

Effective 7/1/2019

Part 1
General Provisions

31A-46-101 Title.

This chapter is known as "Pharmacy Benefits Act."

Amended by Chapter 198, 2020 General Session

31A-46-102 Definitions.

As used in this chapter:

- (1) "340B drug" means a drug purchased through the 340B drug discount program by a 340B entity.
- (2) "340B drug discount program" means the 340B drug discount program described in 42 U.S.C. Sec. 256b.
- (3) "340B entity" means:
 - (a) an entity participating in the 340B drug discount program;
 - (b) a pharmacy of an entity participating in the 340B drug discount program; or
 - (c) a pharmacy contracting with an entity participating in the 340B drug discount program to dispense drugs purchased through the 340B drug discount program.
- (4) "Administrative fee" means any payment, other than a rebate, that a pharmaceutical manufacturer makes directly or indirectly to a pharmacy benefit manager.
- (5) "Allowable claim amount" means the amount paid by an insurer under the customer's health benefit plan.
- (6) "Contracting insurer" means an insurer with whom a pharmacy benefit manager contracts to provide a pharmacy benefit management service.
- (7) "Cost share" means the amount paid by an insured customer under the customer's health benefit plan.
- (8) "Device" means the same as that term is defined in Section 58-17b-102.
- (9) "Direct or indirect remuneration" means any adjustment in the total compensation:
 - (a) received by a pharmacy from a pharmacy benefit manager for the sale of a drug, device, or other product or service; and
 - (b) that is determined after the sale of the product or service.
- (10) "Dispense" means the same as that term is defined in Section 58-17b-102.
- (11) "Drug" means the same as that term is defined in Section 58-17b-102.
- (12) "Insurer" means the same as that term is defined in Section 31A-22-636.
- (13) "Maximum allowable cost" means:
 - (a) a maximum reimbursement amount for a group of pharmaceutically and therapeutically equivalent drugs; or
 - (b) any similar reimbursement amount that is used by a pharmacy benefit manager to reimburse pharmacies for multiple source drugs.
- (14) "Medicaid program" means the same as that term is defined in Section 26B-3-101.
- (15) "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.
- (16) "Patient counseling" means the same as that term is defined in Section 58-17b-102.
- (17) "Pharmaceutical facility" means the same as that term is defined in Section 58-17b-102.

- (18) "Pharmaceutical manufacturer" means a pharmaceutical facility that manufactures prescription drugs.
- (19) "Pharmacist" means the same as that term is defined in Section 58-17b-102.
- (20) "Pharmacy" means the same as that term is defined in Section 58-17b-102.
- (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:
- (a) negotiating the amount to be paid by a health benefit plan for a prescription drug; or
 - (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:
 - (i) an out-of-state mail service pharmacy;
 - (ii) a specialty pharmacy;
 - (iii) claims processing;
 - (iv) payment of a claim;
 - (v) retail network management;
 - (vi) clinical formulary development;
 - (vii) clinical formulary management services;
 - (viii) rebate contracting;
 - (ix) rebate administration;
 - (x) a participant compliance program;
 - (xi) a therapeutic intervention program;
 - (xii) a disease management program; or
 - (xiii) a service that is similar to, or related to, a service described in Subsection (21)(a) or (21)(b)(i) through (xii).
- (22) "Pharmacy benefit manager" means a person licensed under this chapter to provide a pharmacy benefits management service.
- (23) "Pharmacy service" means a product, good, or service provided to an individual by a pharmacy or pharmacist.
- (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:
- (a) contracting with a pharmacy benefit manager on behalf of the pharmacy; and
 - (b) managing a pharmacy's claims payments from third-party payers.
- (25) "Pharmacy service entity" means:
- (a) a pharmacy services administration organization; or
 - (b) a pharmacy benefit manager.
- (26) "Prescription device" means the same as that term is defined in Section 58-17b-102.
- (27) "Prescription drug" means the same as that term is defined in Section 58-17b-102.
- (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.
 - (b) "Rebate" does not include an administrative fee.
- (29)
- (a) "Reimbursement report" means a report on the adjustment in total compensation for a claim.
 - (b) "Reimbursement report" does not include a report on adjustments made pursuant to a pharmacy audit or reprocessing.
- (30) "Retail pharmacy" means the same as that term is defined in Section 58-17b-102.
- (31) "Sale" means a prescription drug or prescription device claim covered by a health benefit plan.

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

Amended by Chapter 198, 2020 General Session

Amended by Chapter 275, 2020 General Session

Amended by Chapter 372, 2020 General Session