

SECOND REGULAR SESSION

HOUSE BILL NO. 2425

102ND GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LAVENDER.

4112H.011

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To repeal section 376.387, RSMo, and to enact in lieu thereof one new section relating to pharmacy benefits managers.

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

Section A. Section 376.387, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 376.387, to read as follows:

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

- (1) "Covered person", the same meaning as such term is defined in section 376.1257;
- (2) "Health benefit plan", the same meaning as such term is defined in section 376.1350;
- (3) "Health carrier" or "carrier", the same meaning as such term is defined in section 376.1350;
- (4) "Pharmacy", the same meaning as such term is defined in chapter 338;
- (5) "Pharmacy benefits manager", the same meaning as such term is defined in section 376.388.

2. No pharmacy benefits manager shall include a provision in a contract entered into or modified on or after August 28, 2018, with a pharmacy or pharmacist that requires a covered person to make a payment for a prescription drug at the point of sale in an amount that exceeds the lesser of:

- (1) The copayment amount as required under the health benefit plan; or
- (2) The amount an individual would pay for a prescription if that individual paid with cash.

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 3. A pharmacy or pharmacist shall have the right to provide to a covered person
18 information regarding the amount of the covered person's cost share for a prescription drug,
19 the covered person's cost of an alternative drug, and the covered person's cost of the drug
20 without adjudicating the claim through the pharmacy benefits manager. Neither a pharmacy
21 nor a pharmacist shall be proscribed by a pharmacy benefits manager from discussing any
22 such information or from selling a more affordable alternative to the covered person.

23 4. **(1)** No pharmacy benefits manager shall, directly or indirectly, charge or hold a
24 pharmacist or pharmacy responsible for any fee amount related to a claim that is not known at
25 the time of the claim's adjudication, unless the amount is a result of improperly paid claims or
26 charges for administering a health benefit plan.

27 **(2) No pharmacy benefits manager shall, directly or indirectly, reduce, rescind,**
28 **or otherwise claw back any reimbursement payment, in whole or in part, to a**
29 **pharmacist or pharmacy for a prescription drug's ingredient cost or dispensing fee if at**
30 **least sixty days have passed since the pharmacist or pharmacy submitted the claim for**
31 **reimbursement for such drug.**

32 5. This section shall not apply with respect to claims under Medicare Part D, or any
33 other plan administered or regulated solely under federal law, and to the extent this section
34 may be preempted under the Employee Retirement Income Security Act of 1974 for self-
35 funded employer-sponsored health benefit plans.

36 6. A pharmacy benefits manager shall notify in writing any health carrier with which
37 it contracts if the pharmacy benefits manager has a conflict of interest, any commonality of
38 ownership, or any other relationship, financial or otherwise, between the pharmacy benefits
39 manager and any other health carrier with which the pharmacy benefits manager contracts.

40 7. The department of commerce and insurance shall enforce this section.

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