STATE OF NEW YORK

6352

2023-2024 Regular Sessions

IN ASSEMBLY

April 5, 2023

Introduced by M. of A. WEPRIN -- read once and referred 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 Assembly, do enact as follows:

Section 1. The insurance law is amended by adding a new section 3115 to read as follows:

§ 3115. Pharmacy benefit management services. (a) Any contract or other arrangement entered into by a health insurer offering health insurance under article thirty-two or forty-three of this chapter for the provision and administration of pharmacy benefit management services shall be based on a pass-through pricing model and include the following requirements:

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

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

(3) The pharmacy benefit manager shall fully disclose to the department and to the health care plan the sources and amounts of all income,

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

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payments, and financial benefits referred to in paragraph two of this subsection received by the pharmacy benefit manager;

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

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

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

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

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

§ 2. This act shall take effect immediately.