

Senate Bill 372

Sponsored by Senator BATES (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires Department of Consumer and Business Services to require pharmacy benefit managers to meet specified requirements.

A BILL FOR AN ACT

1
2 Relating to pharmacy benefit managers.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. Section 2 of this 2013 Act is added to and made a part of the Insurance Code.**

5 **SECTION 2. (1) As used in this section:**

6 (a) **"List" means the list of drugs for which a pharmacy benefit manager has established**
7 **maximum allowable costs.**

8 (b) **"Maximum allowable cost" means the maximum amount that a pharmacy benefit**
9 **manager will pay toward the cost of a drug.**

10 (c) **"Nationally available" means that all pharmacies in this state can purchase the drug,**
11 **without limitation, from regional or national wholesalers and that the product is not obsolete**
12 **or temporarily available.**

13 (d) **"Pharmacy benefit manager" means a third party administrator that contracts with**
14 **an insurer or a self-insured employer to process claims for the reimbursement of the costs**
15 **of prescription drugs.**

16 (e) **"Therapeutically equivalent" means the drug is identified as therapeutically or**
17 **pharmaceutically equivalent or "A" rated by the United States Food and Drug Adminis-**
18 **tration.**

19 (2) **The Department of Consumer and Business Services shall adopt rules governing the**
20 **following activities by pharmacy benefit managers:**

21 (a) **Claims processing.**

22 (b) **Retail pharmacy network management.**

23 (c) **Pharmacy discount card management.**

24 (d) **Payment of claims to pharmacies for prescription drugs dispensed to insureds.**

25 (e) **Clinical formulary development and management services, including, but not limited**
26 **to, utilization management and quality assurance programs.**

27 (f) **Rebate contracting and administration.**

28 (g) **Audits of contracted pharmacies.**

29 (h) **Establishment of pharmacy reimbursement pricing and methodologies, including**
30 **maximum allowable cost.**

31 (i) **Retention of any difference between what is received from insurers or self-insured**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 employers as reimbursement for prescription drugs and what is paid to a pharmacy by the
2 pharmacy benefit manager for such drugs.

3 (3)(a) In any contract between a pharmacy benefit manager and a pharmacy, the phar-
4 macy benefit manager shall:

5 (A) Specify the methodology and sources used to determine maximum allowable costs;

6 (B) Set forth an administrative appeal procedure that a pharmacy may use to contest the
7 maximum allowable cost and that ensures that the pharmacy benefit manager will make a
8 determination no later than 15 days after the pharmacy initiates the appeal; and

9 (C) Specify the process for making changes to the list or changes to the maximum al-
10 lowable cost for any drug on the list.

11 (b) If a pharmacy contests a maximum allowable cost under paragraph (a)(B) of this
12 subsection and the pharmacy benefit manager adjusts the maximum allowable cost for a drug
13 or removes the drug from the list, the pharmacy benefit manager shall apply the adjustment
14 to all pharmacies contracting with the pharmacy benefit manager and shall retroactively
15 apply the new reimbursement rate to the date that the pharmacy dispensed the drug that
16 was the subject of the contested claim.

17 (c) A pharmacy benefit manager that contracts with an insurer or a self-insured em-
18 ployer to process claims for prescription drugs:

19 (A) May not include a drug on the list unless there are at least three nationally available,
20 therapeutically equivalent drugs available for purchase at a significant cost difference;

21 (B) Shall update the maximum allowable cost for drugs on the list no less than once ev-
22 ery seven calendar days and shall promptly notify pharmacies, insurers and self-insured
23 employers of any changes;

24 (C) Shall establish a procedure for removing drugs from the list in a timely manner;

25 (D) May not add a drug to the list or must promptly remove a drug from the list if the
26 criteria of paragraph (a) of this subsection are not met with respect to the drug;

27 (E) Shall inform the insurer or self-insured employer if the pharmacy benefit manager
28 applies a maximum allowable cost to drugs dispensed through a pharmacy but not through
29 a mail order service; and

30 (F) Shall notify the insurer or self-insured employer if the pharmacy benefit manager
31 does not use the same list for billing the insurer or self-insured employer as it uses in re-
32 imbursement pharmacies. If there is a difference between the list used for billing an insurer or
33 a self-insured employer and the list used for reimbursing pharmacies, the pharmacy benefit
34 manager shall inform the insurer or self-insured employer of the difference between the
35 maximum allowable cost charged to the insurer or self-insured employer and the maximum
36 allowable cost paid to a pharmacy.

37