

**House File 573 - Introduced**

HOUSE FILE 573

BY BEST

**A BILL FOR**

1 An Act relating to prescription drug benefits, pharmacies,  
2 pharmacy benefit managers, making penalties applicable, and  
3 including applicability provisions.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 507B.2, subsection 1, Code 2019, is  
2 amended to read as follows:

3 1. "Person" shall mean any individual, corporation,  
4 association, partnership, reciprocal exchange, interinsurer,  
5 fraternal beneficiary association, and any other legal entity  
6 engaged in the business of insurance, including insurance  
7 producers and adjusters. "Person" shall also mean any  
8 corporation operating under the provisions of chapter 514,  
9 ~~and any benevolent association as defined and operated under~~  
10 chapter 512A, and any pharmacy benefit manager pursuant to  
11 section 510C.1. For purposes of this chapter, corporations  
12 operating under the provisions of chapter 514 and chapter 512A  
13 shall be deemed to be engaged in the business of insurance.

14 Sec. 2. Section 507B.3, Code 2019, is amended by adding the  
15 following new subsection:

16 NEW SUBSECTION. 3. A person who violates a provision in  
17 chapter 510C.1 shall be deemed to have committed an unfair  
18 trade practice under this chapter.

19 Sec. 3. NEW SECTION. 510C.1 **Pharmacy benefit managers —**  
20 **retail pharmacies.**

21 1. As used in this section, unless the context otherwise  
22 requires:

23 a. "Commissioner" means the commissioner of insurance or the  
24 commissioner's designee.

25 b. "Cost sharing" means any copayment, coinsurance,  
26 deductible, or other out-of-pocket expense requirement.

27 c. "Covered person", "health benefit plan", and "health  
28 carrier" mean the same as defined in section 514J.102.

29 d. "Pharmacy" and "prescription drug" mean the same as  
30 defined in section 155A.3.

31 e. "Pharmacy benefit manager" means a person who, pursuant  
32 to a contract or other relationship with a health carrier,  
33 either directly or through an intermediary, manages a  
34 prescription drug benefit provided by the health carrier and is  
35 certified pursuant to section 510B.2.

1     *f.* "Pharmacy benefit manager's retail pharmacy network" means  
2 retail pharmacies who have contracted with a pharmacy benefit  
3 manager to dispense or sell prescription drugs to covered  
4 persons of a health carrier.

5     *g.* "Prescription drug benefit" means a health benefit plan  
6 providing for third-party payment or prepayment of prescription  
7 drugs.

8     *h.* "Retail pharmacy" means a pharmacy that is open to the  
9 general public, dispenses prescription drugs to the general  
10 public, and makes face-to-face consultations available  
11 between licensed pharmacists and the general public to whom  
12 prescription drugs are dispensed.

13     2. *a.* An otherwise qualified retail pharmacy that requests  
14 to enter into a contract with a pharmacy benefit manager to  
15 participate in the pharmacy benefit manager's retail pharmacy  
16 network and that accepts the pharmacy benefit manager's  
17 standard terms, conditions, formularies, and requirements  
18 relating to dispensing fees, payments, reimbursement amounts,  
19 and other pharmacy services shall be considered part of the  
20 pharmacy benefit manager's retail pharmacy network for purposes  
21 of a covered person's right to choose where to obtain the  
22 covered person's prescription drugs.

23     *b.* It shall be a violation of this section for a pharmacy  
24 benefit manager to refuse to accept an otherwise qualified  
25 retail pharmacy as described in paragraph "a" as a part of the  
26 pharmacy benefit manager's retail pharmacy network. It shall  
27 also be a violation of this section for a health carrier which  
28 has contracted with the pharmacy benefit manager to refuse to  
29 accept an otherwise qualified retail pharmacy as described in  
30 paragraph "a" as a part of the pharmacy benefit manager's retail  
31 pharmacy network.

