

Senate File 563 - Introduced

SENATE FILE 563
BY COMMITTEE ON HUMAN
RESOURCES

(SUCCESSOR TO SF 347)

A BILL FOR

1 An Act relating to pharmacy benefit managers and health
2 carriers and management of prescription drug benefits, and
3 including applicability provisions.

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

1 Section 1. NEW SECTION. 510C.1 Definitions.

2 As used in this chapter unless the context otherwise
3 requires:

4 1. "*Administrative fees*" means a fee or payment, other than
5 a rebate, under a contract between a pharmacy benefit manager
6 and a pharmaceutical drug manufacturer in connection with the
7 pharmacy benefit manager's management of a health carrier's
8 prescription drug benefit, that is paid by a pharmaceutical
9 drug manufacturer to a pharmacy benefit manager or is retained
10 by the pharmacy benefit manager.

11 2. "*Aggregate retained rebate percentage*" means the
12 percentage of all rebates received by a pharmacy benefit
13 manager that is not passed on to the pharmacy benefit manager's
14 health carrier clients.

15 3. "*Commissioner*" means the commissioner of insurance.

16 4. "*Covered person*" means the same as defined in section
17 514J.102.

18 5. "*Formulary*" means a complete list of prescription drugs
19 eligible for coverage under a health benefit plan.

20 6. "*Health benefit plan*" means the same as defined in
21 section 514J.102.

22 7. "*Health carrier*" means the same as defined in section
23 514J.102.

24 8. "*Health carrier administrative service fee*" means a fee
25 or payment under a contract between a pharmacy benefit manager
26 and a health carrier in connection with the pharmacy benefit
27 manager's administration of the health carrier's prescription
28 drug benefit that is paid by a health carrier to a pharmacy
29 benefit manager or is otherwise retained by a pharmacy benefit
30 manager.

31 9. "*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.

35 10. "*Prescription drug benefit*" means a health benefit

1 plan providing for third-party payment or prepayment for
2 prescription drugs.

3 11. "Rebate" means all discounts and other negotiated price
4 concessions paid directly or indirectly by a pharmaceutical
5 manufacturer or other entity, other than a covered person,
6 in the prescription drug supply chain to a pharmacy benefit
7 manager, and which may be based on any of the following:

8 a. A pharmaceutical manufacturer's list price for a
9 prescription drug.

10 b. Utilization.

11 c. To maintain a net price for a prescription drug for
12 a specified period of time for the pharmacy benefit manager
13 in the event the pharmaceutical manufacturer's list price
14 increases.

15 d. Reasonable estimates of the volume of a prescribed drug
16 that will be dispensed by a pharmacy to covered persons.

17 Sec. 2. NEW SECTION. 510C.2 Annual report to the
18 commissioner.

19 1. Each pharmacy benefit manager shall provide a report
20 annually by February 15 to the commissioner that contains
21 all of the following information regarding prescription drug
22 benefits provided to covered persons of each health carrier
23 with whom the pharmacy manager has contracted during the prior
24 calendar year:

25 a. The aggregate dollar amount of all rebates received by
26 the pharmacy benefit manager.

27 b. The aggregate dollar amount of all administrative fees
28 received by the pharmacy benefit manager.

29 c. The aggregate dollar amount of all health carrier
30 administrative service fees received by the pharmacy benefit
31 manager.

32 d. The aggregate dollar amount of all rebates received by
33 the pharmacy benefit manager that the pharmacy benefit manager
34 did not pass through to the health carrier.

35 e. The aggregate amount of all administrative fees received

1 by the pharmacy benefit manager that the pharmacy benefit
2 manager did not pass through to the health carrier.

3 *f.* The aggregate retained rebate percentage as calculated by
4 dividing the dollar amount in paragraph "d" by the dollar amount
5 in paragraph "a".

6 *g.* Across all health carrier clients with whom the pharmacy
7 manager was contracted, the highest and the lowest aggregate
8 retained rebate percentages.

9 2. *a.* A pharmacy benefit manager shall provide the
10 information pursuant to subsection 1 to the commissioner in a
11 format approved by the commissioner that does not directly or
12 indirectly disclose any of the following:

13 (1) The identity of a specific health carrier.

14 (2) The price charged by a specific pharmaceutical
15 manufacturer for a specific prescription drug or for a class
16 of prescription drugs.

