

STATE OF NEW YORK

1768

2021-2022 Regular Sessions

IN SENATE

January 15, 2021

Introduced by Sens. SKOUFIS, ADDABBO, HOYLMAN, MAY, RIVERA -- read twice
and ordered printed, and when printed to be committed to the Committee
on Insurance

AN ACT to amend the insurance law, in relation to reducing pharmacy
benefit manager costs

The People of the State of New York, represented in Senate and Assem-
bly, do enact as follows:

1 Section 1. The insurance law is amended by adding a new section 3114
2 to read as follows:

3 § 3114. Pharmacy benefit management services. (a) Any contract or
4 other arrangement entered into by a health insurer offering health
5 insurance under article thirty-two or forty-three of this chapter for
6 the provision and administration of pharmacy benefit management services
7 shall be based on a pass-through pricing model and include the following
8 requirements:

9 (1) Payment to the pharmacy benefit manager for pharmacy benefit
10 management services shall be limited to the actual ingredient costs,
11 dispensing fees paid to pharmacies, and an administrative fee that
12 covers the cost of providing pharmacy benefit management services pursu-
13 ant to a contract described in this subsection. The department may
14 establish a maximum administrative fee;

15 (2) The pharmacy benefit manager shall identify all sources and
16 amounts of income, payments, and financial benefits to the pharmacy
17 benefit manager related to the provision and administration of pharmacy
18 benefit management services on behalf of the health care plan, includ-
19 ing, but not limited to, any pricing discounts, rebates of any kind,
20 inflationary payments, credits, clawbacks, fees, grants, chargebacks,
21 reimbursements, or other benefits and shall ensure that any portion of
22 such income, payments, and financial benefits is passed through to the
23 health care plan in full to reduce the reportable ingredient cost;

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 (3) The pharmacy benefit manager shall fully disclose to the depart-
2 ment and to the health care plan the sources and amounts of all income,
3 payments, and financial benefits referred to in paragraph two of this
4 subsection received by the pharmacy benefit manager;

5 (4) The pharmacy benefit manager shall identify all ingredient costs
6 and dispensing fees or similar payments made by the pharmacy benefit
7 manager to any pharmacy in connection with the contract or other
8 arrangement;

9 (5) The pharmacy benefit manager shall not utilize any form of spread
10 pricing in any contract or other arrangement with health care plans. For
11 purposes of this subsection "spread pricing" means any amount charged or
12 claimed by the pharmacy benefit manager in excess of the amount paid to
13 pharmacies on behalf of the health care plan less an administrative fee
14 as described in this subsection. Any such excess amount shall be remit-
15 ted to the health care plan on a quarterly basis;

16 (6) Pharmacy benefit managers shall make their payment model for
17 administrative fees available to the health care plan and to the depart-
18 ment. The health care plan shall, if so directed by the department,
19 make changes to the payment model and resubmit an amended contract or
20 contracts to the department for review and approval.

21 (b) Any changes to premiums resulting from such contracts shall be
22 subject to the approval of the department.

23 (c) For the purposes of this section, the term "pharmacy benefit
24 manager" means an entity that contracts with pharmacies or pharmacy
25 contracting agents on behalf of a health plan, state agency, insurer,
26 managed care organization, or other third-party payor to provide pharma-
27 cy health benefit services or administration.

28 § 2. This act shall take effect immediately.