

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 1542

99TH GENERAL ASSEMBLY

5330H.02P

D. ADAM CRUMBLISS, Chief Clerk

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## AN ACT

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

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*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  
2 known as section 376.387, to read as follows:

**376.387. 1. For purposes of this section, the following terms shall mean:**

2 (1) “Covered person”, the same meaning as such term is defined in section  
3 376.1257;

4 (2) “Health benefit plan”, the same meaning as such term is defined in section  
5 376.1350;

6 (3) “Health carrier”, the same meaning as such term is defined in section 376.1350;

7 (4) “Pharmacy benefits manager”, the same meaning as such term is defined in  
8 section 376.388.

9 2. No pharmacy benefits manager shall charge or collect from a covered person a  
10 co-payment for a prescription or pharmacy service that exceeds the amount retained by  
11 the pharmacist or pharmacy from all payment sources for filling the prescription or  
12 providing the service.

13 3. No pharmacy benefits manager shall prohibit a pharmacist or pharmacy with  
14 which the pharmacy benefits manager has entered a contract from doing either of the  
15 following:

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.

16           **(1) Informing a covered person of the difference between the covered person's co-**  
17 **payment for a prescription drug and the amount the covered person would pay if the**  
18 **covered person did not use a health benefit plan to cover the cost; or**

19           **(2) Selling a prescription drug to a covered person who chooses not to use a health**  
20 **benefit plan to cover the cost, provided the cost to the covered person is less than the**  
21 **covered person's co-payment for the drug.**

22           **4. No pharmacy benefits manager shall restrict or interfere with a pharmacist's**  
23 **ability to provide pharmacy care to a covered person, including providing pharmacist-**  
24 **patient communications and discussing alternative drug options.**

25           **5. No pharmacy benefits manager shall charge or hold a pharmacist or pharmacy**  
26 **responsible for any fee that is related to a claim unless the amount of the fee can be**  
27 **determined and has been disclosed to the pharmacist or pharmacy at the time of the**  
28 **claim's adjudication.**

29           **6. No pharmacy benefits manager shall prohibit a pharmacist or pharmacy from**  
30 **making any written or oral statement to any state, county, or municipal official or before**  
31 **any state, county, or municipal committee, body, or proceeding.**

32           **7. The department of insurance, financial institutions and professional registration**  
33 **shall enforce the provisions of this section.**

34           **8. Any person aggrieved by a pharmacy benefits manager's violation of this section**  
35 **may bring a civil action against the pharmacy benefits manager that violated the provisions**  
36 **of this section.**

37           **9. If any person believes that a pharmacy benefits manager has committed a**  
38 **violation of subsections 2 through 5 of this section, they may mail written notice to the**  
39 **pharmacy benefits manager describing the alleged violation and allow the pharmacy**  
40 **benefits manager ten business days from the date the notice was postmarked to remedy**  
41 **such alleged violation. If such alleged violation is not so remedied, then such person may**  
42 **request the department of insurance, financial institutions and professional registration**  
43 **to conduct an arbitration proceeding in a manner prescribed by such division, provided**  
44 **that the division shall issue a ruling within seventy days of receiving the request. The**  
45 **division may join similar claims and claims presenting a common issue of fact. The**  
46 **department may establish a reasonable fee, which shall be paid by the non-prevailing**  
47 **party. The division's ruling shall be final and binding on all parties unless appealed as**  
48 **provided in chapter 536.**

49           **10. The department of insurance, financial institutions and professional**  
50 **registration may promulgate rules as necessary to implement the provisions of this section.**  
51 **Any rule or portion of a rule, as that term is defined in section 536.010 that is created**

52 **under the authority delegated in this section shall become effective only if it complies with**  
53 **and is subject to all of the provisions of chapter 536, and, if applicable, section 536.028.**  
54 **This section and chapter 536 are nonseverable and if any of the powers vested with the**  
55 **general assembly pursuant to chapter 536, to review, to delay the effective date, or to**  
56 **disapprove and annul a rule are subsequently held unconstitutional, then the grant of**  
57 **rulemaking authority and any rule proposed or adopted after August 28, 2018, shall be**  
58 **invalid and void.**

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