

**House File 2384 - Reprinted**

HOUSE FILE 2384  
BY COMMITTEE ON COMMERCE

(SUCCESSOR TO HSB 623)

(As Amended and Passed by the House March 23, 2022)

**A BILL FOR**

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

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

1 Section 1. Section 505.26, subsection 1, paragraph b, Code  
2 2022, is amended to read as follows:

3 *b. "Pharmacy benefits manager"* means the same as defined in  
4 section ~~510B.1~~ 510C.1.

5 Sec. 2. Section 507B.4, subsection 3, Code 2022, is amended  
6 by adding the following new paragraph:

7 NEW PARAGRAPH. *t. Pharmacy benefits managers.* Any  
8 violation of chapter 510B by a pharmacy benefits manager.

9 Sec. 3. Section 510B.1, Code 2022, is amended by striking  
10 the section and inserting in lieu thereof the following:

11 **510B.1 Definitions.**

12 As used in this chapter, unless the context otherwise  
13 requires:

14 1. "*Clean claim*" means a claim that has no defect or  
15 impropriety, including a lack of any required substantiating  
16 documentation, or other circumstances requiring special  
17 treatment, that prevents timely payment from being made on the  
18 claim.

19 2. "*Commissioner*" means the commissioner of insurance.

20 3. "*Cost-sharing*" means any coverage limit, copayment,  
21 coinsurance, deductible, or other out-of-pocket cost obligation  
22 imposed by a health benefit plan on a covered person.

23 4. "*Covered person*" means a policyholder, subscriber, or  
24 other person participating in a health benefit plan that has  
25 a prescription drug benefit managed by a pharmacy benefits  
26 manager.

27 5. "*Health benefit plan*" means the same as defined in  
28 section 514J.102.

29 6. "*Health care professional*" means the same as defined in  
30 section 514J.102.

31 7. "*Health carrier*" means an entity subject to the  
32 insurance laws and regulations of this state, or subject  
33 to the jurisdiction of the commissioner, including an  
34 insurance company offering sickness and accident plans, a  
35 health maintenance organization, a nonprofit health service

1 corporation, a plan established pursuant to chapter 509A  
2 for public employees, or any other entity providing a plan  
3 of health insurance, health care benefits, or health care  
4 services. "Health carrier" does not include the department  
5 of human services, or a managed care organization acting  
6 pursuant to a contract with the department of human services to  
7 administer the medical assistance program under chapter 249A  
8 or the healthy and well kids in Iowa (hawk-i) program under  
9 chapter 514I.

10 8. "Maximum allowable cost" means the maximum amount that a  
11 pharmacy will be reimbursed by a pharmacy benefits manager or a  
12 health carrier for a generic drug, brand-name drug, biologic  
13 product, or other prescription drug, and that may include any  
14 of the following:

- 15 a. Average acquisition cost.
- 16 b. National average acquisition cost.
- 17 c. Average manufacturer price.
- 18 d. Average wholesale price.
- 19 e. Brand effective rate.
- 20 f. Generic effective rate.
- 21 g. Discount indexing.
- 22 h. Federal upper limits.
- 23 i. Wholesale acquisition cost.
- 24 j. Any other term used by a pharmacy benefits manager or a  
25 health carrier to establish reimbursement rates for a pharmacy.

26 9. "Maximum allowable cost list" means a list of  
27 prescription drugs that includes the maximum allowable cost  
28 for each prescription drug and that is used, directly or  
29 indirectly, by a pharmacy benefits manager.

30 10. "Pharmacist" means the same as defined in section  
31 155A.3.

32 11. "Pharmacy" means the same as defined in section 155A.3.

33 12. "Pharmacy acquisition cost" means the cost to a  
34 pharmacy for a prescription drug as invoiced by a wholesale  
35 distributor, and reduced by any discounts, rebates, or other

1 price concessions applicable to the prescription drug that are  
2 not shown on the invoice and are known at the time that the  
3 pharmacy files an appeal with a pharmacy benefits manager.

4 13. "*Pharmacy benefits manager*" means the same as defined  
5 in section 510C.1.

6 14. "*Pharmacy benefits manager affiliate*" means a pharmacy or  
7 a pharmacist that directly or indirectly through one or more  
8 intermediaries, owns or controls, is owned and controlled by,  
9 or is under common ownership or control of, a pharmacy benefits  
10 manager.

11 15. "*Pharmacy network*" or "*network*" means pharmacies that  
12 have contracted with a pharmacy benefits manager to dispense  
13 or sell prescription drugs to covered persons of a health  
14 benefit plan for which the pharmacy benefits manager manages  
15 the prescription drug benefit.

16 16. "*Prescription drug*" means the same as defined in section  
17 155A.3.

18 17. "*Prescription drug benefit*" means the same as defined  
19 in section 510C.1.

20 18. "*Prescription drug order*" means the same as defined in  
21 section 155A.3.

22 19. "*Rebate*" means the same as defined in section 510C.1.

23 20. "*Wholesale distributor*" means the same as defined in  
24 section 155A.3.

25 Sec. 4. Section 510B.4, Code 2022, is amended to read as  
26 follows:

27 **510B.4 Performance of duties — good faith — conflict of**  
28 **interest.**

29 1. A pharmacy benefits manager shall ~~perform the pharmacy~~  
30 ~~benefits manager's duties exercising~~ exercise good faith and  
31 fair dealing in the performance of ~~its~~ the pharmacy benefits  
32 manager's contractual obligations toward ~~the covered entity a~~  
33 health carrier.

34 2. A pharmacy benefits manager shall notify ~~the covered~~  
35 ~~entity~~ a health carrier in writing of any activity, policy,

1 practice ownership interest, or affiliation of the pharmacy  
2 benefits manager that presents any conflict of interest.

3 3. A pharmacy benefits manager shall act in the best  
4 interest of each health carrier for whom the pharmacy benefits  
5 manager manages a prescription drug benefit provided by the  
6 health carrier, and shall discharge its duties in accordance  
7 with applicable state and federal law.

8 4. A pharmacy benefits manager, health carrier, or health  
9 benefit plan shall not discriminate against a pharmacy  
10 or a pharmacist with respect to participation, referral,  
11 reimbursement of a covered service, or indemnification if a  
12 pharmacist is acting within the scope of the pharmacist's  
13 license.

14 Sec. 5. Section 510B.5, Code 2022, is amended to read as  
15 follows:

16 **510B.5 Contacting covered ~~individual~~ persons — requirements.**

17 A pharmacy benefits manager, unless authorized pursuant to  
18 the terms of its contract with a ~~covered entity~~ health carrier,  
19 shall not contact any covered ~~individual~~ person without  
20 the express written permission of the ~~covered entity~~ health  
21 carrier.

22 Sec. 6. Section 510B.6, Code 2022, is amended to read as  
23 follows:

24 **510B.6 ~~Dispensing of substitute~~ Substitute prescription drug**  
25 **~~for prescribed drug drugs.~~**

26 1. The following provisions shall apply ~~when~~ if a pharmacy  
27 benefits manager requests the dispensing of a substitute  
28 prescription drug for a ~~prescribed drug~~ to prescribed for a  
29 covered individual person:

30 a. The pharmacy benefits manager may request the  
31 substitution of a lower priced generic and therapeutically  
32 equivalent prescription drug for a higher priced ~~prescribed~~  
33 prescription drug.

34 b. If the substitute prescription drug's net cost to the  
35 covered ~~individual~~ person or ~~covered entity~~ to the health

1 carrier exceeds the cost of the ~~prescribed~~ prescription drug  
2 originally prescribed for the covered person, the substitution  
3 shall be made only for medical reasons that benefit the covered  
4 individual person.

5 2. A pharmacy benefits manager shall obtain the approval of  
6 the prescribing ~~practitioner~~ health care professional prior to  
7 requesting any substitution under this section.

8 3. A pharmacy benefits manager shall not substitute an  
9 equivalent prescription drug contrary to a prescription drug  
10 order that prohibits a substitution.

11 Sec. 7. Section 510B.7, Code 2022, is amended by striking  
12 the section and inserting in lieu thereof the following:

13 **510B.7 Pharmacy networks.**

14 1. A pharmacy located in the state shall not be prohibited  
15 from participating in a pharmacy network provided that the  
16 pharmacy accepts the same terms and conditions as the pharmacy  
17 benefits manager imposes on the pharmacies in the network.

