

Senate Amendment 3507

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1 1 Amend Senate File 512 as follows:
1 2 #1. By striking everything after the enacting
1 3 clause and inserting the following:
1 4 <Section 1. NEW SECTION. 510B.1 DEFINITIONS.
1 5 As used in this chapter, unless the context
1 6 otherwise requires:
1 7 1. "Commissioner" means the commissioner of
1 8 insurance.
1 9 2. "Covered entity" means a nonprofit hospital or
1 10 medical services corporation, health insurer, health
1 11 benefit plan, or health maintenance organization; a
1 12 health program administered by a department or the
1 13 state in the capacity of provider of health coverage;
1 14 or an employer, labor union, or other group of persons
1 15 organized in the state that provides health coverage.
1 16 "Covered entity" does not include a self-funded health
1 17 coverage plan that is exempt from state regulation
1 18 pursuant to the federal Employee Retirement Income
1 19 Security Act of 1974 (ERISA), as codified at 29 U.S.C.
1 20 } 1001 et seq., a plan issued for health coverage for
1 21 federal employees, or a health plan that provides
1 22 coverage only for accidental injury, specified
1 23 disease, hospital indemnity, Medicare supplemental,
1 24 disability income, or long-term care, or other limited
1 25 benefit health insurance policy or contract.
1 26 3. "Covered individual" means a member,
1 27 participant, enrollee, contract holder, policyholder,
1 28 or beneficiary of a covered entity who is provided
1 29 health coverage by the covered entity, and includes a
1 30 dependent or other person provided health coverage
1 31 through a policy, contract, or plan for a covered
1 32 individual.
1 33 4. "Generic drug" means a chemically equivalent
1 34 copy of a brand-name drug with an expired patent.
1 35 5. "Labeler" means a person that receives
1 36 prescription drugs from a manufacturer or wholesaler
1 37 and repackages those drugs for later retail sale and
1 38 that has a labeler code from the federal food and drug
1 39 administration pursuant to 21 C.F.R. } 207.20.
1 40 6. "Pharmacy" means pharmacy as defined in section
1 41 155A.3.
1 42 7. "Pharmacy benefits management" means the
1 43 administration or management of prescription drug
1 44 benefits provided by a covered entity under the terms
1 45 and conditions of the contract between the pharmacy
1 46 benefits manager and the covered entity.
1 47 8. "Pharmacy benefits manager" means a person who
1 48 performs pharmacy benefits management services.
1 49 "Pharmacy benefits manager" includes a person acting
1 50 on behalf of a pharmacy benefits manager in a
2 1 contractual or employment relationship in the
2 2 performance of pharmacy benefits management services
2 3 for a covered entity. "Pharmacy benefits manager"
2 4 does not include a health insurer licensed in the
2 5 state if the health insurer or its subsidiary is
2 6 providing pharmacy benefits management services
2 7 exclusively to its own insureds, or a public
2 8 self-funded pool or a private single employer
2 9 self-funded plan that provides such benefits or
2 10 services directly to its beneficiaries.
2 11 9. "Prescription drug" means prescription drug as
2 12 defined in section 155A.3.
2 13 10. "Prescription drug order" means prescription
2 14 drug order as defined in section 155A.3.
2 15 Sec. 2. NEW SECTION. 510B.2 CERTIFICATION AS A
2 16 THIRD-PARTY ADMINISTRATOR REQUIRED.
2 17 A pharmacy benefits manager doing business in this
2 18 state shall obtain a certificate as a third-party
2 19 administrator under chapter 510, and the provisions
2 20 relating to a third-party administrator pursuant to
2 21 chapter 510 shall apply to a pharmacy benefits
2 22 manager.
2 23 Sec. 3. NEW SECTION. 510B.3 ENFORCEMENT ==
2 24 RULES.

2 25 1. The commissioner shall enforce the provisions
2 26 of this chapter.

2 27 2. The commissioner shall adopt rules pursuant to
2 28 chapter 17A to administer this chapter including rules
2 29 relating to all of the following:

2 30 a. Timely payment of pharmacy claims.
2 31 b. A process for adjudication of complaints and
2 32 settlement of disputes between a pharmacy benefits
2 33 manager and a licensed pharmacy related to pharmacy
2 34 auditing practices, termination of pharmacy
2 35 agreements, and timely payment of pharmacy claims.

