

1

Pharmacy Pricing Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Katy Hall

Senate Sponsor:

2

3

LONG TITLE

4

General Description:

5

This bill amends provisions related to pharmacy benefits.

6

Highlighted Provisions:

7

This bill:

8

▸ 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,

11

appeals, and claims;

12

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

13

▸ specifies penalties; and

14

▸ provides the Insurance Department rulemaking authority.

15

Money Appropriated in this Bill:

16

None

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

24

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

25

ENACTS:

26

31A-46-103, Utah Code Annotated 1953

27

31A-46-313, Utah Code Annotated 1953

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.**

32 As used in this chapter:

- 33 (1) "340B drug" means a drug purchased through the 340B drug discount program by a
34 340B entity.
- 35 (2) "340B drug discount program" means the 340B drug discount program described in 42
36 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
41 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
43 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
45 health benefit plan.
- 46 (6)(a) "Contract holder" means:
- 47 (i) an individual or entity that offers health benefit coverage to the individual or
48 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
55 described in 42 U.S.C. Sec. 1395w101 et seq.
- 56 [(6)] (7) "Contracting insurer" means an insurer with whom a pharmacy benefit manager
57 contracts to provide a pharmacy benefit management service.
- 58 (8) "Contracting wholesaler" means the wholesaler where a pharmacy purchases at least
59 50% of the pharmacy's drug inventory.
- 60 [(7)] (9) "Cost share" means the amount paid by an insured customer under the customer's
61 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,
64 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
- 71 therapeutically equivalent drugs; or
- 72 (b) any similar reimbursement amount that is used by a pharmacy benefit manager to
- 73 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
- 76 compendia but is no longer available to be dispensed based on the expiration date of the
- 77 last lot manufactured.
- 78 ~~[(15)]~~ (17) "Patient counseling" means the same as that term is defined in Section
- 79 58-17b-102.
- 80 (18) "Pharmacy acquisition cost" means the amount that a pharmaceutical wholesaler
- 81 charges for a pharmaceutical product as listed on the pharmacy's billing invoice.
- 82 ~~[(16)]~~ (19) "Pharmaceutical facility" means the same as that term is defined in Section
- 83 58-17b-102.
- 84 ~~[(17)]~~ (20) "Pharmaceutical manufacturer" means a pharmaceutical facility that
- 85 manufactures prescription drugs.
- 86 ~~[(18)]~~ (21) "Pharmacist" means the same as that term is defined in Section 58-17b-102.
- 87 ~~[(19)]~~ (22) "Pharmacy" means the same as that term is defined in Section 58-17b-102.
- 88 ~~[(20)]~~ (23) "Pharmacy benefits management service" means any of the following services
- 89 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
- 92 plan for the benefit of a participant of the health benefit plan, including administering
- 93 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
- 107 (20)(a) or this Subsection (20)(b).
- 108 ~~[(21)]~~ (24) "Pharmacy benefit manager" means a person licensed under this chapter to
- 109 provide a pharmacy benefits management service.
- 110 ~~[(22)]~~ (25) "Pharmacy service" means a product, good, or service provided to an individual
- 111 by a pharmacy or pharmacist.
- 112 ~~[(23)]~~ (26) "Pharmacy services administration organization" means an entity that contracts
- 113 with a pharmacy to assist with third-party payer interactions and administrative services
- 114 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) "Pharmacy service entity" means:
- 118 (a) a pharmacy services administration organization; or
- 119 (b) a pharmacy benefit manager.
- 120 ~~[(25)]~~ (28) "Prescription device" means the same as that term is defined in Section
- 121 58-17b-102.
- 122 ~~[(26)]~~ (29) "Prescription drug" means the same as that term is defined in Section 58-17b-102.
- 123 ~~[(27)]~~ (30)(a) "Rebate" means a refund, discount, or other price concession that is paid by
- 124 a pharmaceutical manufacturer to a pharmacy benefit manager based on a
- 125 prescription drug's utilization or effectiveness.
- 126 (b) "Rebate" does not include an administrative fee.
- 127 ~~[(28)]~~ (31)(a) "Reimbursement report" means a report on the adjustment in total
- 128 compensation for a claim.
- 129 (b) "Reimbursement report" does not include a report on adjustments made pursuant to a
- 130 pharmacy audit or reprocessing.
- 131 ~~[(29)]~~ (32) "Retail pharmacy" means the same as that term is defined in Section 58-17b-102.
- 132 ~~[(30)]~~ (33) "Sale" means a prescription drug or prescription device claim covered by a

133 health benefit plan.

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

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

139 Section 2. Section **31A-46-103** is enacted to read:

140 **31A-46-103 . Rulemaking.**

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

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

144 **31A-46-303 . Insurer and pharmacy benefit management services -- Registration**
 145 **-- Maximum allowable cost -- Audit restrictions.**

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

148 (2) A pharmacy benefit manager shall not use maximum allowable cost as a basis for
 149 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
 151 Food and Drug Administration's approved drug products with therapeutic equivalent
 152 evaluations, also known as the "Orange Book," or has an "NR" or "NA" rating or
 153 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
 156 wholesaler; and

157 (ii) not obsolete.