18 2. A pharmacy benefits manager shall not assess, charge, or  
19 collect any form of remuneration that passes from a pharmacy  
20 or a pharmacist in a pharmacy network to the pharmacy benefits  
21 manager including but not limited to claim processing fees,  
22 performance-based fees, network participation fees, or  
23 accreditation fees.

24 Sec. 8. Section 510B.8, Code 2022, is amended by striking  
25 the section and inserting in lieu thereof the following:

26 **510B.8 Prescription drugs — point of sale.**

27 1. A covered person shall not be required to make a  
28 cost-sharing payment at the point of sale for a prescription  
29 drug in an amount that exceeds the total amount that the  
30 pharmacy at which the covered person fills the covered person's  
31 prescription drug order is reimbursed.

32 2. A pharmacy benefits manager shall not prohibit a pharmacy  
33 from disclosing the availability of a lower-cost prescription  
34 drug option to a covered person, or from selling a lower-cost  
35 prescription drug option to a covered person.

1 3. Any amount paid by a covered person for a prescription  
2 drug purchased pursuant to this section shall be applied to any  
3 deductible imposed by the covered person's health benefit plan  
4 in accordance with the health benefit plan coverage documents.

5 4. A covered person shall not be prohibited from filling  
6 a prescription drug order at any pharmacy located in the  
7 state provided that the pharmacy accepts the same terms and  
8 conditions as the pharmacies participating in the covered  
9 person's health benefit plan's network.

10 5. Excluding incentives in value-based programs established  
11 by a health carrier or a pharmacy benefits manager to promote  
12 the use of higher quality pharmacies, a pharmacy benefits  
13 manager shall not impose different cost-sharing or additional  
14 fees on a covered person based on the pharmacy at which the  
15 covered person fills the covered person's prescription drug  
16 order.

17 6. A pharmacy benefits manager shall not require a covered  
18 person, as a condition of payment or reimbursement, to purchase  
19 pharmacy services, including prescription drugs, exclusively  
20 through a mail-order pharmacy.

21 7. *a.* For purposes of calculating a covered person's  
22 contribution toward the covered person's cost-sharing, a  
23 pharmacy benefits manager shall include all cost-sharing paid  
24 by the covered person and all cost-sharing paid by any other  
25 person on behalf of the covered person.

26 *b.* If application of paragraph "a" will result in health  
27 savings account ineligibility under section 223 of the Internal  
28 Revenue Code, paragraph "a" shall only apply to the covered  
29 person's deductible for a health savings account qualified-high  
30 deductible health plan after the covered person has satisfied  
31 the minimum deductible under section 223 of the Internal  
32 Revenue Code, except for items or services that are preventive  
33 care, in which case, the requirement shall apply regardless of  
34 if the minimum deductible under section 223 of the Internal  
35 Revenue Code has been satisfied. For purposes of this section,

1 *“preventive care”* means the same as under section 223(c)(2)(C)  
2 of the Internal Revenue Code.

3 c. Paragraph *“a”* shall not apply to cost-sharing paid by  
4 a covered person, or to cost-sharing paid by any other person  
5 on behalf of the covered person, for a specialty drug or for  
6 a prescription drug for which a medically appropriate A-rated  
7 generic equivalent or an interchangeable biological product is  
8 available to the covered person.

9 d. Paragraph *“a”* shall not apply to a state-regulated  
10 high-deductible health plan to the extent application  
11 of paragraph *“a”* will result in the state-regulated  
12 high-deductible health plan not qualifying as a high-deductible  
13 health plan under section 223 of the Internal Revenue Code.

14 e. If paragraph *“a”* conflicts with a federal law or a  
15 federal regulation as applied to a specific health carrier or  
16 to a specific circumstance, paragraph *“a”* shall apply to all  
17 health carriers and in all circumstances in which the federal  
18 law or federal regulation does not conflict.

19 Sec. 9. NEW SECTION. 510B.8A **Maximum allowable cost lists.**

20 1. Prior to placement of a particular prescription drug on a  
21 maximum allowable cost list, a pharmacy benefits manager shall  
22 ensure that all of the following requirements are met:

23 a. The particular prescription drug must be listed as  
24 therapeutically and pharmaceutically equivalent in the most  
25 recent edition of the publication entitled *“Approved Drug  
26 Products with Therapeutic Equivalence Evaluations”*, published  
27 by the United States food and drug administration, otherwise  
28 known as the orange book.

