 days following the initial claim;
- (2) The appeal must be investigated and resolved within 10 days;
- (3) If the appeal is denied, the PBM must provide the reason for the denial and identify the national drug code of a drug product that may be purchased by contracted pharmacies at a price at or below the maximum allowable cost; and
- (4) For a period of one year from August 28, 2014, a process to provide for retroactive reimbursements.

The bill requires that if a challenge under these provisions is upheld, the PBM must within seven business days after receipt of the affirmative challenge:

- (1) Make the change in the maximum allowable cost;
- (2) Permit the challenging pharmacy or pharmacist to reverse and rebill the claim in question; or
- (3) Make the change effective for each similarly situated pharmacy as defined by the payer subject to the MAC list.

If the appeal is denied, the PBM must provide the challenging pharmacy or pharmacist the national drug code number from national or regional wholesalers operating in Missouri.

A PBM is required to make the following disclosures to the plan sponsor:

- (1) The PBM must disclose the basis for the methodology and sources utilized to establish a multi-source generic pricing list to the plan sponsor. A copy of an applicable list must be provided to the plan sponsor when updated;
- (2) If a PBM utilizes a multi-source generic list for drugs dispensed at retail but does not utilize the same list for drugs

dispensed at mail, 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; and

(3) A PBM must disclose to the plan sponsor if it is using more than one multi-source generic drug list in the contracted pharmacy network. If more than one list is used, the PBM must disclose to the plan sponsor any differences in reimbursement to the pharmacies within the network regardless of their class of trade. The PBM must also disclose to the plan sponsor if the PBM is reimbursing the pharmacies at a different rate than it is billing the plan sponsor.

These provisions do not apply to a MAC list maintained by the MO HealthNet program.

The bill requires that any PBM who fails to comply with these provisions must be liable to the plan sponsor or pharmacy as applicable in an amount equal to \$150 for the first violation, \$250 for the second violation, and \$1,000 for the third and any subsequent violation.