

HOUSE BILL NO. 1330

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SMITH (155).

2652H.011

DANA RADEMAN MILLER, Chief Clerk

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, Pub. L. 102-585; and

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

(2) "Covered entity", the same meaning given to the term in Section 340B(a)(4) of the Public Health Service Act, 42 U.S.C. Section 256b(a)(4);

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

(4) "Pharmacy", an entity licensed under chapter 338;

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

2. A health carrier, a pharmacy benefits manager, or an agent or affiliate of such health carrier or pharmacy benefits manager shall not discriminate against a covered entity or a pharmacy including, but not limited to, by doing any of the following:

(1) Reimbursing a covered entity or pharmacy for a quantity of a 340B drug in an amount less than it would pay to any other similarly situated pharmacy that is not a

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.

18 covered entity or a pharmacy for such quantity of such drug on the basis that the entity
19 or pharmacy is a covered entity or pharmacy or that the entity or pharmacy dispenses
20 340B drugs;

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

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

27 (b) Professional dispensing fees;

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

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

32 (e) Any other restrictions, conditions, practices, or policies that, as specified by
33 the director of the department of commerce and insurance, interfere with the ability of a
34 covered entity to maximize the value of discounts provided under 42 U.S.C. Section
35 256b;

36 (3) Interfering with an individual's choice to receive a 340B drug from a covered
37 entity or pharmacy, whether in person or via direct delivery, mail, or other form of
38 shipment, by any means including, but not limited to, modifying a patient's payment
39 limitations or cost-sharing obligations on the basis of participation, in whole or in part,
40 in the 340B drug pricing program;

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

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

46 (a) The entity is a covered entity; or

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

49 (6) Denying the covered entity the ability to purchase drugs at 340B program
50 pricing by substituting a rebate discount;

51 (7) Refusing to cover drugs purchased under the 340B drug pricing program; or

52 (8) Requiring a covered entity or pharmacy to reverse, resubmit, or clarify a
53 340B-drug pricing claim after the initial adjudication unless these actions are in the
54 normal course of pharmacy business and not related to 340B drug pricing.

55 **3. The director of the department of commerce and insurance shall impose a**
56 **civil penalty on any health carrier, pharmacy benefits manager, or agent or affiliate of**
57 **such health carrier or pharmacy benefits manager that violates the requirements of this**
58 **section. Such penalty shall not exceed five thousand dollars per violation per day.**

59 **4. The director of the department of commerce and insurance shall promulgate**
60 **rules to implement the provisions of this section. Any rule or portion of a rule, as that**
61 **term is defined in section 536.010, that is created under the authority delegated in this**
62 **section shall become effective only if it complies with and is subject to all of the**
63 **provisions of chapter 536 and, if applicable, section 536.028. This section and chapter**
64 **536 are nonseverable and if any of the powers vested with the general assembly**
65 **pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul**
66 **a rule are subsequently held unconstitutional, then the grant of rulemaking authority**
67 **and any rule proposed or adopted after August 28, 2023, shall be invalid and void.**

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