

# HB0527S02 compared with HB0527

~~{Omitted text}~~ shows text that was in HB0527 but was omitted in HB0527S02

inserted text shows text that was not in HB0527 but was inserted into HB0527S02

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1

## Pharmacy Pricing Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Katy Hall

Senate Sponsor: Evan J. Vickers

2

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### LONG TITLE

#### General Description:

This bill amends provisions related to pharmacy benefits.

#### Highlighted Provisions:

This bill:

▸ defines terms;

▸ ~~{prohibits a pharmacy benefit manager (PBM) from engaging in spread pricing;}~~

▸ amends provisions related to drug maximum allowable cost, including regarding lists, appeals, and claims;

▸ ~~{allows entities that are contracted with a PBM to audit the PBM's contract performance;}~~

▸ specifies penalties; ~~{and}~~

▸ provides the Insurance Department rulemaking authority~~{-}~~ ; and

▸ directs the Public Employees' Health Program (PEHP) to adjust PEHP's business practices to accommodate the requirements of this bill.

#### Money Appropriated in this Bill:

None

HB0527

## HB0527 compared with HB0527S02

17 **Other Special Clauses:**

18 None

19 **Utah Code Sections Affected:**

20 AMENDS:

21 **31A-46-102** , as last amended by Laws of Utah 2025, Chapter 525

22 **31A-46-303** , as last amended by Laws of Utah 2020, Chapters 198, 275

23 ~~**31A-46-304** , as last amended by Laws of Utah 2020, Chapter 198~~

23 **31A-46-401** , as enacted by Laws of Utah 2019, Chapter 241

24 ENACTS:

25 **31A-46-103** , Utah Code Annotated 1953

27 ~~**31A-46-313** , Utah Code Annotated 1953~~

26 **Uncodified Material Affected:**

27 ENACTS UNCODIFIED MATERIAL:

28

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

30 Section 1. Section **31A-46-102** is amended to read:

31 **31A-46-102. Definitions.**

As used in this chapter:

33 (1) "340B drug" means a drug purchased through the 340B drug discount program by a 340B entity.

35 (2) "340B drug discount program" means the 340B drug discount program described in 42 U.S.C. Sec. 256b.

37 (3) "340B entity" means:

38 (a) an entity participating in the 340B drug discount program;

39 (b) a pharmacy of an entity participating in the 340B drug discount program; or

40 (c) a pharmacy contracting with an entity participating in the 340B drug discount program to dispense drugs purchased through the 340B drug discount program.

42 (4) "Administrative fee" means any payment, other than a rebate, that a pharmaceutical manufacturer makes directly or indirectly to a pharmacy benefit manager.

44 (5) "Allowable claim amount" means the amount paid by an insurer under the customer's health benefit plan.

46 ~~{(6)}~~

## HB0527 compared with HB0527S02

- {(a) "Contract holder" means: }
- 47        ~~{(i) an individual or entity that offers health benefit coverage to the individual or entity's employees or members through; }~~
- 49        ~~{(A) a health benefit plan; or }~~
- 50        ~~{(B) a self-funded health plan; }~~
- 51        ~~{(ii) a health benefit plan; }~~
- 52        ~~{(iii) the Medicaid program; or }~~
- 53        ~~{(iv) an accountable care organization as defined in Section 26B-3-701; }~~
- 54        ~~{(b) "Contract holder" does not include a plan regulated under Medicare Part D as described in 42 U.S.C. Sec. 1395w101 et seq. }~~
- 56        ~~{(6)} {7}~~ "Contracting insurer" means an insurer with whom a pharmacy benefit manager contracts to provide a pharmacy benefit management service.
- 58        ~~{(8) "Contracting wholesaler" means the wholesaler where a pharmacy purchases at least 50% of the pharmacy's drug inventory. }~~
- 60        ~~{(7)} {9}~~ "Cost share" means the amount paid by an insured customer under the customer's health benefit plan.
- 62        ~~{(8)} {10}~~ "Direct or indirect remuneration" means any adjustment in the total compensation:
- 63        (a) received by a pharmacy from a pharmacy benefit manager for the sale of a drug, device, or other product or service; and
- 65        (b) that is determined after the sale of the product or service.
- 66        ~~{(9)} {11}~~ "Dispense" means the same as that term is defined in Section 58-17b-102.
- 67        ~~{(10)} {12}~~ "Drug" means the same as that term is defined in Section 58-17b-102.
- 68        ~~{(11)} {13}~~ "Insurer" means the same as that term is defined in Section 31A-22-636.
- 69        ~~{(12)} {14}~~ "Maximum allowable cost" means:
- 70        (a) a maximum reimbursement amount for a group of pharmaceutically and therapeutically equivalent drugs; or
- 72        (b) any similar reimbursement amount that is used by a pharmacy benefit manager to reimburse pharmacies for multiple source drugs.
- 74        ~~{(13)} {15}~~ "Medicaid program" means the same as that term is defined in Section 26B-3-101.
- 75        ~~{(14)} {16}~~ "Obsolete" means a product that may be listed in national drug pricing compendia but is no longer available to be dispensed based on the expiration date of the last lot manufactured.

