SENATE FILE 554
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SF 284)

(As Amended and Passed by the Senate April 24, 2023)

_____ and [= New Language by the Senate

* = Language Stricken by the Senate

A BILL FOR

An Act relating to pharmacy benefits manager reverse auctions and group insurance, and annual reporting by pharmacy benefits managers.

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

Section 1. NEW SECTION. **8A.319 Pharmacy benefits manager reverse auctions.**

1. This section may be cited as *"The Iowa Competitive Pharmacy Benefits Managers Marketplace Act"*.

2. As used in this section, unless the context otherwise requires:

a. "Market check" means a technology-driven evaluation of an incumbent pharmacy benefits manager's prescription drug pricing based on benchmark comparators derived from pharmacy benefits manager reverse auction processes conducted in the United States over the immediately preceding twelve months.

b. "Participant bidding agreement" means an online agreement that details common definitions, prescription drug classifications, rules, data access and use rights, and other optimal contract terms that benefit the state and that all bidders must accept as a prerequisite for participation in a pharmacy benefits manager reverse auction.

c. "Pharmacy benefits manager" means the same as defined in section 510B.1.

d. "Pharmacy benefits manager reverse auction" means an automated, transparent, and competitive bidding process conducted online that starts with an opening round of bids and allows qualified pharmacy benefits manager bidders to counteroffer a lower price for as many rounds of bidding as determined by the department for a multiple health plan prescription drug purchasing group.

e. "Price" means the projected cost of a pharmacy benefits manager's bid to provide prescription drug benefits to allow direct comparison of the comparably calculated costs of competing pharmacy benefits managers' proposals over the duration of the pharmacy benefits manager's services contract.

f. "Real-time" means within no more than one hour.

g. "Self-funded private sector health plan" means any self-funded private sector employer or multi-employer health plan.

h. "Self-funded public sector health plan" means any group benefit plan under chapter 509A.

3. Consistent with section 8A.311, and notwithstanding any other law to the contrary, the department shall enter into a contract for the services of a pharmacy benefits manager for the administration of benefits of self-funded public sector health plans in compliance with this section.

4. Prior to November 1, 2023, the department shall procure, through solicitation of proposals from qualified professional services vendors, all of the following based on price, capabilities, and other factors deemed relevant by the department:

a. A technology platform with the capabilities to conduct a pharmacy benefits manager reverse auction. The department shall ensure that the technology platform possesses, at a minimum, the capacity to do all of the following:

(1) Conduct an automated, online, reverse auction of pharmacy benefits manager services using a software application and high-performance data infrastructure to intake, cleanse, and normalize pharmacy benefits manager data with development methods and information security standards that have been validated by receiving service organization control 2 and national institute of standards and technology certification, or successor information technology security certifications, as identified by the office of the chief information officer.

(2) Automate repricing of diverse and complex pharmacy benefits managers' prescription drug pricing proposals to allow direct comparison by the state of the comparably calculated costs of pharmacy benefits managers' bids using one hundred percent of annual prescription drug claims data available for state-funded health plans, or a multiple health plan prescription drug purchasing group, and using code-based classification of drugs from nationally accepted drug sources.

(3) Simultaneously evaluate in real-time diverse and complex multiple proposals from full-service pharmacy benefits

managers, including average wholesale price, guaranteed net cost, and national average drug acquisition cost pricing models, as well as proposals from pharmacy benefits administrators and specialty drug and rebate carve-out service providers.

(4) Produce an automated report and analysis of pharmacy benefits managers' bids, including ranking of pharmacy benefits managers' bids based on comparative costs and qualitative aspects of the bids in real-time following the close of each round of reverse auction bidding.

(5) Perform real-time, electronic, line-by-line, claim-by-claim review of one hundred percent of invoiced pharmacy benefits managers' prescription drug claims, and identify all deviations from the specific terms of the pharmacy benefits manager's services contract that resulted from the reserve auction process.

b. Related services from the operator of the technology platform identified in paragraph *"a"*, which at a minimum shall include all of the following:

(1) Evaluation of the qualifications of pharmacy benefits manager bidders.

(2) Pharmacy benefits manager reverse auction services to support the department in comparing pricing for the pharmacy benefits manager procurement.

(3) Related professional services.

5. The department shall not award a contract for the technology platform and technology operator services to a vendor that is a pharmacy benefits manager or to a vendor that is managed by, or a subsidiary or affiliate of, a pharmacy benefits manager.

6. The vendor awarded the contract by the department shall not outsource any part of the pharmacy benefits manager reverse auction or any part of the automated, real-time, electronic, line-by-line, claim-by-claim review of invoiced pharmacy benefits manager prescription drug claims.

7. With technical assistance and support provided by the technology platform operator, the department shall specify the terms of the participant bidding agreement. The terms of the participant bidding agreement shall not be modified except by specific consent of the department.

