CHAPTER 149
SB 97 - FINAL VERSION

02/18/2021 0326s
3Jun2021... 1606h

2021 SESSION

21-0407
08/06

SENATE BILL ***97***

AN ACT relative to in-network retail pharmacies.

SPONSORS: Sen. Hennessey, Dist 1

COMMITTEE: Health and Human Services

AMENDED ANALYSIS

This bill prohibits certain acts relative to pharmacy benefits managers.

This bill also prohibits certain acts relative to health carriers and in-network retail pharmacies.

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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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to in-network retail pharmacies.

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

149:1 New Section; Pharmacy Benefits Managers; Prohibited Acts. Amend RSA 402-N by inserting after section 4 the following new section:

402-N:4-a Prohibited Acts. A pharmacy benefit manager shall not, either directly or indirectly:

I. Prohibit an in-network retail pharmacy from:

(a) Mailing or delivering a prescription drug to an enrollee as an ancillary service of the in-network retail pharmacy provided that confirmation of delivery is obtained.

(b) Charging a shipping or handling surcharge to an enrollee who requests that the in-network retail pharmacy mail or deliver a prescription drug to the enrollee as an ancillary service provided the enrollee receives a disclosure from the in-network retail pharmacy regarding any surcharge to be charged to the patient for the delivery of a prescription drug, including that the surcharge may not be reimbursable by the plan sponsor or pharmacy benefit manager.

(c) Offering the ancillary services described in subparagraph I(a) to an enrollee.

II. Charge an enrollee who uses an in-network retail pharmacy that offers to mail or deliver a prescription drug to an enrollee as an ancillary service a surcharge for the delivery of a prescription drug or copayment that is higher than the surcharge or copayment the enrollee would pay if the enrollee used an in-network retail pharmacy that does not offer to mail or deliver a prescription drug to an enrollee as an ancillary service.

III. For purposes of this section, a retail pharmacy shall not include a "mail-order pharmacy" as defined in RSA 318:1, VII-b.

149:2 New Section; Health Carriers; Prohibited Acts. Amend RSA 420-J:7-b by inserting after paragraph XI the following new paragraph:

XII. A health carrier shall not, either directly or indirectly:

(a) Prohibit an in-network retail pharmacy from:

(1) Mailing or delivering a prescription drug to an enrollee as an ancillary service of the in-network retail pharmacy provided that confirmation of delivery is obtained.

(2) Charging a shipping or handling surcharge to an enrollee who requests that the in-network retail pharmacy mail or deliver a prescription drug to the enrollee as an ancillary service provided the enrollee receives a disclosure from the in-network retail pharmacy regarding any

surcharge to be charged to the patient for the delivery of a prescription drug, including that the surcharge may not be reimbursable by the plan sponsor or health carrier.

(3) Offering the ancillary services described in subparagraph I(a) to an enrollee.

(b) Charge an enrollee who uses an in-network retail pharmacy that offers to mail or deliver a prescription drug to an enrollee as an ancillary service a surcharge for the delivery of a prescription drug or copayment that is higher than the surcharge or copayment the enrollee would pay if the enrollee used an in-network retail pharmacy that does not offer to mail or deliver a prescription drug to an enrollee as an ancillary service.

(c) For purposes of this section, a retail pharmacy shall not include a "mail-order pharmacy" as defined in RSA 318:1, VII-b.

149:3 Effective Date. This act shall take effect 60 days after its passage.

Approved: July 23, 2021
Effective Date: September 21, 2021