

SECOND REGULAR SESSION

HOUSE BILL NO. 1495

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SCHAAF.

3249L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 354.535 and 374.184, RSMo, and to enact in lieu thereof five new sections relating to health insurance.

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

Section A. Sections 354.535 and 374.184, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 354.535, 374.184, 376.387, 376.393, and 376.444, to read as follows: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. If any such contract is rejected by any pharmacy provider, the health maintenance organization may offer other contracts necessary to comply with any network

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 adequacy provisions of this act. However, nothing in this section shall be construed to prohibit
18 the health maintenance organization from applying different coinsurance, co-payment and
19 deductible factors between generic and brand name drugs.

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

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

27 [5.] **6.** Health maintenance organizations shall not insist or mandate any physician or
28 other licensed health care practitioner to change an enrollee's maintenance drug unless the
29 provider and enrollee agree to such change. For the purposes of this provision, a maintenance
30 drug shall mean a drug prescribed by a practitioner who is licensed to prescribe drugs, used to
31 treat a medical condition for a period greater than thirty days. Violations of this provision shall
32 be subject to the penalties provided in section 354.444. Notwithstanding other provisions of law
33 to the contrary, health maintenance organizations that change an enrollee's maintenance drug
34 without the consent of the provider and enrollee shall be liable for any damages resulting from
35 such change. Nothing in this subsection, however, shall apply to the dispensing of generically
36 equivalent products for prescribed brand name maintenance drugs as set forth in section 338.056,
37 RSMo.

374.184. 1. The director of the department of insurance, financial institutions and
2 professional registration shall prescribe by rule[,] ;

3 **(1)** After due consultation with providers of health care or treatment and their respective
4 licensing boards, [accident and sickness insurers, health services corporations and health
5 maintenance organizations,] and after a public hearing, uniform claim forms for reporting by
6 health care providers. Such prescribed forms shall include but need not be limited to information
7 regarding the medical diagnosis, treatment and prognosis of the patient, together with the details
8 of charges incident to the providing of such care, treatment or services, sufficient for the purpose
9 of meeting the proof requirements of an accident and sickness insurance or hospital, medical or
10 dental services contract. Such prescribed forms shall be based upon the UB-82 form, with
11 respect to hospital claims, and the HCFA 1500 form, with respect to physician claims, as such
12 forms are modified or amended from time to time by the National Uniform Billing Committee
13 or the federal Health Care Financing Administration; **and**

14 **(2)** After due consultation with accident and sickness insurers, health services
15 corporations, health maintenance organizations, and insurance producers, and after a

16 **public hearing, uniform application forms for group health insurance policies other than**
17 **those under a group health plan for small employers governed by sections 379.930 to**
18 **379.952.**

19 2. The adoption of any uniform claim forms **or uniform application forms** by the
20 director pursuant to this section shall not preclude an insurer, health services corporation, or
21 health maintenance organization from requesting any necessary additional information in
22 connection with a claims investigation from the claimant, provider of health care or treatment,
23 or certifier of coverage, **or in connection with an application for insurance from the**
24 **applicant.** The provisions of this section shall not be deemed or construed to apply to electronic
25 claims submission. Insurers and providers may by contract provide for modifications to the
26 uniform billing document where both insurers and providers feel that such modifications
27 streamline claims processing procedures relating to the claims of the insurer involved in such
28 contract modification. However, a refusal by the provider to agree to modification of the
29 uniform billing format shall not be used by the insurer as grounds for refusing to enter into a
30 contract with the provider for reimbursement or payment for health services rendered to an
31 insured of the insurer.

32 3. Rules adopted or promulgated pursuant to this act shall be subject to notice and
33 hearing as provided in chapter 536, RSMo. The regulations so adopted shall specify an effective
34 date, which shall not be less than one hundred eighty days after the date of adoption, after which
35 no accident and sickness insurer, health services corporation or health maintenance organization
36 shall require providers of health care or treatment to complete forms differing from those
37 prescribed by the director pursuant to this section, [and] after which no health care provider shall
38 submit claims except upon such prescribed forms; provided that the provisions of this section
39 shall not preclude the use by any insurer, health services corporation or health maintenance
40 organization of the UB-82 form or the HCFA 1500 form, **and after which no insurer shall**
41 **require applicants for insurance coverage to complete forms differing from those**
42 **prescribed by the director under this section.**

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

376.393. 1. As used in this section, the following terms shall mean:

- 2 (1) "Health carrier", the same meaning as such term is defined in section 376.1350;
3 (2) "Provider", the same meaning as such term is defined in section 376.1350, and
4 **in addition, licensed pharmacies and home health agencies.**

5 **2. No health carrier, or any of its subsidiaries, networks, contractors, or**
6 **subcontractors, shall discriminate against any Missouri provider who is located within the**
7 **geographic coverage area of a health benefit plan and who is willing to meet the terms and**
8 **conditions for provider participation established for such health benefit plan, including the**
9 **MO HealthNet and Medicare programs.**

376.444. 1. As used in this section, the following terms shall mean:

2 **(1) "Health carrier", the same meaning as such term is defined in section 376.1350;**

3 **(2) "Provider", the same meaning as such term is defined in section 376.1350 and**
4 **licensed pharmacies and home health agencies.**

5 **2. An agreement between a health carrier and a participating provider under this**
6 **chapter or chapter 354 shall not contain a provision that:**

7 **(1) Prohibits, or grants the health carrier an option to prohibit, the participating**
8 **provider from contracting with another health carrier to accept lower payment for health**
9 **care services than the payment specified in the agreement;**

10 **(2) Requires, or grants the health carrier an option to require, the participating**
11 **provider to accept a lower payment from the health carrier if the participating provider**
12 **agrees with another health carrier to accept lower payment for health care services;**

13 **(3) Requires, or grants the health carrier an option of, termination or renegotiation**
14 **of the agreement if the participating provider agrees with another health carrier to accept**
15 **lower payment for health care services; or**

16 **(4) Requires the participating provider to disclose the participating provider's**
17 **reimbursement rates under contracts with other health carriers.**

18 **3. Any contract provision that violates this section is void and unenforceable.**

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