32     *c.* A contractual relationship entered into by an otherwise  
33 qualified retail pharmacy and a pharmacy benefit manager  
34 establishing the otherwise qualified retail pharmacy as part of  
35 the pharmacy benefit manager's retail pharmacy network shall be

1 renewed annually unless otherwise agreed to by the otherwise  
2 qualified retail pharmacy, the pharmacy benefit manager, and  
3 the health carrier.

4 *d.* If a pharmacy benefit manager or a health carrier  
5 considers a retail pharmacy not to be otherwise qualified, the  
6 pharmacy benefit manager or the health carrier may file an  
7 appeal relating to the retail pharmacy's qualifications with  
8 the insurance commissioner. The commissioner shall establish  
9 by rule the standards and requirements necessary for a retail  
10 pharmacy to be deemed "otherwise qualified" for purposes of  
11 this section.

12 *e.* A pharmacy benefit manager that enters into a contractual  
13 relationship with an otherwise qualified retail pharmacy  
14 establishing the otherwise qualified retail pharmacy as part  
15 of the pharmacy benefit manager's retail pharmacy network, and  
16 a health carrier whose prescription drug benefit the pharmacy  
17 benefit manager is managing, shall not do any of the following:

18 (1) Require a covered person to obtain any prescription  
19 exclusively from a mail order pharmacy.

20 (2) Impose any cost sharing or other condition on a covered  
21 person electing to use the retail pharmacy to obtain the  
22 covered person's prescription drug if the cost sharing or other  
23 condition is not imposed upon a covered person electing to use  
24 a mail order pharmacy to obtain the same prescription drug.

25 (3) Restrict a prescription drug dispensed by the retail  
26 pharmacy to a covered person to a minimum or maximum quantity  
27 limit, or impose any requirement related to refills, if the  
28 limitations or requirements are not also imposed on the same  
29 prescription drug dispensed by a mail order pharmacy.

30 (4) Require a covered person to pay in whole or in part  
31 for any prescription drug dispensed to the covered person by  
32 the retail pharmacy and require the covered person to seek  
33 reimbursement, if the same requirement is not imposed on a  
34 covered person for a prescription drug dispensed by a mail  
35 order pharmacy.

1 (5) Impose any administrative burden, term, condition,  
2 or requirement related to a covered person electing to use a  
3 retail pharmacy that materially or unreasonably interferes with  
4 the covered person's right to obtain a prescription drug from  
5 the retail pharmacy.

6 3. a. Each pharmacy benefit manager and health carrier  
7 covered by this section shall file an attestation annually with  
8 the commissioner confirming compliance with all provisions of  
9 this section for the preceding calendar year. The attestation  
10 shall include a report that shall fully disclose the amounts,  
11 terms, and conditions relating to copayments, reimbursement  
12 options, and any other payments imposed on covered persons for  
13 prescription drug benefits that the health carrier offers or  
14 the pharmacy benefit manager manages.

15 b. The commissioner shall review and examine records of the  
16 pharmacy benefit manager and the health carrier that support  
17 the attestation and report. The pharmacy benefit manager and  
18 the health carrier shall provide any other records requested by  
19 the commissioner within ten business days of the commissioner's  
20 request.

21 4. The commissioner may take any action within the  
22 commissioner's authority to enforce compliance with this  
23 section and may assess a pharmacy benefit manager and a health  
24 carrier a fine of up to ten thousand dollars for each violation  
25 of subsection 2.

26 5. Failure of a pharmacy benefit manager or of a health  
27 carrier to comply with any provision of this section shall be  
28 an unfair trade practice under section 507B.3, subsection 3.

29 6. A pharmacy benefit manager or a health carrier may appeal  
30 any decision of the commissioner in accordance with chapter  
31 17A.

32 7. The commissioner shall adopt rules pursuant to chapter  
33 17A to administer this section.

