

PHARMACY BENEFITS MANAGER ACT

2011 GENERAL SESSION

STATE OF UTAH

LONG TITLE

General Description:

This bill enacts the Pharmacy Benefits Manager Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a pharmacy benefits manager that provides a service to a health benefit plan to provide an itemized statement when:
 - requesting or accepting payment or reimbursement for a pharmacy service from a health benefit plan; or
 - disclosing an expenditure for a pharmacy service to a health benefit plan;
- ▶ requires a pharmacy benefits manager to pay the entire amount it receives for a pharmacy service in connection with a health benefit plan to the pharmacy or pharmacist that provided the service; and
- ▶ makes it a misdemeanor violation of the Unfair Practices Act to violate the requirements of this act.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

- 13-48-101**, Utah Code Annotated 1953
- 13-48-102**, Utah Code Annotated 1953
- 13-48-201**, Utah Code Annotated 1953
- 13-48-202**, Utah Code Annotated 1953
- 13-48-301**, Utah Code Annotated 1953

33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **13-48-101** is enacted to read:

35 **CHAPTER 48. PHARMACY BENEFITS MANAGER ACT**

36 **Part 1. General Provisions**

37 **13-48-101. Title.**

38 This chapter is known as the "Pharmacy Benefits Manager Act."

39 Section 2. Section **13-48-102** is enacted to read:

40 **13-48-102. Definitions.**

41 As used in this chapter:

42 (1) "Health benefit plan" means:

43 (a) a health benefit plan as defined in Section 31A-1-301; or

44 (b) a health, dental, medical, Medicare supplement, or conversion program offered
45 under Title 49, Chapter 20, Public Employees' Benefit and Insurance Program Act.

46 (2) "Itemized statement" means a statement, itemized by individual claim, that
47 includes:

48 (a) the amount actually paid or to be paid to the pharmacy or pharmacist for a
49 pharmacy service;

50 (b) the identity of the pharmacy or pharmacist paid or to be paid; and

51 (c) the prescription number or other identifier of the pharmacy service.

52 (3) "Pharmacist" is as defined in Section 58-17b-102.

53 (4) "Pharmacy" is as defined in Section 58-17b-102.

54 (5) "Pharmacy benefits management service" means any of the following services
55 provided to a health benefit plan, or to a participant of the health benefit plan:

56 (a) negotiating the amount to be paid by a health benefit plan for a prescription drug; or

57 (b) administering or managing prescription drug benefits provided by the health benefit
58 plan for the benefit of a participant of the health benefit plan, including:

59 (i) mail service pharmacy;

60 (ii) specialty pharmacy;

61 (iii) claims processing;

62 (iv) payment of a claim;

63 (v) retail network management;

- 64 (vi) clinical formulary development;
- 65 (vii) clinical formulary management services;
- 66 (viii) rebate contracting;
- 67 (ix) rebate administration;
- 68 (x) a participant compliance program;
- 69 (xi) a therapeutic intervention program; or
- 70 (xii) a disease management program.

71 (6) "Pharmacy benefits manager" means a person that provides a pharmacy benefits
72 management service to a health benefit plan.

73 (7) "Pharmacy service" means a product, good, or service provided by a pharmacy or
74 pharmacist to an individual.

75 Section 3. Section **13-48-201** is enacted to read:

76 **Part 2. Disclosures and Payment**

77 **13-48-201. Itemized statement required.**

78 (1) A pharmacy benefits manager may not request or accept payment or reimbursement
79 to or from a health benefit plan for providing a pharmacy service, unless the pharmacy benefits
80 manager provides an itemized statement to the health benefit plan for the pharmacy service.

81 (2) When a pharmacy benefits manager reports an expenditure to a health benefit plan
82 for a pharmacy service, the pharmacy benefits manager shall include in the expenditure report
83 an itemized statement for the pharmacy service.

84 Section 4. Section **13-48-202** is enacted to read:

85 **13-48-202. Payment for pharmacy service -- Other charges.**

86 (1) A pharmacy benefits manager shall pay the entire amount it receives for a pharmacy
87 service in connection with a health benefit plan to the pharmacy or pharmacist that provided
88 the service.

89 (2) This section does not:

90 (a) require a pharmacy benefits manager to set specific fees, rates, or schedules for
91 payment for pharmacy services;

92 (b) prohibit a pharmacy benefits manager from charging for services, in addition to
93 pharmacy services, provided by the pharmacy benefits manager; or

94 (c) require a pharmacy benefits manager to pay a pharmacy or pharmacist more on any

95 claim than the amount itemized or disclosed under Section 13-48-201.

96 Section 5. Section **13-48-301** is enacted to read:

97 **Part 3. Enforcement**

98 **13-48-301. Penalty for violation.**

99 A person who violates this section has engaged in an unfair and deceptive trade practice
100 in violation of Title 13, Chapter 5, Unfair Practices Act, and is subject to the penalties
101 described in Section 13-5-15.

Legislative Review Note
as of 8-30-10 10:22 AM

Office of Legislative Research and General Counsel