17 (3) The amount of rebates provided for a specific
18 prescription drug or class of prescription drugs.

19 *b.* Information provided under this section by a pharmacy
20 benefit manager to the commissioner that may reveal the
21 identity of a specific health carrier, the price charged
22 by a specific pharmaceutical manufacturer for a specific
23 prescription drug or class of prescription drugs, or the amount
24 of rebates provided for a specific prescription drug or class
25 of prescription drugs shall be considered a confidential record
26 and be recognized and protected as a trade secret pursuant to
27 section 22.7, subsection 3.

28 3. The commissioner shall publish, within sixty calendar
29 days of receipt, the nonconfidential information received by
30 the commissioner on a publicly accessible internet site. The
31 information shall be made available to the public in a format
32 that complies with subsection 2, paragraph "a".

33 **Sec. 3. NEW SECTION. 510C.3 Rules.**

34 The commissioner of insurance shall adopt rules pursuant to
35 chapter 17A as necessary to administer this chapter.

1 Sec. 4. NEW SECTION. **510C.4 Enforcement.**

2 The commissioner may take any action within the
3 commissioner's authority to enforce compliance with this
4 chapter.

5 Sec. 5. NEW SECTION. **510C.5 Applicability.**

6 This chapter is applicable to a health benefit plan that is
7 delivered, issued for delivery, continued, or renewed in this
8 state on or after January 1, 2020.

9 Sec. 6. NEW SECTION. **514M.1 Definitions.**

10 As used in this chapter, unless the context otherwise
11 requires:

12 1. "*Commissioner*" means the commissioner of insurance.

13 2. "*Cost sharing*" means any copayment, coinsurance,
14 deductible, or other out-of-pocket expense requirement.

15 3. "*Covered person*" means the same as defined in section
16 514J.102.

17 4. "*Health benefit plan*" means the same as defined in
18 section 514J.102.

19 5. "*Health carrier*" means the same as defined in section
20 514J.102.

21 6. "*Health carrier cost*" means the amount that a health
22 carrier has contracted with a dispensing pharmacy to pay the
23 dispensing pharmacy for a covered prescription drug, after
24 accounting for rebates, and excluding a covered person's cost
25 sharing.

26 7. "*Pharmacy benefits manager*" means the same as defined in
27 510C.1.

28 8. "*Prescription drug benefit*" means the same as defined in
29 section 510C.1.

30 9. "*Rebate*" means any of the following:

31 a. A negotiated price concession for a prescription
32 drug that may accrue directly or indirectly to a health
33 carrier during a health benefit plan coverage year from a
34 pharmaceutical manufacturer, a dispensing pharmacy, or from
35 another entity in the prescription drug supply chain taking

1 part in a transaction involving a pharmaceutical manufacturer's
2 prescription drug and which may be based on any of the
3 following:

4 (1) A pharmaceutical manufacturer's list price for a
5 prescription drug.

6 (2) Patient outcomes.

7 (3) A reasonable estimate of price concessions necessary
8 to maintain the net price of a prescription drug for the
9 health carrier for a specified period of time in the event the
10 pharmaceutical manufacturer's list price increases.

11 *b.* A reasonable estimate of fees and other administrative
12 costs that are passed through to the health carrier by the
13 pharmaceutical manufacturer.

14 10. "*Trade secret*" means the same as defined in section
15 550.2.

16 Sec. 7. NEW SECTION. 514M.2 **Cost sharing — prescription**
17 **drug benefit.**

18 1. If a health carrier provides prescription drug benefits
19 to a covered person under a health benefit plan, the health
20 carrier shall reduce any cost sharing requirement for a
21 prescription drug for the covered person by an amount equal to
22 the greater of the following:

23 *a.* A dollar amount that equals not less than fifty-one
24 percent of the aggregate rebates received by the health
25 carrier.

26 *b.* An amount that ensures that the covered person's cost
27 sharing for the prescription drug does not exceed fifty-one
28 percent of the health carrier's cost for the prescription drug.

29 2. A health carrier or health benefit plan may reduce a
30 covered person's cost sharing by an amount greater than the
31 amount required pursuant to subsection 1.