## HB0527 compared with HB0527S02

78 ~~{(15){}}~~ ~~{(17)}~~ "Patient counseling" means the same as that term is defined in Section 58-17b-102.

80 (18){(16)} "Pharmacy acquisition cost" means the net amount that a pharmaceutical wholesaler charges  
for a pharmaceutical product {as listed on the pharmacy's billing invoice} .

82 ~~[(16)]~~ (19){(17)} "Pharmaceutical facility" means the same as that term is defined in Section  
58-17b-102.

84 ~~[(17)]~~ (20){(18)} "Pharmaceutical manufacturer" means a pharmaceutical facility that manufactures  
prescription drugs.

86 ~~[(18)]~~ (21){(19)} "Pharmacist" means the same as that term is defined in Section 58-17b-102.

87 ~~[(19)]~~ (22){(20)} "Pharmacy" means the same as that term is defined in Section 58-17b-102.

88 ~~[(20)]~~ (23){(21)} "Pharmacy benefits management service" means any of the following services  
provided to a health benefit plan, or to a participant of a health benefit plan:

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

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

94 (i) an out-of-state mail service pharmacy;

95 (ii) a specialty pharmacy;

96 (iii) claims processing;

97 (iv) payment of a claim;

98 (v) retail network management;

99 (vi) clinical formulary development;

100 (vii) clinical formulary management services;

101 (viii) rebate contracting;

102 (ix) rebate administration;

103 (x) a participant compliance program;

104 (xi) a therapeutic intervention program;

105 (xii) a disease management program; or

106 (xiii) a service that is similar to, or related to, a service described in Subsection (20)(a) or this  
Subsection (20)(b).

108 ~~[(21)]~~ (24){(22)} "Pharmacy benefit manager" means a person licensed under this chapter to provide a  
pharmacy benefits management service.

110

## HB0527 compared with HB0527S02

[(22)] (25){(23)} "Pharmacy service" means a product, good, or service provided to an individual by a pharmacy or pharmacist.

112 [(23)] (26){(24)} "Pharmacy services administration organization" means an entity that contracts with a pharmacy to assist with third-party payer interactions and administrative services related to third-party payer interactions, including:

115 (a) contracting with a pharmacy benefit manager on behalf of the pharmacy; and

116 (b) managing a pharmacy's claims payments from third-party payers.

117 [(24)] (27){(25)} "Pharmacy service entity" means:

118 (a) a pharmacy services administration organization; or

119 (b) a pharmacy benefit manager.

120 [(25)] (28){(26)} "Prescription device" means the same as that term is defined in Section 58-17b-102.

122 [(26)] (29){(27)} "Prescription drug" means the same as that term is defined in Section 58-17b-102.

123 [(27)] (30){(28)}

(a) "Rebate" means a refund, discount, or other price concession that is paid by a pharmaceutical manufacturer to a pharmacy benefit manager based on a prescription drug's utilization or effectiveness.

126 (b) "Rebate" does not include an administrative fee.

127 [(28)] (31){(29)}

(a) "Reimbursement report" means a report on the adjustment in total compensation for a claim.