34 Sec. 4. Section 514C.5, Code 2019, is amended by striking  
35 the section and inserting in lieu thereof the following:

1     **514C.5 Prescription drug benefits.**

2     1. Notwithstanding the uniformity of treatment requirements  
3 of section 514C.6, a policy, contract, or plan providing for  
4 third-party payment or prepayment of prescription drug benefits  
5 shall not impose any terms, conditions, or requirements upon  
6 a person covered under the policy, contract, or plan for  
7 prescription drugs dispensed by a retail pharmacy which are  
8 different from the terms, conditions, or requirements imposed  
9 for prescription drugs dispensed by a mail order pharmacy.

10    2. This section applies to the following classes of  
11 third-party payment provider policies, contracts, or plans  
12 delivered, issued for delivery, continued, or renewed in this  
13 state on or after January 1, 2020:

14    *a.* Individual or group accident and sickness insurance  
15 providing coverage on an expense-incurred basis.

16    *b.* An individual or group hospital or medical service  
17 contract issued pursuant to chapter 509, 514, or 514A.

18    *c.* An individual or group health maintenance organization  
19 contract regulated under chapter 514B.

20    *d.* A plan established pursuant to chapter 509A for public  
21 employees.

22    3. This section shall not apply to accident-only,  
23 specified disease, short-term hospital or medical, hospital  
24 confinement indemnity, credit, dental, vision, Medicare  
25 supplement, long-term care, basic hospital and medical-surgical  
26 expense coverage as defined by the commissioner, disability  
27 income insurance coverage, coverage issued as a supplement  
28 to liability insurance, workers' compensation or similar  
29 insurance, or automobile medical payment insurance.

30    4. The commissioner of insurance shall adopt rules pursuant  
31 to chapter 17A to administer this section.

32    Sec. 5. APPLICABILITY. The following apply to a health  
33 benefit plan that is delivered, issued for delivery, continued,  
34 or renewed in this state on or after January 1, 2020:

35    The section of this Act enacting requirements for pharmacy

1 benefit managers, retail pharmacies, and participation in  
2 pharmacy benefit manager retail pharmacy networks.

3 EXPLANATION

4 The inclusion of this explanation does not constitute agreement with  
5 the explanation's substance by the members of the general assembly.

6 This bill relates to prescription drug benefits, pharmacies,  
7 and pharmacy benefit managers.

8 The bill provides that if an otherwise qualified retail  
9 pharmacy requests to enter into a contract with a pharmacy  
10 benefit manager to participate in the pharmacy benefit  
11 manager's retail pharmacy network and accepts the pharmacy  
12 benefit manager's standard terms and conditions, the pharmacy  
13 is considered part of the pharmacy benefit manager's retail  
14 pharmacy network for purposes of a covered person's right to  
15 choose where the covered person wants to obtain the covered  
16 person's prescription drugs. The bill prohibits a pharmacy  
17 benefit manager or a health carrier from refusing to accept  
18 an otherwise qualified retail pharmacy as part of a pharmacy  
19 benefit manager's retail pharmacy network.

20 The bill defines a "pharmacy benefit manager" as a person  
21 who, pursuant to a contract or other relationship with a  
22 health carrier, either directly or through an intermediary,  
23 manages a prescription drug benefit provided by the health  
24 carrier. "Pharmacy" is defined in the bill as a location  
25 where prescription drugs are compounded, dispensed, or sold by  
26 a pharmacist and where prescription drug orders are received  
27 or processed in accordance with the pharmacy laws of this  
28 state. "Pharmacy benefit manager's retail pharmacy network"  
29 is defined as retail pharmacies who have contracted with a  
30 pharmacy benefit manager to dispense or sell prescription drugs  
31 to covered persons of a health carrier. "Retail pharmacy"  
32 is defined as a pharmacy that is open to the general public,  
33 dispenses prescription drugs to the general public, and  
34 makes face-to-face consultations available between licensed  
35 pharmacists and the general public.

