

SB 247 - AS INTRODUCED

2025 SESSION

25-0984

05/11

SENATE BILL **247**

AN ACT prohibiting network exclusion for pharmacies that refuse to dispense a prescription of the PBM reimbursement that is below the pharmacy's acquisition cost.

SPONSORS: Sen. Rochefort, Dist 1; Sen. Avard, Dist 12; Sen. Innis, Dist 7; Rep. Cole, Hills. 26; Rep. Spier, Hills. 6

COMMITTEE: Health and Human Services

ANALYSIS

This bill permits a pharmacy to decline to fill a prescription if reimbursement from the pharmacy benefits manager is less than the pharmacy's acquisition cost. The bill also defines pharmacy services administrative organization for purposes of pharmacy and PBM contract negotiation and administration.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT prohibiting network exclusion for pharmacies that refuse to dispense a prescription of the PBM reimbursement that is below the pharmacy's acquisition cost.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Pharmacy Benefits Managers; Pharmacy Opt-out When Reimbursement is Below Acquisition
2 Cost. Amend RSA 402-N by inserting after section 4-a the following new section:

3 402-N:4-b Pharmacy Opt-out When Reimbursement is Below Acquisition Cost.

4 I. A pharmacist or pharmacy in a network plan with a health carrier or pharmacy benefits
5 manager may decline to provide a brand-name drug, multi-source generic drug, supply, or service if
6 the reimbursement amount is less than the acquisition cost paid by the pharmacy or pharmacist.

7 II. If a pharmacist or pharmacy declines to provide the prescription or service under the
8 conditions in paragraph I, the pharmacy or pharmacist shall advise the patient to contact their
9 insurance carrier or pharmacy benefits manager using the contact information on the prescription
10 drug card for information as to where the prescription for the drug, supply, or service may be filled.

11 III. A pharmacy services administrative organization contract with a pharmacy shall include
12 a provision that requires the pharmacy services administrative organization to provide to the
13 contracted pharmacy a copy of any contract with a pharmacy benefit manager, and amendments,
14 payment schedules, or reimbursement rates, within 3 calendar days after the execution of a contract,
15 or an amendment to a contract, signed on behalf of the independent pharmacy.

16 IV. Contracts between a pharmacy services administrative organization and pharmacy shall
17 not require that the pharmacy purchase any drugs and/or medical devices from a specific entity. If a
18 pharmacy believes that its contract with a pharmacy services administrative organization contains
19 an unlawful contractual provision regarding reimbursement rates or restrictive drug purchasing
20 requirements, the pharmacy may file a complaint with the department.

21 V. Nothing in this section shall prevent the customer from paying the difference between the
22 acquisition cost and reimbursement amount if they would prefer to have the prescription filled by
23 that pharmacist or pharmacy.

24 VI. In this section "pharmacy services administrative organization" means an entity
25 operating within the state that contracts with one or more independent pharmacies to provide
26 administrative services to pharmacies and negotiate and enter into contracts with third-party payers
27 or pharmacy benefit managers on behalf of pharmacies. A person or entity is a pharmacy services
28 administrative organization under this section if it performs one or more of the following
29 administrative services on behalf of one or more pharmacies:

SB 247 - AS INTRODUCED
- Page 2 -

- 1 (a) Assistance with claims.
- 2 (b) Assistance with audits.
- 3 (c) Assistance with access to pharmacy networks.
- 4 (d) Assistance with interactions between the pharmacy and pharmacy benefits manager.
- 5 (e) Centralized payment.
- 6 (f) Certification in specialized care programs.
- 7 (g) Compliance support.
- 8 (h) Setting flat fees for generic drugs.
- 9 (i) Assistance with store layout.
- 10 (j) Marketing support.
- 11 (k) Management and analysis of payment and drug dispensing data.
- 12 (l) Provision of resources for retail cash cards.
- 13 2 Effective Date. This act shall take effect January 1, 2026.