

House File 2401 - Introduced

HOUSE FILE 2401
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 640)

A BILL FOR

1 An Act relating to pharmacy benefits managers, pharmacies,
2 and prescription drug pricing, and providing applicability
3 provisions.

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

1 Section 1. Section 510B.1, Code 2024, is amended by adding
2 the following new subsections:

3 NEW SUBSECTION. 11A. *“Pass-through pricing”* means a
4 model of prescription drug pricing in which payments made
5 by a third-party payor to a pharmacy benefits manager for
6 prescription drugs are any of the following:

7 a. Equivalent to the payments the pharmacy benefits manager
8 makes to the dispensing pharmacy or dispensing health care
9 provider for the prescription drugs, including any professional
10 dispensing fee.

11 b. Passed through by the third-party payor or by the
12 pharmacy benefits manager to the dispensing pharmacy or
13 dispensing health provider, and the payments are not offset by
14 any reconciliation.

15 NEW SUBSECTION. 21A. *“Spread pricing”* means a model of
16 prescription drug pricing in which a pharmacy benefits manager
17 charges a third-party payor more for prescription drugs
18 dispensed to a covered person than the amount the pharmacy
19 benefits manager reimburses the pharmacy for dispensing the
20 prescription drugs to a covered person.

21 Sec. 2. Section 510B.4, Code 2024, is amended by adding the
22 following new subsection:

23 NEW SUBSECTION. 4. A pharmacy benefits manager, health
24 carrier, health benefit plan, or third-party payor shall not
25 discriminate against a pharmacy or a pharmacist with respect to
26 participation, referral, reimbursement of a covered service,
27 or indemnification if a pharmacist is acting within the scope
28 of the pharmacist’s license and the pharmacy is operating in
29 compliance with all applicable laws and rules.

30 Sec. 3. NEW SECTION. 510B.8D **Pharmacy benefits manager**
31 **contracts — spread pricing.**

32 1. All contracts executed, amended, adjusted, or renewed
33 on or after July 1, 2024, that apply to prescription drug
34 benefits on or after January 1, 2025, between a pharmacy
35 benefits manager and a third-party payor, or between a person

1 and a third-party payor, shall include all of the following
2 requirements:

3 *a.* The pharmacy benefits manager shall use pass-through
4 pricing unless paragraph “*b*” applies.

5 *b.* The pharmacy benefits manager may use direct or indirect
6 spread pricing only if the difference between the amount the
7 third-party payor pays the pharmacy benefits manager for a
8 prescription drug and the amount the pharmacy benefits manager
9 reimburses the dispensing pharmacy or dispensing health care
10 provider for the prescription drug is passed through by the
11 pharmacy benefits manager to the person contracted to receive
12 third-party payor services.

13 *c.* Payments received by a pharmacy benefits manager for
14 services provided by the pharmacy benefits manager to a
15 third-party payor or to a pharmacy shall be used or distributed
16 pursuant to the pharmacy benefits manager’s contract with
17 the third-party payor or with the pharmacy, or as otherwise
18 required by law.

19 2. Unless otherwise prohibited by law, subsection 1 shall
20 supersede any contractual terms to the contrary in any contract
21 executed, amended, adjusted, or renewed on or after July 1,
22 2024, that applies to prescription drug benefits on or after
23 January 1, 2025, between a pharmacy benefits manager and a
24 third-party payor, or between a person and a third-party payor.

25 Sec. 4. NEW SECTION. 510B.8E Appeals and disputes.

26 1. A pharmacy benefits manager shall provide a reasonable
27 process to allow a pharmacy to appeal a maximum allowable cost
28 or reimbursement rate for a specific prescription drug for any
29 of the following reasons:

30 *a.* The pharmacy benefits manager violated section 510B.8A.

31 *b.* The maximum allowable cost or the reimbursement rate is
32 below the pharmacy acquisition cost.

33 2. The appeals process must include all of the following:

34 *a.* A dedicated telephone number at which a pharmacy may
35 contact the pharmacy benefits manager and speak directly with

1 an individual who is involved with the appeals process.