32 3. In complying with this section, a health carrier and
33 the health carrier's agents shall not publish or otherwise
34 disclose, directly or indirectly, any information regarding
35 the actual amount of rebates the health carrier receives for

1 a specific prescription drug, from a specific pharmaceutical
2 manufacturer, or from a specific pharmacy. Rebate information
3 is a trade secret under chapter 550 and is a confidential
4 record under section 22.7, subsection 3.

5 4. A health carrier shall have a written agreement with
6 any third-party vendor or downstream entity requiring the
7 third-party vendor or downstream entity to comply with
8 subsection 3 if the third-party vendor or downstream entity
9 receives or has access to the health carrier's rebate
10 information in the course of performing any health care or
11 administrative services on behalf of the health carrier.

12 Sec. 8. NEW SECTION. 514M.3 Rules.

13 The commissioner of insurance shall adopt rules pursuant to
14 chapter 17A as necessary to administer this chapter.

15 Sec. 9. NEW SECTION. 514M.4 Enforcement.

16 The commissioner may take any action within the
17 commissioner's authority to enforce compliance with this
18 chapter.

19 Sec. 10. NEW SECTION. 514M.5 Applicability.

20 This chapter is applicable to a health benefit plan that is
21 delivered, issued for delivery, continued, or renewed in this
22 state on or after January 1, 2020.

23 EXPLANATION

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

26 This bill relates to pharmacy benefit managers, health
27 carriers, and the management of prescription drug benefits.

28 The bill requires a pharmacy benefit manager to submit
29 an annual report to the insurance commissioner that provides
30 information on prescription drug prices and rebates received by
31 the pharmacy benefit manager. The information is required to
32 cover the prior calendar year and encompass prescription drug
33 benefits provided to covered persons of each health carrier
34 with whom the pharmacy benefit manager was contracted during
35 that calendar year. "Pharmacy benefits manager" is defined

1 in the bill as a person who, pursuant to a contract or an
2 employment relationship with a health carrier, either directly
3 or through an affiliate or intermediary, manages a prescription
4 drug benefit provided by the health carrier. The bill defines
5 a "health carrier" as an entity subject to the insurance laws
6 and regulations of this state, or subject to the jurisdiction
7 of the commissioner, including an insurance company offering
8 sickness and accident plans, a health maintenance organization,
9 a nonprofit health service corporation, a plan established
10 pursuant to Code chapter 509A for public employees, or any
11 other entity providing a plan of health insurance, health care
12 benefits, or health care services.

13 The commissioner is required to make the information
14 provided by the pharmacy benefit managers available on a
15 publicly accessible internet site. The bill prohibits the
16 pharmacy benefits manager or the commissioner from providing
17 the information in a manner that identifies a specific
18 health carrier, a specific price charged by a pharmaceutical
19 manufacturer, or the amount of rebates received by a pharmacy
20 benefit manager for a specific drug or class of drug. If
21 information submitted to the commissioner by the pharmacy
22 benefits manager does contain any of these details, the
23 information is deemed confidential and proprietary and is a
24 confidential record pursuant to Code chapter 22.

25 The bill prohibits a health carrier from imposing a cost
26 sharing requirement on a covered person for a prescription
27 drug that exceeds an amount equal to the greater of either the
28 dollar amount of 51 percent or more of the aggregate rebates
29 received by the health carrier, or an amount that ensures that
30 the covered person's cost sharing for the prescription drug
31 shall not exceed 51 percent of the health carrier's cost for
32 the prescription drug. "Covered person" is defined in the bill
33 as a policyholder, subscriber, enrollee, or other individual
34 participating in a health benefit plan.

35 A health carrier is prohibited from disclosing any

1 information regarding the actual amount of rebates the health
2 carrier received for a specific drug, or from a specific
3 pharmaceutical manufacturer, or from a specific pharmacy
4 in order to comply with the cost sharing requirement.

5 Rebate information is protected as a trade secret and is a
6 confidential record. A health carrier is also required to have
7 an agreement with the health carrier's third-party vendors and
8 downstream entities as necessary to ensure the information is
9 protected as a trade secret.

10 The bill requires the commissioner of insurance to adopt
11 rules as necessary to administer the provisions of the bill.
12 The bill also allows the commissioner to take any action within
13 the commissioner's authority to enforce compliance with the
14 provisions of the bill.

15 The bill is applicable to health benefit plans that are
16 delivered, issued for delivery, continued, or renewed in this
17 state on or after January 1, 2020.