

Amendment to SB 247

1 Amend the bill by replacing all after the enacting clause with the following:

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3 1 Managed Care Law; Pharmacy and Pharmacist Contracting Standards. Amend RSA 420-J:8,
4 XV to read as follows:

5 XV.(a) All contracts between a carrier or pharmacy benefit manager and a contracted
6 pharmacy shall include:

7 (1) The sources used by the pharmacy benefit manager to calculate the drug product
8 reimbursement paid for covered drugs available under the pharmacy health benefit plan
9 administered by the carrier or pharmacy benefit manager.

10 (2) A process to appeal, investigate, and resolve disputes regarding the maximum
11 allowable cost pricing. The process shall include the following provisions:

12 (A) A provision granting the contracted pharmacy or pharmacist at least 30
13 business days following the initial claim to file an appeal;

14 (B) A provision requiring the carrier or pharmacy benefit manager to investigate
15 and resolve the appeal within 30 business days;

16 (C) A provision requiring that, if the appeal is denied, the carrier or pharmacy
17 benefit manager shall:

18 (i) Provide the reason for the denial; and

19 (ii) Identify the national drug code of a drug product that may be purchased
20 by contracted pharmacies at a price at or below the maximum allowable cost; and

21 (D) A provision requiring that, if an appeal is granted, the carrier or pharmacy
22 benefits manager shall within 30 business days after granting the appeal:

23 (i) Make the change in the maximum allowable cost; and

24 (ii) Permit the challenging pharmacy or pharmacist to reverse and rebill the
25 claim in question.

26 (b) For every drug for which the *health carrier or* pharmacy benefit manager
27 establishes a maximum allowable cost to determine the drug product reimbursement, the *health*
28 *carrier or* pharmacy benefit manager shall:

29 (1) Include in the contract with the pharmacy information identifying the national
30 drug pricing compendia or sources used to obtain the drug price data.

31 (2) Make available to a contracted pharmacy the actual maximum allowable cost for
32 each drug.

(3) Review and make necessary adjustments to the maximum allowable cost for every drug for which the price has changed at least every 14 days.

(c) [Repealed.]

(d) [Repealed.]

(e) A pharmacist or pharmacy in a network plan with a health carrier or pharmacy benefits manager may decline to provide a brand-name drug, multi-source generic drug, supply, or service if the reimbursement amount is less than the acquisition cost paid by the pharmacy or pharmacist. If a pharmacist or pharmacy declines to provide the prescription or service, the pharmacy or pharmacist shall advise the patient to contact the health carrier or pharmacy benefits manager using the contact information on the prescription drug card for information as to where the prescription for the drug, supply, or service may be filled.

(f) Nothing in this paragraph shall be construed to apply to Medicaid or Medicaid care management.

2 New Paragraph; Regulation of Business Practices for Consumer Protection; Pharmacy Services Administrative Organizations. Amend RSA 358-A:2 by inserting after paragraph XIX the following new paragraph:

XX. Failure of a pharmacy services administrative organization to adhere to the requirements of this paragraph.

(a) Pharmacy services administrative organizations shall provide the contracted pharmacy a copy of any contract with a pharmacy benefit manager, and amendments, payment schedules, or reimbursement rates, within 3 calendar days after the execution of a contract, or an amendment to a contract, signed on behalf of the independent pharmacy.

(b) Contracts between a pharmacy services administrative organization and a pharmacy shall not require that the pharmacy purchase any drugs and/or medical devices from a specific entity.

(c) In this paragraph, "pharmacy services administrative organization" means an entity operating within the state that contracts with one or more independent pharmacies to provide administrative services to pharmacies and negotiate and enter contracts with third-party payers or pharmacy benefit managers on behalf of pharmacies. A person or entity is a pharmacy services administrative organization under this section if it performs one or more of the following administrative services

on behalf of one or more pharmacies:

(1) Assistance with claims.

(2) Assistance with audits.

(3) Assistance with access to pharmacy networks.

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(4) Assistance with interactions between the pharmacy and pharmacy benefits manager.

(5) Centralized payment.

(6) Certification in specialized care programs.

(7) Compliance support.

(8) Setting flat fees for generic drugs.

(9) Assistance with store layout.

(10) Marketing support.

(11) Management and analysis of payment and drug dispensing data.

(12) Provision of resources for retail cash cards.

3 Effective Date. This act shall take effect January 1, 2026.

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AMENDED ANALYSIS

This bill:

I. Permits a pharmacy to decline to fill a prescription if reimbursement from the pharmacy benefits manager is less than the pharmacy's acquisition cost; and excludes Medicaid and Medicaid care management from this provision and other pharmacist contracting standards.

II. Defines pharmacy services administrative organization for purposes of pharmacy and PBM contract requirements; and makes the failure of a pharmacy services administrative organization to comply with such requirements a violation of the consumer protection act.