

HB 834 -- PAYMENTS FOR PRESCRIPTION DRUGS

SPONSOR: Wright

COMMITTEE ACTION: Voted "Do Pass" by the Standing Committee on Health and Mental Health Policy by a vote of 15 to 0. Voted "Do Pass" by the Standing Committee on Rules- Administrative Oversight by a vote of 12 to 0.

This bill is related to payments for prescription drugs.

Beginning March 1, 2023, and annually thereafter, a pharmacy benefits manager (PBM) utilized by the Missouri Consolidated Health Care Plan (the Plan) shall file a report with the Plan for the immediately preceding calendar year regarding rebates, as defined in the bill. The report shall include the aggregate dollar amount of rebates collected from pharmaceutical manufacturers, the aggregate dollar amount of the rebates that were not passed on to the Plan, and the aggregate dollar amount of all fees and payments received from pharmaceutical manufacturers. The Plan shall establish a form for the reporting that minimizes administrative burden and cost. Documents, materials, and other information submitted to the Plan shall not be subject to disclosure or 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, except to the extent they are reported in the aggregate. The Plan shall annually report to the General Assembly the aggregate dollar amount of pharmaceutical rebates and provide information describing the rebate practices of health carriers utilizing pharmacy benefits managers. The Plan may impose a penalty of up to \$7,500 on its PBM for each violation of these provisions (Section 103.200).

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", and repeals language specifying that the provisions do not remove patients' ability to waive their freedom of choice under a contract with regard to payment or coverage of prescription expenses and no PBM shall penalize or restrict a health carrier or enrollees from obtaining services from a contracted pharmacy (Section 338.015).

Additionally, the bill repeals a provision of law specifying that certain PBM regulations shall not apply with regard to Medicare Part D, or other health plans regulated partly or wholly under federal law. Pharmacy benefits managers shall notify health carriers and pharmacies in writing of any potential conflict of interest, including but not limited to common ownership or any

other relationship between the PBM and any other health carrier or pharmacy with which the PBM contracts. The bill provides standardized definitions for the terms "generic" and "rebate" applicable to PBMs and health carriers, and specifies that PBMs shall owe a fiduciary duty to the state or any health carrier, health benefit plan, or political subdivision with which it contracts (Section 376.387).

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 is similar to SB 971 (2020).

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 Wright; Missouri Retailers Association; Missouri Association of Osteopathic Physicians and Surgeons (MAOPS); Lisa Umfleet, Parkland Health Mart Pharmacy; Missouri Pharmacy Association; and Missouri State Medical 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 Sam Hallemeier, PCMA; Cigna; St. Louis Area Business Health Coalition; Chris Liese, CVS; America's Health Insurance Plans; and Tracy King, Missouri Insurance Coalition.

OTHERS: Others testifying on the bill say that choice and flexibility is important and that is what PBM's provide. They started out as a cost savings tool and have grown from there.

Testifying on the bill were Joel Kurzman, National Association of Chain Drug Stores; and Arnie Dienoff.

Written testimony has been submitted for this bill. The full written testimony can be found under Testimony on the bill page on the House website.