158 (3) The maximum allowable cost may be determined using comparable and current data on
 159 drug prices obtained from multiple nationally recognized, comprehensive data sources,
 160 including wholesalers, drug file vendors, and pharmaceutical manufacturers for drugs
 161 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
 163 to reimburse a contracted pharmacy, the pharmacy benefit manager shall:

164 (a) provide each pharmacy subject to a maximum allowable cost list with access to the
 165 maximum allowable cost list and the source used to determine the maximum
 166 allowable cost for each drug upon request;

- 167 (b) notify contracted pharmacies within seven calendar days from the day an increase of
168 10% or more occurs in the pharmacy acquisition cost of a drug from 60% or more of
169 the pharmaceutical wholesalers doing business in the state;
- 170 (c) include in the contract with the pharmacy information identifying the national drug
171 pricing compendia and other data sources used to obtain the drug price data;
- 172 ~~(b)~~ (d) review and make necessary adjustments to the maximum allowable cost, using
173 the most recent data sources identified in Subsection ~~(4)(a)~~ (4)(c), at least once per
174 week;
- 175 ~~(e)~~ (e) provide a process for the contracted pharmacy to appeal the maximum allowable
176 cost in accordance with Subsection (5); and
- 177 ~~(d)~~ (f) include in each contract with a contracted pharmacy a process to obtain an
178 update to the pharmacy product pricing files used to reimburse the pharmacy in a
179 format that is readily available and accessible.
- 180 (5)(a) The right to appeal in Subsection ~~(4)(e)~~ (4)(e) 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
183 days.
- 184 (b) If an appeal is denied, the pharmacy benefit manager shall provide the contracted
185 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
188 the pharmacy at a price at or below the price determined by the pharmacy benefit
189 manager~~-~~ ; and
- 190 (iii) the name of any national or regional wholesaler doing business in this state
191 where the drug is currently in stock and available for the price described in
192 Subsection (5)(b)(ii).
- 193 (c) If a dispensing pharmacy cannot purchase a drug from the pharmacy's contract
194 wholesaler below the maximum allowable cost for the drug, the dispensing pharmacy
195 shall contact the pharmacy benefit manager and the pharmacy benefit manager shall:
- 196 (i) immediately adjust the maximum allowable cost for the drug to a price higher than
197 the price the pharmacy can purchase the drug from the pharmacy's contract
198 wholesaler;
- 199 (ii) permit the dispensing pharmacy to reverse and rebill the claim in question;
- 200 (iii) make the maximum allowable cost retroactive and effective for all contracted

201 pharmacies; and
 202 (iv) reimburse the dispensing pharmacy in accordance with the adjusted maximum
 203 allowable cost.

- 204 (6) The contract with each pharmacy shall contain a dispute resolution mechanism in the
 205 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
 207 manager is providing pharmacy benefit management services on behalf of the Medicaid
 208 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
 212 customer's cost share from any source.
 213 (2) A pharmacy benefit manager may not deny or reduce a reimbursement to a pharmacy or
 214 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
 222 other intentional misrepresentation indicates that the pharmacy or pharmacist
 223 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
 225 amount under a performance contract if:
 226 (i) the performance contract lays out clear performance standards under which the
 227 reimbursement for a specific drug may be increased or decreased; and
 228 (ii) the agreement between the pharmacy benefit manager and the pharmacy or
 229 pharmacist explicitly states, in a separate document that is signed by the pharmacy
 230 benefit manager and the pharmacy or pharmacist, that the provisions of
 231 Subsection (2) do not apply.

232 (4) A pharmacy benefit manager may not engage in or facilitate spread pricing.

233 Section 5. Section **31A-46-313** 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
236 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
238 following data specific to the contract holder:
- 239 (i) rebate amounts secured on prescription drugs, whether product specific or general
240 rebates, that were provided by a pharmaceutical manufacturer.
 - 241 (ii) pharmaceutical and device claims received by the pharmacy benefit manager on
242 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
246 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
251 advice notices provided by the pharmacy benefit manager as ASC X12N 835 files
252 or a successor format; and
 - 253 (iv) any other revenue and fees derived by the pharmacy benefit manager from the
254 contract, including all direct and indirect remuneration from pharmaceutical
255 manufacturers regardless of whether the remuneration is classified as a rebate, fee,
256 or another term.
- 257 (b) The information provided under Subsection (2)(a) shall identify each prescription
258 drug by 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
263 manager; and
 - 264 (b) conditions that would restrict a contract holder's right to conduct an audit under this
265 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
- 273 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
- 277 contract holder the actual amounts directly or indirectly paid by the pharmacy benefit
- 278 manager to the pharmacist or pharmacy for the drug and for pharmacist services related
- 279 to the drug.
- 280 (5) A pharmacy benefit manager shall provide notice to a contract holder contracting with
- 281 the pharmacy benefit manager of any consideration, including direct or indirect
- 282 remuneration, that the pharmacy benefit manager receives from a pharmaceutical
- 283 manufacturer or group purchasing organization for formulary placement or any other
- 284 reason.
- 285 (6) A contract that is entered into, issued, amended, or renewed on or after January 1, 2027,
- 286 may not 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
- 289 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
- 291 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
- 293 the federal Health Insurance Portability and Accountability Act.
- 294 (9) The forms or transactions may be modified as necessary to comply with the federal
- 295 Health Insurance Portability and Accountability Act or to redact a trade secret.
- 296 Section 6. Section **31A-46-401** is amended to read:
- 297 **31A-46-401 . Penalties.**
- 298 [~~A person that violates a provision of this chapter is subject to the penalties described in~~
- 299 ~~Section 31A-2-308.]~~
- 300 (1) The commissioner may order a pharmacy benefit manager who violates this chapter to
- 301 forfeit to the state not more than \$2,500 for each violation.
- 302 (2) Each day the violation continues is a separate violation.

303 Section 7. **Effective Date.**
304 This bill takes effect on May 6, 2026.