129 (b) "Reimbursement report" does not include a report on adjustments made pursuant to a pharmacy audit or reprocessing.

131 [(29)] (32){(30)} "Retail pharmacy" means the same as that term is defined in Section 58-17b-102.

132 [(30)] (33){(31)} "Sale" means a prescription drug or prescription device claim covered by a health benefit plan.

134 [(31)] (34){(32)} "Spread pricing" means the practice in which a pharmacy benefit manager charges a health benefit plan a different amount for pharmacist services than the amount the pharmacy benefit manager reimburses a pharmacy for pharmacist services.

137 [(32)] (35){(33)} "Wholesale acquisition cost" means the same as that term is defined in 42 U.S.C. Sec. 1395w-3a.

126 Section 2. Section 2 is enacted to read:

127 **31A-46-103. Rulemaking.**

## HB0527 compared with HB0527S02

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules to implement this chapter.

130 Section 3. Section **31A-46-303** is amended to read:

131 **31A-46-303. Insurer and pharmacy benefit management services -- Registration --**  
**Maximum allowable cost -- Audit restrictions.**

146 (1) An insurer and an insurer's pharmacy benefit manager is subject to the pharmacy audit provisions of  
Section 58-17b-622.

148 (2) A pharmacy benefit manager shall not use maximum allowable cost as a basis for reimbursement to  
a pharmacy unless:

150 (a) the drug is listed as "A" or "B" rated in the most recent version of the United States Food and Drug  
Administration's approved drug products with therapeutic equivalent evaluations, also known as  
the "Orange Book," or has an "NR" or "NA" rating or similar rating by a nationally recognized  
reference; and

154 (b) the drug is:

155 (i) generally available for purchase in this state from a national or regional wholesaler; and

157 (ii) not obsolete.

158 (3) The maximum allowable cost may be determined using comparable and current data on drug prices  
obtained from multiple nationally recognized, comprehensive data sources, including wholesalers,  
drug file vendors, and pharmaceutical manufacturers for drugs that are available for purchase by  
pharmacies in the state.

162 (4) For every drug for which the pharmacy benefit manager uses maximum allowable cost to reimburse  
a contracted pharmacy, the pharmacy benefit manager shall:

164 (a) ~~{provide each pharmacy subject to}~~ make a ~~{maximum allowable cost list with access}~~ list  
available to ~~{the maximum allowable cost list and the source used to determine the maximum~~  
~~allowable cost for each drug}~~ a network pharmacy upon request~~{;}~~ in a format that:

167 (b){(i)} ~~{notify contracted pharmacies within seven calendar days from the day an increase of 10% or~~  
~~more occurs in the pharmacy acquisition cost of a drug from 60% or more of the pharmaceutical~~  
~~wholesalers doing business in the state}~~ is electronic;

170 (c){(ii)} is computer accessible and searchable;

154 (iii) identifies all drugs for which maximum allowable costs have been established; and

156 (iv) for each drug specifies:

## HB0527 compared with HB0527S02

- 157 (A) the national drug code; and  
158 (B) the maximum allowable cost;  
159 (b) include in the contract with the pharmacy information identifying the national drug pricing  
compendia and other data sources used to obtain the drug price data;  
172 ~~[(b)]~~ (d){(c)} review and make necessary adjustments to the maximum allowable cost, using the most  
recent data sources identified in Subsection ~~[(4)(a)]~~ {(4)(e)} (4)(b), at least once per week;  
175 ~~[(e)]~~ (e){(d)} provide a process for the contracted pharmacy to appeal the maximum allowable cost in  
accordance with Subsection (5); and  
177 ~~[(d)]~~ (f){(e)} include in each contract with a contracted pharmacy a process to obtain an update to the  
pharmacy product pricing files used to reimburse the pharmacy in a format that is readily available  
and accessible.  
180 (5)  
(a) The right to appeal in Subsection ~~[(4)(e)]~~ {(4)(e)} (4)(d) shall be:  
181 (i) limited to 21 days following the initial claim adjudication; and  
182 (ii) investigated and resolved by the pharmacy benefit manager within 14 business days.  
184 (b) A pharmacy benefit manager shall:  
174 (i) provide as part of the appeals process:  
175 (A) a dedicated telephone number, electronic mail address, and website for the purpose of submitting  
appeals; and  
177 (B) the ability for a pharmacy to submit an appeal directly to the pharmacy benefit manager or through  
the pharmacy's pharmacy services administrative organization; and  
180 (ii) allow a pharmacy to submit documentation in support of the pharmacy's appeal on paper or  
electronically.  
182 (c) If an appeal is denied, the pharmacy benefit manager shall provide the contracted pharmacy[-with] :  
186 (i) the reason for the denial[-and] ;  
187 (ii) the identification of the national drug code of the drug that may be purchased by the pharmacy at a  
price at or below the price determined by the pharmacy benefit manager[-] ; and  
190 (iii) the name of {any-} each national or regional wholesaler doing business in this state {where-} that  
has the drug {is currently in stock and -} available for {the price described in Subsection (5)(b)(ii)}  
purchase at or below the maximum allowable cost.

