

SECOND REGULAR SESSION

HOUSE BILL NO. 2645

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BUSH.

6439H.01I

JOSEPH ENGLER, Chief Clerk

AN ACT

To repeal section 376.387, RSMo, and to enact in lieu thereof one new section relating to payments for prescription drugs.

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Section A. Section 376.387, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 376.387, to read as follows: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]~~
a policyholder, subscriber, enrollee, or other individual whose prescription drug coverage is administered through a pharmacy benefits manager or a health benefit plan;

(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;

(6) **"Pharmacy claims data", information regarding a prescription transaction that is adjudicated by a pharmacy benefits manager for a covered person between the pharmacy and the pharmacy benefits manager and between the pharmacy benefits manager and the health benefit plan sponsor.**

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

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 person to make a payment for a prescription drug at the point of sale in an amount
19 that exceeds the lesser of:

20 (1) The copayment amount as required under the health benefit plan; or

21 (2) The amount an individual would pay for a prescription if that individual paid with
22 cash.

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

29 4. No pharmacy benefits manager shall, directly or indirectly, charge or hold a
30 pharmacist or pharmacy responsible for any fee amount related to a claim that is not known at
31 the time of the claim's adjudication, unless the amount is a result of improperly paid claims or
32 charges for administering a health benefit plan.

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

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

41 7. **A pharmacy benefits manager shall have a duty to disclose to a health benefit**
42 **plan sponsor. As used in this subsection, "duty to disclose" shall mean notifying the**
43 **health benefit plan sponsor of material facts and actions taken by a pharmacy benefits**
44 **manager related to the administration of the pharmacy benefits on behalf of the health**
45 **benefit plan sponsor that:**

46 (1) **May increase costs to the sponsor or its covered persons as compared to a**
47 **more prudent action that could be taken; or**

48 (2) **Present a conflict of interest between the interests of the sponsor and its**
49 **covered persons and the interests of the pharmacy benefits manager.**

50 8. **Any entity that enters into a contract to sell, provide, pay, or reimburse a**
51 **pharmacy in the state for prescription drugs on behalf of itself or another entity shall**
52 **not prohibit a health benefit plan sponsor and a participating pharmacy from discussing**
53 **any health benefit plan information, including pharmacy claims data or costs.**

54 **9.** The department of commerce and insurance shall enforce this section.

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