

HB 1146 -- PAYMENTS FOR PRESCRIPTION DRUGS

SPONSOR: Kelley (127)

This bill is related to payments for prescription drugs.

Beginning March 1, 2023, and annually thereafter, a pharmacy benefits manager (PBM) utilized by the Missouri Consolidated Health Care Plan (the Plan) shall file a report with the Plan for the immediately preceding calendar year regarding rebates, as defined in the bill. The report shall include the aggregate dollar amount of rebates collected from pharmaceutical manufacturers, the aggregate dollar amount of the rebates that were not passed on to the Plan, and the aggregate dollar amount of all fees and payments received from pharmaceutical manufacturers. The Plan shall establish a form for the reporting that minimizes administrative burden and cost. Documents, materials, and other information submitted to the Plan shall not be subject to disclosure or compromise the financial, competitive, or proprietary nature of the information, or allow a third party to identify rebate values for a particular outpatient prescription drug, except to the extent they are reported in the aggregate. The Plan shall annually report to the General Assembly the aggregate dollar amount of pharmaceutical rebates and provide information describing the rebate practices of health carriers utilizing pharmacy benefits managers. The Plan may impose a penalty of up to \$7,500 on its PBM for each violation of these provisions (Section 103.200).

The bill specifies that certain provisions of law pertaining to pharmacists and pharmacies shall not be construed to prohibit patients' ability to obtain prescription services from any licensed pharmacist "or pharmacy", and repeals language specifying that the provisions do not remove patients' ability to waive their freedom of choice under a contract with regard to payment or coverage of prescription expenses and no PBM shall penalize or restrict a health carrier or enrollees from obtaining services from a contracted pharmacy (Section 338.015).

Additionally, the bill repeals a provision of law specifying that certain PBM regulations shall not apply with regard to Medicare Part D, or other health plans regulated partly or wholly under federal law. Pharmacy benefits managers shall notify health carriers and pharmacies in writing of any potential conflict of interest, including but not limited to common ownership or any other relationship between the PBM and any other health carrier or pharmacy with which the PBM contracts. The bill provides standardized definitions for the terms "generic" and "rebate" applicable to PBMs and health carriers, and specifies that PBMs shall owe a fiduciary duty to the state or any health carrier,

health benefit plan, or political subdivision with which it contracts (Section 376.387).

The bill repeals a portion of a definition to specify that certain provisions relating to the maximum allowable cost of a prescription drug are applicable to all pharmacies, rather than only to contracted pharmacies. If the reimbursement for a drug to a contracted pharmacy is below the pharmacy's cost to purchase the drug, the PBM shall sustain an appeal and increase reimbursement for the pharmacy and other contracted pharmacies to cover the cost of purchasing the drug (Section 376.388).

This bill is the same as HB 834 (2021) and similar to SB 971 (2020).