2 *b.* A dedicated electronic mail address or internet site for
3 the purpose of submitting an appeal directly to the pharmacy
4 benefits manager.

5 *c.* A period of no less than thirty business days after the
6 date of a pharmacy's initial submission of a clean claim during
7 which the pharmacy may initiate an appeal.

8 3. The pharmacy benefits manager shall respond to an appeal
9 within seven business days after the date on which the pharmacy
10 benefits manager receives the appeal.

11 *a.* If the pharmacy benefits manager grants a pharmacy's
12 appeal, the pharmacy benefits manager shall do all of the
13 following:

14 (1) Adjust the maximum allowable cost or the reimbursement
15 rate of the prescription drug that is the subject of the appeal
16 and provide the national drug code number that the adjustment
17 is based on to the appealing pharmacy.

18 (2) Permit the appealing pharmacy to reverse and resubmit
19 the claim that is the subject of the appeal.

20 (3) Make the adjustment pursuant to subparagraph (1)
21 applicable to all of the following:

22 (a) Each pharmacy that is under common ownership with the
23 pharmacy that submitted the appeal.

24 (b) Each pharmacy in the state that demonstrates the
25 inability to purchase the prescription drug for less than the
26 established maximum allowable cost or reimbursement rate.

27 *b.* If the pharmacy benefits manager denies a pharmacy's
28 appeal, the pharmacy benefits manager shall do all of the
29 following:

30 (1) Provide the appealing pharmacy the national drug
31 code number and the name of a wholesale distributor licensed
32 pursuant to section 155A.17 from which the pharmacy can obtain
33 the prescription drug at or below the maximum allowable cost
34 or reimbursement rate.

35 (2) If the prescription drug identified by the national drug

1 code number provided by the pharmacy benefits manager pursuant
2 to subparagraph (1) is not available below the pharmacy
3 acquisition cost from the wholesale distributor from whom the
4 pharmacy purchases the majority of its prescription drugs for
5 resale, the pharmacy benefits manager shall adjust the maximum
6 allowable cost or the reimbursement rate above the appealing
7 pharmacy's pharmacy acquisition cost, and permit the pharmacy
8 to reverse and resubmit each claim affected by the pharmacy's
9 inability to procure the prescription drug at a cost that is
10 equal to or less than the previously appealed maximum allowable
11 cost or the reimbursement rate.

12 Sec. 5. APPLICABILITY. This Act applies to pharmacy
13 benefits managers that manage a prescription drug benefit in
14 the state on or after July 1, 2024.

15 EXPLANATION

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

18 This bill relates to pharmacy benefits managers (PBMs),
19 pharmacies, and prescription drug pricing.

20 The bill prohibits a PBM from discriminating against
21 a pharmacy or a pharmacist with regards to participation,
22 referral, reimbursement of a covered service, or
23 indemnification if a pharmacist acts within the scope of
24 the pharmacist's license and the pharmacy is operating in
25 accordance with all applicable laws and rules.

26 The bill requires all contracts executed, amended, adjusted,
27 or renewed on or after July 1, 2024, which are applicable
28 to prescription drug benefits on or after January 1, 2025,
29 between a PBM and a third-party payor, or between a person
30 and a third-party payor, to use a pass-through pricing model;
31 to exclude terms that allow for spread pricing unless the
32 entire amount of the difference caused by spread pricing is
33 passed through by the pharmacy benefits manager; and to ensure
34 that payments received in relation to providing services to
35 a third-party payor or a pharmacy are used or distributed

1 pursuant to the PBM's contract with the third-party payor or
2 with the pharmacy, or as otherwise required. "Pass-through
3 pricing" and "spread pricing" are defined in the bill.

4 The bill requires a PBM to provide a process for pharmacies
5 to appeal a maximum allowable cost, or a reimbursement made
6 under a maximum allowable cost list. The requirements for the
7 appeal process are detailed in the bill.

8 The bill applies to pharmacy benefits managers that manage
9 a prescription drug benefit in the state on or after July 1,
10 2024.