

Senate Bill 402

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**.

Specifies requirements for reimbursement of covered drugs by pharmacy benefit manager.
Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to pharmacy benefit managers; and declaring an emergency.

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

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

5 (a) **"List" means the list of drugs for which a third party administrator has established**
6 **maximum allowable costs.**

7 (b) **"Maximum allowable cost" means the maximum amount that a third party adminis-**
8 **trator will pay toward the cost of a drug.**

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

12 (d) **"Pharmacy" means a retail drug outlet registered under ORS 689.305.**

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

16 (2) **In any contract between a third party administrator and a pharmacy, the third party**
17 **administrator shall:**

18 (a) **Specify the methodology and sources used to determine maximum allowable costs;**

19 (b) **Set forth an administrative appeal procedure for a pharmacy to contest the maximum**
20 **allowable cost that ensures the third party administrator makes a determination no later**
21 **than 15 days after the pharmacy initiates the appeal; and**

22 (c) **Specify the process for making changes to the list or to the maximum allowable cost**
23 **for any drug on the list.**

24 (3) **If a pharmacy contests a maximum allowable cost under subsection (2)(b) of this**
25 **section and the third party administrator adjusts the maximum allowable cost for a drug or**
26 **removes the drug from the list, the adjustment shall apply to all pharmacies contracting**
27 **with the third party administrator and the new reimbursement rate shall be retroactive to**
28 **the date that the pharmacy dispensed the drug that was the subject of the contested claim.**

29 (4) **A third party administrator that contracts with an insurer or other payer to process**
30 **claims for prescription drugs:**

31 (a) **May not include a drug on a the third party administrator's list unless there are at**

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 least three nationally available, therapeutically equivalent drugs available for purchase at a
2 significant cost difference;

3 (b) Shall update the maximum allowable cost for drugs on the list no less than every
4 seven calendar days and shall promptly notify pharmacies, insurers and payers of any
5 changes;

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

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

9 (e) Shall inform the insurer or payer if the third party administrator applies a maximum
10 allowable cost to drugs dispensed through a pharmacy but not through a mail order service;
11 and

12 (f) Shall notify the insurer or payer if the third party administrator does not use the
13 same list for billing the insurer or payer as it uses in reimbursing pharmacies. If there is a
14 difference between the list used for billing an insurer or payer and the list used for reim-
15 bursing pharmacies, the third party administrator shall inform the insurer or payer of the
16 difference between the maximum allowable cost charged to the insurer or payer and the
17 maximum allowable cost paid to a pharmacy.

18 SECTION 2. Section 1 of this 2013 Act applies to contracts between third party adminis-
19 trators and pharmacies, insurers and other payers entered into or renewed on or after the
20 effective date of this 2013 Act.

21 SECTION 3. This 2013 Act being necessary for the immediate preservation of the public
22 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
23 on its passage.
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