1 A contractual relationship entered into by an otherwise  
2 qualified retail pharmacy and a pharmacy benefit manager  
3 establishing the otherwise qualified retail pharmacy as part  
4 of the pharmacy benefit manager's retail pharmacy network must  
5 be renewed annually unless otherwise agreed by the retail  
6 pharmacy, the pharmacy benefit manager, and the health carrier.

7 If a pharmacy benefit manager or a health carrier considers  
8 a retail pharmacy not otherwise qualified, the pharmacy benefit  
9 manager or the health carrier may file an appeal relating  
10 to the retail pharmacy's qualifications with the insurance  
11 commissioner. The commissioner shall establish by rule the  
12 standards and requirements necessary for a retail pharmacy to  
13 be deemed "otherwise qualified".

14 If an otherwise qualified retail pharmacy is a part of a  
15 pharmacy benefit manager's retail pharmacy network, the bill  
16 prohibits a pharmacy benefit manager or a health carrier from  
17 imposing certain specific restrictions and conditions on a  
18 covered person who obtains prescriptions from the retail  
19 pharmacy. The commissioner of insurance may assess a pharmacy  
20 benefit manager or a health carrier a fine of up to \$10,000 for  
21 each violation.

22 Each pharmacy benefit manager and health carrier must  
23 file an annual attestation with the commissioner confirming  
24 compliance with all requirements related to retail pharmacies  
25 and the pharmacy benefit manager's retail pharmacy network  
26 for the preceding calendar year, which shall include a report  
27 disclosing certain information as described in the bill. The  
28 commissioner is required to examine the pharmacy benefit  
29 manager's and the health carrier's records supporting the  
30 accuracy and completeness of each report. The pharmacy  
31 benefit manager and health carrier are required to provide any  
32 additional records requested by the commissioner within ten  
33 business days of the commissioner's request.

34 The failure of a pharmacy benefit manager or of a health  
35 carrier to comply with any provision of the section of the



1 bill as described above is made an unfair trade practice under  
2 Code section 507B.3(3). The commissioner is authorized to  
3 take any action within the commissioner's authority to enforce  
4 compliance with this section of the bill and must adopt rules  
5 to administer this section of the bill. A pharmacy benefit  
6 manager or a health carrier may appeal any decision, in  
7 accordance with chapter 17A, of the commissioner under this  
8 section. This section of the bill applies to a health benefit  
9 plan that is delivered, issued for delivery, continued, or  
10 renewed in this state on or after January 1, 2020.

11 The bill also prohibits a policy, contract, or plan  
12 providing for third-party payment or prepayment of prescription  
13 drug benefits from imposing any terms, conditions, or  
14 requirements upon a person covered under the policy, contract,  
15 or plan for prescription drugs dispensed by a retail pharmacy  
16 which are different from the terms, conditions, or requirements  
17 imposed for prescription drugs dispensed by a mail order  
18 pharmacy. This prohibition applies to the following classes  
19 of third-party payment provider policies, contracts, or plans  
20 delivered, issued for delivery, continued, or renewed in this  
21 state on or after January 1, 2020, including individual or  
22 group accident and sickness insurance providing coverage on  
23 an expense-incurred basis; an individual or group hospital  
24 or medical service contract issued pursuant to Code chapter  
25 509, 514, or 514A; an individual or group health maintenance  
26 organization contract regulated under Code chapter 514B; and  
27 a plan established pursuant to Code chapter 509A for public  
28 employees. The prohibition does not apply to accident-only,  
29 specified disease, short-term hospital or medical, hospital  
30 confinement indemnity, credit, dental, vision, Medicare  
31 supplement, long-term care, basic hospital and medical-surgical  
32 expense coverage as defined by the commissioner, disability  
33 income insurance coverage, coverage issued as a supplement  
34 to liability insurance, workers' compensation or similar  
35 insurance, or automobile medical payment insurance. The

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1 commissioner of insurance must adopt rules under Code chapter  
2 17A to administer the requirements established in the bill.