FIRST REGULAR SESSION

SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 122

96TH GENERAL ASSEMBLY

Reported from the Committee on Health, Mental Health, Seniors and Families, March 31, 2011, with recommendation that the Senate Committee Substitute do pass.

TERRY L. SPIELER, Secretary.

0757S.02C

AN ACT

To repeal section 354.535, RSMo, and to enact in lieu thereof three new sections relating to health insurance.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 354.535, RSMo, is repealed and three new sections enacted in lieu thereof, to be known as sections 354.535, 376.387, and 376.475, to read as follows:

354.535. 1. If a pharmacy, operated by or contracted with by a health maintenance organization, is closed or is unable to provide health care services to an enrollee in an emergency, a pharmacist may take an assignment of such enrollee's right to reimbursement, if the policy or contract provides for such reimbursement, for those goods or services provided to an enrollee of a health maintenance organization. No health maintenance organization shall refuse to pay the pharmacist any payment due the enrollee under the terms of the policy or contract.

2. No health maintenance organization, conducting business in the state of Missouri, shall contract with a pharmacy, pharmacy distributor or wholesale drug distributor, nonresident or otherwise, unless such pharmacy or distributor has been granted a permit or license from the Missouri board of pharmacy to operate in this state.

3. Every health maintenance organization shall apply the same coinsurance, co-payment and deductible factors to all drug prescriptions filled by a pharmacy provider who participates in the health maintenance organization's network if the provider meets the contract's explicit product cost determination.

EXPLANATION–Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

If any such contract is rejected by any pharmacy provider, the health maintenance organization may offer other contracts necessary to comply with any network adequacy provisions of this act. However, nothing in this section shall be construed to prohibit the health maintenance organization from applying different coinsurance, co-payment and deductible factors between generic and brand name drugs.

4. **If the co-payment applied by a health maintenance organization exceeds the usual and customary retail price of the prescription drug, enrollees shall only be required to pay the usual and customary retail price of the prescription drug, and no further charge to the enrollee or plan sponsor shall be incurred on such prescription.**

5. Health maintenance organizations shall not set a limit on the quantity of drugs which an enrollee may obtain at any one time with a prescription, unless such limit is applied uniformly to all pharmacy providers in the health maintenance organization's network.

[5.**]** **6.** Health maintenance organizations shall not insist or mandate any physician or other licensed health care practitioner to change an enrollee's maintenance drug unless the provider and enrollee agree to such change. For the purposes of this provision, a maintenance drug shall mean a drug prescribed by a practitioner who is licensed to prescribe drugs, used to treat a medical condition for a period greater than thirty days. Violations of this provision shall be subject to the penalties provided in section 354.444. Notwithstanding other provisions of law to the contrary, health maintenance organizations that change an enrollee's maintenance drug without the consent of the provider and enrollee shall be liable for any damages resulting from such change. Nothing in this subsection, however, shall apply to the dispensing of generically equivalent products for prescribed brand name maintenance drugs as set forth in section 338.056.

376.387. If the co-payment for prescription drugs applied by a health insurer or health carrier, as defined in section 376.1350, exceeds the usual and customary retail price of the prescription drug, enrollees shall only be required to pay the usual and customary retail price of the prescription drug, and no further charge to the enrollee or plan sponsor shall be incurred on such prescription.

376.475. 1. Every health carrier, as defined in section 376.1350, shall, by July 1, 2012, utilize a web-based estimating system or other

mechanism, by which covered individuals, or their parents or guardians, shall be able to enter, provide, or select from menus, the procedures, tests, or services the individual is considering having, and based upon the individual's benefit plan and the health carrier's internal data, receive estimates of the total cost and total out-of-pocket cost of the procedures, tests, or services specific to all available contracted providers or facilities for which such estimates are requested. The estimates shall take into account any known unmet deductible obligation and shall be based upon assumptions of typical utilization and an assumption that, in the provision of the procedures, tests, or services, no complications or unexpected events would occur necessitating other expenses. The estimates shall include related estimates of typically needed and expected ancillary costs such as those for radiology, pathology, or anesthesiology services, and shall indicate when no contracted providers of such services are available under the individual's benefit plan at a selected health care facility or provider. Any estimate given shall not be a guarantee of coverage and the health carrier shall not be held liable for differences between the estimated costs and the ultimate charges assessed to the individual. Nothing in this subsection shall be construed as violating any provider contract provisions with a health carrier that prohibits disclosure of a provider's fee schedule to third parties.

2. Any health carrier that has not made a good faith effort to comply with the provisions of this section shall be subject to the provisions of section 374.280.

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