

SENATE
STATE OF MINNESOTA
NINETIETH SESSION

S.F. No. 3394

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DATE
03/15/2018

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OFFICIAL STATUS
Introduction and first reading
Referred to Health and Human Services Finance and Policy
See SF2836
See SF3656, Art. 36, Sec. 6

1.1 A bill for an act
1.2 relating to health; establishing requirements for contracts between pharmacy benefit
1.3 managers and pharmacies; amending Minnesota Statutes 2016, section 151.71.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. Minnesota Statutes 2016, section 151.71, is amended to read:

1.6 **151.71 MAXIMUM ALLOWABLE COST PRICING PHARMACY BENEFIT**
1.7 **MANAGER CONTRACTS WITH PHARMACIES.**

1.8 Subdivision 1. **Definitions.** (a) For purposes of this section, the following definitions
1.9 apply.

1.10 (b) "Health plan" has the meaning provided in section 62Q.01, subdivision 3.

1.11 (c) "Health plan company" has the meaning provided in section 62Q.01, subdivision 4.

1.12 (d) "Pharmacy benefit manager" means an entity doing business in this state that
1.13 contracts to administer or manage prescription drug benefits on behalf of any health plan
1.14 company that provides prescription drug benefits to residents of this state.

1.15 Subd. 1a. **Applicability; enforcement.** (a) This section applies to all contracts between
1.16 a pharmacy benefit manager and a pharmacy.

1.17 (b) The board shall monitor and enforce compliance with the requirements of this section.
1.18 The board may assess a civil penalty on a pharmacy benefit manager for a violation of this
1.19 section, using the procedures specified in section 151.071, subdivision 1, clause (6).

1.20 Subd. 2. ~~Pharmacy benefit manager contracts with pharmacies;~~ **Maximum allowable**
1.21 **cost pricing.** (a) In each contract between a pharmacy benefit manager and a pharmacy,

2.1 the pharmacy shall be given the right to obtain from the pharmacy benefit manager a current
2.2 list of the sources used to determine maximum allowable cost pricing. The pharmacy benefit
2.3 manager shall update the pricing information at least every seven business days and provide
2.4 a means by which contracted pharmacies may promptly review current prices in an electronic,
2.5 print, or telephonic format within one business day at no cost to the pharmacy. A pharmacy
2.6 benefit manager shall maintain a procedure to eliminate products from the list of drugs
2.7 subject to maximum allowable cost pricing in a timely manner in order to remain consistent
2.8 with changes in the marketplace.

2.9 (b) In order to place a prescription drug on a maximum allowable cost list, a pharmacy
2.10 benefit manager shall ensure that the drug is generally available for purchase by pharmacies
2.11 in this state from a national or regional wholesaler and is not obsolete.

2.12 (c) Each contract between a pharmacy benefit manager and a pharmacy must include a
2.13 process to appeal, investigate, and resolve disputes regarding maximum allowable cost
2.14 pricing that includes:

2.15 (1) a 15-business day limit on the right to appeal following the initial claim;

2.16 (2) a requirement that the appeal be investigated and resolved within seven business
2.17 days after the appeal is received; and

2.18 (3) a requirement that a pharmacy benefit manager provide a reason for any appeal denial
2.19 and identify the national drug code of a drug that may be purchased by the pharmacy at a
2.20 price at or below the maximum allowable cost price as determined by the pharmacy benefit
2.21 manager.

2.22 (d) If an appeal is upheld, the pharmacy benefit manager shall make an adjustment to
2.23 the maximum allowable cost price no later than one business day after the date of
2.24 determination. The pharmacy benefit manager shall make the price adjustment applicable
2.25 to all similarly situated network pharmacy providers as defined by the plan sponsor.

2.26 Subd. 3. Synchronization of refills. (a) For purposes of this subdivision,
2.27 "synchronization" means the coordination of prescription drug refills for a patient taking
2.28 two or more medications for one or more chronic conditions, to allow the patient's
2.29 medications to be refilled on the same schedule for a given period of time.

2.30 (b) A contract between a pharmacy benefit manager and a pharmacy must allow for
2.31 synchronization of prescription drug refills for a patient on at least one occasion per year,
2.32 if all of the following criteria are met:

3.1 (1) the prescription drugs are covered under the patient's health plan or have been
3.2 approved by a formulary exceptions process;

3.3 (2) the prescription drugs are maintenance medications as defined by the health plan
3.4 and have one or more refills available at the time of synchronization;

3.5 (3) the prescription drugs are not Schedule II, III, or IV controlled substances;

3.6 (4) the patient meets all utilization management criteria relevant to the prescription drug
3.7 at the time of synchronization;

3.8 (5) the prescription drugs are of a formulation that can be safely split into short-fill
3.9 periods to achieve synchronization; and

3.10 (6) the prescription drugs do not have special handling or sourcing needs that require a
3.11 single, designated pharmacy to fill or refill the prescription.

3.12 (c) When necessary to permit synchronization, the pharmacy benefit manager shall apply
3.13 a prorated, daily patient cost-sharing rate to any prescription drug dispensed by a pharmacy
3.14 under this subdivision. The dispensing fee shall not be prorated, and all dispensing fees
3.15 shall be based on the number of prescriptions filled or refilled.

3.16 Subd. 4. **Mailing or delivery of drugs.** A contract between a pharmacy benefit manager
3.17 and a pharmacy must allow a pharmacy or pharmacist to mail or deliver drugs to a patient
3.18 as an ancillary service of the pharmacy. A pharmacy benefit manager may not prohibit a
3.19 pharmacist or pharmacy from charging a shipping and handling fee to a patient for each
3.20 prescription mailed or delivered.

3.21 Subd. 5. **Use of mail order not required.** A contract between a pharmacy benefit
3.22 manager and a pharmacy must permit each patient to fill any mail order covered prescription,
3.23 at the patient's option, at any network participating non-mail order pharmacy, if the network
3.24 participating non-mail order pharmacy offers to accept reimbursement that is comparable
3.25 to that which would be paid to the mail order pharmacy. The contract must not require a
3.26 patient electing to fill a prescription at a network participating non-mail order pharmacy to
3.27 pay higher cost-sharing than that which would otherwise apply if the patient filled the
3.28 prescription at the mail order pharmacy.