FIRST REGULAR SESSION

HOUSE BILL NO. 785

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE PETERS.

1568H.01I JOSEPH ENGLER, 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 376.417, to read as follows:

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

(1) "340B drug", the same meaning given to the term in section 376.414;

(2) "340B drug-pricing program", the drug discount program established under Section 340B of the Public Health Service Act, 42 U.S.C. Section 256b;

(3) "Covered entity", any entity described in subparagraphs (A) to (K) of subsection (a)(4) of Section 340B of the Public Health Service Act, 42 U.S.C. Section 256b, participating or authorized to participate in the 340B drug-pricing program, including any pharmacy with which such entity has contracted to dispense 340B drugs on behalf of the entity;

(4) "Health carrier", the same meaning given to the term in section 376.388;

(5) "Pharmacy", an entity licensed under section 338.210;

(6) "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, either directly or indirectly, against a covered entity, including by doing any of the 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.

(1) Reimbursing a covered entity for a quantity of a 340B drug in an amount less than it would pay any other similarly situated pharmacy or entity that is not a covered entity for such quantity of such drug on the basis that the covered entity is a covered entity or that the covered entity dispenses 340B drugs. The director of the department of commerce and insurance shall specify by rule the circumstances under which a pharmacy or entity shall be deemed a "similarly situated pharmacy or entity" for purposes of this subdivision;

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

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

(b) Professional dispensing fees;

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

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

(e) Requirements relating to accreditation or recertification that are inconsistent with, more stringent than, or in addition to, state or federal law; and

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

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

(4) Providing a reimbursement rate for a 340B drug that is less than the national average drug acquisition cost rate for that drug as determined by the United States Centers for Medicare and Medicaid Services and as measured at the time the drug is administered or dispensed or, if no such rate is available at that time, a reimbursement rate that is less than the wholesale acquisition cost of the drug, as defined in 42 U.S.C. Section 1395w-3a(c)(6)(B), plus a dispensing fee as determined appropriate by the director of the department of commerce and insurance based on a cost-of-dispensing survey;

(5) Requiring a covered entity to identify, either directly or through a third party, a 340B drug;

(6) Refusing to contract with a covered entity for reasons other than those that apply equally to any other similarly situated pharmacy or entity that is not a covered entity. The director of the department of commerce and insurance shall specify by rule the circumstances under which a pharmacy or entity shall be deemed a "similarly situated pharmacy or entity" for purposes of this subdivision;

(7) Refusing to cover 340B drugs;

(8) Denying, limiting, or modifying, either directly or indirectly, the ability of the covered entity to pay for 340B drugs at or below prices established under 42 U.S.C. Section 256b, including through participation in rebate arrangements with a pharmaceutical manufacturer, or an agent or affiliate of a pharmaceutical manufacturer, by substituting a rebate;

(9) Requiring a covered entity to reverse, resubmit, or clarify a claim for a 340B drug after the initial adjudication unless these actions are:

(a) In the normal course of pharmacy business and not related to 42 U.S.C. Section 256b; or

(b) Required by state or federal law.

3. Any contract that is entered into, amended, extended, or renewed on or after the effective date of this section that includes a provision that violates subsection 2 of this section shall be void and unenforceable.

4. Nothing in this section shall be construed or applied to be less restrictive than any federal law as to any person or entity regulated by this section. Nothing in this section shall be construed or applied to be in conflict with:

(1) Applicable federal law and related regulation; or

(2) Any other law of this state if such state law is compatible with applicable federal law.

5. The director of the department of commerce and insurance shall impose, or may seek to impose through a jury trial, a civil penalty on any health carrier, pharmacy benefits manager, or agent or affiliate of such health carrier or pharmacy benefits manager that violates the requirements of this section. Such penalty shall not exceed five thousand dollars per violation per day.

6. The director of the department of commerce and insurance shall promulgate rules to implement the provisions of this section. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter

536 are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2025, shall be invalid and void.

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