

HCS HB 2412 -- PRESCRIPTION DRUGS

SPONSOR: Helms

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Health and Mental Health Policy by a vote of 15 to 0.

The following is a summary of the House Committee Substitute for HB 2412.

This bill enacts provisions relating to payments for prescription drugs.

No later than March 1, 2022, and annually thereafter, the pharmacy benefits manager ("PBM") utilized by the Missouri Consolidated Health Care Plan (MCHCP) shall file a report with MCHCP for the immediately preceding calendar year regarding rebates, as defined in the bill. The report shall include certain information regarding MCHCP, including the aggregate dollar amount of rebates collected from pharmaceutical manufacturers, the aggregate dollar amount of the rebates that were not passed on to MCHCP, and the aggregate dollar amount of all fees and payments received from pharmaceutical manufacturers. MCHCP shall establish a form for the reporting, in consultation with its PBM, designed to minimize administrative burden and cost.

Documents, materials, and other information submitted to MCHCP under these provisions shall not be subject to disclosure, except to the extent they are reported in the aggregate. MCHCP shall not disclose any information under these provisions in a manner that would compromise the financial, competitive, or proprietary nature of the information, or allow a third party to identify rebate values for a particular outpatient prescription drug. MCHCP shall also annually report to the General Assembly the aggregate dollar amount of pharmaceutical rebates received for covered drugs utilized by enrollees during the calendar year. MCHCP shall annually produce and provide to the General Assembly a report for the immediately preceding calendar year describing the rebate practices of health carriers that use pharmacy benefits managers, as specified in the bill. MCHCP may impose a penalty of up to \$7,500 on its PBM for each violation of these provisions (Section 103.200, RSMo).

The bill specifies that certain provisions of law pertaining to pharmacists and pharmacies shall not be construed to prohibit patients' ability to obtain prescription services from any licensed pharmacist "or pharmacy". As specified in the bill, no PBM shall penalize or restrict a health carrier or enrollees from obtaining services from a contracted pharmacy, as defined in current law

(Section 335.015).

The bill repeals a portion of a definition to specify that certain provisions relating to the maximum allowable cost of a prescription drug are applicable to all pharmacies, rather than only to contracted pharmacies. If the reimbursement for a drug to a contracted pharmacy is below the pharmacy's cost to purchase the drug, the PBM shall sustain an appeal and increase reimbursement for the pharmacy and other contracted pharmacies to cover the cost of purchasing the drug (Section 376.388).

This bill specifies that no entity subject to the jurisdiction of Missouri shall act as a pharmacy benefits manager without a license issued by the Department of Commerce and Insurance. The department may cause a complaint to be filed with the Administrative Hearing Commission against the holder of a PBM license for the reasons specified in the bill. Proceedings shall be conducted before the Administrative Hearing Commission as provided by law. The department may take action against a PBM's license, as specified in the bill, upon a finding that a rule has been violated (Section 376.393).

No later than March 1, 2022, and annually thereafter, health carriers shall certify to the department that the health carrier has accounted for all rebates, as defined in the bill, when calculating the premium for its health benefit plans. (Section 376.2066).

This bill is the same as SB 971 (2020) and is similar to SB 413 and HB 1165 (2019).

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROPOSERS: Supporters say that PBMs are changing the marketplace in ways that are not benefiting the people of Missouri, or the competitive pharmacy marketplace. This bill is needed to save the consumers from being forced to pay too much and buy medications from specific pharmacies, especially online services that are not safe for some medications.

Testifying for the bill were Representative Helms; Loretta Boesing, Unite For Safe Medications; Erica Crane; Walgreens; Missouri State Medical Association; Wayne Lee; and Missouri Pharmacy Association.

OPPOSERS: Those who oppose the bill say that PBMs save money by increasing competition and if this bill passes, costs will increase.

Testifying against the bill were CVS Health; Connor Rose, Pharmaceutical Care Management Association; Missouri Chamber of Commerce and Industry; Cigna and Express Scripts; St. Louis Area Business Health Coalition; Missouri Insurance Coalition; and America's Health Insurance Plans.