2 36 Sec. 4. NEW SECTION. 510B.4 PERFORMANCE OF
2 37 DUTIES == GOOD FAITH == CONFLICT OF INTEREST.

2 38 1. A pharmacy benefits manager shall perform the
2 39 pharmacy benefits manager's duties exercising good
2 40 faith and fair dealing in the performance of its
2 41 contractual obligations toward the covered entity.

2 42 2. A pharmacy benefits manager shall notify the
2 43 covered entity in writing of any activity, policy,
2 44 practice ownership interest, or affiliation of the
2 45 pharmacy benefits manager that presents any conflict
2 46 of interest.

2 47 Sec. 5. NEW SECTION. 510B.5 CONTACTING COVERED
2 48 INDIVIDUAL == REQUIREMENTS.

2 49 A pharmacy benefits manager, unless authorized
2 50 pursuant to the terms of its contract with a covered
3 1 entity, shall not contact any covered individual
3 2 without the express written permission of the covered
3 3 entity.

3 4 Sec. 6. NEW SECTION. 510B.6 DISPENSING OF
3 5 SUBSTITUTE PRESCRIPTION DRUG FOR PRESCRIBED DRUG.

3 6 1. The following provisions shall apply when a
3 7 pharmacy benefits manager requests the dispensing of a
3 8 substitute prescription drug for a prescribed drug to
3 9 a covered individual:

3 10 a. The pharmacy benefits manager may request the
3 11 substitution of a lower priced generic and
3 12 therapeutically equivalent drug for a higher priced
3 13 prescribed drug.

3 14 b. If the substitute drug's net cost to the
3 15 covered individual or covered entity exceeds the cost
3 16 of the prescribed drug, the substitution shall be made
3 17 only for medical reasons that benefit the covered
3 18 individual.

3 19 2. A pharmacy benefits manager shall obtain the
3 20 approval of the prescribing practitioner prior to
3 21 requesting any substitution under this section.

3 22 3. A pharmacy benefits manager shall not
3 23 substitute an equivalent prescription drug contrary to
3 24 a prescription drug order that prohibits a
3 25 substitution.

3 26 Sec. 7. NEW SECTION. 510B.7 DUTIES TO PHARMACY
3 27 NETWORK PROVIDERS.

3 28 1. A pharmacy benefits manager shall not mandate
3 29 basic recordkeeping that is more stringent than that
3 30 required by state or federal law or regulation.

3 31 2. If a pharmacy benefits manager receives notice
3 32 from a covered entity of termination of the covered
3 33 entity's contract, the pharmacy benefits manager shall
3 34 notify, within ten working days of the notice, all
3 35 pharmacy network providers of the effective date of
3 36 the termination.

3 37 3. Within three business days of a price increase
3 38 notification by a manufacturer or supplier, a pharmacy
3 39 benefits manager shall adjust its payment to the
3 40 pharmacy network provider consistent with the price
3 41 increase.

3 42 Sec. 8. PHARMACY BENEFITS MANAGER LEGISLATIVE
3 43 INTERIM COMMITTEE. The legislative council is
3 44 requested to establish a legislative interim committee
3 45 on pharmacy benefits managers to review all of the
3 46 following:

3 47 1. Transparency and disclosure arrangements
3 48 between pharmacy benefits managers and covered
3 49 entities.

3 50 2. Confidentiality protections for information
4 1 disclosed to covered entities and remedies for
4 2 unauthorized disclosure.

4 3 3. The ability of covered entities to audit
4 4 pharmacy benefits managers.

4 5 4. Appropriate remedies for covered entities to

4 6 enforce a provision of or for violation of a provision
4 7 of chapter 510B, as enacted in this Act.
4 8 Sec. 9. EFFECTIVE DATE == DIRECTIVE TO
4 9 COMMISSIONER OF INSURANCE.
4 10 1. This Act takes effect January 1, 2008.
4 11 2. Notwithstanding the effective date of this Act,
4 12 the commissioner of insurance shall commence the
4 13 process of developing proposed rules to implement and
4 14 administer this Act beginning July 1, 2007.>
4 15 #2. Title page, by striking line 2 and inserting
4 16 the following: <and making penalties applicable, and
4 17 providing an effective date.>
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4 20 _____
4 21 JEFF DANIELSON
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4 23
4 24 _____
4 25 PAT WARD
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4 27
4 28 _____
4 29 MARK ZIEMAN
4 30 SF 512.704 82
4 31 pf/gg/9507