

HB0527S04 compared with HB0527

~~{Omitted text}~~ shows text that was in HB0527 but was omitted in HB0527S04

inserted text shows text that was not in HB0527 but was inserted into HB0527S04

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1

Pharmacy Pricing Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Katy Hall

Senate Sponsor: Evan J. Vickers

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LONG TITLE

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General Description:

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This bill amends provisions related to pharmacy benefits.

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Highlighted Provisions:

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This bill:

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▸ defines terms;

9

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

10

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

12

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

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▸ specifies penalties; and

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▸ provides the Insurance Department rulemaking authority.

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Money Appropriated in this Bill:

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None

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Other Special Clauses:

16

None

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17 **Utah Code Sections Affected:**

18 AMENDS:

19 **31A-46-102** , as last amended by Laws of Utah 2025, Chapter 525

20 **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~~

21 **31A-46-401** , as enacted by Laws of Utah 2019, Chapter 241

22 ENACTS:

23 **31A-46-103** , Utah Code Annotated 1953

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

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

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

27 **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)}~~

~~{(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 }~~

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- 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.
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 } .~~

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83 [(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.

85 [(18)] (21){(19)} "Pharmacist" means the same as that term is defined in Section 58-17b-102.

86 [(19)] (22){(20)} "Pharmacy" means the same as that term is defined in Section 58-17b-102.

87 [(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:

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

89 (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:

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

91 (ii) a specialty pharmacy;

92 (iii) claims processing;

93 (iv) payment of a claim;

94 (v) retail network management;

95 (vi) clinical formulary development;

96 (vii) clinical formulary management services;

97 (viii) rebate contracting;

98 (ix) rebate administration;

99 (x) a participant compliance program;

100 (xi) a therapeutic intervention program;

101 (xii) a disease management program; or

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

103 [(21)] (24){(22)} "Pharmacy benefit manager" means a person licensed under this chapter to provide a
pharmacy benefits management service.

104 [(22)] (25){(23)} "Pharmacy service" means a product, good, or service provided to an individual by a
pharmacy or pharmacist.

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~~[(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.

122 Section 2. Section 2 is enacted to read:

123 **31A-46-103. Rulemaking.**

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

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

127 **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;

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

152 (iv) for each drug specifies:

153 (A) the national drug code; and

154 (B) the maximum allowable cost;

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- 155 (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 ~~[(f)]~~ (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:
- 170 (i) provide as part of the appeals process:
- 171 (A) a dedicated telephone number, electronic mail address, and website for the purpose of submitting
appeals; and
- 173 (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
- 176 (ii) allow a pharmacy to submit documentation in support of the pharmacy's appeal on paper or
electronically.
- 178 (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 national or regional wholesaler doing business in this state where}~~ specific
basis upon which the pharmacy benefit manager can show that the drug is ~~{currently in stock and}~~
available for purchase at or below the ~~{price described in Subsection (5)(b)(ii)}~~ maximum allowable
cost.
- 193 (c)~~{(d)}~~ If ~~{a dispensing}~~ an appeal is upheld or the pharmacy benefit manager cannot ~~{purchase a}~~
show the drug ~~{from the pharmacy's contract wholesaler}~~ is available for purchase at or below the

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maximum allowable cost for ~~{the drug, the dispensing}~~ a similarly situated pharmacy ~~{shall contact}~~
~~} 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;}}~~
198 (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 effective for all contracted pharmacies; and}}~~
193 (iii) consider additional action consistent with the outcome of the appeal.
194 (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 (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

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(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

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 whether the remuneration is classified as a rebate, fee, or another term.

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- 257 (b) The information provided under Subsection (2)(a) shall identify each prescription drug by
258 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,
265 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
277 holder the actual amounts directly or indirectly paid by the pharmacy benefit manager to the
278 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
281 benefit manager of any consideration, including direct or indirect remuneration, that the pharmacy
282 benefit manager receives from a pharmaceutical manufacturer or group purchasing organization for
283 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
286 contain a provision that violates this section.
- 287 (7) A pharmacy benefit manager shall:
- 288 (a) obtain any information requested in an audit under this section from a group purchasing organization
289 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
291 business days after the information is requested.

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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.

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

200 **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.

206 Section 5. **Effective date.**

Effective Date.

This bill takes effect on May 6, 2026.

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