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31A-46-302 Direct or indirect remuneration by pharmacy benefit managers -- Disclosure of customer costs -- Limit on customer payment for prescription drugs.

- (1) As used in this section:
 - (a) "Allowable claim amount" means the amount paid by an insurer under the customer's health benefit plan.
 - (b) "Cost share" means the amount paid by an insured customer under the customer's health benefit plan.
 - (c) "Direct or indirect remuneration" means any adjustment in the total compensation:
 - (i) received by a pharmacy from a pharmacy benefit manager for the sale of a drug, device, or other product or service; and
 - (ii) that is determined after the sale of the product or service.
 - (d) "Health benefit plan" means the same as that term is defined in Section 31A-1-301.
 - (e) "Pharmacy reimbursement" means the amount paid to a pharmacy by a pharmacy benefit manager for a dispensed prescription drug.
 - (f) "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:
 - (i) contracting with a pharmacy benefit manager on behalf of the pharmacy; and
 - (ii) managing a pharmacy's claims payments from third-party payers.
 - (g) "Pharmacy service entity" means:
 - (i) a pharmacy services administration organization; or
 - (ii) a pharmacy benefit manager.
 - (h)
 - (i) "Reimbursement report" means a report on the adjustment in total compensation for a claim.
 - (ii) "Reimbursement report" does not include a report on adjustments made pursuant to a pharmacy audit or reprocessing.
 - (i) "Sale" means a prescription drug claim covered by a health benefit plan.
- (2) If a pharmacy service entity engages in direct or indirect remuneration with a pharmacy, the pharmacy service entity shall make a reimbursement report available to the pharmacy upon the pharmacy's request.
- (3) For the reimbursement report described in Subsection (2), the pharmacy service entity shall:
 - (a) include the adjusted compensation amount related to a claim and the reason for the adjusted compensation; and
 - (b) provide the reimbursement report:
 - (i) in accordance with the contract between the pharmacy and the pharmacy service entity;
 - (ii) in an electronic format that is easily accessible; and
 - (iii) within 120 days after the day on which the pharmacy benefit manager receives a report of a sale of a product or service by the pharmacy.
- (4) A pharmacy service entity shall, upon a pharmacy's request, provide the pharmacy with:
 - (a) the reasons for any adjustments contained in a reimbursement report; and
 - (b) an explanation of the reasons provided in Subsection (4)(a).
- (5)
 - (a) A pharmacy benefit manager may not prohibit or penalize the disclosure by a pharmacist of:
 - (i) an insured customer's cost share for a covered prescription drug;
 - (ii) the availability of any therapeutically equivalent alternative medications; or

- (iii) alternative methods of paying for the prescription medication, including paying the cash price, that are less expensive than the cost share of the prescription drug.
 - (b) Penalties that are prohibited under Subsection (5)(a) include increased utilization review, reduced payments, and other financial disincentives.
- (6) A pharmacy benefit manager may not require an insured customer to pay, for a covered prescription drug, more than the lesser of:
 - (a) the applicable cost share of the prescription drug being dispensed;
 - (b) the applicable allowable claim amount of the prescription drug being dispensed;
 - (c) the applicable pharmacy reimbursement of the prescription drug being dispensed; or
 - (d) the retail price of the drug without prescription drug coverage.