193

## HB0527 compared with HB0527S02

(c){(d)} If {a dispensing pharmacy} an appeal is upheld or the pharmacy benefit manager cannot purchase a drug from the pharmacy's contract wholesaler} provide the name of a national or regional wholesaler doing business in this state that has the drug available for purchase at or below the maximum allowable cost for {the drug, the dispensing pharmacy shall contact} a similarly situated pharmacy as the pharmacy {benefit manager and} that submitted the appeal, the pharmacy benefit manager shall:

196 (i) {immediately adjust the maximum allowable cost for the drug to a price higher than the price the pharmacy can purchase the drug from the pharmacy's contract wholesaler;}

195 (i) make an adjustment for the pharmacy that appealed;

199 (ii) permit the dispensing pharmacy to reverse {and rebill} the claim {in question;} and resubmit an adjusted claim without an additional charge; and

200 (iii) make the {maximum allowable cost retroactive and} price correction effective for all {contracted} similarly situated network pharmacies{; and} from the date of the approved appeal.

200 (6) {reimburse the dispensing pharmacy in accordance with the adjusted maximum allowable cost.}

204 {(6)} The contract with each pharmacy shall contain a dispute resolution mechanism in the event either party breaches the terms or conditions of the contract.

206 (7) This section does not apply to a pharmacy benefit manager when the pharmacy benefit manager is providing pharmacy benefit management services on behalf of the Medicaid program.

209 {Section 4. Section 31A-46-304 is amended to read: }

### 210 31A-46-304. Claims practices.

211 (1) A pharmacy benefit manager shall permit a pharmacy to collect the amount of a customer's cost share from any source.

213 (2) A pharmacy benefit manager may not deny or reduce a reimbursement to a pharmacy or a pharmacist after the adjudication of the claim, unless:

215 (a) the pharmacy or pharmacist submitted the original claim fraudulently;

216 (b) the original reimbursement was incorrect because:

217 (i) the pharmacy or pharmacist had already been paid for the pharmacy service; or

218 (ii) an unintentional error resulted in an incorrect reimbursement; or

219 (c) the pharmacy service was not rendered by the pharmacy or pharmacist.

220 (3) Subsection (2) does not apply if:

221

## HB0527 compared with HB0527S02

- (a) any form of an investigation or audit of pharmacy records for fraud, waste, abuse, or other intentional misrepresentation indicates that the pharmacy or pharmacist engaged in criminal wrongdoing, fraud, or other intentional misrepresentation; or
- 224 (b) the reimbursement is reduced as the result of the reconciliation of a reimbursement amount under a performance contract if:
- 226 (i) the performance contract lays out clear performance standards under which the reimbursement for a specific drug may be increased or decreased; and
- 228 (ii) the agreement between the pharmacy benefit manager and the pharmacy or pharmacist explicitly states, in a separate document that is signed by the pharmacy benefit manager and the pharmacy or pharmacist, that the provisions of Subsection (2) do not apply.
- 232 (4) A pharmacy benefit manager may not engage in or facilitate spread pricing.