8. *a.* The technology platform used to conduct the reverse auction shall be repurposed over the duration of the pharmacy benefits manager's services contract as an automated pharmacy claims adjudication engine to perform real-time, electronic, line-by-line, claim-by-claim review of one hundred percent of invoiced pharmacy benefits manager's prescription drug claims, and to identify all deviations from the specific terms of the pharmacy benefits manager's services contract.

b. The department shall reconcile the electronically adjudicated pharmacy claims, as described in paragraph "*a*", with pharmacy benefits manager's invoices on a monthly or quarterly basis to ensure that state payments shall not exceed the terms specified in any pharmacy benefits manager's services contract.

c. If following state payment to the pharmacy benefits manager on the basis of the reconciliation under paragraph "*b*" the pharmacy benefits manager asserts that the department paid less than the amount owed, the pharmacy benefits manager may seek resolution through a mutually acceptable dispute resolution process that the parties agreed to in the terms of the services contract under subsection 9, paragraph "*a*".

9. *a.* The first pharmacy benefits manager reverse auction shall be completed and the services contract shall be awarded to the winning pharmacy benefits manager with an effective date beginning July 1, 2024. Subsequent contracts must be awarded no later than three months prior to termination or expiration of the current pharmacy benefits manager's services contract for a covered group, such as the state employees benefits group, that includes only active employees and dependents, but does not include retiree participants in a Medicare part D

employer group waiver program pursuant to the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Pub. L. No. 108-173.

b. In the event an eligible covered group that includes retiree participants in a Medicare part D employer group waiver program pursuant to the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003, Pub. L. No. 108-173, opts to use the processes and procedures under this section, the relevant pharmacy benefits manager reverse auction shall be completed and the pharmacy benefits manager services contract shall be awarded to the winning pharmacy benefits manager no later than six months prior to termination or expiration of the pharmacy benefits manager's services contract currently covering the retiree employer group waiver program participants.

10. The department may perform a market check for providing pharmacy benefits manager services during the term of the current pharmacy benefits manager's services contract in order to ensure continuing competitiveness of incumbent prescription drug pricing during the term of a pharmacy benefits manager's services contract.

11. To ensure that the department does not incur additional expenditures associated with the pharmacy benefits manager reverse auction, ongoing electronic review and validation of pharmacy benefits managers' claims, and periodic market checks, the department shall implement a no-pay option that obligates the winning pharmacy benefits manager, rather than the state, to pay the cost of the technology platform and related technology platform operator services by assessing the pharmacy benefits manager a per-prescription fee in an amount agreed to by the department and the technology operator, and requiring the pharmacy benefits manager to pay the fees to the technology operator over the duration of the pharmacy benefits manager's services contract. The obligation of the winning pharmacy benefits manager to pay the per-prescription fee shall

be incorporated as a term of the participant bidding agreement and the pharmacy benefits manager's services contract awarded to the pharmacy benefits manager reverse auction winner.

12. *a.* This section shall apply to group benefit plans under chapter 509A. This section shall not apply to nonprofit, nongovernmental health maintenance organizations with respect to managed care plans that provide a majority of covered health care services through a single contracted medical group.

b. (1) Three years after the first service contract is awarded to a pharmacy benefits manager pursuant to subsection 9, paragraph "*a*", any self-funded private sector health plan with substantial participation by Iowa employees and the employees' dependents shall have the option to conduct a pharmacy benefits manager reverse auction for the specific self-funded private sector health plan utilizing the technology platform and technology operator services selected by the department under this section. The department may charge the self-funded private sector health plan a fee, as established by the department by rule, sufficient to cover any incremental cost associated with the pharmacy benefits manager reverse auction.

(2) A pharmacy benefits manager selected by a self-funded private sector health plan as a result of a pharmacy benefits manager reverse auction conducted pursuant to subparagraph (1) shall be assessed a per-prescription fee, pursuant to subsection 11, in an amount determined by the department by rule.

c. Any self-funded public sector health plans or self-funded private sector health plans that opt to conduct a pharmacy benefits manager reverse auction shall retain full autonomy over determination of the individual health plan's respective prescription drug formularies and pharmacy benefit designs, and shall not be required to adopt a common prescription drug formulary or common prescription pharmacy benefit design.

d. Any pharmacy benefits manager providing services to the

department, to a self-funded public sector health plan, or to a self-funded private sector health plan as described in this section shall provide the department, each participating self-funded public sector health plan, and each participating self-funded private sector health plan access to complete pharmacy claims data necessary to conduct the pharmacy benefits manager reverse auction and to carry out applicable administrative and management duties.

13. Notwithstanding subsection 3, the department may elect to vacate the outcome of a pharmacy benefits manager reverse auction if the lowest-cost pharmacy benefits manager's bid is not less than the projected cost trend for the incumbent pharmacy benefits manager's services contract as verified by the department. The department may utilize a consultant to conduct the verification. The cost trend shall be projected by the technology platform operator using industry-recognized data sources and shall be subject to review and approval by the department in advance of the pharmacy benefits manager reverse auction. Methodology shall be applied consistently in projection of cost and savings to the state with regard to the incumbent pharmacy benefits manager's services contract and competing pharmacy benefits manager reverse auction bids.

Sec. 2. Section 510C.2, subsection 2, paragraph a, unnumbered paragraph 1, Code 2023, is amended to read as follows:

A pharmacy benefits manager shall provide the information pursuant to subsection 1 to the commissioner in a format approved by the commissioner that does not ~~directly or indirectly~~ publicly disclose any of the following: