

House Bill 2460

Sponsored by Representative NATHANSON (Presession 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**.

Imposes new requirements on pharmacy benefit managers.

A BILL FOR AN ACT

Relating to pharmacy benefit managers; amending ORS 735.536.

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

SECTION 1. ORS 735.536 is amended to read:

735.536. (1) As used in this section, "out-of-pocket cost" means the amount paid by an enrollee under the enrollee's coverage, including deductibles, copayments, coinsurance or other expenses as prescribed by the Department of Consumer and Business Services by rule.

(2) A pharmacy benefit manager registered under ORS 735.532:

[*(a) May not require a prescription to be filled or refilled by a mail order pharmacy as a condition for reimbursing the cost of the drug.]*

[*(b) Except as provided in paragraph (c) of this subsection, may require a prescription for a specialty drug to be filled or refilled at a specialty pharmacy as a condition for the reimbursement of the cost of a drug.]*

[(c)] (a) Shall reimburse the cost of a specialty drug that is filled or refilled at a network pharmacy that is a long term care pharmacy.

[(d)(A)] (b)(A) Shall allow a network pharmacy to mail, ship or deliver prescription drugs to its patients as an ancillary service.

(B) Is not required to reimburse a delivery fee charged by a pharmacy for a delivery described in subparagraph (A) of this paragraph unless the fee is specified in the contract between the pharmacy benefit manager and the pharmacy.

(c) Shall pay a dispensing fee, no less than the dispensing fee established by the Oregon Health Authority for the pharmacy, and reimburse the cost of the ingredients of the drug at a rate no less than the lowest of the National Average Drug Acquisition Cost published by the Centers for Medicare and Medicaid Services, the fee-for-service rate paid by the authority in the medical assistance program, the wholesale acquisition cost or the usual and customary price charged by the pharmacy.

(3) A pharmacy benefit manager registered under ORS 735.532 may not:

(a) Require a prescription to be filled or refilled by a mail order pharmacy as a condition for reimbursing the cost of the drug.

(b) Require a prescription for a specialty drug to be filled or refilled at a specialty pharmacy owned by the pharmacy benefit manager or in which the pharmacy benefit manager has a financial interest, as a condition for the reimbursement of the cost of a drug unless

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 the drug is a limited distribution drug that is exclusively available at the specialty pharmacy
2 owned by the pharmacy benefit manager or in which the pharmacy benefit manager has a
3 financial interest.

4 [(e)] (c) [May not] Require a patient signature as proof of delivery of a mailed or shipped pre-
5 scription drug if the network pharmacy:

6 (A)(i) Maintains a mailing or shipping log signed by a representative of the pharmacy; or

7 (ii) Maintains each notification of delivery provided by the United States Postal Service or a
8 package delivery service; and

9 (B) Is responsible for the cost of mailing, shipping or delivering a replacement for a drug that
10 was mailed or shipped but not received by the enrollee.

11 [f)] (d) [May not] Penalize a network pharmacy by **imposing charges or fees, requiring con-**
12 **tract amendments, cancelling contracts or demanding recoupment or otherwise retaliate**
13 **against a network pharmacy for [or otherwise directly or indirectly prevent a network pharmacy**
14 **from]:**

15 (A) Informing an enrollee of the difference between the out-of-pocket cost to the enrollee to
16 purchase a prescription drug using the enrollee's pharmacy benefit and the pharmacy's usual and
17 customary charge for the prescription drug;

18 (B) Filing an appeal;

19 (C) Filing a complaint against the pharmacy benefit manager with the Department of
20 Consumer and Business Services;

21 (D) Engaging in the legislative process; or

22 (E) Challenging the pharmacy benefit manager's practices or agreements.

23 [(3)] (4) The Department of Consumer and Business Services may adopt rules to carry out the
24 provisions of this section.