233 Section 5. Section 5 is enacted to read:

### 234 **31A-46-313. Audit of pharmacy benefit manager.**

- 235 (1) A contract holder may, one time in a calendar year and not earlier than six months following a previously requested audit, request an audit of compliance with the contract.
- 237 (2)
- (a) If requested by the contract holder, the audit shall include full disclosure of the following data specific to the contract holder:
- 239 (i) rebate amounts secured on prescription drugs, whether product specific or general rebates, that were provided by a pharmaceutical manufacturer.
- 241 (ii) pharmaceutical and device claims received by the pharmacy benefit manager on any of the following:
- 243 (A) CMS-1500 form or its successor form;
- 244 (B) HCFA-1500 form or its successor form;
- 245 (C) HIPAA X12 837P electronic claims transaction for professional services, or its successor transaction;
- 247 (D) HIPAA X12 837I institutional form or its successor form;
- 248 (E) CMS-1450 form or its successor form; and
- 249 (F) UB-04 form or its successor form;
- 250 (iii) drug and device claims payments or electronic funds transfer or remittance advice notices provided by the pharmacy benefit manager as ASC X12N 835 files or a successor format; and

## HB0527 compared with HB0527S02

- 253 (iv) any other revenue and fees derived by the pharmacy benefit manager from the contract,  
including all direct and indirect remuneration from pharmaceutical manufacturers regardless of  
257 whether the remuneration is classified as a rebate, fee, or another term.
- 259 (b) The information provided under Subsection (2)(a) shall identify each prescription drug by  
260 therapeutic category.
- 259 (3) A pharmacy benefit manager may not impose the following:
- 260 (a) fees for:
- 261 (i) requesting an audit under this section; or
- 262 (ii) selecting an auditor other than an auditor designated by the pharmacy benefit manager; and
- 264 (b) conditions that would restrict a contract holder's right to conduct an audit under this section,  
including restrictions on the:
- 266 (i) time period of the audit;
- 267 (ii) number of claims analyzed;
- 268 (iii) type of analysis conducted;
- 269 (iv) data elements used in the analysis; or
- 270 (v) selection of an auditor as long as the auditor:
- 271 (A) does not have a conflict of interest;
- 272 (B) meets a threshold for liability insurance specified in the contract between the parties;
- 274 (C) does not work on a contingent fee basis; and
- 275 (D) does not have a history of breaching nondisclosure agreements.
- 276 (4) A pharmacy benefit manager shall disclose, upon request from a contract holder, to the contract  
holder the actual amounts directly or indirectly paid by the pharmacy benefit manager to the  
pharmacist or pharmacy for the drug and for pharmacist services related to the drug.
- 280 (5) A pharmacy benefit manager shall provide notice to a contract holder contracting with the pharmacy  
benefit manager of any consideration, including direct or indirect remuneration, that the pharmacy  
benefit manager receives from a pharmaceutical manufacturer or group purchasing organization for  
formulary placement or any other reason.
- 285 (6) A contract that is entered into, issued, amended, or renewed on or after January 1, 2027, may not  
contain a provision that violates this section.
- 287 (7) A pharmacy benefit manager shall:
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## HB0527 compared with HB0527S02

(a) obtain any information requested in an audit under this section from a group purchasing organization or other partner entity of the pharmacy benefit manager; and

290 (b) confirm receipt of a request for an audit under this section to the contract holder not later than ten business days after the information is requested.

292 (8) Information provided in an audit under this section must be provided in accordance with the federal Health Insurance Portability and Accountability Act.

294 (9) The forms or transactions may be modified as necessary to comply with the federal Health Insurance Portability and Accountability Act or to redact a trade secret.

205 Section 4. Section **31A-46-401** is amended to read:

206 **31A-46-401. Penalties.**

[~~A person that violates a provision of this chapter is subject to the penalties described in Section 31A-2-308.~~]

300 (1) The commissioner may order a pharmacy benefit manager who violates this chapter to forfeit to the state not more than \$2,500 for each violation.

302 (2) Each day the violation continues is a separate violation.

212 Section 5. **Uncodified language.**

PEHP shall adjust PEHP's business practices to mitigate any financial impacts caused for compliance with the provisions enacted in Section 31A-46-303 by this bill.

215 Section 6. **Effective date.**

Effective Date.

This bill takes effect on May 6, 2026.

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