

SECOND REGULAR SESSION

SENATE BILL NO. 908

98TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SATER.

Read 1st time January 13, 2016, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4996S.02I

AN ACT

To amend chapter 376, RSMo, by adding thereto one new section relating to pharmacy benefits managers.

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

Section A. Chapter 376, RSMo, is amended by adding thereto one new
2 section, to be known as section 376.388, to read as follows:

**376.388. 1. As used in this section, unless the context requires
2 otherwise, the following terms shall mean:**

3 (1) "Contracted pharmacy" or "pharmacy", a pharmacy located in
4 Missouri participating in the network of a pharmacy benefits manager
5 through a direct or indirect contract;

6 (2) "Health carrier", an entity subject to the insurance laws and
7 regulations of this state that contracts or offers to contract to provide,
8 deliver, arrange for, pay for, or reimburse any of the costs of health
9 care services, including a sickness and accident insurance company, a
10 health maintenance organization, a nonprofit hospital and health
11 service corporation, or any other entity providing a plan of health
12 insurance, health benefits, or health services, except that such plan
13 shall not include any coverage pursuant to a liability insurance policy,
14 workers' compensation insurance policy, or medical payments
15 insurance issued as a supplement to a liability policy;

16 (3) "Maximum allowable cost", the per unit amount that a
17 pharmacy benefits manager reimburses a pharmacist for a prescription
18 drug, excluding a dispensing or professional fee;

19 (4) "Maximum allowable cost list" or "MAC list", a listing of drug
20 products that meet the standard described in this section;

21 (5) "Pharmacy", as such term is defined in chapter 338;

22 **(6) "Pharmacy benefits manager", an entity that contracts with**
23 **pharmacies on behalf of health carriers or any health plan sponsored**
24 **by the state or a political subdivision of the state.**

25 **2. Upon each contract execution or renewal between a pharmacy**
26 **benefits manager and a pharmacy or between a pharmacy benefits**
27 **manager and a pharmacy's contracting representative or agent, such as**
28 **a pharmacy services administrative organization, a pharmacy benefits**
29 **manager shall, with respect to such contract or renewal:**

30 **(1) Include in such contract or renewal the sources utilized to**
31 **determine maximum allowable cost and update such pricing**
32 **information at least every seven days; and**

33 **(2) Maintain a procedure to eliminate products from the**
34 **maximum allowable cost list of drugs subject to such pricing or modify**
35 **maximum allowable cost pricing at least every seven days if such drugs**
36 **do not meet the standards and requirements of this section in order to**
37 **remain consistent with pricing changes in the marketplace.**

38 **3. A pharmacy benefits manager shall reimburse pharmacies for**
39 **drugs subject to maximum allowable cost pricing which has been**
40 **updated to reflect market pricing at least every seven days as set forth**
41 **in subdivision (1) of subsection 2 of this section.**

42 **4. A pharmacy benefits manager shall not place a drug on a**
43 **maximum allowable cost list unless there are at least two**
44 **therapeutically equivalent multi-source generic drugs, or at least one**
45 **generic drug available from only one manufacturer, generally available**
46 **for purchase by network pharmacies from national or regional**
47 **wholesalers.**

48 **5. All contracts between a pharmacy benefits manager and a**
49 **contracted pharmacy or between a pharmacy benefits manager and a**
50 **pharmacy's contracting representative or agent, such as a pharmacy**
51 **services administrative organization, shall include a process to**
52 **internally appeal, investigate, and resolve disputes regarding maximum**
53 **allowable cost pricing. The process shall include the following:**

54 **(1) The right to appeal shall be limited to fourteen calendar days**
55 **following the reimbursement of the initial claim; and**

56 **(2) A requirement that the pharmacy benefits manager shall**
57 **respond to an appeal described in this subsection no later than**
58 **fourteen calendar days after the date the appeal was received by such**

59 pharmacy benefits manager.

60 **6. For appeals that are denied, the pharmacy benefits manager**
61 **shall provide the reason for the denial and identify the national drug**
62 **code of a drug product that may be purchased by contracted**
63 **pharmacies at a price at or below the maximum allowable cost.**

64 **7. If the appeal is successful, the pharmacy benefits manager**
65 **shall:**

66 **(1) Adjust the maximum allowable cost price that is the subject**
67 **of the appeal effective on the day after the date the appeal is decided;**

68 **(2) Apply the adjusted maximum allowable cost price to all**
69 **similarly situated pharmacies as determined by the pharmacy benefits**
70 **manager; and**

71 **(3) Allow the pharmacy that succeeded in the appeal to reverse**
72 **and rebill the pharmacy benefits claim giving rise to the appeal.**

73 **8. Appeals shall be upheld if:**

74 **(1) The pharmacy being reimbursed for the drug subject to the**
75 **maximum allowable cost pricing in question was not reimbursed as**
76 **required in subsection 3 of this section; or**

77 **(2) The drug subject to the maximum allowable cost pricing in**
78 **question does not meet the requirements set forth in subsection 4 of**
79 **this section.**

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