29 b. The particular prescription drug must not be obsolete or  
30 temporarily unavailable.

31 c. The particular prescription drug must be available for  
32 purchase, without limitations, by all pharmacies in the state  
33 from a national or regional wholesale distributor that is  
34 licensed in the state.

35 2. For each maximum allowable cost list that a pharmacy



1 benefits manager uses in the state, the pharmacy benefits  
2 manager shall do all of the following:

3     *a.* Provide each pharmacy in a pharmacy network reasonable  
4 access to the maximum allowable cost list to which the pharmacy  
5 is subject.

6     *b.* Update the maximum allowable cost list within seven  
7 calendar days from the date of an increase of ten percent or  
8 more in the pharmacy acquisition cost of a prescription drug on  
9 the list by one or more wholesale distributors doing business  
10 in the state.

11     *c.* Update the maximum allowable cost list within seven  
12 calendar days from the date of a change in the methodology, or  
13 a change in the value of a variable applied in the methodology,  
14 on which the maximum allowable cost list is based.

15     *d.* Provide a reasonable process for each pharmacy in a  
16 pharmacy network to receive prompt notice of all changes to the  
17 maximum allowable cost list to which the pharmacy is subject.

18     Sec. 10. NEW SECTION. **510B.8C Pharmacy benefits manager**  
19 **affiliates — reimbursement.**

20     A pharmacy benefits manager shall not reimburse any pharmacy  
21 located in the state in an amount less than the amount that  
22 the pharmacy benefits manager reimburses a pharmacy benefits  
23 manager affiliate for dispensing the same prescription drug  
24 as dispensed by the pharmacy. The reimbursement amount shall  
25 be calculated on a per unit basis based on the same generic  
26 product identifier or generic code number.

27     Sec. 11. NEW SECTION. **510B.8D Clean claims.**

28     After the date of receipt of a clean claim submitted by a  
29 pharmacy in a pharmacy network, a pharmacy benefits manager  
30 shall not retroactively reduce payment on the claim, either  
31 directly or indirectly except in the following circumstances:

32     *a.* The claim is found not to be a clean claim during the  
33 course of a routine audit.

34     *b.* The claim submission was fraudulent.

35     *c.* The claim submission was a duplicate submission of a

1 claim for which the pharmacy had already received payment.

2 Sec. 12. NEW SECTION. 510B.8E Appeals and disputes.

3 1. A pharmacy benefits manager shall provide a reasonable  
4 process to allow a pharmacy to appeal a maximum allowable cost  
5 or reimbursement rate for a specific prescription drug for any  
6 of the following reasons:

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

8 b. The maximum allowable cost or the reimbursement rate is  
9 below the pharmacy acquisition cost.

10 2. The appeal process must include all of the following:

11 a. A dedicated telephone number at which a pharmacy may  
12 contact the pharmacy benefits manager and speak directly with  
13 an individual involved in the appeal process.

14 b. A dedicated electronic mail address or internet site for  
15 the purpose of submitting an appeal directly to the pharmacy  
16 benefits manager.

17 c. A period of at least thirty business days after the date  
18 of a pharmacy's initial submission of a clean claim during  
19 which the pharmacy may initiate an appeal.

20 3. A pharmacy benefits manager shall respond to an appeal  
21 within seven business days after the date on which the pharmacy  
22 benefits manager receives the appeal.

23 a. If the pharmacy benefits manager grants a pharmacy's  
24 appeal, the pharmacy benefits manager shall do all of the  
25 following:

26 (1) Adjust the maximum allowable cost or the reimbursement  
27 rate of the prescription drug that is the subject of the appeal  
28 and provide the national drug code number that the adjustment  
29 is based on to the appealing pharmacy.

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

32 (3) Make the adjustment pursuant to subparagraph (1)  
33 applicable to all of the following:

34 (a) Each pharmacy that is under common ownership with the  
35 pharmacy that submitted the appeal.

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

4 b. If the pharmacy benefits manager denies a pharmacy's  
5 appeal, the pharmacy benefits manager shall do all of the  
6 following:

7 (1) Provide the appealing pharmacy the national drug  
8 code number and the name of a wholesale distributor licensed  
9 pursuant to section 155A.17 from which the pharmacy can obtain  
10 the prescription drug at or below the maximum allowable cost  
11 or reimbursement rate.

