

# DRAFT

## SUMMARY

Regulates pharmacy benefit manager practices with respect to filling and refilling prescriptions.

Provides Department of Consumer and Business Services with rulemaking and enforcement powers related to regulation of pharmacy benefit managers.

Becomes operative January 1, 2016.

Declares emergency, effective on passage.

## A BILL FOR AN ACT

Relating to pharmacy benefit managers; and declaring an emergency.

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

**SECTION 1. Section 2 of this 2015 Act is added to and made a part of ORS 735.530 to 735.552.**

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

**(a) “Community pharmacy” means a pharmacy that:**

**(A) Provides services to the public;**

**(B) Primarily dispenses prescription drugs to patients on location;**

**and**

**(C) Provides patients with an opportunity to consult with a pharmacist in person.**

**(b) “Covered individual” means an individual who receives prescription drug coverage under a prescription drug benefit program or a health benefit plan.**

**(c) “Health benefit plan” has the meaning given that term in ORS 743.730.**

**(d) “Mail-order pharmacy” means a pharmacy that:**

1 (A) Primarily receives orders to fill or refill prescriptions by mail  
2 or electronic transmission;

3 (B) Primarily dispenses prescription drugs to patients through the  
4 use of the mail or a delivery service; and

5 (C) Primarily provides consultation services to patients by mail or  
6 electronic means.

7 (2) A pharmacy benefit manager:

8 (a) Must permit a covered individual to fill and refill a prescription  
9 at:

10 (A) Any pharmacy that is part of the network of pharmacies served  
11 by the pharmacy benefit manager; or

12 (B) Any community pharmacy that is not a part of the network of  
13 pharmacies served by the pharmacy benefit manager if the community  
14 pharmacy requests to enter into a contractual relationship with the  
15 pharmacy benefit manager for the purpose of participating in the  
16 network and agrees to accept the terms, conditions and reimburse-  
17 ment rates of the pharmacy benefit manager for the network.

18 (b) Must reimburse for prescription drugs at the same rate:

19 (A) Any pharmacy that is part of the network of pharmacies served  
20 by the pharmacy benefit manager; or

21 (B) Any community pharmacy that is not a part of the network of  
22 pharmacies served by the pharmacy benefit manager if the community  
23 pharmacy requests to enter into a contractual relationship with the  
24 pharmacy benefit manager for the purpose of participating in the  
25 network and agrees to accept the terms, conditions and reimburse-  
26 ment rates of the pharmacy benefit manager for the network.

27 (c) May not impose a copayment, fee or other condition on a cov-  
28 ered individual who elects to fill or refill a prescription at a commu-  
29 nity pharmacy if the pharmacy benefit manager does not impose the  
30 same copayment, fee or other condition on a covered individual who  
31 elects to fill or refill a prescription at a mail-order pharmacy.

1 (d) Must, when submitting a claim for a prescription drug to a  
2 provider of a prescription drug program or to a health benefit plan,  
3 disclose to the provider or plan whether the pharmacy benefit manager  
4 receives a manufacturer rebate or other additional remuneration for  
5 dispensing the prescription drug and, if the pharmacy benefit manager  
6 receives a rebate or other remuneration, the amount of the rebate or  
7 remuneration.

8 (3)(a) This section does not apply to any prescription drug that the  
9 Department of Consumer and Business Services finds, pursuant to this  
10 subsection, is a specialty drug.

11 (b) The department may find that a prescription drug is a specialty  
12 drug if:

13 (A) A pharmacy benefit manager files with the department, in a  
14 form and manner prescribed by the department, a request to make a  
15 finding that the prescription drug is a specialty drug; and

16 (B) The prescription drug requires:

17 (i) Special inventory management; and

18 (ii) Increased monitoring of or medical support for patients for  
19 whom the prescription drug is prescribed.

20 (c) Upon request by the department, a representative of the pro-  
21 spective drug use review program described in ORS 414.369 shall assist  
22 the department in making a finding under this subsection.

23 SECTION 3. The Department of Consumer and Business Services  
24 shall adopt rules necessary for the administration of ORS 735.530 to  
25 735.552.

26 SECTION 4. (1) In addition to any other liability or penalty provided  
27 by law, the Department of Consumer and Business Services may im-  
28 pose for each violation of a provision of ORS 735.530 to 735.552 or for  
29 each violation of a rule adopted under ORS 735.530 to 735.552 a civil  
30 penalty that does not exceed \$10,000.

31 (2) The department shall impose the civil penalties under this sec-

1 tion in the manner provided by ORS 183.745.

2 (3) All moneys collected by the department pursuant to this section  
3 shall be deposited in the Consumer and Business Services Fund created  
4 in ORS 705.145.

5 SECTION 5. (1) Sections 2 to 4 of this 2015 Act become operative  
6 on January 1, 2016.

7 (2) The Department of Consumer and Business Services may take  
8 any action before the operative date specified in subsection (1) of this  
9 section that is necessary to enable the department to exercise, on and  
10 after the operative date specified in subsection (1) of this section, all  
11 the duties, powers and functions conferred on the department by  
12 sections 2 to 4 of this 2015 Act.

13 SECTION 6. This 2015 Act being necessary for the immediate pres-  
14 ervation of the public peace, health and safety, an emergency is de-  
15 clared to exist, and this 2015 Act takes effect on its passage.

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