

By the Committee on Health Policy; and Senator Garcia

588-02829-14

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1                   A bill to be entitled  
2           An act relating to pharmacy benefit managers; creating  
3           s. 465.1862, F.S.; defining terms; specifying contract  
4           terms that must be included in a contract between a  
5           pharmacy benefit manager and a pharmacy; providing  
6           restrictions on the inclusion of prescription drugs on  
7           a list that specifies the maximum allowable cost for  
8           such drugs; requiring the pharmacy benefit manager to  
9           disclose certain information to a plan sponsor;  
10          requiring a contract between a pharmacy benefit  
11          manager and a pharmacy to include an appeal process;  
12          providing an effective date.

13  
14 Be It Enacted by the Legislature of the State of Florida:

15  
16           Section 1. Section 465.1862, Florida Statutes, is created  
17 to read:

18           465.1862 Pharmacy benefit managers.—

19           (1) As used in this section, the term:

20           (a) "Maximum allowable cost" (MAC) means the upper limit or  
21 maximum amount that an insurance or managed care plan will pay  
22 for generic, or brand-name drugs that have generic versions  
23 available, which are included on a PBM-generated list of  
24 products.

25           (b) "Plan sponsor" means an employer, insurer, managed care  
26 organization, prepaid limited health service organization,  
27 third-party administrator, or other entity contracting for  
28 pharmacy benefit manager services.

29           (c) "Pharmacy benefit manager" (PBM) means a person,

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30 business, or other entity that provides administrative services  
31 related to processing and paying prescription claims for  
32 pharmacy benefit and coverage programs. Such services may  
33 include contracting with a pharmacy or network of pharmacies;  
34 establishing payment levels for provider pharmacies; negotiating  
35 discounts and rebate arrangements with drug manufacturers;  
36 developing and managing prescription formularies, preferred drug  
37 lists, and prior authorization programs; assuring audit  
38 compliance; and providing management reports.

39 (2) A contract between a pharmacy benefit manager and a  
40 pharmacy which includes MAC pricing must require the pharmacy  
41 benefit manager to:

42 (a) Update the MAC pricing information at least every 7  
43 calendar days and establish a reasonable process for the prompt  
44 notification of such pricing updates to network pharmacies; and

45 (b) Maintain a procedure to eliminate products from the  
46 list or modify the MAC pricing in a timely fashion in order to  
47 remain consistent with pricing changes in the marketplace.

48 (3) In order to place a particular prescription drug on a  
49 MAC list, the pharmacy benefit manager must, at a minimum,  
50 ensure that the drug has at least three or more nationally  
51 available, therapeutically equivalent, multiple-source generic  
52 drugs which:

53 (a) Have a significant cost difference;

54 (b) Are listed as therapeutically and pharmaceutically  
55 equivalent or "A" rated in the United States Food and Drug  
56 Administration's most recent version of the Orange Book;

57 (c) Are available for purchase without limitations by all  
58 pharmacies in the state from national or regional wholesalers;

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59 and

60 (d) Are not obsolete or temporarily unavailable.

61 (4) The pharmacy benefit manager must disclose the  
62 following to the plan sponsor:

63 (a) The basis of the methodology and sources used to  
64 establish applicable MAC pricing in the contract between the  
65 pharmacy benefit manager and the plan sponsor. Applicable MAC  
66 lists must be updated and provided to the plan sponsor whenever  
67 there is a change.

68 (b) Whether the pharmacy benefit manager uses a MAC list  
69 for drugs dispensed at retail but does not use a MAC list for  
70 drugs dispensed by mail order in the contract between the  
71 pharmacy benefit manager and the plan sponsor or within 21  
72 business days after implementation of the practice.

73 (c) Whether the pharmacy benefit manager is using the  
74 identical MAC list with respect to billing the plan sponsor as  
75 it does when reimbursing all network pharmacies. If multiple MAC  
76 lists are used, the pharmacy benefit manager must disclose any  
77 difference between the amount paid to a pharmacy and the amount  
78 charged to the plan sponsor.

79 (5) All contracts between a pharmacy benefit manager and a  
80 contracted pharmacy must include:

81 (a) A process for appealing, investigating, and resolving  
82 disputes regarding MAC pricing. The process must:

83 1. Limit the right to appeal to 90 calendar days following  
84 the initial claim;

85 2. Investigate and resolve the dispute within 7 days; and

86 3. Provide the telephone number at which a network pharmacy  
87 may contact the pharmacy benefit manager and speak with an

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88 individual who is responsible for processing appeals.

89 (b) If the appeal is denied, the pharmacy benefit manager  
90 shall provide the reason for the denial and identify the  
91 national drug code of a drug product that may be purchased by a  
92 contracted pharmacy at a price at or below the MAC.

93 (c) If an appeal is upheld, the pharmacy benefit manager  
94 shall make an adjustment retroactive to the date the claim was  
95 adjudicated. The pharmacy benefit manager shall make the  
96 adjustment effective for all similarly situated pharmacies in  
97 this state which are within the network.

98 Section 2. This act shall take effect July 1, 2014.