

SENATE COMMITTEE SUBSTITUTE
FOR
SENATE BILLS NOS. 978 & 1035
AN ACT

To amend chapter 376, RSMo, by adding thereto one new section relating to payments for prescription drugs, with penalty provisions.

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 section, to be known as section 376.414, to read as follows:

376.414. 1. For purposes of this section, the following terms mean:

(1) "340B drug", a drug that is:

(a) A covered outpatient drug as defined in Section 340B of the Public Health Service Act, 42 U.S.C. Section 256b, enacted by Section 602 of the Veterans Health Care Act of 1992, P.L. 102-585; and

(b) Purchased under an agreement entered into under 42 U.S.C. Section 256b;

(2) "Covered entity", a federally-qualified health center as defined in 42 U.S.C. Section 256b(a)(4)(A);

(3) "Health carrier", the same meaning given to the term in section 376.1350;

(4) "Pharmacy benefits manager", the same meaning given to the term in section 376.388;

(5) "Specified pharmacy", a pharmacy licensed under chapter 338 with which a covered entity has contracted to dispense 340B drugs on behalf of the covered entity, regardless of whether the 340B drugs are distributed in person or through the mail.

2. A health carrier or pharmacy benefits manager shall not discriminate against a covered entity or a specified pharmacy by doing any of the following:

(1) Reimbursing a covered entity or specified pharmacy for a quantity of a 340B drug in an amount less than such health carrier or pharmacy benefits manager would pay to any other similarly situated pharmacy that is not a covered entity or a specified pharmacy for such quantity of such drug on the basis that the entity or pharmacy is a covered entity or specified pharmacy or that the entity or pharmacy dispenses 340B drugs;

(2) Imposing any terms or conditions on covered entities or specified pharmacies that differ from such terms or conditions applied to other similarly situated pharmacies that are not covered entities or specified pharmacies on the basis that the entity or pharmacy is a covered entity or specified pharmacy or that the entity or pharmacy dispenses 340B drugs, including, but not limited to, terms or conditions with respect to any of the following:

(a) Fees, chargebacks, clawbacks, adjustments, or other assessments;

(b) Professional dispensing fees;

(c) Restrictions or requirements regarding participation in standard or preferred pharmacy networks;

(d) Requirements relating to the frequency or scope of audits or to inventory management systems using generally accepted accounting principles;

(e) Transferring the benefit of 340B drug-pricing savings from one entity, including covered entities and their underserved patients, to another entity, including without limitation pharmacy benefits managers, private insurers, health carriers, and managed care organizations;

(f) Pricing that occurs when offering a lower reimbursement for a drug purchased under 340B drug pricing than for the same drug not purchased under 340B drug pricing;

(g) Refusal to cover drugs purchased under 340B drug pricing;

(h) Refusal to allow 340B drug-pricing pharmacies to participate in networks;

(i) Charging more than fair market value or seeking profit sharing in exchange for services involving 340B drug pricing;

(j) Limiting the number of 340B drug-pricing pharmacies with which a covered entity may have agreements to be specified pharmacies;

(k) Requiring a covered entity to report more or additional data as a condition of having more than one specified pharmacy; and

(l) Any other restrictions, conditions, practices, or policies that, as specified by the director of the department of commerce and insurance, interfere with the ability of a covered entity to maximize the value of discounts provided under 42 U.S.C. Section 256b;

(3) Interfering with an individual's choice to receive a 340B drug from a covered entity or specified pharmacy, whether in person or via direct delivery, mail, or other form of shipment;

(4) Requiring a covered entity or specified pharmacy to identify, either directly or through a third party, 340B drugs; or

(5) Refusing to contract with a covered entity or specified pharmacy for reasons other than those that apply equally to entities or pharmacies that are not covered entities or specified pharmacies, or on the basis that:

(a) The entity or pharmacy is a covered entity or a specified pharmacy; or

(b) The entity or pharmacy is described in any of subparagraphs (A) to (O) of 42 U.S.C. Section 256b(a)(4).

3. The director of the department of commerce and insurance shall impose a civil penalty on any pharmacy benefits manager that violates the requirements of this section. Such penalty shall not exceed five thousand dollars per violation per day.

4. The director of the department of commerce and insurance shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2024, shall be invalid and void.