

Subject Pharmacy Benefit Managers

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Overview

This bill regulates the business practices of pharmacy benefit managers (PBMs). The bill prohibits PBMs from engaging in deceptive advertising and other similar actions, charging claim adjudication fees, and requiring additional accreditation and certification standards. The bill also regulates PBM pharmacy reimbursement, by prohibiting spread pricing and other practices, and sets standards for maximum allowable cost pricing. The changes related to maximum allowable cost pricing in part require the PBM to ensure that maximum allowable cost prices are not set below the pharmacy acquisition cost and establish new appeal procedures that allow pharmacies to challenge the maximum allowable cost price.

Summary

Section	Description
1	Pharmacy acquisition cost. Amends § 62W.02, by adding subd. 13a. Defines this term as the amount a wholesaler charges for a pharmaceutical product as listed on the pharmacy's invoice.
2	Pharmaceutical wholesaler. Amends § 62W.02, by adding subd. 15a. Defines this term as a person that sells and distributes prescription pharmaceutical products, and meets other criteria.
3	Spread pricing. Amends § 62W.02, by adding subd. 21. Defines this term as a pricing model in which the PBM charges a plan sponsor a contracted price for prescription drugs, and this price differs from the amount the PBM pays the pharmacy.
4	Pharmacy benefit manager general business practices. Amends § 62W.04. A new paragraph (c) prohibits a PBM from causing or permitting the use of advertisements, promotions, and related actions that are untrue, deceptive, or misleading.

Section	Description
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A new paragraph (d) prohibits a PBM from charging a pharmacy a fee related to claim adjudication, including but not limited to claims receipt and processing, development or management of claims processing services, or participation in a PBM network.

A new paragraph (e) prohibits a PBM from requiring pharmacy accreditation standards or certification requirements that are inconsistent with, more stringent than, or in addition to requirements established by the Board of Pharmacy or as permitted under this chapter.

5 Pharmacy benefit manager general reimbursement practices.

Adds § 62W.05. (a) Prohibits a PBM from reimbursing a pharmacy in an amount less than the PBM reimburses an affiliate or subsidiary for providing the same drug, and specifies related requirements.

(b) Prohibits a PBM from paying or reimbursing a pharmacy for the ingredient drug product component at less than the national average drug acquisition cost, or, if unavailable, the wholesale acquisition cost.

(c) Prohibits a PBM from reducing payments to a pharmacy for a drug or service under a reconciliation process to an effective rate of reimbursement, direct or indirect remuneration fees, or any other reduction or aggregate reduction.

(d) Prohibits a PBM from spread pricing.

(e) Provides that termination of a pharmacy from a PBM network does not release the PBM from paying the pharmacy for drugs or services rendered.

6 Maximum allowable cost pricing.

Amends § 62W.08. Makes various changes to the law governing maximum allowable cost pricing, including but not limited to:

- requiring PBMs to update the maximum allowable cost price list within seven calendar days from: (1) an increase of 10 percent or more in the pharmacy acquisition cost from 60 percent or more of the pharmaceutical wholesalers doing business in the state; (2) a change in the methodology on which the maximum allowable cost price list is based; or (3) a change in the value of a variable involved in the methodology;
- requiring the PBM to ensure that maximum allowable cost prices are not set below the pharmacy acquisition cost;
- requiring the PBM, upon request, to identify each maximum allowable price list that applies to the network pharmacy, and disclose specified information related to the sources used to set the maximum allowable price;

Section	Description
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- allowing a pharmacy to challenge the maximum allowable cost price if it does not meet the requirements of this chapter or is below the pharmacy acquisition cost;
- modifying the appeals process, including extending from 15 to 30 business days the time period to appeal an initial claim and specifying the procedures to be used if a claim is upheld or denied. If the appeal is upheld, the PBM must: (1) adjust the maximum allowable cost price list to at least the pharmacy acquisition cost; (2) permit rebilling; and (3) provide the National Drug Code number on which the adjustment is based. If the appeal is denied, the PBM must: (1) identify the National Drug Code number and the names of wholesalers that sell the drug at a price below the maximum allowable cost price; or (2) if the National Drug Code number is not available at below the pharmacy acquisition cost from the wholesaler from which the pharmacy purchases the majority of its drugs, the PBM must adjust the maximum allowable cost price above the pharmacy's acquisition cost and permit rebilling; and
- allowing a pharmacy to decline to provide a prescription drug or service, if as a result of maximum allowable cost pricing the pharmacy is paid less than the pharmacy acquisition cost.

7 Retroactive adjustments.

Amends § 62W.13. Limits the extent to which a PBM can deny or reduce a pharmacy claim due to an audit, by requiring a determination that: (1) the original claim was submitted fraudulently; (2) the original claim was incorrect because the pharmacy was already paid; or (3) the drug or service was not properly rendered by the pharmacy or pharmacist.



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