12 (2) If the prescription drug identified by the national drug  
13 code number provided by the pharmacy benefits manager pursuant  
14 to subparagraph (1) is not available below the pharmacy  
15 acquisition cost from the wholesale distributor from whom the  
16 pharmacy purchases the majority of its prescription drugs for  
17 resale, the pharmacy benefits manager shall adjust the maximum  
18 allowable cost or the reimbursement rate above the appealing  
19 pharmacy's pharmacy acquisition cost, and permit the pharmacy  
20 to reverse and resubmit each claim affected by the pharmacy's  
21 inability to procure the prescription drug at a cost that is  
22 equal to or less than the previously appealed maximum allowable  
23 cost or the reimbursement rate.

24 Sec. 13. Section 510B.9, Code 2022, is amended to read as  
25 follows:

26 **510B.9 ~~Submission, approval, and use of prior~~ Prior**  
27 **~~authorization form.~~**

28 A pharmacy benefits manager shall ~~file with and have~~  
29 ~~approved by the commissioner a single prior authorization~~  
30 ~~form as provided in section 505.26 comply with all applicable~~  
31 ~~prior authorization requirements pursuant to section 505.26.~~  
32 ~~A pharmacy benefits manager shall use the single prior~~  
33 ~~authorization form as provided in section 505.26.~~

34 Sec. 14. Section 510B.10, Code 2022, is amended by striking  
35 the section and inserting in lieu thereof the following:

1     **510B.10 Enforcement.**

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

5     2. After notice and hearing, the commissioner may issue any  
6 order or impose any penalty pursuant to section 507B.7, and may  
7 suspend or revoke a pharmacy benefits manager's certificate  
8 of registration as a third-party administrator upon a finding  
9 that the pharmacy benefits manager violated this chapter,  
10 or any applicable requirements pertaining to third-party  
11 administrators under chapter 510.

12    3. A pharmacy benefits manager shall be subject to the  
13 commissioner's authority to conduct an examination pursuant to  
14 chapter 507.

15    4. A pharmacy benefits manager is subject to the  
16 commissioner's authority to conduct a proceeding pursuant  
17 to chapter 507B. The procedures set forth in chapter 507B  
18 regarding proceedings shall apply to a proceeding related to a  
19 pharmacy benefits manager under this chapter.

20    5. A pharmacy benefits manager is subject to the  
21 commissioner's authority to conduct an examination, audit,  
22 or inspection pursuant to chapter 510 for third-party  
23 administrators. The procedures set forth in chapter 510 for  
24 third-party administrators shall apply to an examination,  
25 audit, or inspection of a pharmacy benefits manager under this  
26 chapter.

27    6. If the commissioner conducts an examination of a pharmacy  
28 benefits manager under chapter 507; a proceeding under chapter  
29 507B; or an examination, audit, or inspection under chapter  
30 510, all information received from the pharmacy benefits  
31 manager, and all notes, work papers, or other documents related  
32 to the examination, proceeding, audit, or inspection shall  
33 be confidential records pursuant to chapter 22 and shall be  
34 accorded the same confidentiality as notes, work papers,  
35 investigatory materials, or other documents related to the

1 examination of an insurer as provided in section 507.14.

2 7. A violation of this chapter shall be an unfair or  
3 deceptive act or practice in the business of insurance pursuant  
4 to section 507B.4, subsection 3.

5 Sec. 15. NEW SECTION. **510B.11 Rules.**

6 The commissioner may adopt rules pursuant to chapter 17A to  
7 administer this chapter.

8 Sec. 16. NEW SECTION. **510B.12 Severability.**

9 If a provision of this chapter or its application to any  
10 person or circumstance is held invalid, the invalidity does  
11 not affect other provisions or applications of this chapter  
12 which can be given effect without the invalid provision or  
13 application, and to this end the provisions of this chapter are  
14 severable.

15 Sec. 17. REPEAL. Section 510B.3, Code 2022, is repealed.

16 Sec. 18. APPLICABILITY. 1. This Act applies to pharmacy  
17 benefits managers that manage a health carrier's prescription  
18 drug benefit in the state on or after the effective date of  
19 this Act.

20 2. The following applies to all health benefit plans  
21 delivered, issued for delivery, continued, or renewed in this  
22 state on or after January 1, 2023:

23 The section of this Act amending section 510B.8, subsection  
24 7.